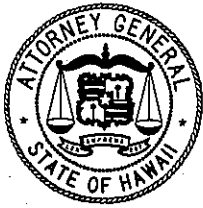


TESTIMONY
HB901 HD2
LATE



**TESTIMONY OF THE STATE ATTORNEY GENERAL
TWENTY-FIFTH LEGISLATURE, 2009**

ON THE FOLLOWING MEASURE:

H.B. NO. 901, H.D. 2, RELATING TO THE OFFICE OF HAWAIIAN AFFAIRS.

BEFORE THE:

SENATE COMMITTEE ON WATER, LAND, AGRICULTURE, AND HAWAIIAN AFFAIRS
AND ON JUDICIARY AND GOVERNMENT OPERATIONS

DATE: Friday, March 20, 2009 **TIME:** 2:45 PM

LOCATION: State Capitol, Room 229

LATE TESTIMONY

TESTIFIER(S): Mark J. Bennett, Attorney General
or Charleen M. Aina, Deputy Attorney General

Chairs Hee and Taniguchi and Members of the Committees:

The Administration continues to be concerned about whether the Legislature has enough information with which to consider this bill's passage, and whether the bill will actually accomplish its stated purpose.

In its present form, the bill contains too many variables that must be fixed before the bill can be passed. The bill is also inherently uncertain in that it allows the Office of Hawaiian Affairs (OHA) to unilaterally reject any of the parcels of land the Legislature designates for transfer in this bill and in legislation to be enacted in 2010. Multiple rejections could undo the entire deal.

The stated purpose of this bill is to allow the State to make progress toward meeting the obligation the Hawaii Supreme Court has said the State has to native Hawaiians under article XII, section 6, of the Hawaii Constitution. The bill proposes to accomplish this by transferring land to OHA in two phases, to make up for income and proceeds from the ceded lands that OHA did not receive under article XII, section 6 of the State Constitution between November 7, 1979 and July 1, 2008. However, "future payment" issues are not addressed.

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The first transfer of land is to be made by October 1, 2009 or six months after OHA receives access to that property and all documents related to that property, with which to conduct due diligence. The second transfer of yet to be identified land is to be made by an act passed by the Legislature in 2010. That legislation may or may not include the same conditions and procedures contained in this bill.

Because revisions were made when the bill was earlier heard in the House, the total value of the land to be transferred is not presently specified. Further, because the bill only designates land at Kakaako (which we know is valued at far less than the \$200,000,000 OHA originally sought to recover by this bill) for transfer, and allows OHA, in "its sole and absolute discretion," and without recourse by the Legislature or the Executive branch on the State's behalf, to reject any or all of the parcels that make up the Kakaako land, the actual lands used to effectuate this bill's purpose could be wholly different from those described in this bill, as well as legislation proposed in 2010.

Effectively, the Legislature is left with no specific context, and limited relevant information, with which to assess today whether this is the best means of satisfying the constitutional obligation that prompted the bill's introduction. Indeed, the bill could end up binding the State to transfers that it has no present intent to make now or next year.

OHA's unilateral ability to pick and choose also means that the State could be left with contiguous property that is fragmented and substantially de-valued by OHA's rejection of some, but not all, of the parcels that make up the Kakaako land, and other land the Legislature identifies for transfer in the future. Further, no provision is included for either undoing the transfers of land this bill effectuates, or offsetting the value of those lands against future efforts to finally resolve issues relating to the past, should legislation to effectuate the 2010 transfer of land not pass.

The bill should also make more clear that the land transferred to OHA will continue to be subject to chapter 171, Hawaii Revised Statutes, even though it is no longer would be "public land," and that all dispositions of the land, like the "available lands" of the Hawaiian Home Lands trust, must be made on the same terms, conditions, restrictions, and uses applicable to the disposition of public lands in chapter 171.

