

SR 56

EDT

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Testimony for EDT 3/22/2010 1:30:00 PM SR56

Conference room: 016
Testifier position: oppose
Testifier will be present: No
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Comments:

Opposing Viewpoint: Hawai'i Capital National Heritage Area

The National Park Service (NPS) has outlined four critical steps that need to be taken prior to congressional designation of a National Heritage Area. These steps are:

1. Completion of a suitability/feasibility study;
2. Public involvement in the suitability/feasibility study;
3. Demonstration of widespread public support among heritage area residents for the proposed designation; and
4. Commitment to the proposal from key constituents, which may include governments, industry, and private, non-profit organizations, in addition to area residents.

On the 30th of January 2009 legislation (S.359 and H.R.1297) was introduced in the U.S. Congress to designate the Hawai'i Capital National Heritage Area for the Honolulu / Kapalama ahupuaa that covers Kakaako, Downtown, Nuuanu and Kapalama without fully satisfying all the National Park Service critical steps outlined above, in particular – demonstrating widespread public support among heritage area residents and commitment to the proposal from key constituents (area residents).

To date, the Hawai'i Capital Cultural Coalition (HCCC) – the “local coordinating entity” behind the National Heritage Area for nearly seven years – has NOT held widespread public hearings nor has HCCC consulted with key constituents, such as the Hawaiian community at-large. For example, HCCC included three Hawaiian Homestead communities (Papakolea, Kewalo, and Kalawahine) within the designated boundaries, but neglected to contact and consult with any of the five (5) community entities (Papakolea Community Association, Kalawahine Community Association, Kewalo Community Association, Papakolea Community Development Corporation, Hui Makaanana a Kalawahine) and residents prior to the Federal legislation announcement. The fact that the Coordinator of HCCC group has admitted to “not doing a good job in reaching out to Native Hawaiian leaders for consultation” is enough to realize that this legislation or any such legislation that takes an ahupuaa and places it under the authority of the Secretary of the Interior without proper consultation can not be supported.

On April 3, 2009 testimony in OPPOSITION to SD1 (HCR22, HR24, SR6, and SCR42) – Requesting Congress to Designate the Hawaii Capital Cultural Distract as a National Heritage Area was submitted for the following reasons:

1. May be in conflict with the Hawaiian Homes Commission Act, 1921 as amended;
2. Threatens our (Hawaiian) right to exercise self-determination;
3. The lack of community consultation and involvement, as required under the National Park Service Critical Steps;
4. The local managing entity under this designation would essentially be unaccountable (not elected by and for the people);
5. The lack of recourse for community stakeholders within the Hawaii Capital National Heritage Area designation area to protest decisions of the local managing entity;
6. The right of the local managing authority to inventory each property within the designated area and evaluate that property's historic significance and recommend that it be managed or acquired by the City, State, or some other entity;

7. The lack of community participation in the planning process that led to the Hawaii Capital National Heritage Area current legislation;
8. This would create an additional federal designation (an extension of the National Park Service) over a broad area of greater Honolulu; the extent and scope of restrictions resulting from this designation is unclear;
9. The sites that the NHA designation proposes to further preserve already has state and national preservation status and protection (i.e. Bishop Museum, Iolani Palace, Queen Emma Summer Palace, and Chinatown);
10. While, under the act, Federal funds are not allowed to be used for condemnation purposes, with a recommendation from the NHA managing entity, the City can apply for grants for the purposes of condemnation;
11. Reducing and possibly removing local and State authority, as the Secretary of the Interior approves the management plan and shall prepare a report with recommendations for the future role of the National Park Service;
12. Expanding the “tourism foot print” beyond Waikiki into residential areas that may possibly affect the daily lives of area residents, such as increasing motor and foot traffic that impacts the safety and privacy of residents, as the legislation calls for: 1) establishing and maintaining interpretive exhibits and programs within the Heritage Area and 2) ensuring that signs identifying points of public access and sites of interest are posted throughout the Heritage Area. (i.e. Frank Haas is the interim Assistant Dean at the UH School of Travel Industry Management . . . and a Board member of the Hawai'i Capital Cultural Coalition. He hopes the designation will bring attention to historical treasures in the area. “The next step is the creation of a plan that may involve federal money for *tour guides and information kiosks*.” – Hawaii Public Radio, 2009)

