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LAND
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STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
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Testimony of
SUZANNE D. CASE
Chairperson

Before the Senate Committee on
WAYS AND MEANS

Thursday, February 04, 2016
9:00 A.M.
State Capitol, Room 211

In consideration of
SENATE BILL 3071
RELATING TO THE ACQUISITION OF
MAKAI LANDS OF KAPUA IN SOUTH KONA
ON THE ISLAND OF HAWAI'I

Senate Bill 3071 proposes that the Department of Land and Natural Resources (Department), in consultation with the Trust for Public Land (TPL), engage in negotiations to acquire certain lands located at Kapu'a, Island of Hawai'i with excess revenues from the transient accommodations tax (TAT) revenues that exceed \$206,000,000 in unspecified years. **The Department supports this measure and provides the following comments.**

The Department's consultation with TPL and the late Senator Gilbert Kahele's office indicates that the proposed acquisition includes four parcels that cover over 7,780 acres of land within the Agricultural and Conservation State Land Use Districts, including two parcels that sit next to the Manukā Natural Area Reserve (NAR), which is the State's largest natural area reserve and is part of the South Kona Wilderness Area that the Legislature created in 2011 (Act 178). The County of Hawai'i's current assessment of the fair market value of these four parcels, for tax purposes, is \$9,580,500. The Department is updating a 2007 appraisal that concluded the fee value of the four parcels to be \$13,900,000.

The Kapu'a makai area contains significant historical, archaeological and cultural resources, including a hōlua slide, ancient coastal trail, village sites, and superb biological resources including native dryland forest and associated common and rare native Hawaiian plants. The site is remote and not easily accessed and contains extensive uninterrupted coastal and lowland open space. The coastal waters are pristine and in excellent condition. The land area also contains

threats of invasive goats, fountain grass, potential for unexploded ordnance in areas near Manukā, and inappropriate human use due to a lack of management at this time.

The Department requests funding and appropriation language broad and flexible enough to cover all aspects of an acquisition, whether in fee, conservation easement, collaborative partnership or otherwise, including due diligence costs and closing costs.

The Department recognizes that the property's significant natural and cultural resources should be protected from threats. The Department lacks current financial and personnel resources to properly steward these lands. If placed under the Department's jurisdiction, the Department respectfully requests funding in the amount of \$1,600,000 to address immediate management needs (ie. fencing, access improvements, enforcement, etc.) and approximately \$500,000 annually for the next ten years to manage the area effectively and deal with threats to the treasured cultural, archaeological and biological resources of the area.

Thank you for your consideration of this testimony in support of this measure.



**Department of Land and Natural Resources
Aha Moku Advisory Committee
State of Hawaii
Post Office Box 621
Honolulu, Hawaii 96809**

**Testimony of
Piilani Kaawaloa
Aha Moku Advisory Committee Member, Hawaii**

**Before the Senate Committee on
WAYS AND MEANS**

**Thursday, February 04, 2016
9:00 AM
Conference Room 211**

**In consideration of
SENATE BILL 3071
RELATING TO THE ACQUISITION OF MAKAI LANDS OF KAPUA IN SOUTH KONA ON THE
ISLAND OF HAWAII**

Senate Bill 3071 requires the Department of Land and Natural Resources, in consultation with the Trust for Public Land, to engage in negotiations to acquire makai land located at Kapua, Island of Hawaii. It requires the acquisition to be funded wholly or in part by transient accommodations tax revenues. It makes an appropriation for any additional amounts required for the acquisition. **Aha Moku strongly supports this measure.**

The large Native Hawaiian communities who reside in the ahupua'a of Kapua and the neighboring ahupua'a of Kaulanamauna, Okoe, Honomolino, Miloli'I, Ho'opuloa and Papa in the South Kona Moku; and, the ahupua'a of Keawaiki, Pohue, and Kahuku in the Ka'u Moku continue to traditionally gather and fish along this pristine coastline. The Aha Moku representative of South Kona, Kawehi Nguyen relates how her family and many many families of the South Kona Moku continue to honor and take care of these areas. These are subsistence people who live simply and subsist on what they grow, gather and fish. They follow the traditional resource methods of sustainability – following the moon calendar, knowing when to harvest and fish – and when to kapu. These very lands are where many go to gather medicinal herbs and plants – la'au lapa'au. This is the last area in South Kona that has been kept pristine for the local residents. It is full of wahi pana, heiau and sacred cultural areas.

