

LINDA LINGLE  
GOVERNOR  
STATE OF HAWAII



MICAH A. KANE  
CHAIRMAN  
HAWAIIAN HOMES COMMISSION

KA ULANA H. PARK  
DEPUTY TO THE CHAIRMAN

ROBERT J. HALL  
EXECUTIVE ASSISTANT

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

P.O. BOX 1879  
HONOLULU, HAWAII 96805

TESTIMONY OF MICAH A. KANE, CHAIRMAN  
HAWAIIAN HOMES COMMISSION

BEFORE THE JOINT HOUSE COMMITTEE ON HAWAIIAN AFFAIRS AND  
WATER, LAND AND OCEAN RESOURCES

ON HB 949  
RELATING TO THE HAWAIIAN HOMES COMMISSION ACT

February 11, 2009

Chair Carroll, Chair Ito and Members of the Committee:

The Hawaiian Homes Commission and the Department of Hawaiian Home Lands strongly support HB 949, which would authorize the DHHL to, at its discretion, extend the maximum lease term from 65 years to 99 years. This is especially important as such terms would provide better and greater opportunities to the Hawaiian Home Lands trust and its beneficiaries.

DHHL's ability to carry out its mission to provide homeownership opportunities to native Hawaiians is directly tied to the Hawaiian Homes Commission's ability to obtain the necessary resources through federal, state and county funds, private and public grants, and income-generating opportunities. Over the past 5 years, income generated by DHHL through commercial leases has supported DHHL's

homesteading program. The current 65-year term has limited DHHL's ability to attract substantial investment in the proposed commercial lease properties. This bill increases the value of DHHL's property and provides an improved tool which DHHL can use to ultimately better serve its beneficiaries.

While we strongly support this bill, we have also identified language in HB 949 that must be amended to ensure proper implementation of this policy when it is signed into law. Since DHHL is authorized to issue leases for commercial, industrial and other business purposes under Section 220.5 and Section 204 of the Hawaiian Homes Commission Act, we recommend that Section 2 of the bill be removed, and the following language inserted:

*SECTION 2. Section 204 of the Hawaiian Homes Commission Act, 1920, as amended, is amended by amending subsection (a) to read as follows:*

*"(a) Upon the passage of this Act, all available lands shall immediately assume the status of Hawaiian home lands and be under the control of the department to be used and disposed of in accordance with the provisions of this Act, except that:*

- (1) In case any available land is under lease by the Territory of Hawaii, by virtue of section 73 of the Hawaiian Organic Act, at the time of the passage of this Act, such land shall not assume the status of Hawaiian home lands until the lease expires or the board of land and natural resources withdraws the lands from the operation of the*

lease. If the land is covered by a lease containing a withdrawal clause, as provided in section 73(d) of the Hawaiian Organic Act, the board of land and natural resources shall withdraw such lands from the operation of the lease whenever the department gives notice to the board that the department is of the opinion that the lands are required by it for the purposes of this Act; and such withdrawal shall be held to be for a public purpose within the meaning of that term as used in section 73(d) of the Hawaiian Organic Act.

- (2) Any available land, including lands selected by the department out of a larger area, as provided by this Act, not leased as authorized by section 207(a) of this Act, may be returned to the board of land and natural resources as provided under section 212 of this Act, or may be retained for management by the department. Any Hawaiian home lands general lease issued by the department after June 30, 1985, shall contain a withdrawal clause allowing the department to withdraw the land leased at any time during the term of the lease for the purposes of this Act.

In the management of any retained available lands not required for leasing under section 207(A), the department may dispose of those lands or any improvements thereon to the public, including native Hawaiians, on the same terms, conditions, restrictions, and uses applicable to the

disposition of public lands in chapter 171, Hawaii Revised Statutes; provided that ~~the~~:

(A) The department may not sell or dispose of such lands in fee simple except as authorized under section 205 of this Act; ~~provided further that the~~

(B) The department is expressly authorized to negotiate, prior to negotiations with the general public, the disposition of Hawaiian home lands or any improvements thereon to a native Hawaiian, or organization or association owned or controlled by native Hawaiians, for commercial, industrial, or other business purposes, in accordance with the procedures set forth in chapter 171, Hawaii Revised Statutes[-]; and

(C) Notwithstanding the provisions of sections 171-36(a)(2) and 171-95(a)(2), Hawaii Revised Statutes, the term of any existing lease or lease hereafter entered into pursuant to this section, including any extensions or renewals thereof, shall not exceed ninety-nine years in the aggregate."