One of the greatest concerns is the fact that “sovereign and sacred areas” like *Mauna Ala – The Royal Mausoleum* will be subject to the recommendations of the Hawai'i Capital Cultural Coalition (HCCC) known as the “local coordinating entity” who will “prepare and submit a management plan for the Heritage Area to the Secretary of the Interior in accordance with section 5” of the legislation. Frank Haas makes it clear that the “group's (HCCC) vision will guide the formation of a plan (Hawaii Public Radio, 2009).” The decision process for *Mauna Ala* and such areas belong with Hawaiians – not HCCC and/or any other entity, such as the Secretary of the Interior. By allowing HCCC and the Secretary of Interior to determine the “management plan (the management plan for the Heritage Area required under section 5)” via Federal legislation is a violation of the *United Nations Declaration on the Rights of Indigenous Peoples*, which states:

- **Article 3:** Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
- **Article 4:** Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.
- **Article 5:** Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State.
- **Article 11:** 1. Indigenous peoples have the right to practise and revitalize their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future

manifestations of their cultures, such as archaeological and historical sites, artefacts, designs, ceremonies, technologies and visual and performing arts and literature.

- **Article 18:** Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.
- **Article 19:** States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.
- **Article 31:** 1. Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions.
- **Article 32:** 1. Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources. 2. States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.

For all intents and purposes, the Federal legislation (S.359 and H.R.1297) “to establish the Hawai'i Capital National Heritage Area, and for other purposes” is in conflict with the *reconciliation* process currently being pursued by Hawaiians. Allowing HCCC and the Secretary of the Interior to determine the “management plan (the management plan for the Heritage Area required under section 5)” under the Federal legislation undermines the inherent right of the Hawaiian people to self-determination (i.e. choices pertaining to land control and management). Therefore, no such Federal legislation should be pursued, until the *reconciliation* process has been achieved.

The following are examples of adverse findings, pertaining to National Heritage Areas:

National Heritage Areas are de facto federal zoning. Despite proponents' claims to the contrary, as federal dollars flow from Washington to individual NHAs, inevitably, federal strings are attached. One of these strings is federal zoning mandates. For example, when the Augusta Canal NHA was undergoing initial approval, the National Park Service urged the House Resources Committee to withhold federal funds from Augusta Canal until a commitment was shown by those overseeing the creation of the NHA to implement stricter zoning laws and even create a State park. Land use and zoning is an inherent function of local government. NHAs promote a top-down, federal approach to land use that would spell disaster for local communities (Knight 2003).

National Heritage Areas stifle local initiative and control. When born of local initiative, planning and money, Heritage Areas are more apt to have the consensus of the property and business owners within their boundaries. Indeed, there are many State Heritage Areas that are totally sustained by local

businesses and governments—they operate free of federal money or intrusion. National Heritage Areas operate quite differently. It is not necessarily the desire of the local community to create a NHA in their area, but rather the desire of a special interest group or a federal agency. Preliminary boundaries are drawn, locals are inadequately informed of the pending NHA designation, federal money and assistance is wafted under the noses of local officials, and the process goes forward, despite what is in the best interest or desire of the community (Knight 2003).

The management plan for the Wheeling National Heritage Area in West Virginia was updated in 2004 with NPS officials providing "assistance, guidance, review and key inputs," according to the plan's executive summary. Some of that guidance has entailed the push for new regulation and land-use provisions. For instance, chapter five of the Wheeling National Heritage Area Corporation's management plan suggests creation of a local historic ordinance that would help implement zoning in line with the group's revitalization efforts. It also argues that acquiring property "on a willing buyer/ willing seller basis" could improve landscapes deemed historically significant (Chumley and Utt 2007).

Property owners are not properly notified when their land falls within the boundaries of a proposed National Heritage Area. It is morally imperative that landowners be notified any time a federal designation could affect their property rights in any manner. Yet proponents of National Heritage Areas refuse to offer this most common courtesy. This is because they fear opposition to NHA designations and would rather spring the news on unsuspecting landowners (Knight 2003).

In the January 28th, 2008 issue of National Review Magazine, John J. Miller, National Political Reporter, writes about National Heritage Areas. One of the things that Miller brings to our attention is the fact that sometimes our land is yanked out from underneath us without our knowledge, all for the good of conservation and preservation. He cites the example in Arizona of a new National Heritage Area, Yuma Crossing, in which landowner Lee Ott, was completely unaware that his land had been designated as part of it until one day he spotted surveyors on his land. In Ott's effort to fight back against the encroachment and thievery of his land, 600 people attended a meeting to learn more about what was taking place around them. "About 600 people came to our meeting," says Harold Maxwell, a farm-equipment distributor. "When I asked for a show of hands from those who knew they were in the NHA, only one hand went up (Miller 2008)."

