

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 House Committee on  
WATER, LAND, & HAWAIIAN AFFAIRS**

**Wednesday, March 13, 2019  
10:00 AM  
State Capitol, Conference Room 325**

**In consideration of  
SENATE BILL 898, SENATE DRAFT 1  
RELATING TO LAND RECORDATION**

Senate Bill 898, Senate Draft 1 proposes to specify that the data requirements for land recordation by the Bureau of Conveyances (Bureau), on land other than fee simple timeshare interests deregistered by the land court, shall include a map and description prepared by a licensed surveyor. **The Department of Land and Natural Resources appreciates the intent of this measure and offers the following comments.**

The Bureau understands and supports the need for better map data for deregistered land parcels as we continue our discussions with the Hawaii Land Surveyors Association about this bill. There may also be further discussions with some public stakeholders that are warranted to ensure that some recently raised legal questions can be adequately answered.

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

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DEPUTY DIRECTOR - WATER

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

# McCORRISTON MILLER MUKAI MACKINNON LLP

ATTORNEYS AT LAW

CHARLES E. PEAR, JR.  
ATTORNEY AT LAW

DIRECT #S:  
PHONE - (808) 223-1212  
FAX - (808) 535-8029  
E-MAIL - PEAR@M4LAW.COM

March 12, 2019

Rep. Ryan I. Yamane, Chair  
Rep. Chris Todd, Vice Chair  
Members of the House Committee on  
Water, Land & Hawaiian Affairs  
Thirtieth Legislature  
Regular Session, 2019

Re: S.B. 898, S.D.1  
Hearing on March 13, 2018, 9:00 a.m.  
Conference Room 325

Dear Chair, Vice Chair and Members of the Committee:

My name is Charles Pear. I am testifying as legislative counsel for ARDA Hawaii.

ARDA Hawaii opposes S.B. 898, S.D.1.

The bill proposes that a landowner who wishes to voluntarily deregister their lot prepare and submit a new survey of the Land Court lot, and recorded it as a file plan in the Bureau of Conveyances. We have been discussing this bill with representatives of the Hawaii Land Surveyors Association and have provided some revised language (See Exhibit A) that would exempt condominiums, time share plans, and planned communities from this requirement.

While we think that will improve the bill considerably, we wish to make two points here.

First, the fact that we have had to revise the bill to specifically exempt deregistration of undivided interests in registered land from the survey requirement suggests that this bill is not yet ready for adoption.

Second, we feel that the imposition of a new survey for deregistration of land is not necessary and will result in increased costs and delays for landowners seeking to deregister their land.

For the past 22 years, I have been working on Land Court reforms, initially at the request of the Office of the Assistant Registrar of the Land Court and later at the request of ARDA, and now again at the request of the Office of the Assistant Registrar of the Land Court. We are presently working informally with a group attempting to assess how to further streamline the Land Court with respect to non-time share matters.

P. O. Box 2800 • Honolulu, Hawaii 96803-2800  
Five Waterfront Plaza, 4<sup>th</sup> Floor • 500 Ala Moana Boulevard • Honolulu, Hawaii 96813  
Telephone: (808) 529-7300 • Fax: (808) 524-8293 • E-mail: info@m4law.com

Chair, Vice Chair and Members,  
House Committee on Water,  
Land and Hawaiian Affairs  
March 12, 2019  
Page 2

It is vital that anything involving the Land Court be addressed ever so cautiously, as errors can have significant repercussions. We are not persuaded that this bill is ready. For example, in addition to not addressing deregistration of undivided interests, it also does not address how to deal with easements in favor of other lots when the easements cross the land to be deregistered. In light of this, we think it might be wise to have further discussions on the proposals set forth in this bill in the period between the end of this legislative session and the start of the next one.

Such discussions may yield new and better ways to resolve the concerns that have been raised. For example, an owner who is seeking to deregister their land must record the land court certificate of title in the Bureau of Conveyances in order to establish the chain of title. We have asked the surveyors whether we could substantially resolve their concerns by modifying the bill to permit the landowner to record the existing Land Court Map in the Bureau (instead of preparing an entirely new survey of the same piece of land covered by the Land Court Map). The Land Court Map could then be designated as a new file plan. The surveyors have graciously agreed to consider this proposal.