(3) The department, with the approval of the Secretary of the Interior, in order to consolidate its holdings or to better effectuate the purposes of this Act, may exchange the title to available lands for land, privately or publicly owned, of an equal value. All lands so acquired by the department shall assume the status of available lands as though the ~~land~~ lands were originally designated as available lands

under section 203 of this Act, and all lands so conveyed by the department shall assume the status of the land for which it was exchanged. The limitations imposed by section 73(1) of the Hawaiian Organic Act and the land laws of Hawaii as to the area and value of land that may be conveyed by way of exchange shall not apply to exchanges made pursuant hereto. No such exchange of land publicly owned by the State shall be made without the approval of two-thirds of the members of the board of land and natural resources. For the purposes of this paragraph, lands "publicly owned" means land owned by a county or the State or the United States."

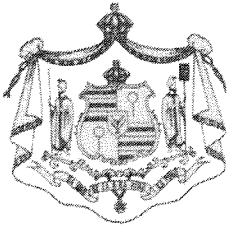
SECTION 3. Section 220.5 of the Hawaiian Homes Commission Act, 1920, as amended, is amended by amending subsection (d) to read as follows:

"(d) ~~[Any]~~ The term of any project developer agreement entered into pursuant to this section may ~~[provide for options for renewal of the term of the project developer agreement.]~~ be extended or renewed; provided that:

- (1) The term of any one project developer agreement, including any extensions or renewals thereof, whether such project developer agreement is existing or hereafter entered into pursuant to this section, shall not exceed ~~[sixty-five]~~ ninety-nine years[+] in the aggregate;

- (2) Any lands disposed of under a project developer agreement shall be subject to withdrawal at any time during the term of the agreement, with reasonable notice; and
- (3) The rental shall be reduced in proportion to the value of the portion withdrawn and the developer shall be entitled to receive from the department the proportionate value of the developer's permanent improvements so taken in the proportion that they bear to the unexpired term of the agreement, with the value of the permanent improvements determined on the basis of fair market value or depreciated value, whichever is less; or the developer, in the alternative, may remove and relocate the developer's improvements to the remainder of the lands occupied by the developer."

We respectfully urge these committees to adopt the aforementioned recommended changes and pass HB 949. Thank you for the opportunity to testify on this measure.



# ASSOCIATION OF HAWAIIAN CIVIC CLUBS

P.O. Box 1135 Honolulu, Hawaii 96807

TESTIMONY OF LEIMOMI KHAN, PRESIDENT  
ASSOCIATION OF HAWAIIAN CIVIC CLUBS  
IN SUPPORT OF

**HB 949 – RELATING TO THE HAWAIIAN HOMES COMMISSION ACT**

**HOSUE COMMITTEES ON HAWAIIAN AFFAIRS AND  
WATER, LAND, AND OCEAN RESOURCES**

February 11, 2009

Chair Carroll, Chair Ito and Members of the Committee:

The Association of Hawaiian Civic Clubs (AHCC) supports HB 949. We are a proponent of this legislation that, by allowing the Department of Hawaiian Home Lands to extend its maximum lease terms, would support its efforts to achieve financial self-sufficiency for its trust and homestead communities.

The Association is a national confederation of more than 50 Hawaiian Civic Clubs, and nearly 3,000 members. Founded by Prince Kūhiō in 1918, we are the oldest community-based grassroots Hawaiian organization in the state, and we support initiatives that improve the health and social welfare of the native Hawaiian community. Our organization was also instrumental in assisting Prince Kūhiō in passing the Hawaiian Homes Commission Act of 1920.

In 2008, we unanimously adopted a resolution to support the Department's efforts to achieve self-sufficiency for the Hawaiian Home Lands trust. This bill is critical for the Department to attract top commercial and business lessees and investments that will sustain the trust and the Hawaiian homestead communities. HB 949 is key for financial self-sufficiency and long-term economic growth.

We respectfully urge you to pass this bill and we thank you for this opportunity to testify in support of HR 949. For further information, please contact me at 372-0630.

February 11, 2009

The Honorable Mele Carroll, Chair  
And Committee Members  
Committee on Hawaiian Affairs  
The Honorable Ken Ito, Chair  
And Committee Members  
Committee on Water, Land & Ocean Resources  
State Capitol  
415 S. Beretania St., #329  
Honolulu, HI 96813



Dear Chairs Carroll and Ito and Committee Members:

RE: HB 949 Relating to the Hawaiian Homes Commission Act

My name is Erin Nellis, Development Officer for DeBartolo Development. DeBartolo Development is in support of HB 949 Relating to the Hawaiian Homes Commission Act. HB 949 provides the Department of Hawaiian Home Lands (DHHL) with the ability to negotiate lease terms on commercial projects beyond the current 55 years for terms up to 99 years.