National Heritage Areas not only promote federal land acquisition, but also acquire land themselves. Both the Cane River and Shenandoah National Battlefields National Heritage Areas are authorized to use federal funds for land acquisition, and thus, have created national parks within their boundaries. Others, such as the Rivers of Steel NHA in Pennsylvania, are openly lobbying for land acquisition and park creation. Property owners within these NHAs must now contend with ideologically driven land trusts partnered with federal agencies hungry to either acquire their land or restrict its use (Knight 2003).

National Heritage Areas Restrict Hunting, Fishing, and other Gathering Rights. While most of us favor conservation and in some cases we would like to see certain parcels of land protected, I want to believe that very few of us want these "Management Entities" empowered and funded by the federal government taking away our land and or limiting our uses for the sake of creating these National Heritage Areas. As hunters, fishermen and outdoor sportsmen, our future depends on our ability to access the outdoors. We can't blindly plunder into programs like this without knowing the facts. We just

might end up “giving away the farm” as they say, without a clue as to what is really going to happen. Severe limits and restrictions on lands and land use, including access to our waterways, will destroy our recreational opportunities and long time heritage of our love for the outdoors. Our property rights and those of our neighbors have to be protected from such programs. We have to consider this effort as one that can easily be used by the incrementalists to stop hunting, fishing, trapping, gathering, etc. With local governments strong armed into creating restrictive land use, you know only the elite special interest groups will ensure their access while restricting or eliminating many others (Remington 2008).

National Heritage Areas Threaten Private Property Rights. On the surface, most of the legislation designating an NHA, and the subsequent management plans that guide them, include explicit provisions prohibiting the NPS or the management entity from using eminent domain to acquire property. They also prohibit the use of federal funds to acquire private property by way of a voluntary transaction with a willing seller. Nonetheless, NHAs pose a threat to private property rights through the exercise of restrictive zoning that may severely limit the extent to which property owners can develop or use their property. Termed "regulatory takings," such zoning abuses are the most common form of property rights abuse today. They are also the most pernicious because they do not require any compensation to owners whose property values are reduced by the new zoning. While NHA defenders are quick to point out that neither the NPS nor the management entity are empowered to zone or take property, many NHAs encourage participating local governments to adopt land use practices consistent with the management plan (Chumley and Utt 2007).

National Heritage Areas become Gentrified. But what of the promised tourism that is supposed to help local communities? Many members of Congress admit they support the concept of Heritage Areas for that very reason: jobs created by people visiting their little part of the world to see why it's so special. Is it true? As has been stated, those boundaries have consequences - strict control over the use of the land. Certain industries may prove to be too "dirty" to satisfy environmental special interests. Eventually such existing industrial operations will find themselves regulated or taxed to a point of forcing them to leave or go out of business. Property that is locked away for preservation is no longer productive and no longer provides the community with tax dollars. Roads most assuredly will be closed (to protect the integrity of the historic area). That means land is locked away from private development, diminishing growth for the community. It also means hunting and recreational use of the land will most certainly be curtailed. Eventually, such restrictions will take away the community's economic base. Communities with sagging economies become run-down and uninviting. Preservation zoning and lack of jobs force ordinary people to move away. Experience has shown tourism rarely materializes as promised. And it's never enough to save an area economically (DeWeese, 2008).

Submitted by: MSHCC

Testimony of Lee Stack on SR No. 56 and SCR No. 138

I am Lee Stack, the President of Chinatown Improvement District, a nonprofit corporation comprised of landowners and business owners in Honolulu's Chinatown. We have polled our membership and surveyed other Chinatown land and business owners on S359 and H127, the companion U.S. Senate and House bills to establish a Hawaii National Capital Heritage Area. The majority of Chinatown's land owners and business owners knew little about this pending legislation. When the legislation and its ramifications were explained, the people who owned over one half of the private land in Chinatown requested that the Chinatown district be withdrawn from the proposed Heritage Area boundary map. Therefore, we are testifying to suggest that the Hawaii Legislature either oppose the approval of this measure or suggest alternatives to protect the private property interests and community rights of Chinatown land and business owners.

Our opposition is based on the increased regulatory burdens and potential loss of private property rights that will ultimately occur should the Hawaii National Capital Heritage Area bills pass, as well as the negative effects similar legislation has caused in other States. We have read about the experience of National Heritage Areas ("NHA") in other states, and have talked to people who have experienced similar legislation. We want to share their mana`o with you. Although we only speak for Honolulu's Chinatown, we are aware that as other affected Honolulu communities learn about this legislation, many of them share our opposition.