At the present, owners who deregister their Land Court land simply refer to the land by Land Court Lot, Map, and Application number, but add to it the recording information for certificate of title recorded in the Bureau of Conveyances as part of the deregistration process.

We are comfortable with that process. It relies on the Land Court system to establish the parcel boundaries. This avails the owner and all subsequent owners of the benefits of the Land Court, once described as follows:

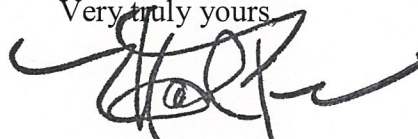
We have followed the evolution of the definition of boundaries of lands from ancient times to \* \* \* the Land Court system by which any one can come into court and have his title to land quieted for all times, guaranteed by the government and at the same time have his boundaries precisely defined by the most modern methods of surveying.

Hawaiian Land Titles by Robert D. King, Principal Cadastral Engineer.

We think that the Land Court description of the land is fine. We see no need to add another layer beyond this.

Thank you for your kind consideration of these thoughts.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Charles B. Pear, Jr.', written in a cursive style.

Charles B. Pear, Jr.

CEP:kn



Exhibit A

SECTION 2. Section 501-261.5, Hawaii Revised Statutes, is amended to read as follows:

"~~[+]§501-261.5[+]~~ **Deregistration of registered land other than fee time share interests[-] and undivided interests in land of a condominium.** ~~[The]~~ (a) To deregister land other than a fee time share interest under this chapter, the registered owner of the fee interest in registered land ~~[may]~~ shall submit ~~[a written request]~~ the following to the assistant registrar ~~[to deregister the land under this chapter.]:~~

(1) ~~[Any]~~ A written request ~~[for deregistration shall include]~~ to deregister the registered land, proof of title insurance in the amount of the value of the land to be deregistered, and a written waiver of all claims against the State relating to the title to the land arising after the date of deregistration~~[-]; and~~

(2) A plan of the parcel or parcels sought to be deregistered that includes a map and description prepared by a licensed professional surveyor prepared pursuant to sections 502-17, 502-18, and 502-19; provided that the requirement of this subsection (2) shall not apply: (i) if any portion of the land to be deregistered is part of a condominium property regime subject to chapter 514B, a time share plan subject to chapter 514E, or a planned community subject to chapter 421], or (ii) to the deregistration of an undivided interest in registered land, or any other interest in registered land except the entire fee interest in an entire land court lot.

The Honorable Representative Ryan Yamane, Chair  
The Honorable Representative Chris Todd, Vice Chair  
House Committee on Water, Land & Hawaiian Affairs.

Re: Hearing Date: Wednesday, March 13, 2019 at 10:00am  
Testimony in support of Senate Bill 898, SD1

From: Karl Nishio, President, Hawaii Land Surveyors Association

I am writing, once again, in support of S.B. 898. It will allow a means to rectify some of the inadequacies set forth in HRS 501-261.5, helping provide more oversight and a check of correctness of information when de-registering Land Court properties. It provides a means for the State Survey office to have a current status of the lands as they are the purveyors of such information for registered lands.

Our members of the association have been opposed to de-registration at its onset but have accepted it is the current state of being although it presents challenges to the land surveying profession. As it appears now, more burden has been placed upon the survey professional to ascertain title/ownership of a subject property and complicates matters in mapping and descriptions.

This bill will help keep the information necessary for land matters in an organized and traceable manner to be more beneficial for the public and professional community.

Thank you for your time and consideration with this.

Karl Nishio  
President  
Hawaii Land Surveyors Association

Representative Ryan I. Yamane, Chair

Representative Chris Todd, Vice Chair

Committee On Water, Land & Hawaiian Affairs

From: Meyer Cummins, LPLS

Date: Wednesday, March 13, 2019

Subject: In Favor of SD 898 SD 1 SSCR 1034 relating to Land Recordation

Honorable Representative Ryan I. Yamane, Chair, Honorable Representative Chris Todd, Vice Chair, and members of the Committee On Water, Land & Hawaiian Affairs

Thank you for allowing me to testify in favor of SD 898 SD 1 SSCR 1034.

My name is Meyer Cummins and I am a land surveyor licensed to practice in the State of Hawaii. I am also the Vice President of the Hawaii Land Surveyors Association which represents a majority of the licensed land surveyors in the State.

