

NEWS RELEASE



FOR IMMEDIATE RELEASE
DATE: OCTOBER 1, 2008
RELEASE NO. 100108-1

OHA Media Contact:
Crystal Kua
Director of Communications
P: 808-594-1983
C: 808-265-9308
Email: crystalk@oha.org

OHA RESPONDS TO U.S. SUPREME COURT

The Office of Hawaiian Affairs believes the U.S. Supreme Court will ultimately uphold the Jan. 31 unanimous ruling by the Hawai‘i Supreme Court that prevents the sale and transfer of ceded lands until “unrelinquished claims” of Native Hawaiians have been resolved.

OHA is responding to today’s decision by the U.S. Supreme Court to hear the State of Hawai‘i’s appeal of the landmark ruling by the state’s highest court.

“We continue to believe that the Hawai‘i Supreme Court ruled correctly,” OHA Board Chairperson Haunani Apoliona said. “We firmly stand behind the state Supreme Court’s opinion which says the state should keep the ceded land trust intact until Native Hawaiian claims to these lands are settled.”

Chairperson Apoliona also said, “OHA will continue its tireless efforts to protect and defend the rights and entitlements of its beneficiaries, the Native Hawaiian People.”

The Hawai‘i Supreme Court pointed out that both the Apology resolution and related state legislation admitted that the overthrow was “illegal” and that Congress, the Legislature, and the governor have all expressed their desire to reach a settlement.

The resolution apologized to Native Hawaiians for the United States’ military participation in the illegal overthrow.

The unanimous opinion, written by Chief Justice Ronald Moon, said in part, “We believe ... that the Apology Resolution ... and the related state legislation, give rise to the State’s fiduciary duty to preserve the corpus of the public land trust, specifically, the ceded lands, until such time as the unrelinquished claims of the native Hawaiians have been resolved.”

In 1994, OHA and four individual plaintiffs – Pia Thomas Aluli, Jonathan Kamakawiwo‘ole Osorio, Charles Ka‘ai‘ai and Keoki Kamaka Ki‘ili – sued to prevent the State of Hawai‘i from selling ceded lands.

At that time, the State was ready to sell about 500 acres in Lāhaina in a project called Leiali‘i and another 1,000 acres in Kona in a project referred to as La‘i‘ōpua.

The lawsuit alleged that the State as trustee of the ceded land trust should not sell ceded lands pending resolution of Native Hawaiian claims to ceded lands.

In 2002, Circuit Judge Sabrina McKenna entered judgment in favor of the State and held that the State was authorized under the Admission Act to sell ceded lands.

The Hawai‘i Supreme Court reversed the lower court decision, and held that the Apology Resolution and similar State legislation required the State to not sell ceded lands pending resolution of Native Hawaiians’ claim to those lands through the political process.

The State Supreme Court ordered that the case be remanded to the Circuit Court with instructions to issue an order granting the plaintiffs’ request for an injunction against the defendants from selling or otherwise transferring to third parties the Leiali‘i parcel and any other ceded lands from the public land trust until the claims of the Native Hawaiians to the ceded lands have been resolved.

Copies of the Hawai‘i Supreme Court decision, the State’s petition to the U.S. Supreme court, OHA’s response brief opposing the petition and the state’s reply brief can be found on OHA’s website: www.OHA.org.

Attorneys representing the respondents are Sherry Broder (sherrybroder.com/resume), William Meheula (www.pacificlaw.com/meheula.htm) and Neal Katyal (http://www.law.georgetown.edu/faculty/facinfo/tab_faculty.cfm?Status=Faculty&ID=272).