The Hawaii National Capital Heritage Area bills propose to designate a major portion of urban Honolulu (the 12th largest city in the U.S.) from Nuuanu Pali to the Ocean and from Kalihi Street on the Ewa side to Punahou Street on the Diamond Head side as the Hawaii Capital National Heritage Area.

NHAs are created by acts of Congress to recognize and assist local efforts to protect and promote national, cultural, historic and recreational resources that form distinctive landscapes and the culture and history associated with these areas. NHAs are supposed to assist efforts to celebrate distinctive environments that have significance in American history. Once approved, the federal designation is permanent until canceled by another act of Congress.

Although an NHA is created by Congress, the program is administered and funded by the National Park Service. In order to be eligible for funding a proposed NHA must complete four critical steps: (1) complete a feasibility study; (2) involve the public in the preparation of this study, (3) show that residents as well as government business, nonprofit and private sector entities support the NHA designation and are willing to participate in the management planning process, and (4) demonstrate widespread public support among heritage area residents for the proposed designation. Steps number two and four are required to take place *prior* to designation, not afterwards.

In Hawaii the Hawaii Capital Cultural Coalition ("HCCC") has prepared a feasibility study (made public in December 2008) and is proposed as the managing entity for the NHA. HCCC has worked on this initiative for the past six years, but has utterly failed to involve the public in its planning efforts or obtain widespread public support. To our knowledge, HCCC did

not make a proposal to any Honolulu Neighborhood Board prior to 2009, after the legislation was introduced in the Congress. No Neighborhood Board has voted to support the proposal to date and the Liliha Neighborhood Board voted last April not to support the designation. As Papakolea, Tantalus, Nuuanu and affected communities learn of the proposal, residents, associations and property owners in these areas are requesting to be excluded from the boundary of the proposed NHA.

One of the first tasks, if legislation passes, is for the HCCC to prepare a management plan for the entire area. It will not be only a local plan because the National Park Service can revise and change it---a federal agency will have the final approval over the plan. This plan will include an inventory of all sites and properties within the area related to stories and themes of the NHA, and recommendations about whether these sites should be *protected, enhanced, managed or developed* (S.359, Sec. 5(5)). Attachment A is a list of quotes taken from the HCCC's December 2008 Feasibility Study mentioning inventories and documentation that could lead to more regulatory and legislative controls. So, a private, self selected group who is not elected by the community or answerable to the community will make recommendations about other people's neighborhoods and properties to a federal agency.

Because one of the purposes of an NHA is preservation, at minimum an NHA will probably result in more design controls and an extra layer of permitting. At the most, recommendations and reviews by a private unelected group could lead to condemnation as in the case of Wheeling, W. VA where the Heritage Area managing entity recommended condemning 90% of downtown Wheeling for a Victorian themed outlet mall¹. Documentation, inventories and studies, could lead to rezoning of whole areas---something that has been attempted in other heritage areas such as Yuma, AZ². In Hawaii, Act 228, requiring archival quality photos of 50 year old buildings be submitted prior to obtaining a demolition permit or a building permit, was repealed after less than a year because of public uproar---too costly, too burdensome and too broad. The people and groups who crafted and supported that bill are strong supporters of the Hawaii NHA and partners in the proposed managing entity. Was Act 228 a forerunner of things to come if the NHA legislation passes?

Through cooperative agreements and other mechanisms, local governments usually commit to support the management plans of National Heritage Areas in order to receive the federal funds. The fact that these funds could be cut off or reduced by the federal agency is a huge lure for local governments to follow the recommendations of the NHA management entity (as opposed to the recommendations of other non-profits or community groups in the area). The recommendations of the HCCC will surely receive more consideration than those of other long-term elected community organizations with no pipeline to federal funds, no management plans, and no cooperative agreements in place.

So, certain groups will benefit from an NHA at the expense of property and business owners, homeowners, and community groups and stakeholders. The groups who will be the most affected by the establishment of an NHA probably know the least about it. It isn't just pork and free money.