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Senate Committee on Water, Land, Agriculture and Hawaiian Affairs

Senator Clayton Hee, Chair
Senator Jill N. Tokuda, Vice Chair

Senate Committee on Judiciary and Government Operations

Senator Brian T. Taniguchi, Chair
Senator Dwight Y. Takamine, Vice Chair

House Bill 901, HD2
Relating to the Office of Hawaiian Affairs
Friday, March 20, 2009
Senate Conference Room 229
2:45 PM

LATE TESTIMONY

Statement of Concerns

Aloha Chairs Hee and Taniguchi, Vice Chairs Tokuda and Takamine, and Committee Members:

I offer this testimony as an individual who has been an active Kaka'ako Makai Community Planning Advisory Council (CPAC) participant. The CPAC was established in 2007 in accordance with the intent of HCR30, 2006, which states in part as follows:

BE IT FURTHER RESOLVED that the Hawaii Community Development Authority immediately convene a working group of interested stakeholders, particularly the groups and individuals that have surfaced in this controversy, to meaningfully participate in the development, acceptance, and implementation of any future plans for the development of Kakaako Makai

On February 17, 2009, representatives of the Office of Hawaiian Affairs (OHA) shared information with the CPAC on Senate Bill 995 and House Bill 901. Following this presentation CPAC participants inquired about OHA's intended conceptual plan for the Kaka'ako Makai property slated by the legislation to be transferred to OHA, and on March 10, 2009, the OHA representatives returned with a visual presentation of OHA's preliminary conceptual plan for the subject Kaka'ako Makai property .

The CPAC learned that many of the cultural and environmental values of OHA's conceptual plan parallel the CPAC's "Vision and Guiding Principles for Kaka'ako Makai" developed by consensus of makai area stakeholders and representatives of the larger community. However, during the first presentation many were concerned to learn that OHA *may* be seriously contemplating the development of residential units over retail spaces and an amphitheater at Point Panic akin to the HCDA's 2005-2006 failed A&B plan. Projected illustrations at the second meeting showed a 2-to-3 story shopping mall complex described to be comprised of many retail shops and restaurants with office space above, or residential lofts if the law can be changed. This dense commercial complex was shown to extend along Kewalo Basin from Fisherman's Wharf Restaurant to John Dominis Restaurant near Point Panic, and to include the piano-shaped lot where the failed A&B residential high-rises were formerly planned.

Taken separately or together these elements strike a chord of concern with the people of Honolulu who have passionately defended this remaining urban shoreline open space for needed public recreational, cultural and educational uses. From a sound planning standpoint this recreational open space will be essential to relieve existing crowding in our shoreline parks and better serve Honolulu's projected urban population in Kaka'ako, native Hawaiians and non-Hawaiians alike.

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Further, House Bill 901, HD2, threatens to compromise existing laws and legislative intent associated with Kaka'ako Makai, including §206E-31.5, HRS, and HCR 30, 2006, which were respectively enacted and adopted in light of overwhelming public support. Specifically, §206E-31.5, HRS, protects Kaka'ako Makai public lands as the last existing urban Honolulu shoreline open space by prohibiting the sale of public land and prohibiting residential development, from which the subject property would be exempted according to this measure.

If House Bill 901 is advanced from your committees, I respectfully urge amendments to ensure that the language of §206E-31.5, HRS, is incorporated to prohibit any future sale of the subject public shoreline land and to prohibit any residential development thereon. In addition, the high-rise building heights and redundant high-density commercial retail development presently allowed by HCDA zoning policy would become the antithesis of the needs and desires of the larger community for Kaka 'ako Makai should OHA follow this path.

As established by the State Legislature's intent in recognition of the greater public interest, the larger community must have a voice in the planning of Kaka'ako Makai. The CPAC was established to represent the larger community, and the consensus "Vision and Guiding Principles for Kaka'ako Makai" sets Kaka'ako Makai apart as the Community Gathering Place with shoreline recreational, cultural and educational public uses. This document also acknowledges ancillary small local businesses as being necessary to these uses.

