



SCR154

AUTHORIZATION TO ISSUE A QUITCLAIM DEED TO THE COUNTY OF MAUI FOR A REMNANT PORTION OF A STATE OWNED ROAD RIGHT-OF-WAY AT WAIAKOA, WAILUKU, MAUI

Senate Committee on Water and Land

March 24, 2017

2:50 p.m.

Room 224

The Office of Hawaiian Affairs (OHA) **OPPOSES** SCR154, which seeks to authorize the Board of Land and Natural Resources (BLNR) to issue a quitclaim deed to Maui County for a 3,979 square foot parcel, identified as “Tax Map Key: (2) 3-9-06: ‘20 Foot Right-of-Way” in Waiakoa, Wailuku. This measure does not provide OHA with sufficient information to determine whether the subject parcel is “ceded” lands, and does not appear to comply with the requirements for the disposition of real property interests by the State.

The plat-level tax map key number provided in this measure does not allow OHA to identify the subject parcel and determine if the parcel consists of “ceded” lands. Subject to certain narrow exceptions, OHA opposes the disposition of “ceded” lands because of the Native Hawaiian people’s unrelinquished claims to these lands. SCR154 would quitclaim the State’s interest in the subject parcel to the County of Maui, for the specific purpose of selling the parcel to the abutting private property owner for fair market value. If the parcel is indeed “ceded”, such a sale would remove the parcel from the “ceded” lands corpus and impact the unrelinquished and unresolved claims of Native Hawaiians.

This measure also does not appear to be consistent with established processes for the disposal of State interests in public lands. The prior action by BLNR on May 24, 1996 is described as a quitclaim of the State’s interest in a road remnant, but Hawai‘i Revised Statutes (HRS) § 171-51, which has not been amended since that time, provides that the BLNR may execute quitclaim deeds only “in private lands for the purpose of perfecting title to such private land in private individuals who have defective titles” (emphasis added). Here, the subject parcel is not private land; it is public land with title claimed by the County of Maui. The resolution could be construed as facilitating a remnant parcel sale pursuant to HRS § 171-52, but such sales require the proposed remnant to go before the BLNR for decision making, which generally includes sufficient information to determine the “ceded” lands status of the remnant proposed to be sold. Here, the proposed disposition is before the State Legislature, and the prior BLNR action was characterized as a quitclaim and not as a remnant sale. Finally, the resolution does not appear to contemplate a sale of non-remnant public lands, which would be subject to the prior notice and legislative approval requirements of HRS §171-64.7. In sum, the

resolution does not describe a disposition that complies with any of the processes for disposing of State real property interests.

If the State does desire to quitclaim this parcel, OHA recommends two potential courses of action. First, the County of Maui could dispose of its interest in the parcel to the abutting private property owner, as described in the resolution and provided by Maui County Code, section 3.44.050. Once title is transferred to a private entity, the State, through BLNR, could quitclaim its interest in the parcel pursuant to HRS § 171-51. Alternatively, the County of Maui could present the proposed disposition as a remnant sale to the BLNR. **Either option would subject the proposed disposition to the procedural protections provided by law and affords OHA the opportunity to review the disposition for its potential impact to Native Hawaiians' interest in "ceded" lands.**

For these reasons, OHA requests that the Committee **HOLD** SCR154. Mahalo for the opportunity to testify on this measure.

DAVID Y. IGE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

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**Testimony of
SUZANNE D. CASE
Chairperson**

**Before the Senate Committee on
WATER AND LAND**

**Friday, March 24, 2017
2:50 PM
State Capitol, Conference Room 224**

**In consideration of
SENATE CONCURRENT RESOLUTION 154
AUTHORIZATION TO ISSUE A QUITCLAIM DEED TO THE COUNTY OF
MAUI FOR A REMNANT PORTION OF A STATE OWNED ROAD RIGHT-OF-WAY
AT WAIAKOA, WAILUKU, MAUI**

Senate Concurrent Resolution 154 authorizes the Board of Land and Natural Resources (Board) to issue a quitclaim deed conveying a road remnant at Waiakoa, Wailuku, Maui to the County of Maui. **The Department of Land and Natural Resources (Department) supports this concurrent resolution.**

As the preamble to the concurrent resolution notes, the Board approved the conveyance the subject land to the County of Maui at the Board's meeting of May 24, 1996, under agenda item D-4. The Department intends to amend the prior Board action to clarify that the disposition will be effected pursuant to Section 171-52, Hawaii Revised Statutes, regarding the sale of remnants. This will enable the Department of the Attorney General to prepare the necessary conveyance instrument. The remnant is a 20 feet wide strip of land totaling 3979 square feet.

Thank you for the opportunity to comment on this measure.

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

KEKOA KALUHIWA
FIRST DEPUTY

JEFFREY T. PEARSON, P.E.
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
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