Most of the areas and sites mentioned in the HCCC's December 2008 feasibility study already have protection measures in place. Chinatown, for example, has three layers of regulatory control. It is: (1) listed on the National Register of Historic Places as a Historic District; (2) listed on the Hawaii Register of Historic Places as a Historic District; and (3) a Honolulu special design district. Thus in order to renovate an existing building or construct a new building in Chinatown a property owner must comply with an additional permitting step and special design review, controls and requirements; these requirements range from specification of colors and materials to be used to selection of lighting, recession of doorways and other design features. It is hard to imagine that anyone whose property falls within a Heritage Area would also not be subject to such reviews and controls to ensure that alterations to their properties do not conflict with the recommendations of the management plan that will be in effect. This is exactly what happened in Yuma, AZ, where a farmer "went to build a new building on his property and was told that they could not issue a building permit until the county determined if the design of the building fit in the plan for the Heritage Area"³.

Chinatown is a place where many property owners also own their own businesses on site and have generational ties to the area; several prominent long-standing Asian businesses fall into this category. They are in a good position to weigh the benefits of an NHA (tourism and the prospect of more tourist revenue is touted as a big benefit of NHA designation) vs. the drawbacks. Given their request to withdraw Chinatown from the NHA boundary map, it seems that the prospect of more tourists does not outweigh property owners' concerns about more outside management plans, oversight, unaccountability, non-transparency and redevelopment.

The lack of safeguards in the NHA legislation is especially troubling. No conflict of interest provisions exist to ensure that parties to the managing entity will not later own, lease or develop properties about which they have made recommendations. Who are the HCCC's constituents? The only entity that they will be accountable to is the Secretary of the Interior for funding purposes. Where is the transparency? Minutes and decisions made at meetings of private groups are not published. One of the reasons that we are all here today is because legislators have constituents and are accountable to the community at large. Last year, we heard that the NHA legislation would pass in Congress by statehood day, then we learned that it would be heard in committee by the end of 2009. The fact that the HCCC has been continually pushing this legislation in spite of community opposition and non-support at the neighborhood board level is telling. The fact that the HCCC never went out to discuss the NHA at Neighborhood Boards before 2009 or involve the residents and community stakeholders in the feasibility study (as required) is also telling. They have been steadily working to advance their own interests with little regard for the interests and concerns of others. Maybe there was no perceived need to consult with the community because they did not feel that they had to answer to them? Perhaps this is why, in Chinatown, non-profit associations who were part of the NHA planning process for years said nothing about it to stakeholders in the community. What happens if the legislation passes and they no longer need to demonstrate community support? How responsive will this unelected private group be then?

Resolution SC56 mentions outreach several times---outreach is not support. Even now hardly anyone even knows about this proposed legislation much less supports it. Outreach in and of itself can be problematic because people who are being told that it is a cultural grants program

primarily to tell our stories or a virtual map for funding purposes or that it has nothing to do with land and buildings (all phrases used at Neighborhood board presentations) are probably not aware that an NHA might end up actually hurting them and others in the long run.

Chinatown has already been documented, studied and inventoried perhaps more than any other neighborhood in Honolulu as part of its prior National and State designation processes. There is no compelling reason to further document Chinatown as part of an NHA process. Two museums already exist in Chinatown and it is a vibrant tourist destination. That leaves the prospect of NHA designation as a vehicle for more outside oversight and redevelopment plans as happened in the case of Wheeling, W. VA. Like the approximately 40% of Chinatown now owned by the city, properties in Chinatown that are not for sale could be acquired for other purposes through “recommendations” and condemnation.

While we have no objection to the use of Federal money to assist a clearly public purpose such as restoration of Iolani Palace, we strongly object to more urban renewal efforts in Chinatown where, like Wheeling, land acquisition could be pursued under the guise of historic preservation. We note that in 2005, the U.S. Supreme Court held in *Kelo v. City of New London* held that taking private property for the purpose of economic development satisfies the “public use” requirement of the fifth amendment of the U.S. Constitution. Although some states have amended their state constitutions to prohibit states and cities from using eminent domain for this purpose, Hawaii is one of only seven states that have not imposed such limitations. Thus the City and County of Honolulu is free to condemn additional land in the name of economic development in furtherance of an NHA management plan. Chinatown stakeholders also do not want outside groups planning Chinatown’s future.

The managing entity of the Wheeling Heritage Area was successful in convincing the City of Wheeling to condemn private property and existing businesses for a private redevelopment for economic development purposes (the Victorian themed outlet mall). This plan would have displaced approximately 200 businesses in Wheeling⁴. Property owners, citizens and taxpayers fought the case to the Supreme Court of West Virginia and won on appeal of a lower court ruling.

