

DAVID Y. IGE
GOVERNOR OF HAWAII



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

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
SUZANNE D. CASE
Chairperson**

**Before the Senate Committees on
WATER AND LAND
and
HOUSING**

**Tuesday, February 7, 2017
2:55 P.M.**

State Capitol, Conference Room 225

**In consideration of
SENATE BILL 966
RELATING TO PUBLIC LANDS**

Senate Bill 966 proposes to amend Chapter 171, Hawaii Revised Statutes (HRS), to exclude lands to which the Hawaii Public Housing Authority (HPHA) holds title from the definition of “public lands”. **The Department of Land and Natural Resources offers the following comments on this measure.**

Section 171-2, HRS, lists various lands that are excluded from the definition of “public lands”. As a result, agencies with ownership or control over such excluded lands are exempt from the provisions of Chapter 171, HRS, including requirements such as obtaining approvals from the Board of Land and Natural Resources (Board) to issue leases, subleases, and other dispositions over the lands.

In cases where HPHA has acquired title to lands for public housing purposes, it is reasonable that HPHA would want to have authority to issue leases, and enter into development agreements and financing arrangements for housing programs without obtaining the Board’s prior approval. With respect to those lands that HPHA controls pursuant to an executive order, their status as public lands would not be affected by Senate Bill 966. Executive orders transfer control and management of public lands to various agencies, but do not transfer title. If the intent of the measure is additionally to exempt lands which HPHA controls and manages pursuant to executive orders, then the following language should be added at page 2, lines 16-17 of the bill: “Lands that are set aside by the governor to the Hawaii public housing authority”

Thank you for the opportunity to testify on this measure.

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

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FIRST DEPUTY

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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

Tuesday, February 7, 2017
2:55 PM
Room 225, Hawaii State Capitol

In consideration of
SB 966
RELATING TO PUBLIC LANDS

Honorable Chair Rhoads and Honorable Chair Espero, and Members of the Senate Committees on Water & Land and Housing, thank you for the opportunity to provide testimony regarding Senate Bill 966, relating to public lands.

The Hawaii Public Housing Authority (HPHA) **supports** SB 966, which is primarily a “housekeeping” measure as well as an administrative bill, 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 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 and, 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, DLNR could manage, control, or administer HPHA titled lands in conflict with HPHA’s powers under chapter 356D, HRS, and with HPHA’s Federal Annual Contributions Contract with the United States of America.

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 on Water & Land and Housing with HPHA’s testimony regarding SB966. We thank you very much for your dedicated support.



SB966
RELATING TO PUBLIC LANDS
Senate Committee on Water and Land
Senate Committee on Housing

February 7, 2017

2:55 p.m.

Room 308

The Administration of the Office of Hawaiian Affairs (OHA) will recommend that the Board of Trustees submit **COMMENTS** on SB966, 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 indigent population. 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 University of Hawai'i, 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 of any state lands also apply to HPHA 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, as embodied 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 to these lands.**

Therefore, should the Committees choose to move this measure, OHA respectfully asks that a new paragraph (9) be inserted into the list of state lands to which the legislative approval requirements of HRS § 171-64.7 explicitly apply, as contained in subsection (a) of that section:

"(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.

From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 3, 2017 1:30 PM
To: WTL Testimony
Cc: mendezj@hawaii.edu
Subject: *Submitted testimony for SB966 on Feb 7, 2017 14:55PM*

SB966

Submitted on: 2/3/2017

Testimony for WTL/HOU on Feb 7, 2017 14:55PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Javier Mendez-Alvarez	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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