The Senate Committee on Water, Land, Agriculture and Hawaiian Affairs has wisely added significant land and water resources to the companion bill for House Bill 901, Senate Bill 995. I wholeheartedly support these resources being transferred to the stewardship of native Hawaiians, who care most about this 'āina and know best how to care for it. I am also respectful and supportive of the need to ensure the revenue required to support important beneficiary programs, which revenue might be more readily achieved through more viable properties among those listed by OHA for consideration by the State. Further, I fully support absolutely no State sale of Crown or Hawaiian government ceded lands, and an expedited true inventory of such lands.

In addition, I must remain dedicated to the public use of Kaka'ako Makai as the last existing shoreline open space in urban Honolulu that we can restore, preserve and protect for future generations. I believe that OHA can be an important part of this objective, and, with open communication and working together on these issues, the future of Kaka'ako Makai as a significant gathering place and recreation area with important public uses could evolve into a great achievement for all.

Respectfully,

Michelle S. Matson

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Testimony in Opposition of HB 901, HD2

Wayne S. Takamine [waynetakamine@hawaii.rr.com]

Sent: Thursday, March 19, 2009 9:42 PM

To: WTLTestimony

Attachments: CPAC - ADOPTED VISION and ~1.pdf (110 KB)

**THE SENATE
THE TWENTY-FIFTH LEGISLATURE
REGULAR SESSION OF 2009**

COMMITTEE ON WATER, LAND, AGRICULTURE, AND HAWAIIAN AFFAIRS

Senator Clayton Hee, Chair
Senator Jill N. Tokuda, Vice Chair

COMMITTEE ON JUDICIARY AND GOVERNMENT OPERATIONS

Senator Brian T. Taniguchi, Chair
Senator Dwight Y. Takamine, Vice Chair

Testimony in Opposition of HB 901, HD2

HB 901 HD2

RELATING TO THE OFFICE OF HAWAIIAN AFFAIRS.

Amends the law to provide for the Office of Hawaiian Affairs to receive a portion of the income and proceeds from land in the Public Land Trust.

Aloha Chair Clayton Hee and Vice Chair Jill N. Tokuda and the Committee on Water, Land, Agriculture and Hawaiian Affairs and Chair Brian T. Taniguchi, Vice Chair Dwight Y. Takamine and the Committee on Judiciary and Government Operations:

I would like to submit my testimony in opposition of HB 901, HD2.

As a lifelong resident of Honolulu, bodysurfer at Point Panic and member of the Kaka'ako Makai Community Planning Advisory Committee (CPAC), I appreciate the Legislature's efforts to resolve the dispute between The Office of Hawaiian Affairs (OHA) and the State of Hawaii. However, after reviewing HB 901, I believe there are many loopholes that will compromise existing laws associated to Kaka'ako Makai and HCDA including elimination of:

- HRS206E-31.5 (relating to HCDA)
- ACT 317 (HB 2555) that prohibits HCDA from selling Kaka'ako Makai State Lands and Residential Development

It is my understanding that HB 901 will transfer Kaka'ako Makai land to OHA and exempt OHA from laws relating to HCDA including HRS206E-31.5 and ACT 317 that was established from the repeal of the HCDA and A&B Luxury Condominium RFP in 2006. HB 901 must include language that prohibits OHA from selling State Lands in Kaka'ako Makai and restrict any RESIDENTIAL development. There also should be restrictions to height limits and commercial development in this area that is the last existing open waterfront space available increase public recreations uses in the Honolulu area. As it stands, HB 901 will allow OHA to build without restriction, the same luxury condominiums proposed by the A&B RPF or Waikiki type Hotels and Timeshares.

There is also a need for the community to have a voice in the planning of Kaka'ako Makai. I support the Kaka'ako Makai Community Planning Advisory Council (CPAC) established by HCR 30 as the community advisory group or any future planning in Kaka'ako Makai. I am in support of CPAC's adopted Vision and Guiding Principals (see attached) for Kaka'ako Makai as being "The Community's Gathering Place" that would include Cultural, Education and Recreational public uses and limit Commercial businesses.

