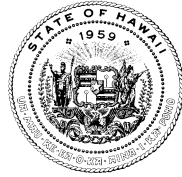


DAVID Y. IGE
GOVERNOR
STATE OF HAWAII

JOSH GREEN
LT. GOVERNOR
STATE OF HAWAII



WILLIAM J. AILA, JR.
CHAIRMAN
HAWAIIAN HOMES COMMISSION

TYLER I. GOMES
DEPUTY TO THE CHAIRMAN

**STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS**

P. O. BOX 1879
HONOLULU, HAWAII 96805

TESTIMONY OF WILLIAM J. AILA, JR, CHAIRMAN
HAWAIIAN HOMES COMMISSION
BEFORE THE HOUSE COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS
HEARING ON FEBRUARY 10, 2022 AT 2:00PM VIA VIDEOCONFERENCE

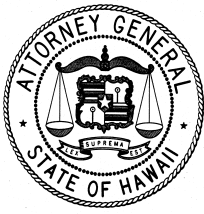
HB 2288, HD1, RELATING TO LAND

February 10, 2022

Aloha Chair Nakashima, Vice Chair Matayoshi, and members of the Committee:

The Department of Hawaiian Home Lands (DHHL) supports this bill transferring certain land to DHHL. The Oahu Island Plan was developed to provide recommendations for the future uses of DHHL land on the island of Oahu to meet beneficiary and department needs over the next 20 years. The Oahu Island Plan identified a land shortage and a large number of applicants looking for homesteading opportunities on Oahu, concluding that acquisition of new lands is necessary to award homesteads to all Oahu Applicants. This measure is a first step to meeting this need.

Thank you for your consideration of our testimony.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTY-FIRST LEGISLATURE, 2022**

ON THE FOLLOWING MEASURE:

H.B. NO. 2288, H.D. 1, RELATING TO LAND.

BEFORE THE:

HOUSE COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS

DATE: Thursday, February 10, 2022 **TIME:** 2:00 p.m.

LOCATION: State Capitol, Room 325, Via Videoconference

TESTIFIER(S): Holly T. Shikada, Attorney General, or
Craig Y. Iha, Deputy Attorney General

Chair Nakashima and Members of the Committee:

The Department of the Attorney General provides the following comments on this bill.

This bill requires the state agency holding the fee simple title to property located at 560 Makapuu Avenue, TMK (1) 3-2-030-002, to transfer the fee simple interest to the Department of Hawaiian Home Lands (DHHL). We understand that the University of Hawai'i is the fee simple owner of the property.

The Hawai'i State Constitution establishes the University of Hawai'i as a quasi-independent body corporate with title to all real property conveyed to it, to be held in trust for university purposes. *See Id.* at art. X, § 5. Further, article X, section 6, of the Hawai'i State Constitution provides that the University Board of Regents "shall have exclusive jurisdiction over the internal structure, management, and operation of the university." The Legislature may still, however, enact laws of statewide concern affecting the University. *Id.*

The University's status under the Hawai'i State Constitution as a quasi-independent state agency with exclusive jurisdiction over its internal affairs therefore precludes the Legislature from ordering the transfer of University land without approval by the Board of Regents. The Legislature may still, however, exercise the power of eminent domain over the property so long as the University is paid just compensation for the taking. *See Haw. Att'y. Gen. Op. No. 74-5 at p. 3 (March 4, 1974).*

To address this constitutional concern, the Committee could amend the bill to order the acquisition of the property for DHHL by eminent domain, and further appropriate funds to pay the University just compensation for the taking.

Thank you for the opportunity to provide these comments.



HB2288 HD1
RELATING TO THE DEPARTMENT OF HAWAIIAN HOME LANDS
House Committee on Judiciary & Hawaiian Affairs

February 10, 2022

2:00 PM

Videoconference

The Council for Native Hawaiian Advancement (CNHA), a member-based 501(c)(3) non-profit organization with a mission to enhance the cultural, economic, political, and community development of Native Hawaiians, **STRONGLY SUPPORTS** HB2288 HD1, which would transfer property on the island of O‘ahu to the Department of Hawaiian Home Lands (DHHL) for use by qualifying Hawaiian Home Commission Act (HHCA) beneficiaries to acquire a residence and to enable DHHL to fulfill the State of Hawai‘i’s fiduciary duty to these beneficiaries.

Due primarily to inadequate State funding, DHHL has amassed a waitlist of over 28,700 beneficiary-applicants, with countless applicants having passed away while awaiting the State to fulfill its obligation to them. Over 11,000 of these total waitlist applications are for the island of O‘ahu, where more available land for HHCA beneficiaries means greater capacity for DHHL to create the necessary housing inventory to reduce the waitlist and house qualifying Native Hawaiians.

