



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

ON THE FOLLOWING MEASURE:

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

BEFORE THE:

SENATE COMMITTEES ON HIGHER EDUCATION AND ON HAWAIIAN AFFAIRS

DATE: Thursday, March 17, 2022 **TIME:** 1:00 p.m.

LOCATION: State Capitol, Room 016 and Videoconference

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

Chairs Kim and Shimabukuro, and Members of the Committees:

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

Testimony Presented Before the
Senate Committee on Higher Education
and
Senate Committee on Hawaiian Affairs
March 17, 2022 at 1:00 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 HD2 – RELATING TO LAND

Chairs Kim and Shimabukuro, Vice Chairs Kidani and Keohokalole, and members of the committees:

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 real property designated as Tax Map Key (TMK) (1) 3-2-030: 002 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.

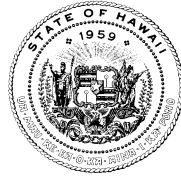
The subject parcel is vested in the University, a public body corporate, in fee simple absolute as part of the University trust, and is not part of the ceded land trust or the public natural resource trust. Therefore, the decision to transfer the subject parcel can only be made by the University Board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

P. O. BOX 1879
HONOLULU, HAWAII 96805

TESTIMONY OF WILLIAM J. AILA, JR, CHAIRMAN
HAWAIIAN HOMES COMMISSION
BEFORE THE SENATE COMMITTEES ON
HAWAIIAN AFFAIRS AND HIGHER EDUCATION
HEARING ON MARCH 17, 2022 AT 1:00PM IN CR 016

HB 2288, HD2, RELATING TO LAND

March 17, 2022

Aloha Chair Shimabukuro, Chair Kim, 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: 3/14/2022 10:58:52 AM

Testimony for HRE on 3/17/2022 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Jennifer Azuma Chrupalyk	Testifying for Kaulana ʻāina a Mahiku A'o Mai	Comments	Written Testimony Only

Comments:

If you are going to put more land into DHHL, please affirm to Kanaka Maoli that the land will be used as it was purposed - for the Hawaiian people to live on or to conduct mercantile business. We are no longer accepting that DHHL believes that lease monies from organizations is more beneficial to Hawaiians. The prison sits on DHHL land. The shelter sits on DHHL land. Commercial businesses sit on DHHL land, yet most Kanaka Maoli that have been on the list have been there for decades. Why isn't DHHL offering credit repair seminars so that people meet the financial qualifications? Why isn't DHHL investing in the assurance that children with less than 50% blood quantum can remain in their parents' home after the parent is deceased? How are Kanaka Maoli paying mortgage for a home that they only have a 99 year lease to live at, yet Crown Lands are selling with Fee Simple status and a lifetime of ownership?

The State of Hawai'i needs to clean up this corruption immediately. Something is wrong, and I wouldn't suggest moving or selling lands in ANY direction until the corruption is dealt with - in full honesty and transparency. We want to see the records publicized on the news to make sure that regular people who are not full fledged researchers, can see and understand.

HB-2288-HD-2

Submitted on: 3/14/2022 11:24:55 AM

Testimony for HRE on 3/17/2022 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Kupuna for the Mo'opuna	Testifying for Kupuna for the Moopuna	Support	Written Testimony Only

Comments:

SUPPORT!

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

HB-2288-HD-2

Submitted on: 3/14/2022 11:34:57 AM

Testimony for HRE on 3/17/2022 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Dana Keawe	Individual	Support	Written Testimony Only

Comments:

I support HB2288 HD2