

SB 995

Senate Committee on Ways and Means

Senator Donna Mercado Kim, Chair
Senator Shan S. Tsutsui, Vice Chair

DATE
TIME

Senate Bill 995, SD1, Decision Making

Friday, February 27, 2009
Senate Conference Room 211
9:00 AM

Aloha Chair Kim, Vice Chair Tsutsui 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, 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

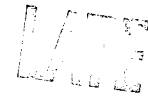
On February 17, 2009, representatives of the Office of Hawaiian Affairs shared information with the CPAC on Senate Bill 995 and House Bill 901. Following this presentation CPAC participants inquired about OHA's intended conceptual plan for Kaka'ako Makai. The CPAC learned that many of the values and elements of such a plan parallel the Vision and Guiding Principles for Kaka'ako Makai developed by consensus of makai area stakeholders and representatives of the larger community.

However, many were also concerned to learn that OHA may be seriously contemplating residential units, which conflict with §206E-31.5; an amphitheater at Point Panic akin to the HCDA's 2005-2006 failed A&B plan; and a shopping mall comprised of many retail shops. Taken separately or together these larger elements strike a chord of concern with those who have passionately defended this remaining urban shoreline open space for needed public recreational, cultural and educational uses; and from a sound planning standpoint as a needed recreational open space to relieve existing crowding in our shoreline parks and to better serve Honolulu's projected urban population, native Hawaiians and non-Hawaiians alike.

The Senate Committee on Water, Land, Agriculture and Hawaiian Affairs has made significant additions to SB 995, which I wholeheartedly support being transferred to the stewardship of those who care most about this 'āina and know best how to care for it. Further, I fully support absolutely no sale by the State 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 shoreline open space in urban Honolulu that we can restore, preserve and protect for future generations. And I believe that OHA can be an important part of this objective. With communication on these issues this could evolve into a great achievement for all. Let's work together and see how this can happen.

Respectfully,
Michelle S. Matson



Aloha Senator Kim and WAM Committee Members -

I sincerely oppose the inclusion of Kaka'ako Makai lands in the State's settlement with OHA, even though I support the work of Legislators to reach a settlement with OHA. With full respect for the needs of OHA to generate funds to support its work, this land is not the proper place for the commercial ventures needed.

I have served on the Ala Moana/Kaka'ako Neighborhood Board for four years. During that time I have watched the seekers of Kaka'ako makai, one by one, all proposing high-yield commercial ad-ventures. All the while, high-end luxury housing development in Kaka'ako mauka has gone to extreme levels – and *heights*. And the necessary green park space for such a population has been entirely overlooked. HCDA has not demonstrated a commitment to meeting national standards for park space.

I also have served on the **Kaka'ako Makai CPAC** (Community Advisory Council) since it was established two years ago to create meaningful community participation with HCDA for planning and decisions affecting Kaka'ako makai. Although I do not speak for this group, I speak as a dedicated and involved citizen – one of many who share my sentiments about protecting Kaka'ako makai from high-end high-density commercial development.

The public land on Kaka'ako Makai has been desired by a number of developers and organizations in more recent years. **Why should we not give this development opportunity to OHA?** Because it is shorefront land that is an essential segment of the “lei of green” around the island and Honolulu’s shoreline parks. It is the last remaining segment and it should be saved. Kaka'ako Makai’s public land should be dedicated to as much open green space as possible to demonstrate Hawaiian cultural values of connections between mountain and sea. The goal is to protect access to the ocean and to protect viewplanes toward ocean and mountain. Dense commercial development does not belong here.

As an engaged citizen, I have dedicated many hours the past several years to protecting Kaka'ako Makai from high-end development. This work includes learning more about the history, problems, and great opportunities in Kaka'ako makai and signing on for the **CPAC** work. When OHA presented at our recent **CPAC** meeting, my initial response was to be encouraged that perhaps culturally appropriate amenities and open spaces would be assured as uses of this area. But within in the various messages about OHA’s plans, we also learned that high-yield commercial development is also very possibly an OHA goal for this area because of OHA's need for funds to support its work.

Kaka'ako should not be “given away” – not to any organization that intends to carry forward such developments as shopping malls, high-end residential units over shops (which is illegal by current State law), or an open theatre at Point Panic like the Waikiki Shell. Regardless of the organization’s heritage, *these uses of shoreline public land is wrong.*

Thank you for your consideration of my views on this important legislation.

Sincerely, Nancy Hedlund, Ph.D., Honolulu, Hawai'i



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

ON THE FOLLOWING MEASURE:

S.B. NO. 995, S.D. 1, RELATING TO THE OFFICE OF HAWAIIAN AFFAIRS.

BEFORE THE:

SENATE COMMITTEE ON WAYS AND MEANS

DATE: Friday, February 27, 2009 TIME: 9:00 AM

LOCATION: State Capitol, Room 211

TESTIFIER(S): Mark J. Bennett, Attorney General
WRITTEN TESTIMONY ONLY. (For more information, call
Deputy Attorney General Russell Suzuki at 586-0618.)

Chair Mercado Kim and Members of the Committee:

The Department of the Attorney General opposes this measure. The bill does not include an effort to resolve "future payment" issues. The bill also has other serious problems.

