

DAVID Y. IGE
Governor

SHAN S. TSUTSUI
Lt. Governor



State of Hawaii
DEPARTMENT OF AGRICULTURE
1428 South King Street
Honolulu, Hawaii 96814-2512
Phone: (808) 973-9600 FAX: (808) 973-9613

SCOTT E. ENRIGHT
Chairperson, Board of Agriculture

PHYLLIS SHIMABUKURO-GEISER
Deputy to the Chairperson

**TESTIMONY OF SCOTT E. ENRIGHT
CHAIRPERSON, BOARD OF AGRICULTURE**

**BEFORE THE SENATE COMMITTEES ON WATER & LAND, AGRICULTURE &
ENVIRONMENT, & HOUSING**

**MARCH 24, 2017
2:45 p.m.
CONFERENCE ROOM 224**

**SENATE CONCURRENT RESOLUTION NO. 176/SENATE RESOLUTION NO. 90
REQUESTING THE GOVERNOR TO NEGOTIATE LAND EXCHANGES FOR THE
PURPOSE OF ACQUIRING PRIVATE LANDS SUITABLE FOR LONG-TERM
DIVERSIFIED AGRICULTURE PRODUCTION IN EXCHANGE FOR STATE LANDS
TO BE ACQUIRED FOR AFFORDABLE, WORKFORCE, AND OTHER HOUSING FOR
HAWAII RESIDENTS**

Chairpersons Rhoads, Gabbard, and Espero and Members of the Committees:

Thank you for the opportunity to testify on S.C.R. No. 176/ S.R. No. 90. This measure requests the Governor to negotiate land exchanges to acquire lands that are suitable for long-term diversified agricultural production and requested to provide a report to the legislature. The Department supports the intent of this measure and offers comments.

This measure asks the Governor to look into issues the State is facing and find a way to service both affordable housing and agricultural issues that Hawaii faces today in an innovative land exchange method. The Department supports the idea of a land exchange to the extent that it supports the Governor's initiatives to provide affordable housing and additional agricultural lands for the State of Hawaii.

Thank you for the opportunity to present our testimony on this measure.



DAVID Y. IGE
GOVERNOR OF HAWAII



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

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
SUZANNE D. CASE
Chairperson**

**Before the Senate Committees on
AGRICULTURE AND ENVIRONMENT
and
WATER AND LAND**

**Friday, March 24, 2017
2:45 PM
State Capitol, Room 224**

**In consideration of
/SENATE CONCURRENT RESOLUTION 176/ SENATE RESOLUTION 90
REQUESTING THE GOVERNOR TO NEGOTIATE LAND EXCHANGES FOR THE
PURPOSE OF ACQUIRING PRIVATE LANDS SUITABLE FOR LONG-TERM
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BE ACQUIRED FOR AFFORDABLE, WORKFORCE, AND OTHER HOUSING FOR
HAWAII RESIDENTS.**

Senate Concurrent Resolution 176/ Senate Resolution 90 request the Governor to negotiate acquisition of privately owned agricultural lands that are suitable for long-term diversified agriculture production in exchange for State urbanized lands along the rail transit corridor for private housing development. The measure also requires a report to the Legislature. **The Department of Land and Natural Resources (Department) opposes these resolutions.**

The Department has four parcels which are along the rail transit corridor adjacent or in close proximity to the planned University of Hawaii West Oahu (UHWO) station in East Kapolei which would be impacted by this concurrent resolution. The Department's long term objective is to lease the parcels for income generating purposes to support the Department's natural resource management and protection programs. The income generated from this project is intended to fund such departmental programs as:

- * Operation and beach restoration projects through the Office of Conservation and Coastal Lands;
- * Funding of key positions and implementation of priority projects and programs of the Commission on Water Resource Management;

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

KEKOA KALUHIWA
FIRST DEPUTY

JEFFREY T. PEARSON
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

- * Lifeguard services for the Division of State Parks;
- * Dam safety initiatives and flood control programs through the Engineering Division; and
- * Threatened and endangered species protection, invasive species control, wildland fire suppression, watershed protection and restoration, and natural area reserves through the Division of Forestry and Wildlife.