I stand on my previous testimony in favor of this Bill. I would also like to add that HLSA has been in talks with the legislative counsel for ARDA, the American Resort Development Association, who had previously opposed this Bill based on what I believe to be a misunderstanding of what this bill is proposing to accomplish.

This bill does not reverse Land Court deregistration nor does it change the resulting land titles deregistered lands contain once they uncouple from the Land Court. This bill only requires that a map and description outlining said land titles be created at the point of deregistration so the owner of the deregistered land has the proper regular system documentation for their property. This bill does not require fee time share interests nor undivided interests in the land of condominiums to meet the mapping and description requirement.

In our discussions with the legal counsel for ARDA, HLSA has tentatively agreed to revise some of the bill's language to clarify that ALL undivided interests, fee time share interests and planned communities will be exempted from the mapping and description requirement in our bill. We are currently working with ARDA and the Bureau of Conveyances to determine the correct language to use to clarify this point.

The legal counsel for ARDA would still like to discuss certain issues pertaining to Land Court Deregistration and HLSA is happy to continue the conversation. However, we do not believe that our bill is the subject of these additional issues as it does not affect the nature of deregistration, merely the time in which a proper map and description be created for owners who wish to voluntarily deregister.

The legal counsel for ARDA has proposed specific language he would like to see contained in our bill to assuage his concerns regarding exempting undivided interests from our mapping and description requirement. HLSA will be providing the honorable committee with a revised bill reflecting the requested changes as soon as is possible.

Mahlo nui for this opportunity to testify. Should you have any questions, I can be reached at (808)294-3051 and will make myself available for questions.

Meyer Cummins, LPLS

**LATE**

**Committee on Water, Land and Hawaiian Affairs**  
**Rep. Ryan I. Yamane, Chair**  
**Rep. Chris Todd, Vice Chair**  
**SB898 SD1**

**Relating to Land Recordation**

Testimony by Joanne Williamson, LPLS  
Affiliations: Hawaii Licensed Professional Land Surveyor  
National Society of Professional Surveyors, Hawaii Director  
Senior Land Surveyor, Hawaiian Electric Company  
(808) 436-6725

March 13, 2019  
10:00 AM  
Room 325

Thank you for allowing my testimony in *strong support* of SB898 SD1.

My name is Joanne Williamson and I am a Licensed Professional Land Surveyor and Land Court Land Surveyor, having been in the surveying profession for the past twenty-five (25) years in the State of Hawaii.

Surveyors are tasked with writing property descriptions based on their professional expertise in discerning the boundaries, as well as identifying the land title, of the land being described. The surveying profession requires both a working knowledge of Hawaiian land history and current legislation and regulatory processes. Additionally a professional surveyor has a mandate is to guard the integrity of land boundaries for the public which we serve.

SB898 SD1 addresses one aspect of the inherent ambiguity created by the original deregistration legislation; the need for accurate regular system mapping when the land title transitions from Land Court (HRS 501) to Regular System (HRS 502). The mapping requirements are different for either system. Accurate mapping clearly supports the public interest in what is often the most substantial investment most of us will ever make. Refining the deregistration process in this way assures the continuity of Hawaiian land title moving forward and clearly identifies the original status of deregistered lands. Utilizing the existing File Plan mapping processes at the State Survey Office, without requiring a new Survey, office additionally saves both time and expense for both those Voluntarily Deregistering their lands as well as the future owners of these lands.

SB898 SD1 does not attempt to solve all the issues created through Land Court deregistration, yet it will solve the need for the creation of consistent, viable maps and descriptions of these lands moving forward. Thank you for your consideration.



**LATE**

**LATE**

Rep. Ryan I. Yamane, Chair  
Rep. Chris Todd, Vice Chair

Thank you for allowing me to submit testimony supporting SB898 SD1. I am a licensed surveyor and licensed to perform Land Court surveys in the State of Hawaii. I have been in the surveying profession for over 28 years. 17 of those years were with the State Land Survey Division. I feel SB898 proposes a necessary procedure to ensure the welfare of the property owner. Once an owner deregisters the property from Land Court, it is no longer guaranteed clear title and is recorded in the "regular" system. In doing so, the original land title should be identified, as the Land Court does not create nor replace original land titles. This bill will address the ambiguity created by the original deregistration process and ensure the continuity of land title to the property and provides a process which will allow continuity of the recordation of the deregistered land.

Thank you,

Clayton Kaneshiro, LPLS