Chinatown does not need private property to be taken for yet another art museum in the area. If Chinatown needs a visitor’s center, there is plenty of space in City owned property. Chinatown’s continued economic vitality is due in large part to the diverse mix of public and private uses as well as diverse ethnic populations. Where else do you find art galleries coexisting with herb shops, ethnic grocery stores, garment factories and restaurants? It is a delicate balance that could easily be disrupted by well-intentioned efforts by outside groups with little history or stake in the area. Well-intentioned prior urban development initiatives in Chinatown by resulted in a loss of some of the character and uniqueness of the area.

We recommend that the Legislature suggest four amendments to the pending NHA Legislation:

(1) reduce the area of the proposed NHA from its present size to the area immediately surrounding the capital or the Capitol district—that area bounded roughly by Richards Street to the West, Vineyard Boulevard to the North, Ward Avenue to the East and Nimitz Highway to the South. We believe this was the original footprint of the Hawaii Capital Cultural District before numerous expansion efforts.

We understand that one rationale for a large NHA footprint is to include cultural institutions such as the Honolulu Academy of Arts, the Bishop Museum as well as Queen Emma Summer Palace and Punchbowl within the boundaries of the NHA. There is nothing to prevent landmarks and sights outside of the boundaries of the NHA from participating as program partners in NHA programs—the HCCC even states this in their Feasibility Study (p. 215). Congress and the Legislature should consider the experience of the Yuma Crossing National Heritage Area in Yuma, Arizona. Congress originally designated a 22 square mile area of Yuma as an NHA. As local planning and zoning administrators started to interpret the implications of the NHA boundary in zoning regulations their decisions drew the ire of local property owners who were unaware that their communities had been “designated”. The County Board of Supervisors and the City of Yuma passed Resolutions instructing staff not to use the boundaries in the NHA in determining zoning issues. This solution was insufficient. The local community decided to reduce the scope of the NHA to what was originally proposed: a 4 square mile area of downtown Yuma and the Colorado River. Even with strong local support it took over 3 years for Congress to pass legislation changing the boundaries to the reduced area. The result is greater funding on a per acre basis for the portion of the City that remains within the NHA.

In the past, NHAs have typically received \$8 for every \$1 of federal funds. In 2010, however, newly designated NHAs are only receiving \$150,000 (as opposed to the one million stipulated in the legislation)⁵. However, due to questions at the Federal level about the lack of key management controls in NHA programs as well as recommendations to refocus efforts on the core mission of the National Park Service, the Congressional Budget Office proposed eliminating funding for the NHA grant program in 2011⁶; the Obama administration has proposed a 50% reduction in the current budget from eighteen million to nine million dollars⁷.

Should the boundaries of the Honolulu NHA be reduced, efforts or funds could be focused on the publicly owned historic landmarks, including Washington Place, the Palace, the Honolulu City Hall as well as private institutions that should be preserved: the Mission House Museum and Kawaiahao Church. Reduced NHA program funding could be concentrated in a smaller area while still allowing flexibility (through partnering mechanisms with other cultural institutions outside of the Capitol District) should funding someday be increased.

Since many of the landmarks within the Capitol District are publically owned, such a designation would not jeopardize the rights of thousands of residents, business owners, property owners and community stakeholders whose participation was not included in the feasibility study, who did not know about the NHA legislation before it was introduced in Congress, and who probably still aren't aware of it and the implications for them.

(2) Include mandatory notification and opt in/opt out provisions in the legislation.

The experience of the Northern Plains National Heritage Area surrounding Bismarck, North Dakota illustrates the danger of a hasty creation of an NHA without adequate public input. In March 2009, President Obama signed legislation creating the Northern Plains National Heritage Area, an 800 square mile portion of Central North Dakota that encompassed parts of 5 counties. The legislation was passed with little public involvement or support, without the knowledge of the residents of this area. The impact of the legislation was felt immediately. For instance a landowner in the NHA who had been offered a coal lease that would development of resources on his land had the lease withdrawn. As a result of the public outcry the Northern Plains National Heritage Area Act which had contained similar landowner protections as in the proposed Hawaii legislation was amended to provide additional landowner safeguards of mandatory landowner consent to inclusion in the NHA, as well as the opportunity for individual landowners to opt out of the NHA:

(g) Requirements for Inclusion and Removal of Property in Heritage Area.

(1) Private Property Inclusion. No privately owned property shall be included in the Heritage Area unless the owner of the private property provides to the management entity a written request for the inclusion.

(2) Property Removal.

