



**HB2358 HD1**  
**RELATING TO PUBLIC LANDS**  
Senate Committee on Water and Land  
Senate Committee on Housing

March 16, 2018

3:00 p.m.

Room 224

The Office of Hawaiian Affairs (OHA) respectfully **OPPOSES** HB2358 HD1, which may inadvertently allow for the sale or alienation of public and “ceded” lands without the procedural safeguards found in Chapter 171. Accordingly, should the Committees choose to move this measure forward, OHA respectfully requests an amendment to ensure that lands held by the Hawai‘i Public Housing Authority (HPHA) remain consistently protected against inappropriate alienation, notwithstanding their exemption from the definition of “public lands” in HRS § 171-2.

OHA appreciates that the HPHA may benefit from greater flexibility and autonomy over the management and disposition of lands under its control, particularly given its critical mission to provide housing relief for Hawai‘i’s most vulnerable populations. OHA understands that this measure would accordingly remove lands held by the HPHA from Board of Land and Natural Resources’ oversight and management under Chapter 171, through an amendment to the definition of “public lands” in HRS §171-2.

However, to ensure that HPHA lands are treated consistently with other state lands generally removed from BLNR jurisdiction (such as lands held by the Hawai‘i Housing Finance and Development Corporation and other state entities), OHA requests that this measure expressly reaffirm that current legislative approval requirements for the sale or alienation of any state lands, as found in HRS §171-64.7, also apply to HPHA lands. This statutory requirement is critical to maintaining the “ceded” lands corpus, and its enactment was a condition precedent to the settlement agreement in the OHA v. Housing and Community Development Corporation of Hawai‘i lawsuit, brought in response to the State’s actions to sell and otherwise alienate “ceded” lands. **OHA objects to the sale of “ceded” lands except in limited circumstances, and notes that the legislative approval requirements for the sale of state lands in HRS § 171-64.7 were enacted to ensure a high level of accountability and transparency in any proposed alienation of the state’s limited land base, and to protect “ceded” lands from being sold prior to the resolution of Native Hawaiians’ unrelinquished claims.**

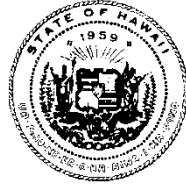
Although OHA recognizes that the sale of real property by HPHA currently requires “legislative approval” pursuant to HRS § 356D-4(a)(5), the applicability of the specific process requirements in HRS §171-64.7 should be made clear, particularly in light of the

proposed exemption of HPHA lands from the definition of “public lands” in HRS §171-2. **Therefore, should the Committees choose to move this measure, OHA respectfully asks that a new paragraph (9) be inserted into subsection (a) of HRS § 171-64.7, to read as follows:**

“(9) Lands to which the Hawai‘i public housing authority in its corporate capacity holds title.”

Mahalo nui for the opportunity to testify on this measure.

DAVID Y. IGE  
GOVERNOR



HAKIM OUANSAFI  
EXECUTIVE DIRECTOR

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Statement of  
**Hakim Ouansafi**  
Hawaii Public Housing Authority  
Before the

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

**Friday, March 16, 2018  
3:00 PM - Room 224, Hawaii State Capitol**

In consideration of  
**HB 2358, HD1  
RELATING TO PUBLIC LANDS**

Honorable Chair Rhoads, Chair Espero, and Members of the Senate Committee on Water and Land, and Senate Committee on Housing, thank you for the opportunity to provide testimony concerning House Bill (HB) 2358, HD1, relating to public lands.

The Hawaii Public Housing Authority (HPHA) **strongly supports** the enactment of HB 2358, HD1. This Administrative Bill is primarily a "housekeeping" measure that seeks to exempt HPHA lands from the definition of "public lands" under Hawaii Revised Statutes (HRS) section 171-2.

HPHA titled lands were previously exempted from section 171-2, HRS, when the lands were held by the HPHA's predecessor agencies the Housing and Community Development Corporation of Hawaii (HCDCH) and the Hawaii Housing Authority (HHA). After the HCDCH bifurcated into two separate agencies, an exemption for HPHA titled lands was inadvertently not included in the list of lands exempted from section 171-2, HRS.

HPHA is authorized to acquire, own, and hold real property under chapter 356D-8, HRS, and its federal low-income public housing properties are in a Federal Annual Contributions Contract with the United States of America. Therefore, its titled lands do not fall under the catchall jurisdiction of state "public lands" under the Department of Lands and Natural Resources (DLNR). Unless exempted from the definition of "public lands" under section 171-2, HRS, the Board of Land and Natural Resources (BLNR) could cause unnecessary delay with HPHA's redevelopment projects due to the need for the BLNR to review and take action on land leases for "public lands".

A 2006, the Legislative Reference Bureau published a report, "*Clarifying Statutory References in State Housing Agency Laws*," stating that an amendment should be made based on the facts and history of both the HPHA and HHFDC.

Prior to 1987, §171-2 excluded from the definition of "public lands" those "lands to which the Hawaii housing authority in its corporate capacity holds title". Act 337, SLH 1987, that established the housing finance and development corporation, added a further exclusion in §171-2 for the corporation's properties. After 1997, when the two agencies merged into the housing and community development corporation of Hawaii, this section was further amended to change the reference to the housing and community development corporation of Hawaii to the (present) Hawaii housing finance and development corporation.

It would appear that this section should be amended to include both the Hawaii housing finance and development corporation and the Hawaii public housing authority, as both agencies are authorized to acquire, own, and hold real property.

*"Clarifying Statutory References in State Housing Agency Laws," Report No. 5, 2006, Legislative Reference Bureau.*

HHFDC lands have since been exempted under HRS Section 171-2. Accordingly, the HPHA lands should also be exempted from "public lands."

The HPHA appreciates the opportunity to provide the Senate Committees with the HPHA's testimony regarding HB 2358, HD1. We thank you very much for your dedicated support.

**HB-2358-HD-1**

Submitted on: 3/13/2018 10:10:22 AM

Testimony for WTL on 3/16/2018 3:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Regina Gregory	Testifying for EcoTipping Points Project	Oppose	No

Comments:

**HB-2358-HD-1**

Submitted on: 3/12/2018 9:34:40 PM

Testimony for WTL on 3/16/2018 3:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Clarence Ching	Individual	Oppose	No

Comments:

The "public lands" are stolen lands and, according to present law, has beneficiaries (Hawaiians and the Public) and are subject to certain rights. To take these lands out of the "public domain" with no compensation or other benefits to the present beneficiaries is to mis-appropriate such property. This is called stealing!

**HB-2358-HD-1**

Submitted on: 3/13/2018 10:27:15 PM

Testimony for WTL on 3/16/2018 3:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Rachel L. Kailianu	Individual	Oppose	Yes

Comments:

No state agency should be exempted from any/all use of public lands which is in trust for the people of Hawaii.