It is ironic that the Resort Group who purchased this land from Kamehameha Schools/Bishop Estate seems to have wanted it for resort development because it is a place where native Hawaiians flourish. Their perspective seems to be that this is a “desirable location for an exotic vacation retreat and vacation home ownership, as described on the website of The Resort Group.” This is not a place to be taken from the indigenous people of Hawaii so tourists can vacation and play. This is home to the Hawaiians of South Kona. This is where, for hundreds and hundreds of years, the people have lived and thrived – generations of Hawaiians who have preserved and protected the very place that now is attracting developers for the very reason that it is pristine. The people of South Kona have protected these lands for countless generations through their traditional resource methodology. They now need the State of Hawaii to continue this protection by making sure that these lands are held in Trust for the people of Hawaii, for the residents and communities of South Kona.

February 4, 2016

The Honorable Jill Tokuda
Chair, Senate Committee on Ways and Means
Conference Room 211
State Capitol
415 South Beretania Street
Honolulu, HI, 96813



RE: Kaiali'i Kahele
Executive Director Pa'a Pono Miloli'i
Testimony on SB 3071 Relating to the Acquisition of Makai Lands at Kapua
Before the Senate Committee on Ways Means

Dear Chairwoman Tokuda, Vice Chairman Dela Cruz and Members of the Committee on Ways and Means,

Thank you for the opportunity to present my testimony in support of Senate Bill 3071 before the Committee on Ways and Means.

The proposed acquisition of the makai lands at Kapua from the Resort Group is in the best interests of the State and the people of Hawai'i. Historically and culturally rich with archaeological sites including a holua slide, petroglyphs, caves, ancient heiau burial sites and the most pristine, intact stone trail in the State warrant the preservation of this land for future generations.

Kapua has been a subject of development dating back to the early 1980's. Previous owner, Farms of Kapua pursued the development of an aquaculture farm at Kapua similar to what exists today at Keahole Airport in Kona. Pa'a Pono Miloli'i and its original founders to include the late Senator Gilbert Kahele have firmly advocated against any and all development at Kapua. In 2011 Governor Neil Abercrombie signed SB1154 into law creating the South Kona Wilderness Area. The act created a 22,000 acre wilderness area, managed by the NARS division, that would ensure that native plants, animals and the cultural artifacts & history in the designated area would remain that way for perpetuity. Unfortunately Kapua and specifically the makai lands at Kapua were taken out of SB1154 as the 2011 session was coming to an end.

The passage of this bill would ensure that the makai lands at Kapua are purchased from its current owners and eventually included in the South Kona Wilderness Area so that generations of Hawai'i's people can enjoy this area in its current state as the ancient Hawaiian's discovered it and settled there centuries ago.

Hau'oli Ka Mana'o,

Kaiali'i Kahele
Executive Director
Pa'a Pono Miloli'i



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Carol Wilcox
Author

The Trust For Public Land's Testimony In Support of SB 3071 Relating To The Acquisition Of Makai Lands of Kapua Senate Committee on Ways & Means, Conf. Room 211 Thursday, February 4, 2016, 9:00 a.m.

Aloha Chair Tokuda, Vice-Chair Dela Cruz, and Committee Members:

The Trust for Public Land supports the intent of Senate Bill 3071 relating to the disposition of makai lands of Kapua in South Kona on the Island of Hawai'i. This bill requires DLNR, in consultation with The Trust for Public Land, to negotiate for the acquisition of Kapua, funded by transient accommodation taxes and general appropriations.

I personally had several conversations with Senator Gil Kahele regarding the preservation of Kapua, years before he became a Senator, and visited Kapua twice. I am very sad that we were not able to preserve and protect the Kapua lands in Senator Kahele's lifetime, and would like to support, to the extent possible, the voluntary negotiated acquisition of the property. The Trust for Public Land has two concerns/suggestions regarding the bill: (1) funding, and (2) errors in the identification of land and landowner.

Funding

The funding mechanisms in the bill include the Transient Accommodation Tax (deposited in a special fund), and general revenues. Last session (2015), use of the Transient Accommodation Tax (TAT) to fund (in part) the Turtle Bay Makai acquisition was controversial. This bill may encounter similar resistance, despite the nexus between tourism and its impact on our natural and cultural resources.

A general revenue appropriation of \$5-8 million should be sufficient to start the project off. Far larger general revenue appropriations have been made to save other important lands, such as Lipoa Point on Maui (\$25 million). DLNR and The Trust for Public Land can do our best to raise federal, county, and private dollars to complement those general funds to complete the project.