I believe OHA will always play an important role in the Kaka'ako Makai. OHA headquarters are planned to be built fronting the ocean just Ewa of the Waterfront park. OHA is also an active participant in CPAC planning and understands they will be called upon to play a large role as leaders of the Hawaiian Community and the authority on Hawaiian history, culture, arts and ethics. The CPAC adopted vision and guiding principals focuses largely on the Hawaiian host culture for educational, cultural and historical themes for proposed of design and concepts in Kaka'ako Makai.

Currently, OHA is already slated to be prominent player in Kaka'ako Makai even without ownership, I cannot help but wonder if it would be more beneficial for OHA to pursue other lands with less restrictions in settlement with the State of Hawaii. I believe there are other lands that were previously considered that could provide OHA with more economic potential. With OHA as landowners of Kaka'ako Makai land, there are concerns that conflicts will arise from OHA's need to generate financial gains verses the public's need for recreation, cultural, educational and entertainment uses.

I respect the intention of HB 901 to resolve the dispute between the State of Hawaii and OHA. However in 2006 through overwhelming public support, the Legislature enacted laws to prohibits the sale of public lands and residential development in Kaka'ako Makai. I believe these laws should be made clear in HB 901 along with the continued participation of CPAC as the community's voice in the future planning considerations for Kaka'ako Makai.

Thank you for hearing my concerns.

Respectfully,

Wayne Takamine
Honolulu, HI

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KAKA'AKO MAKAI COMMUNITY PLANNING ADVISORY COUNCIL

THE VISION FOR KAKA'AKO MAKAI

The Hawaiian Place of Ka'ākaukui and Kukuluae'ō

Kaka'ako Makai is the community's gathering place. A safe place that welcomes all people, from keiki to kūpuna, with enriching cultural, recreational and educational public uses. A special place that continues the shoreline lei of green with scenic beauty, connects panoramic vistas mauka to makai, and encourages ecological integrity of land, air and sea. Kaka'ako Makai honors, celebrates and preserves its historic sense of place, Hawaiian cultural values and our unique island lifestyle for present families and future generations.

GUIDING PRINCIPLES

Community Cultural Gathering Place

Establish Kaka'ako Makai as a gathering place where community and culture converge in response to the natural scenic beauty of the green shoreline open space.

- *Celebrate the intertwined cultures of the community by ensuring a welcoming gathering place for a broad cross-section of people diverse in age, income and ethnicity.*
- *Provide enriching public recreational, cultural and educational opportunities for residents and visitors alike through Kaka'ako Makai's scenic coastal and marine environment, the Native Hawaiian cultural heritage, compatible facilities and activities, and historic sites and settings.*

Hawaiian Culture and Values of the Ahupua'a

Base the framework for planning, decision-making and implementation of the Kaka'ako Makai master plan on Native Hawaiian values and traditional and customary rights and practices protected by the State.¹

- *Emphasize the host Hawaiian culture.²*
- *Incorporate the ahupua'a concept and spirit of caring for, conserving and preserving the self-sustaining resource systems necessary for life, including the land that provides sustenance and shelter, the natural elements of air, wind and rain extending beyond the mountain peaks and streams of pure water, and the ocean from the shoreline to beyond the reef where fish are caught.*
- *Adopt the ahupua'a lifestyle of individual kuleana working together and contributing to the whole for a greater level of stewardship, conservation, and proper management of resources with contemporary land-use benchmarks, such as growth boundaries and carrying capacity.*
- *Assure that the planning of collective or individual traditional features, settings, and activities will be overseen by Hawaiian historic and cultural experts to prevent misinterpretation or exploitation.*

¹ Hawaii State Constitution, Article XII, Section 7. Inform the planning process by the principles and traditions of the ahupua'a, and inspire the master plan by the interconnected relationship of people.

² §206E-34(c)(5), Hawaii Revised Statutes. The Hawaiian host culture is emphasized as pre-eminent yet inclusive of other cultures.