We support this measure as it provides commercial developments located on DHHL property with a tool that can be used to finance or re-finance projects that ultimately provides revenues that will be used to provide programs for Native Hawaiians.

In today's financial market, lenders are very conservative. For very large commercial projects such as the one that we are building in Kapolei, lenders look more favorably upon long term leases than short term ones, to cover the cost of the project. DHHL has leases with commercial projects such as the Prince Kuhio Mall in Hilo. The Mall has a few years remaining on its lease with DHHL. Prince Kuhio Mall would like to make improvements to its structure, but that involves major capital that is difficult to attain in today's market. If the Prince Kuhio Mall had the ability to assure its lenders that they could negotiate a longer term lease with DHHL, it would make their ability to get financing much better. Right now, the time remaining on their lease is not long enough to provide financial satisfaction for their lenders.

We look at this measure as a financial tool that can be used by the Department of Hawaiian Home Lands and their lessees to provide income for the future of the Native Hawaiian. We ask for your support of this measure and ask that you pass HB 949. Thank you for this opportunity to testify.





February 11<sup>th</sup>, 2009

The Honorable Mele Carroll, Chair  
And Committee Members  
Committee on Hawaiian Affairs  
The Honorable Ken Ito, Chair  
And Committee Members  
Committee on Water, Land & Ocean Resources  
State Capitol  
415 S. Beretania St., #329  
Honolulu, HI 96813

RE: HB 949 Relating to the Hawaiian Homes Commission Act

Dear Chairs Carroll and Ito and Committee Members:

On behalf of Diversified Equity Investment Corporation, I would like to take this opportunity to express my support for the bill pending before you referenced as HB 949 Relating to the Hawaiian Homes Commission Act. HB 949 provides the Department of Hawaiian Home Lands (DHHL) with the ability to negotiate lease terms on commercial projects for terms up to 99 years.

We support this measure as it provides commercial owners who operate on DHHL land with an important tool to attract long term investment and financing to these projects, which ultimately generate revenue which support programs for Native Hawaiians.

Additionally, by allowing the extension of leaseholds to up to 99 years, you are in fact encouraging commercial owners and operators to invest in larger capital projects, including further development, construction and betterment of the property, since the costs associated with such activities can be spread throughout a longer term.

Not only does this better enhance the communities in which DHHL lands are located, but it will help create desperately needed jobs, particularly in the construction and design industries where jobs are scarce in today's difficult economic environment. Furthermore, granting of the Bill will assist leasehold owners of DHHL land to attract the very best retailers and operators to their projects.

Furthermore, for large commercial projects such as the Waiakea Center which we own and operate in Hilo, lenders look more favorably upon long term leases than short term ones, to cover the cost of the project. If longer term ground leases were to be permitted, we believe that the DHHL would be successful in bringing some of the most sought after tenants to the adjacent lands owned by DHHL, as well as attract more investment dollars for large projects such as the Prince Kuhio Mall located across from our shopping center. We would welcome the improvement to these surrounding areas, which would go a long way to creating a more vibrant and thriving commercial destination. The incremental tax dollars and/or revenues to be captured by underfunded municipalities and governmental agencies, including DHHL, would be significant.

As such, we seek your support in passing HB 949. We are available for further comment or testimony should you desire such. Thank you for your consideration of this Measure.

Very truly yours,

A handwritten signature in black ink, appearing to read "David Lee". The signature is fluid and cursive, with a large initial "D" and "L".

David Lee  
Principal

WAIMEA HAWAIIAN HOMESTEADERS' ASSOCIATION, INC.