(A) Private Property. At the request of an owner to private property included in the Heritage Area pursuant to paragraph(1), the private property shall be immediately withdrawn from the Heritage Area if the owner of the property provides to the management entity written notice requesti9ng removal.

(B) Public Property. On written notice from the appropriate State or local government entity, public property included in the Heritage Area shall be immediately withdrawn from the Heritage Area.

Inserting a similar provision in the Hawaii Capital NHA legislation would allow individual landowners the right to decline to have their property surveyed, studied or more importantly, considered for preservation or land acquisition. Also with reduction of the NHA area to Honolulu's Capitol District, notification and involvement of private owners, residents and community groups should be much more manageable and more easily accomplished.

(3) include a conflict of interest provision that would preclude the managing entity from purchasing or owning property within the NHA

Experience in the Yuma Crossing Heritage Area as well as in other Heritage Areas throughout the country has shown the need to include a conflict of interest provision. The bill

should be amended to preclude the management entity, HCCC, from acquiring or leasing land. The statement in the proposed bill that no federal funds obtained under the bill can be used to acquire land is misleading. This statement only applies to funds authorized by Congress for a Heritage Area. Any matching funds that are raised may be freely spent however the managing entity sees fit. Mainland NHAs on average receive \$8.00 in matching funds for every \$1.00 that is provided under the NHA enabling act. The majority of funds generated by a Heritage Area are eligible to purchase private property or issue conservation or historic easements. A more serious issue in the mainland has been the potential of a management entity of an NHA to acquire land then donate the land to the National Park Service. This happened with the Shenandoah Valley Battlefield Foundation. Although NHAs do not impose direct restrictions on property, Federal law grants the National Park Service the right to impose specific land use restrictions on properties adjacent to land acquired by or dedicated to the National Park Service.

A conflict of interest provision could help insure that decisions made do not primarily benefit the National Park Service, the HCCC, it's Board of Directors, or affiliates.

(4) include a provision that precludes any recommendations of condemnation in the NHA management plan:

As discussed above Hawaii is one of a handful of states that has not restricted the use of eminent domain for economic development purposes. We suggest that the bill be amended to prevent HCCC from making recommendations that the City and County of Honolulu or State of Hawaii acquired land for economic development or preservation purposes. Absent such a constraint the management entity would be free to pursue the course of Wheeling WV., and propose the City redevelop Chinatown to suit its management plan under the guise of economic development. Without such protection all property owners within the boundaries of the proposed NHA are at risk to the whims of this private coalition.

In closing, no neighborhood board has supported the NHA to date---a letter or resolution in support of the bill was withdrawn from the Nuuanu and Kalihi neighborhood boards and the Liliha Neighborhood Board voted not to support the a resolution calling for Hawaii's Congressional Delegation to pursue NHA designation-- it should not be approved until adequate safeguards and measures are included to protect the *majority* of community stakeholders.

¹ http://www.castlecoalition.org/index.php?option=com_content&task=view&id=466
(scroll down to the part on Wheeling)

² After the Yuma Crossing Heritage Area Bill passed Congress designating 22-square miles of Yuma as a National Heritage Area, the local agencies responsible for zoning started to interpret what it meant to own property in and around the boundaries of the new Heritage Area. It was these decisions made by bureaucrats that caused the local population to become concerned about their property rights. Harold Maxwell, "Get Involved in the National Heritage Area Designation to Prevent Property Rights Abuse", <http://www.ndfb.org/?id=69>.

³ Email from Harold Maxwell, 3/21/10.

⁴ http://www.be.wvu.edu/divecon/econ/sobel/UnleashingCapitalism/FinalChapters/Chapter7_booklayout_final.pdf
(page 106 of that chapter)

⁵ http://www.preservationnation.org/resources/newsletters/public-policy-weekly-bulletin/PPWB_05-15-09_FINAL-web.pdf
(towards the bottom of the second page)

⁶ <http://www.cbo.gov/ftpdocs/102xx/doc10294/08-06-BudgetOptions.pdf>

⁷ <http://demo.tizra.com/pageview/11dau/qem34/285>

Attachment A

HCCC Feasibility Study Published 12/08

Mentions of Property Inventories, Documentation and/or More Legislative and Regulatory Controls

p. 67: “In addition to the further compilation of existing data, additional field surveys of the many residential and mixed-use areas within the proposed NHA will also be required. This will include individual evaluations of houses and small businesses in Palama, Liliha, Kaka’ako and especially Kalihi, all of which have many remaining examples of modest frame houses, buildings housing manufacturing and repair shops and simple concrete block and frame shops and mixed-use buildings.”