In addition to the Department, lands managed by University of Hawaii, the Aloha Stadium Authority and other public agencies located along the rail line are also intended to be developed for income generation purposes. The revenue generated from these agencies goes to support green programs and other public recreational and educational programs.

The Department has been very active in the State's Interagency Council for Transit-Oriented Development (Council) along with other various state agencies such as the Hawaii Housing Finance & Development, Department of Hawaiian Home Lands, Department of Education, U.S. Housing and Urban Development, the Aloha Stadium Authority, to name but a few. These measures may unravel much of the work and progress that has been accomplished by the Council, including, but not limited to, tying planning and development efforts in to companion efforts such as the Special Action Team for affordable rental housing and the State Housing Plan.

Additionally, the Department considers the concurrent resolution's language deficient in regards to providing adequate safeguards to protect the public interest with the alienation of State land. Upon conveyance of state lands to a private entity, there would not be any means to compel the private entity to develop affordable housing. To ensure that the public purpose of affordable housing is fulfilled by the private entity, additional safeguards such as a restrictive covenant or reversionary interest in favor of the State should be required as part of any exchange. Finally, the Department notes that any land exchange is subject Section 171-50, Hawaii Revised Statutes, including requiring the approval of the Board of Land and Natural Resources and the Legislature.

Thank you for the opportunity to comment on these measures.



SCR176

REQUESTING THE GOVERNOR TO NEGOTIATE LAND EXCHANGES FOR THE PURPOSE OF ACQUIRING PRIVATE LANDS SUITABLE FOR LONG-TERM DIVERSIFIED AGRICULTURE PRODUCTION IN EXCHANGE FOR STATE LANDS TO BE ACQUIRED FOR AFFORDABLE, WORKFORCE, AND OTHER HOUSING FOR HAWAII RESIDENTS.

Senate Committee on Water and Land
Senate Committee on Agriculture and Environment
Senate Committee on Housing

March 24, 2017

2:45 p.m.

Room 224

The Office of Hawaiian Affairs (OHA) offers the following **COMMENTS** on SCR176. OHA appreciates the intent of this measure to prioritize agricultural, while simultaneously attempting to mitigate the severity of the housing crisis through the development of affordable housing, and **recommends that any land exchange ensure public participation, address public trust interests, protect traditional and customary practices, and ensure affordable housing.**

Public scrutiny and input can provide an important check against political and other pressure on State negotiators, which may otherwise result in offers less than fair to the State, the public, and Native Hawaiians. It can also discourage the use of political pressure to procure favorable deals in the exchange of public lands. Agreements on high-value public land exchanges made with the opportunity for public scrutiny may also reduce questions and speculation of favoritism and the erosion of public confidence in the State's administration of our public land base. Finally, it can minimize potential legal challenges post-factum. **With the State's recognition that its "ultimate decision-making power" is vested in the people,¹ OHA respectfully recommends consideration of the overwhelming weight of public interest in the disposition and exchange of our public lands, by providing specific provisions that allow for public participation and review.**

Public and agency review and input would also assist the governor in fulfilling the State's public trust obligations in negotiating land exchanges – and could serve to mitigate negative impacts to Hawai'i's natural and cultural resources. In *Ka Pa'akai*, the Hawai'i Supreme Court stated that the LUC must at a minimum make specific findings and conclusions as to 1) the identity and scope of "valued, cultural, historical, or natural resources," 2) the extent to which those resources – including Native Hawaiian traditional customary rights – will be affected, and 3) the feasible action that the LUC can take to reasonably protect Native Hawaiian rights. Through the *Ka Pa'akai* analysis, the LUC is

¹ HRS § 92-1.

able to place conditions on district boundary amendments to mitigate impacts to Native Hawaiian traditional and customary practices and the resources they rely upon. SB1309's grant of authority to the governor to negotiate land exchanges may, albeit inadvertently, not adequately take into consideration the potential impact of negotiated land exchanges on the valued, cultural, historical, or natural resources of those lands and the extent to which those resources, including Native Hawaiian traditional customary rights, can be protected. **OHA recommends that the LUC, county planning directors, and public be given sufficient opportunity to review and comment on proposed reclassifications and appraisals, including with regards to potential impacts to Native Hawaiian traditional and customary practices, as part of the State's due diligence in ensuring exchanges are fair and reflect the interests of the public and Native Hawaiians.**