Landowners/Acreage

I have attached a table summarizing information from the County of Hawai'i's real property tax website. There are four parcels that I believe Senator Kahele wanted to conserve at Kapua that total 7,780.44 acres with a real property tax assessed value of \$9,580,500. The bill currently references "at least 6,000 acres."

The landowners of these four parcels are the Showe Family Hawaii LLC, South Kona LLC, and One Keahole Partners. The bill currently refers to the landowner as The Resort Group. This error may be due to the fact that, Jeff



Stone, who owns/controls The Resort Group, has an ownership interest in South Kona LLC and One Keahole Partners.

Finally, the Trust for Public Land is a voluntary land conservation organization. It can only support the acquisition and protection of Kapua if the landowners agree to sell the land.

Mahalo for introducing and hearing this bill in order to fulfill the long-held wishes of Senator Kahele. He was a true gentleman who shared the aloha spirit with all whom he touched. It was my honor to know him.

I regret that I may not be able to attend the hearing in person due to a prior commitment.

Me ke aloha,

A handwritten signature in cursive script that reads "Lea Hong". The signature is written in black ink and is positioned above the typed name and title.

Lea Hong
Hawaiian Islands State Director
Encl. (table)

Kapua Lands					
Owner	TMK	Acres	County Zoning	Tax Value	Last Transfer
Showe Family Hawaii LLC -Member Manager National Housing Corporation of Hawaii, Inc. (agent/ VP/T/D Kevin M. Showe, P/D H. Burkley Showe)	8-9-006-003 (makai L shaped)	2,389.56	Ag (State Conservation along ocean)	\$1,485,300 (ag) \$2,704,300 (cons)	2002 \$925,000
South Kona LLC -Member Manager Pacific Northwest, Ltd (agent/P/S/D – Jeffrey R. Stone, V/T/AS – Kendall C. Kim)	8-9-006-019 (most north of mauka ag parcels and just south of L shaped parcel)	1,702.496	Ag	\$1,702,500	2002 \$1,000,000
South Kona LLC – see above	8-9-006-028 (center of mauka ag parcels)	1,844.092	Ag	\$1,844,100	2002 \$1,000,000
One Keahole Partners -agent/general partner Pacific Northwest, Ltd (see above), general partner Mau L.L.C. -Mau L.L.C. – agent/member manager Leighton S.L. Mau	8-9-006-035 (most south of mauka ag parcels)	1,844.292	Ag	\$1,844,300	Not available in county website

Total Acreage: 7,780.44

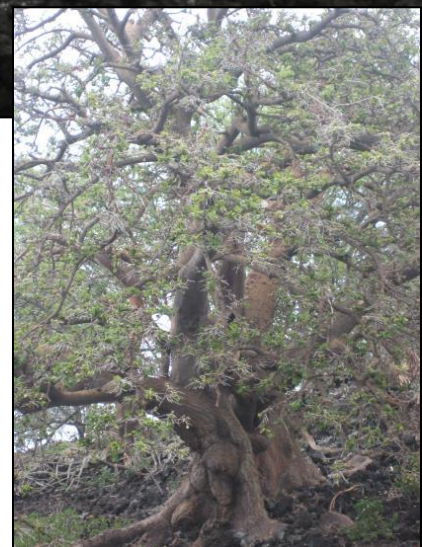
Total of Tax Assessed Value: \$9,580,500

Testimony of The Nature Conservancy of Hawai'i
Supporting S.B. 3071 Relating to the Acquisition of Makai Lands
of Kapua in South Kona on the Island of Hawai'i
Senate Committee on Ways and Means
Thursday, February 4, 2016, 9:00AM, Room 211

The Nature Conservancy of Hawai'i is a private non-profit conservation organization dedicated to the preservation of the lands and waters upon which life depends. The Conservancy has helped to protect nearly 200,000 acres of natural lands in Hawai'i. We manage 40,000 acres in 14 preserves and work in 19 coastal communities to help protect the near-shore reefs and waters of the main Hawaiian Islands. We forge partnerships with government, private parties and communities to protect Hawai'i's important watershed forests and coral reefs.

The Nature Conservancy supports S.B. 3071 to protect the important lands of Kapua Makai on Hawai'i Island.

Our conservation science and cultural staff have visited the area and found approximately 1,000 acres of relatively good quality native dryland forest—little of which remains in Hawai'i—including lapa, wiliwili and kauila trees. The Property also contains anchialine pools with native shrimp, and pockets of native coastal vegetation. And, it has significant cultural sites, including heiau, a portion of the Ala Kahakai trail, and other archaeological treasures. However, the site is at risk of development as well as degradation from invasive weeds and feral animals.



TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: TRANSIENT ACCOMMODATIONS, Acquiring Makai Lands of Kapua

BILL NUMBER: SB 3071

INTRODUCED BY: KAHELE, CHUN OAKLAND, ENGLISH, ESPERO, GABBARD, GALUTERIA, GREEN, IHARA, INOUE, KEITH-AGARAN, KIDANI, KOUCHI, NISHIHARA, RIVIERE, RUDERMAN, SHIMABUKURO, SLOM, L. THIELEN, TOKUDA, Baker, Dela Cruz, Harimoto, Kim, Taniguchi, Wakai

EXECUTIVE SUMMARY: Requires DLNR to engage in negotiations to acquire makai lands located at Kapua in South Kona on the island of Hawaii, also known as Miloli'i. Requires the acquisition to be funded by TAT revenues. Earmarks decrease transparency and accountability of government operations and should be avoided.

BRIEF SUMMARY: Amends HRS section 237D-6.5 to allocate an unspecified amount to the Department of Land and Natural Resources (DLNR) to purchase the makai lands in Kapua on the island of Hawaii from The Resort Group.

EFFECTIVE DATE: July 1, 2016.

STAFF COMMENTS: This measure is similar to SB 1173 (2015) which is presently pending before this Committee.

Act 161, SLH 2013, made permanent the TAT rate of 9.5% and changed the allocations of TAT from a percentage basis to a specific dollar amount. Currently, TAT revenues are allocated as follows: (1) \$1.5 million goes to the Turtle Bay conservation easement special fund; (2) \$26.5 million is deposited into the convention center enterprise special fund; (3) \$82 million goes to the tourism special fund; (4) \$103 million is transferred to the various counties; and (5) \$3 million is allocated to the special land and development fund. Any remaining revenues then go to the general fund. This measure pulls out \$_____ for purchasing the specified lands.

The proposed measure would add another siphon of TAT revenues and would perpetuate the earmarking of TAT revenues. While proponents of earmarking of the TAT argue that if these projects or programs are not funded, none of the pristine beauty that visitors come to see will be preserved, one could make the argument on the other side – if there are insufficient funds to promote the industry, then visitor counts will drop and so will the income that fuels the state's economy. Lawmakers seem to have lost sight of the fact that visitors also contribute to state coffers directly through the 4% on everything they purchase including hotel rooms, visitor activities and purchases of food and souvenirs. To that extent, a good part of the general fund tax collections is contributed by visitors. If the argument is that visitors should pay for other "visitor related" programs, then paying for those programs out of general funds would be more appropriate than stealing the money from what is identified as a tax paid specifically by the visitor.

Rather than the continual earmarking of TAT revenues, a direct appropriation of general funds would be preferable. Earmarking the TAT revenues for a particular purpose that not only benefits the visitors but the community at large, decreases transparency and accountability.

Next, it should be remembered that revenues diverted for a special purpose, in this case to fund the acquisition, will not be counted against the state's spending ceiling or debt limit and will obscure the state's true financial condition.

Apparently, the adoption of an earmark on this same tax to fund the Turtle Bay conservation easement has led to copycat requests like this one. This request also appears to have questionable merit. The committee report on last year's measure informs us that The Resort Group acquired the subject land from Kamehameha Schools / Bishop Estate, and that the land is now zoned agricultural or conservation land. If the intent is to require some or all of the land to continue to be used for such purposes, would that not be a matter to take up with the zoning authorities rather than doling out taxpayer money so one private developer can make a profit on that portion of its purchase?

Digested 2/1/2016

From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: margaretwille@mac.com
Subject: Submitted testimony for SB3071 on Feb 4, 2016 09:00AM
Date: Wednesday, February 03, 2016 8:35:39 AM

SB3071

Submitted on: 2/3/2016

Testimony for WAM on Feb 4, 2016 09:00AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Margaret Wille	Individual	Oppose	No

Comments: I am testifying as the Councilmember for Hawaii County District 9. I oppose this and any other legislation that earmarks use of TAT revenues. Earmarks by State Legislators should come out of the State's percentage allocation of TAT funds.... not "above the line"- before allocation of the State/County percentages. I am furious that State legislators have the audacity to submit any legislation earmarking TAT revenue. At minimum State legislators should support the State-County TAT Working Group report. That report is highly slated towards State and yet is not even supported by our State Legislators. Thank you for listening. Respectfully submitted, Margaret Wille Councilmember District 9 (North and South Kohala)

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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