

Land reform: a social imperative for Hawaii

By Benjamin J. Cayetano
Hawaii Lieutenant Governor

Why do we need leasehold reform? In the next 10 years more than 37,000 persons living in Hawaii's 16,000 condominium and cooperative units face skyrocketing lease rents they never imagined when signing their lease agreements.

For example, occupants in Aiea's Pearl Manor condominium are paying monthly lease rents of \$20. When the lease rent is renegotiated this year, it may increase by as much as 1,339 percent, to \$268 per month — an increase of nearly \$3,000 per year. Similarly, Salt Lake's Lakeside Manor condominium lease rents are projected in 1994 to increase from \$44.40 per month to \$450 monthly — a hike of \$4,800 annually.

The worst hurt will be the elderly — occupants in about one-third of the multi-family units — living on fixed incomes. Those who own their homes in fee usually find their mortgages substantially reduced or paid off entirely in their senior years, whereas elderly who are lessees face the opposite: escalating lease rents as they grow older.

AFTER MUCH public debate, the state Legislature enacted the Land Reform Act in 1967 to provide for fee simple conversion for single-family homes. The measure was upheld by the U.S. Supreme Court on the grounds that there was a compelling need for the state to act. Many of the arguments against leasehold reform for single-family homes are being repeated today against multi-family lease reform. The regurgitated debate on issues long decided by the U.S. Supreme Court should not cloud the urgent, compelling need for action now.

Opponents of reform contend that leaseholders voluntarily chose lease agreements instead of fee contracts. The fact is that in the early 1960s and up until the mid-1980s the overwhelming majority of condominium and cooperative units were sold only on a lease basis

blame for the problem, because this crisis is no one's fault. Indeed, no one could forecast 30 years ago the huge jumps in Hawaii land values, which dramatically impact lease rent payments as they face renewal in the 1990s.

THE BISHOP Estate's charge of racism is a "red herring" intended to mask the real issues at hand. This is not a "new Mahele" to rip off native Hawaiians. This is a housing problem that affects all of Hawaii's people. The question of who is protecting Hawaii's interests is a matter of the heart, not of skin color.

We need to recognize the fact that more than 37,000 persons in multi-family leasehold units face serious economic problems and social dislocation in the immediate future. Indeed, some will face losing their homes because of the inequities of Hawaii's residential leasehold system. It's time to do something about it.

For the past eight years in the Legislature, lessees and lessors have been struggling with the leasehold problem. The issue has been stalemated because no one wants to compromise.

THE BILL proposed by the Waihee administration offers a fair and reasonable solution to the leasehold problem. Landowners could choose between converting units to fee or retaining land ownership and agreeing to pace increases in lease rent with general consumer prices. Owner-occupants of these units would be assured of affordable lease rent increases or the opportunity to purchase their units in fee. The main objective of the bill is to bring about some certainty to lease rents — to enable lessees to plan their families' futures in a way that will minimize social and economic hardship or the loss of their homes.

We cannot permit more than 37,000 persons to suffer diminishing standards of living. We have to deal realistically with the fact that the affordable home of the future for most of Hawaii's people is the multi-

TWO VIEWS

Leasehold condo conversion:

'We cannot permit more than 37,000 persons to suffer diminishing standards of living.'

— Ben Cayetano

'We will not allow the very essence of the legacy left by Princess Panahi to be eroded.'

— Oswald Stender

'Land reform': a license to steal from Hawaiians

By Oswald Stender
Bishop Estate Trustee

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These comments are made in my capacity as a Kamehameha Schools/Bishop Estate trustee, a graduate of Kamehameha Schools, a keiki of the Lilookalani Trust and as a native Hawaiian who is saddened by the continuous and vicious attacks against the legacies left to the Hawaiian people by our alii.

To those in the community who seek to portray my remarks as racist, I would also add that I speak as an American citizen, a keiki o ka aina of Hawaii nei and as a taxpayer and voter who has seen our government purposely and through tyranny systematically alienate the Hawaiian people from their lands in total disregard for their culture, their property rights and their rights for survival.

IN THAT DISGUISE of "helping the people" the mandatory conversion bills under consideration by the Legislature take away rights to property ownership, disregard commitments to contracts, and shatter one's belief that the government is the protector of the rights provided citizens under our state and federal constitutions. Moreover, there is no moral or ethical justification for the government's historical deprivation of Hawaiian-owned lands.

From a historical and Hawaiian perspective, the alienation of Hawaiians from our lands has been achieved primarily through legislative enactments and judicial precedents masquerading as land reform activities. The very phrase — land reform — has become a euphemism for a license to steal. Hawaiians once enjoyed the fruits of all Hawaii nei; today, however, Hawaiian lands amount to a mere fraction of the aina.

THE GREAT Mahele was an exercise in land reform that

ture legislative land reform raids: 1.5 million acres of government lands, 1 million acres of Crown lands, and 1.5 million acres of konohiki lands.

The government lands were next to be lost. By 1893, 500,000 acres had been sold to operate the government, the bulk being snatched up by Westerners. The balance of 1 million acres of government land was confiscated in 1893 through the ultimate land reform. Our Queen, Liliuokalani, was militarily threatened and her monarchy was overthrown. Western sovereign power was established in the form of the Republic of Hawaii.

THE CROWN lands were clearly intended by the king to be his personal property. Nevertheless, they were coveted by the Western interests, who finally used the Western-dominated Hawaii Supreme Court to declare that the one million acres of Crown lands were not the personal lands of the king, but were functionally another class of government lands, and therefore taken from the king.

Both Crown and government lands were subsequently ceded to the United States in 1898 upon annexation. Then, all that remained in native Hawaiian control were the 1.5 million acres of konohiki lands in the hands of 245 alii (royalty) and konohiki (chiefs).

The alii and konohiki have proved more resistant to efforts to steal their lands, but they have not been totally impervious to such assaults. One great tragedy was the Lunalilo Estate, which was originally endowed with more land than the 400,000-plus acres that Pauahi left for our estate. Lunalilo's early trustees, acting upon instructions received from the Hawaii Supreme Court, converted their lands to cash, which was then invested in stocks. That was terrible advice. Today, Lunalilo Trust has barely the means to sustain its

percentage of the class of multi-family condominium lessees.

Once again we find that "land reform" is inherently directed at divesting native Hawaiians of ownership, control or benefits in land; and seeks to re-distribute these rights to non-Hawaiians. Perhaps the greater historical tragedy is the paternalistic theft of Hawaiian self-determination, and this will no longer be tolerated. We as Hawaiians must stand together to protect our rights; to be masters of our own destiny; to hold land when we choose ... and to sell land when we choose.

Others may call our view what they will and evoke the emotionally charged cry of racism. We call this the truth; and if the truth causes discomfort, then all should realize that something is dreadfully wrong and unjust in the legislation under consideration.

WE WILL NOT allow the very essence of the legacy left by Princess Pauahi to be erod-