CNHA emphasizes that the State of Hawai‘i holds a fiduciary obligation to Hawaiian Homes Commission Act (HHCA) beneficiaries, as part of its compact with the United States in exchange for admission into the Union and subsequently upon adopting the HHCA as a provision of the State’s Constitution. Subsequently, the State expanded its obligations to include enabling qualifying Native Hawaiians “to return to their lands in order to fully support self-sufficiency” and to support “the self-determination of Native Hawaiians.”¹

Prince Jonah Kūhiō Kalaniana‘ole advocated for the passage of HHCA in 1921 on behalf of the Native Hawaiian people. After a century during which over 84% of the indigenous population was decimated by foreign-introduced diseases, pushing them to near extinction,

¹ Hawaiian Homes Commission Act, 1920, as amended, §101 (Purpose).



‘Ōiwi leaders determined that the only way to rehabilitate Native Hawaiians, who the U.S. government characterized as “landless and dying,”² was to “place them back upon the soil.”³

CNHA urges the Legislature to pass HB2288 HD1.

Mahalo nui loa for this opportunity to provide testimony on this measure.

Respectfully,

J. Kūhiō Lewis, CEO
Council for Native Hawaiian Advancement

² The findings of Pub. L. 106-569, title V, §512, Dec. 27, 2000.

³ The testimony of Prince Jonah Kūhiō Kalanianaʻole as quoted in the Department of Hawaiian Home Lands 2021 Legislative Fact Sheet.



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Testimony Presented Before the
House Committee on Judiciary & Hawaiian Affairs
February 10, 2022 at 2:00 p.m.

By

Michael S. Shibata

Director of Strategic Development and Partnership
and

Kalbert K. Young

Vice President for Budget and Finance/Chief Financial Officer
University of Hawai'i System

HB 2288 HD1 – RELATING TO LAND

Chair Nakashima, Vice Chair Matayoshi, and members of the committee:

Thank you for the opportunity to present testimony today.

The University of Hawai'i (University) opposes House Bill No. 2288 HD1, relating to the transfer of real property located at 560 Makapu'u Avenue, Honolulu, Hawai'i, 96816, to the department of Hawaiian home lands. The bill does not explicitly identify the current title fee-simple owner of the property. The University owns this parcel in fee-simple. The transfer of the subject parcel would significantly affect the University's plans to increase its educational and innovation opportunities, as well as the ability to generate additional revenue streams through the monetization of University real property.

The University has already initiated plans for this parcel, including discussions of its disposition with the University Board of Regents since 2020, and recently procuring property reports, appraisals, and studies to support the University's target of future development at the site. The University is already on track with its plans to solicit proposals from developers to improve the property's condition for the surrounding neighborhood, the broader area community, and the University before the end of 2022. The selected developer would partner and collaborate with various University programs/departments, including but not limited to the University of Hawai'i System UHealthy Initiative and Office of Innovation and Commercialization; Kapi'olani Community College, including its Nursing, Health Sciences, Emergency Medical Services, Culinary Arts, and Hospitality programs; the John A. Burns School of Medicine; Nancy Atmospera-Walch School of Nursing; Thompson School of Social Work and Public Health, including its Center on Aging; Daniel K. Inouye School of Pharmacy; and the College of Education. This project is intended to develop partnership opportunities with private partner(s) and the University in the area of health care. This collaboration would provide students and trainees with experiential learning opportunities, which may include multigenerational "live-and-learn" opportunities. The partnership and collaboration would also stimulate/drive innovation in our neighborhood and community.

The subject parcel is vested in the University, a public body corporate, in fee simple absolute as part of the University trust, and is not part of the ceded land trust or the public natural resource trust. Therefore, the decision to transfer the subject parcel can only be made by the University Board of Regents, whose fiduciary responsibility includes ensuring the use and disposition of real property in the University trust for University purposes.

For these reasons, we respectfully oppose House Bill No. 2288.

Thank you for this opportunity to testify.

HB-2288-HD-1

Submitted on: 2/7/2022 8:17:02 PM

Testimony for JHA on 2/10/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Gerard Silva	Individual	Oppose	No

Comments:

We need more info on the lands!

HB-2288-HD-1

Submitted on: 2/9/2022 9:16:05 AM

Testimony for JHA on 2/10/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Kupuna for the Mo'opuna	Kupuna for the Mo'opuna	Support	No

Comments:

Strong Support for HB 2288!

Mahalo nui for this bill that will help our Hawaiian Homes Commission Act beneficiaries on O'ahu.

LATE

HB-2288-HD-1

Submitted on: 2/9/2022 8:00:10 PM

Testimony for JHA on 2/10/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Cyd L. Hoffeld	Individual	Support	No

Comments:

Aloha Chair Nakashima, Vice Chair Matayoshi, and Members of the Judiciary and Hawaiian Affairs Committee,

I am in support of HB2288 that transfers certain land to the Department of Hawaiian Home Lands.

Mahalo