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Open View Planes

Protect, preserve and perpetuate Kaka'ako Makai's open view planes from the mountains to the sea as an inherent value of the Hawaiian ahupua'a and an important public asset for residents, visitors and future generations.³

- *Ensure planning and development safeguards to identify, document, retain, restore and protect makai-mauka and diamondhead-ewa open view planes to the Ko'olau mountains, Diamond Head (Lē'ahi) and the Wai'anae mountains as seen from the view vantage areas and vicinities of Kaka'ako Makai's public lands and Kewalo Basin Harbor.*

Coastal and Marine Resources

Preserve, restore and maintain Kaka'ako Makai's valuable coastal and marine resources for present and future generations.

- *Enable the monitoring, protection, restoration, and conservation of natural coastal and ocean resources, including reef and marine life, through responsible stewardship and sustainable practices.*
- *Protect and sustain the coastal environment for cultural uses including fishing, ocean gathering, surfing and ocean navigation.*

Expanded Park and Green Space

Ensure expansion of Kaka'ako Makai's shoreline parks as significant landscaped open spaces⁴ joining the lei of green parks extending from Diamond Head (Lē'ahi) to Aloha Tower.

- *Implement the Hawaiian values of the ahupua'a and mālama 'āina by preserving shoreline open space, protecting scenic coastal and marine resources, and respecting the natural interaction of people, land, ocean and air.*
- *Welcome residents and visitors alike with green open space, abundant shade trees and opportunities for family recreation.*
- *Use the established park planning standard of at least 2 acres per 1000 residents as a benchmark to assure sufficiency of park space to contribute to the health and welfare of Kaka'ako Mauka's growing population and offset increased urban density, noise and pollution.*

Public Accessibility

Provide open and full public access to recreational, cultural and educational activities within and around Kaka'ako Makai's parks and ocean shoreline.

- *Ensure complete public recreational access with minimal impact to the environment, including drop-off accommodation of ocean recreation equipment and connections to public transportation.*
- *Provide a shoreline promenade and tree-lined paths to safely and comfortably accommodate pedestrians, bicyclists and the physically impaired.*
- *Provide sufficient shared parking complementary to the natural setting to support all uses in Kaka'ako Makai, with workplace parking available for recreational and cultural users during non-working hours.*

³ Significant Panoramic Views Map A-1, Honolulu Primary Urban Center Development Plan.

⁴ Inclusive of Kewalo Basin Park, Kaka'ako Waterfront Park and Kaka'ako Gateway Park.

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Public Safety, Health and Welfare

Ensure that Kaka'ako Makai is a safe and secure place for residents and visitors.

- *Keep public use areas safe day and night for public comfort and enjoyment.*
- *Ensure that exposure to land and ocean is environmentally safe for people and marine life by assuring timely investigation, determination, and remediation of contaminants.*
- *Ensure that Kaka'ako Makai remains free and clear of elements, activities and facilities that may be potentially harmful to the natural environment and public well-being, including laboratories containing and experimenting with Level 3 or higher bio-hazardous pathogens and/or biological toxins known to have the potential to pose a severe threat to public health and safety.⁵*

Public Land Use Legislation – Public Use of Public Lands in the Public Interest

Recognize and respect the effort and intent of the Hawaii State Legislature to uphold the greater public interest by ensuring and sustaining public uses on Kaka'ako Makai State public lands for the greater public good.

- *Preclude the sale of public land and development of housing in Kaka'ako Makai;⁶*
- *Demonstrate commitment to serve the highest needs and aspirations of Hawaii's people and the long-term good of Hawaii's residents and future generations through community-based planning;⁷*
- *Restore the site-dependent use of Kewalo Basin Cove to the Kewalo Keiki Fishing Conservancy.⁸*

Kewalo Basin

Ensure that Kewalo Basin Harbor's unique identity is retained with continued small commercial fishing and excursion boat uses, keiki fishing and marine conservation, marine research and education, and accessible green park open space expanding the lei of green between Ala Moana Park and Kaka'ako Waterfront Park.