In addition to the general public's interest in the disposition of its public resources, the Native Hawaiian community also has a particular interest in the disposition and exchange of our public lands, much of which are "ceded" lands acquired without the consent of the Native Hawaiian people, and to which Native Hawaiians have never relinquished their claims. **OHA requests an affirmation that private lands exchanged for ceded or public land trust lands assume the ceded or public land trust lands character of the exchanged lands.**

Finally, OHA notes that SCR176 would offer incentives to developers in the form of highly valuable land exchanges; OHA suggests that express minimum affordability standards, targeted to the lowest levels of affordability, be required to more adequately meet the demand of our residents.

Mahalo for the opportunity to testify.

DAVID Y. IGE
GOVERNOR



CRAIG K. HIRAI
EXECUTIVE DIRECTOR

STATE OF HAWAII

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM
HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION
677 QUEEN STREET, SUITE 300
Honolulu, Hawaii 96813
FAX: (808) 587-0600

IN REPLY REFER TO:

Statement of
Craig K. Hirai
Hawaii Housing Finance and Development Corporation
Before the

**SENATE COMMITTEE ON WATER AND LAND
SENATE COMMITTEE ON AGRICULTURE AND ENVIRONMENT
SENATE COMMITTEE ON HOUSING**

March 24, 2017 at 2:45 p.m.
State Capitol, Room 224

In consideration of
S.C.R. 176/S.R. 90
**REQUESTING THE GOVERNOR TO NEGOTIATE LAND EXCHANGES FOR THE
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FOR HAWAII RESIDENTS.**

HHFDC *offers the following comments* on S.C.R. 176 and S.R. 90. In general, HHFDC is willing to work collaboratively with State, County, and Federal departments and agencies on mixed-use developments on State lands that include affordable housing as one of its components.

However, we defer to the Department of Agriculture, the Department of Land and Natural Resources, and the Governor on the overall merits of the land exchanges proposed by these resolutions.

Thank you for the opportunity to testify.

DAVID Y. IGE
Governor

SHAN S. TSUTSUI
Lt. Governor



JAMES J. NAKATANI
Executive Director

STATE OF HAWAII
AGRIBUSINESS DEVELOPMENT CORPORATION

235 S. Beretania Street, Room 205
Honolulu, HI 96813
Phone: (808) 586-0186 Fax: (808) 586-0189

TESTIMONY OF JAMES J. NAKATANI
EXECUTIVE DIRECTOR
AGRIBUSINESS DEVELOPMENT CORPORATION

BEFORE THE COMMITTEE ON WATER AND LAND,
AGRICULTURE AND ENVIRONMENT,
AND HOUSING

Friday, March 24, 2017
2:45 p.m.

SENATE CONCURRENT RESOLUTION NO. 176
AND
SENATE RESOLUTION NO. 90
RELATING TO LAND EXCHANGE

Chairpersons Rhoads, Gabbard, and Espero, and Members of the Joint Committees:

My name is James Nakatani, Executive Director of the Agribusiness Development Corporation ("ADC"). The ADC supports Senate Concurrent Resolution No. 176 and Senate Resolution No. 90 requesting the Governor to negotiate land exchange to acquire lands that are suitable for long-term diversified agricultural production.

Land is the most critical component in enhancing the State's food security. Obtaining agricultural lands through a land exchange will significantly increase the available agricultural land for food production and may offer many possibilities to boost the economic viability of the state's agriculture industry.

Today, many local farmers are struggling to stay in business, or are contemplating giving up their farm operations due to a number of challenges. The high cost of agricultural land and the inability to secure a long-term land agreement continue to be major barriers that inhibit local farms from thriving in Hawaii.

There are several contiguous and non-contiguous parcels around the State that have been fallow for years that are of high-value for agricultural and conservational purposes. The ADC believes keeping these agricultural lands in agriculture by any means should be considered as a high priority because of the potential benefits and economic development opportunities it presents.

Thank you for the opportunity to testify, and for your consideration of this resolution.