P. O. Box 6753

Kamuela, Hawaii 96743

February 10, 2009

**M KANANI KAPUNIAI**  
*Pu'ukapu-Pastoral '90+*  
Director- **President**

**N DUKE KAPUNIAI**  
*Honokaia*  
Director - **Vice-President**

**SHARON MEDEIROS**  
*Puu Pulehu*  
Director - **Secretary**

**A HOPPY BROWN**  
*Puukapu Pastoral '90+*  
Director - **Treasurer**

**DOROTHY/BRUCE**  
**NISHIE**  
*Kamoku/Nienie/Waikoloa*  
Director

**KENNETH/LAVERNE**  
**KANIHO**  
*Pauahi*  
Director

**BERNARD ALANI, JR**  
*Puukapu-fARM>'85*  
Director

**BETTY LAU**  
*Kuhio Village*  
Director

**JOSEPH KEALOHA**  
*Pu'ukapu-Agricultural'85+*  
Director

**FRED LAU**  
*Kuhio Village*  
Director

**HENRY "SOLI"NIHEU"**  
*Pu'ukapu-Farm '85+*  
Director

**DERRICK HONDA**  
*Pu'ukapu-Pastoral <90*  
Director

TO: Rep Mele Carroll, Chair  
Rep Maile S L Shimabukuro, Vice Chair

FROM: M Kapuniai, President

RE: **HB949**  
**RELATING TO THE HAWAIIAN HOMES COMMISSION ACT**

Date/Time: Wednesday, February 11, 2009 10:00 a.m.  
Place: Conference Room 329  
State Capital, 415 So Beretania St

We **DO NOT SUPPORT** this bill.

The current general lease terms more than suffice the purposes of the HHCA. The current lease terms also allow for renegotiations, the revenues will continue to flow.

These Trust Lands were set aside for the beneficiaries to be stewards thereof, **dedicated** for their self-sufficiency, and not for others to occupy for more than our lifetimes.

"development by the government. . . to stimulate the economy" is rationale to **manage** the other 1.2 million acres, the State of Hawaii holds in trust "for perpetuity" for all citizens.

We **DO NOT SUPPORT THIS BILL.**

Thank you!

Phone: (808) 890-2311 (Res) 936-0157(Cell)  
Email: [duke@sandwichisles.net](mailto:duke@sandwichisles.net)

TESTIMONY OF SHIRLEY SWINNEY, PRESIDENT  
MALUOHAI RESIDENTS' ASSOCIATION  
ON **HB 949**  
BEFORE THE JOINT HOUSE COMMITTEE ON HAWAIIAN AFFAIRS AND  
WATER, LAND AND OCEAN RESOURCES

February 10, 2009

Chair Carroll, Chair Ito, and Members of the Committee:

Mahalo for this opportunity to testify in support of this bill that enables the Department of Hawaiian Home Lands to extend the terms of its non-homestead land use agreements from 65 years to 99 years.

As a leader of a Hawaiian homestead community association, I respectfully urge that you pass this bill. Through its various non-homestead land dispositions, the department generates revenue that supports programs that reach all the beneficiaries of the Hawaiian Home Lands trust, including all the lessee families in Malu'ohai in Kapolei.

We support this bill for two primary reasons. First, by being able to extend the terms of the lease to 99 years, the department can attract the best lessees, commercial and others, to maximize the revenue generated on these lands. This change in policy means more revenue for the trust to continue to build more homes and means DHHL applicants are a step closer to opportunities for homeownership. These revenues can also be used by DHHL to help fund homestead community centers and facilities which build stronger and healthier Hawaiian communities.

Second, these extended lease terms can attract larger commercial projects that bring jobs to nearby communities, like Malu'ohai and other neighborhoods in East Kapolei. Jobs close to home can mean a higher quality of life and less traffic within our community.

We respectfully ask that you approve this bill and thank you for this opportunity to testify.

Sincerely,

*Shirley Swinney*  
Shirley Swinney, President  
Malu'ohai Residents Association

**From:** olinda aiwohi [olindaaiwohi@yahoo.com]  
**Sent:** Tuesday, February 10, 2009 12:17 PM  
**To:** HAWtestimony  
**Subject:** testing

Aloha,

I am Olinda Aiwohi, President of Paukukalo Hawaiian Homes Community Association. A community of approximately 191 homes and with a population of at least 600 people.

This is directed to the Committee on Hawaiian Affairs chaired by Rep. Mele Carroll and the Committee on Land, Ocean and Natural Resources, chaired by Rep. Ken Ito.

February 11, 2009 at 11:00 a.m.

We the board members represent this community and we would like to go on record to say that we are against the extended years requested by the DHHL. Sixty-five years is more than enough time to not only build a business, but to make a profit. After some research we disagree with the need to lengthen the years to 99 years. That just is too long of a time for us the beneficiaries to give up these lands. It has been shared by our kupuna that lands that were leased many years ago by the department have been lost, lands that once belonged to their families are lost and the thought of a 99 year lease is just not acceptable.

Thank you,  
Olind Aiwohi, President, PHHCA