- *Enable continued functional commercial boating uses at Kewalo Basin Harbor⁹ and preserve the beneficial relationships between the existing small commercial fishing and excursion boat businesses and land-based maritime support service businesses.*
- *Ensure that Kewalo Basin will continue as a State of Hawaii commercial harbor and valuable public facility asset by repairing, maintaining and enhancing the harbor for small commercial fishing and excursion boat use.*
- *Ensure the protected use of Kewalo Basin Cove for Kewalo Keiki Fishing Conservancy keiki fishing and marine conservation programs.*
- *Support Kewalo Marine Laboratory's continued valuable marine biology and ecosystems research and education in the vicinity of Kewalo Basin.*
- *Ensure preservation of Kewalo Basin Park, the net house and parking lot for public use, upgrade and improve existing facilities within the park, and provide green open space between Ala Moana Park and the channel frontage.¹⁰*

⁵ Protection of the public health and safety is first and foremost in this area a) immediately adjacent to a Shoreline recreation area and the urban population center, b) in close proximity to a regional beach park and the Waikiki primary visitor destination, and c) within the updated tsunami zone.

<http://beta.abc3340.com/news/stories/1007/460171.html> http://www.nytimes.com/2007/10/05/us/05labs.html?_r=1

⁶ §206E-31.5, Hawaii Revised Statutes.

⁷ HCR 30, 2006.

⁸ Act 3, 2007, Special Session.

⁹ §206E-33(2), Hawaii Revised Statutes.

Cultural Facilities

Offer public enrichment opportunities through both fixed and flexible cultural facilities that celebrate the diverse cultures of Hawai'i and blend compatibly with the shoreline open space.

- *Contemplate compatible indoor and outdoor performance venues that encourage the teaching, practicing, and presentation of hula, theater, music, dance, and other performing and visual arts, with an outdoor multi-cultural festival space for Honolulu's diverse ethnic communities.¹¹*
- *Contemplate educational facilities, such as an exhibition hall with permanent, interactive and rotating exhibits, museums communicating the cultural history of the area, and places for traditional Hawaiian cultural practices.¹²*
- *Establish a cultural market stocked by local farmers, fishers and Hawaiian traditional craft makers to reflect the Hawaiian values of gathering and trading in the ahupua'a between the mountains and the sea.¹³*
- *Ensure a community center for local families to gather, interact and learn from each other.*

Small Local Business

Apportion a limited number of small local businesses to assist in cooperatively sustaining Kaka'ako Makai's public use facilities.

- *Ancillary small businesses may include diverse local restaurants, cafés, small shops, markets or other uses that will complement the recreational, cultural, harbor or other public facilities serving the community interest.¹⁴*
- *Encourage small local enterprises that emphasize the Hawaiian culture and support traditional local products, rather than large corporate retailing attractions.*

Site Design Guidelines –

A Hawaiian Sense of Place in Landscape, Setting and Design

Ensure that Kaka'ako Makai's public use facilities are compatible in placement, architectural form, and functional design within the landscape of the shoreline gathering place.¹⁵

- *Provide and maintain abundant native coastal plants and trees to blend the scenic and sensory qualities of the coastal environment and create a Hawaiian sense of place.*
- *Identify, protect, preserve, restore, rehabilitate, interpret and celebrate Kaka'ako Makai's historic sites, facilities, settings, and locations.*
- *Maintain the quality of coastal environmental elements including natural light, air and prevailing winds.*
- *Mandate sustainability principles, conservation technologies, and green building standards for buildings, grounds and infrastructure.¹⁶*

¹⁰ Inclusive of greenbelt connections between Ala Moana Park and Kewalo Basin Park, between the Net House and Kewalo Basin Channel, and between Ala Moana Boulevard and Kewalo Basin to Point Panic.

¹¹ §206E-34(d)(3), Hawaii Revised Statutes.

¹² §206E-34(d)(5), Hawaii Revised Statutes.

¹³ §206E-34(a) and (b), Hawaii Revised Statutes.

¹⁴ §206E-34(d)(2), Hawaii Revised Statutes.

¹⁵ Encourage private development mauka of Ilalo Street to compliment the gathering place concept of the Kaka'ako Makai public use area on public lands by providing landscaped set-backs and inviting open architecture at the street level.