This bill authorizes the transfer of land to the Office of Hawaiian Affairs (OHA) in two phases. The first transfer includes land in Kakaako, Kahana Valley and Beach Park, La Mariana, accreted peninsula boarded by Kalihi Stream and Moanalua Stream, Heeia wetlands or fishpond, Mauna Kea, and State-owned fishponds statewide, with an unspecified value that is left for the Committee on Ways and Means to determine, that 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 from the State, 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. See page 5, lines 10-15.

The properties identified for transfer appear to have been determined by one Senate Committee without any appropriate study, evaluation or consultation.

The inclusion of Mauna Kea is objectionable. The control and use of Mauna Kea must remain with the State. There appears to have been no evaluation of how this transfer might affect national and international

agreements. Such evaluation, as well as consultation with those with whom we have agreements, should have been conducted before proposing such a transfer.

This bill would allow OHA, at "its sole and absolute discretion," and without any recourse on the State's behalf by the Legislature or the Executive Branch, to unilaterally reject any of the property to be conveyed, by individual parcels or in their entirety, without having or specifying any cause. See page 21, lines 3-12. If that occurs, again without any further input from the Legislature or the Executive Branch, the value of the balance for which land must be transferred in 2010, must be increased by the 2008-2009 tax assessed value of the property OHA rejects. In other words, the actual lands to be transferred are unknown at this time. They could ultimately encompass lands wholly different from those described in the bill.

This also means that the State could then be faced with the real possibility that once contiguous property would be fragmented and substantially devalued by OHA's rejection of some but not all of the parcels that make up the identified property.

The bill also makes no provision for either undoing the first transfer of lands that this bill effectuates, or offsetting the value of the lands that are transferred, against future efforts to finally resolve issues relating to the past, should legislation to effectuate the 2010 transfer of land not pass.

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

COMMENTS PROVIDED BY MICAH A. KANE, CHAIRMAN
HAWAIIAN HOMES COMMISSION

BEFORE THE SENATE COMMITTEE ON WAYS AND MEANS

ON SB 995 SD1
RELATING TO THE OFFICE OF HAWAIIAN AFFAIRS

February 27, 2009

Chair Kim, Vice-Chair Tsutsui and Members of the Committee:

The Hawaiian Homes Commission and the Department of Hawaiian Home Lands supports the intent of SB 995. This bill attempts to resolve longstanding claims and disputes relating to public land trust proceeds due to the Office of Hawaiian Affairs (OHA). The time is long overdue to bring closure and resolution to these claims.

On January 26, 2009, Trustee Apoliona and OHA Administrator Clyde Namuo presented the terms of the settlement and requested the support of the Hawaiian Homes Commission. We support the intent of SB 995 and urge the Legislature to pass a bill to effectuate a settlement that reconciles wrongs done to the Hawaiian people.

The Hawaiian Homes Commission will continue to dialogue with homestead leaders and will continue to share our opinion on the proposed legislation.

Mahalo for the opportunity to testify on this important bill.

kim4 - Elizabeth

From: Wayne Takamine [waynetakamine@hawaii.rr.com]
Sent: Friday, February 27, 2009 12:21 AM
To: WAM Testimony
Subject: SB 995 Testimony

Testimony
OHA Kaka'ako Makai bill, SB 995, SD1
February 26, 2009

I would like to voice my appreciation for the Legislature's concerns to resolve the dispute between The Office of Hawaiian Affairs (OHA) and the State of Hawaii. However, I have some concerns for the future of Kaka'ako Makai and the transfer of the land to OHA. Like many, I have enjoyed the park, ocean and surf in Kaka'ako Makai for many years and would like to insure future generations will have the opportunity to enjoy this valuable resource. I began to take an interest in the future of Kaka'ako Makai during the controversy with the HCDA RFP for the Alexander & Baldwin Luxury Condo project in Kaka'ako Makai. Since then I have been a participant with various community groups and stakeholders including the Kaka'ako Makai Community Planning Advisory Council (CPAC) created by HCR 30 as a Steering Committee member. From my observations working with CPAC, it is apparent that the community does not want a lot of commercial development in Kaka'ako Makai and would prefer public uses including open park and recreational space, educational exhibitions and venues for cultural activities. However, it appears OHA intends to use Kaka'ako Makai as an area to generate revenue to support its mission.

During our February 17, 2009 CPAC meeting, I was alarmed to learn that OHA may be seriously contemplating:

- a) high-market residential units built over shops, which conflicts with §206E-31.5;
- b) a Hollywood bowl type of amphitheater at Point Panic akin to the HCDA's 2005-2006 failed A&B plan;
- c) a shopping mall with many retail shops.

While the CPAC was assured that the shopping mall would also include a farmer's market and only small local businesses, taken separately or together these three developments strike a strong chord of concern with those who have passionately defended this remaining shoreline open space for needed public recreational uses for the growing urban population.

CPAC has been working with community members and Kaka'ako Makai stakeholders to create the Vision and Guiding Principals to advise the HCDA for the future planning of Kaka'ako Makai. I have attached the Vision and Guiding Principals for your review.

I am hopeful that the committee will review the Vision and Guiding Principals for Kaka'ako Makai to consider if OHA's future plans are appropriate in respect to wants and needs of the community and stakeholders of Kaka'ako Makai.

Respectfully,

Wayne Takamine