**SR 90/SCR 176
REQUESTING THE GOVERNOR TO NEGOTIATE LAND EXCHANGES FOR THE
PURPOSE OF ACQUIRING PRIVATE LANDS SUITABLE FOR LONG-TERM
DIVERSIFIED AGRICULTURE PRODUCTION IN EXCHANGE FOR STATE LANDS
TO BE ACQUIRED FOR AFFORDABLE, WORKFORCE, AND OTHER HOUSING
FOR HAWAII RESIDENTS**

**PAUL T. OSHIRO
MANAGER – GOVERNMENT RELATIONS
ALEXANDER & BALDWIN, INC.**

MARCH 24, 2017

Chair Rhoads, Chair Gabbard, Chair Espero, and Members of the Senate
Committees on Water & Land, Agriculture & Environment, and Housing:

I am Paul Oshiro, testifying on behalf of Alexander & Baldwin (A&B) on SR
90/SCR 176, “REQUESTING THE GOVERNOR TO NEGOTIATE LAND EXCHANGES
FOR THE PURPOSE OF ACQUIRING PRIVATE LANDS SUITABLE FOR LONG-
TERM DIVERSIFIED AGRICULTURE PRODUCTION IN EXCHANGE FOR STATE
LANDS TO BE ACQUIRED FOR AFFORDABLE, WORKFORCE, AND OTHER
HOUSING FOR HAWAII RESIDENTS.” We support these resolutions.

The purpose of these resolutions is to request the Governor to negotiate land
exchanges for the purpose of acquiring private lands that are suitable for long term
diversified agricultural production in exchange for State lands for the construction of
affordable, workforce, and other housing units.

One of the critical components of a successful agricultural operation is the
availability of productive agricultural lands at an affordable cost. The acquisition of

quality agricultural lands by the State via land exchanges and subsequent leasing of these lands to farmers at affordable and predictable lease rents will greatly enhance the economic viability of Hawaii's agricultural industry. In addition, with the City & County of Honolulu in the process of constructing a fixed rail transit system, there arises a unique opportunity to provide lands via land exchanges to enable new affordable, workforce, and other housing units to be situated in the vicinity of transit stations.

We support these resolutions as we believe that they will provide a viable alternative that will enable the State to negotiate a mutually beneficial exchange of State lands for the purpose of constructing housing units for residents and privately owned agricultural lands for farming and other agricultural opportunities.

Based on the aforementioned, we respectfully request your favorable consideration on these resolutions.

From: [Steve Paselk](#)
To: [WTL Testimony](#)
Subject: SCR 176/SR 90 hearing March 24,2017
Date: Tuesday, March 21, 2017 8:54:32 PM

I support these bills for the state to trade or acquire appropriate lands for farming and affordable housing. For too long former plantations, now development companies have been refusing to sell ag land to farmers and instead have been selling gentleman estates, view estates, privacy estates for at least \$150,000 per acre and then calling them ag lots with ag zoning. This is a fantasy that needs to end. Farming is a business and no farm plan could justify land input costs in this range. If we are serious about the value and importance of growing a lot of our food here then farm land needs to be protected by real ag zoning and some how made available for sale to real farmers at prices that could be justified by a farm plan or acquired by land trusts or agriculture parks giving long term leases at reasonable lease rents. Privacy estates may grow some food, have some conservation value and be the lesser evil compared to more intense development, but they they are removing inventory of farm land and creating an artificially high ag land price threshold that prevents ag land from being transferred to new farms. Our future farm land needs should be protected by ag zoning and only then should zoning changes be allowed for development, rural lots, or privacy estates. It is appropriate in this climate for the state or land trusts to negotiate the transfer of large blocks of ag land at reasonable rates for the creation of ag parks to keep land in ag and put new farmers on the land. If the former plantations refuse to fairly negotiate then eminent domain is the next step to consider. Land ownership, title issues and expired leases dating back to the Kingdom of Hawaii need to be fairly addressed as well.

Stephen Paselk, Paia

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 21, 2017 8:53 PM
To: WTL Testimony
Cc: tika_bean@hotmail.com
Subject: *Submitted testimony for SCR176 on Mar 24, 2017 14:45PM*

SCR176

Submitted on: 3/21/2017

Testimony for WTL/AEN/HOU on Mar 24, 2017 14:45PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
Erica Scott	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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