



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

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**ON THE FOLLOWING MEASURE:**

H.B. NO. 2288, H.D. 2, RELATING TO LAND.

**BEFORE THE:**

HOUSE COMMITTEE ON FINANCE

**DATE:** Monday, February 28, 2022      **TIME:** 12:30 p.m.

**LOCATION:** State Capitol, Room 308, Via Videoconference

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

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Chair Luke 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 designated as TMK (1) 3-2-030-002-0000-000, 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.



# UNIVERSITY OF HAWAII SYSTEM

## Legislative Testimony

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Testimony Presented Before the  
House Committee on Finance  
February 28, 2022 at 12:30 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 HD2 – RELATING TO LAND

Chair Luke, Vice Chair Yamashita, 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 HD2, relating to the transfer of a parcel of land designated as TMK (1) 3-2-030-002-0000-000, 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.

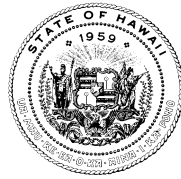
The subject parcel is vested in the University, a public body corporate, in fee simple absolute as part of the University trust, and is not part of the ceded land trust or the public natural resource trust. Therefore, the decision to transfer the subject parcel can only be made by the University Board 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 HD2.

Thank you for this opportunity to testify.

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**

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HONOLULU, HAWAII 96805

TESTIMONY OF WILLIAM J. AILA, JR, CHAIRMAN  
HAWAIIAN HOMES COMMISSION  
BEFORE THE HOUSE COMMITTEE ON FINANCE  
HEARING ON FEBRUARY 28, 2022 AT 12:30PM VIA VIDEOCONFERENCE

**HB 2288, HD2, RELATING TO LAND**

February 28, 2022

Aloha Chair Luke, Vice Chair Yamashita, 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.

**HB-2288-HD-2**

Submitted on: 2/27/2022 11:40:04 AM

Testimony for FIN on 2/28/2022 12:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Remote Testimony Requested</b>
Kupuna for the Mo'opuna	Kupuna for the Moopuna	Support	No

Comments:

**SUPPORT for HB 2288!**

Mahalo for this bill that will help the Hawaiian Homes Commission Act beneficiaries!