¹⁶ Ensure reasonable carrying capacity with limited infrastructure for sufficient water supply, storm-water drainage and waste disposal.

Community/Government Planning Partnership

The Kaka'ako Makai Community Planning Advisory Council places the public interest first and foremost, and will strive to uphold the greater good of the community in partnership with the HCDA as the public oversight agency by:

- *Openly working with the community, the HCDA and the HCDA's planning consultants as guaranteed by government commitment to ongoing community representation and involvement throughout the master planning process;*
- *Openly communicating with the State Legislature and other elected public officials;*
- *Committing the time and effort required to meet the goals and objectives of the Kaka'ako Makai planning process, and advocating responsibly in the public interest both collectively and individually, notwithstanding premature or conflicting proposals.*

Future Funding and Management

Assure and assist viable and sustainable operation of public uses and facilities on State public land in Kaka'ako Makai through public/private partnerships and 501(c)(3) non-profit management¹⁷ similar to successful park conservancies and their stewardship programs.

- *The community land conservancy will be essential in determining safeguards to restore, protect and perpetuate Kaka'ako Makai's natural shoreline resources and view planes, historic and recreational resources, and public uses on State public lands in the public interest as a quality of life benchmark.*
- *This conservancy may be a public/private partnership of the Kaka'ako Makai Community Planning Advisory Council (CPAC), the Hawaii Community Development Authority (HCDA) or current oversight agency, and private contributing interests to both monitor and underwrite public use on State public land in service to the public good.¹⁸*

¹⁷ §206E-34(c)(3), Hawaii Revised Statutes.

¹⁸ A public/private community benefits agreement may be developed upon completion of the master plan to define respective responsibilities and contributions.



KO`OLAUPOKO HAWAIIAN CIVIC CLUB

March 20, 2009

LATE TESTIMONY

TO: Sen. Clayton Hee, Chair
And Members
Senate Committee on Water, Land & Hawaiian Affairs

Brian Taniguchi, Chair
And Members
Senate Judiciary & Government Operations Committee

FROM: Mahealani Cypher, President
Ko'olaupoko Hawaiian Civic Club

RE: H. B. 901, H.D. 2, Relating to the Office of Hawaiian Affairs

Aloha mai kakou from the Ko'olaupoko Hawaiian Civic Club, which works with the nine ahupua'a surrounding Kane'ohē Bay, moku Ko'olaupoko, O'ahu. We have monitored this bill with keen interest and concern, and wish to offer our support with one suggested amendment.

From reading the bill in its amended form, we are unsure as to whether the value of the property to be conveyed adequately addresses compensation owed to the Office of Hawaiian Affairs (and the Native Hawaiian people) for the past 30 years accrual.

In today's depressed economy, the valuation on the properties to be conveyed to OHA may be less than was anticipated when the legislation was first drafted in the fall of 2008.

Last year, the legislature was presented with an administration proposal that would have given much more land as part of this settlement than is being offered in this bill, with cash added to that package.

We realize this year there is no money available, which makes it even more imperative that the Legislature insist that additional properties – in 2009 valuations – be included in the final settlement of this 30-year past-due compensation agreement.

We would like to offer one amendment that would help make your actions this year consistent with your actions last year: add the state-controlled property at Ha'iku Valley in Windward O'ahu to this compensation package.

Last year, this Legislature approved establishment of a cultural preserve in Ha'iku Valley on lands controlled by the Department of Hawaiian Home Lands. It holds relatively no value to

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DHHL, as the lands are in preservation and virtually undevelopable. However, this valley holds great cultural and environmental value to the kupa`aina of He`eia-Kane`ohe, and to the people of Windward O`ahu.

Since the governor vetoed the cultural preserve bill, promising that the preserve could be established without such legislation, we regret to inform you that the administration has not followed through on establishing this preserve.

Our people have waited 70 years for the return of this valley to our community, and strongly urge your committees to include transfer of this property to OHA as part of House Bill 901, H.D.2, Senate Draft 1.

Mahalo for this opportunity to offer our mana`o on this legislation.

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(END)