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p. 151: “Additionally, further documentation of existing resources, including unrecorded historic residential areas in Liliha and Kalihi as well as individual buildings in the Kaka’ako and the Pi’ikoi Street area may result in additional designations and further protections.”

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p. 188: “Historic immigrant residential and commercial districts
Chinatown (listed and regulated)
Kalihi (not surveyed)
Palama (not surveyed)
Liliha (not surveyed)
Kapalama (not surveyed)
Kaka’ako (not surveyed)

Source: http://www.hawaiicapitalculture.org/nha-study/NHAS_BOOK_2-18-09.pdf



October 1, 2009

Board of Directors
E. Lee Stack, President
Joseph Leoni, Vice-President
Wing Tek Lum, Treasurer
E. M. Stack, Secretary

Honorable Daniel K. Inouye
United States Senate
722 Hart Building
Washington, D.C. 20510-1102

Robert Au
H. William Burgess
Christy Vicari-Coito
Meimei Engel
Ken Hayashida
Ernest Hunt
Allen M. Stack, Jr.

Honorable Daniel Akaka
United States Senate
141 Hart Senate Office Building
Washington, D.C. 20510

Re: S. 359

Dear Senator Inouye and Senator Akaka:

I write on behalf of Chinatown Improvement District, a nonprofit corporation comprised of landowners and business owners in Honolulu's Chinatown. We first wrote to you on April 6, 2009, to express our concerns regarding the proposed designation of the Ahupua`a of Honolulu and Kapalama as the Hawai'i Capital National Heritage Area. Since writing to you in April, we have worked to poll private property owners in the Chinatown District regarding the pending legislation.

We now write to suggest two amendments to this legislation. First, we request that all of the privately held land within the boundaries of Honolulu's Chinatown, properties bounded by North Beretania Street, Nuuanu Avenue, Nimitz Highway and Nuuanu Stream (the "Chinatown Historic District") be withdrawn from the proposed Hawai'i Capital National Heritage Area. We also ask that, if they so desire, owners of private historic properties contiguous to the district be included with the Chinatown land and business owners request for withdrawal. The majority of surveys received in response to our poll represent parcels of 5,000 square feet or less. Among this group are several long-standing prominent Asian businesses which have either erected or acquired their buildings. We surmise that the potential benefits of a National Heritage Area designation (greater numbers of tourists) do not outweigh concerns about the possibility of more outside "management plans," oversight and redevelopment. Our Board of Directors supports the request by the owners of over one half of the privately held land in Chinatown that the Chinatown District be withdrawn from the boundaries of the proposed Hawai'i Capital National Heritage Area.

Second, we suggest that the S. 359 be amended by adding the proposed Amendment No. 2441 by Senator Dorgan and Senator Conrad to the Northern Plains Heritage Area. The Northern Plains Heritage Area, covering thousands of acres and significant portions of four counties in central North Dakota surrounding Bismarck, North Dakota, was one of nine new National Heritage Areas designated by the Omnibus Public Land Management Act of 2009. The Northern Plains Heritage Area was touted as the historic home of the Mandau Indians, the area where Lewis and Clark spent most of their time, and the duty station of George Armstrong Custer. Approval of this legislation on March 30, 2009, apparently took many affected North Dakotans by surprise. Many affected property owners were unaware of the legislation. When they learned about it, they objected to constraints on land use, and wanted no part of the program.

As a result Senators Dorgan and Conrad introduced, and on September 24, 2009, the Senate approved, Amendment No. 2441 to the Senate's version of H.R. 2996, the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2010, that would apply only to the Northern Plains Heritage Area (see Attachment A). We note that both Senators from Hawaii supported the passage of this amendment. The measure now proceeds to a Senate – House conference. If approved in its present form, the measure would require private land owner consent for inclusion of land within the Natural Heritage Area, as well as permit North Dakota landowners to remove their property from the National Heritage Area designation.

There are several reasons for our above request to withdraw the Chinatown District from the boundary map of the proposed Hawaii Capital National Heritage Area:

1. Chinatown is Already Adequately Protected. We believe the Chinatown District already has significant recognition and protection to maintain its special character. The Chinatown District is listed on both the National and State Registers of Historic Places. A number of individual buildings within the Chinatown District have also been listed on both the National and State Registers of Historic Places. Over 20 years ago the City and County of Honolulu established a Chinatown Special District with specific land use controls to maintain view corridors, encourage the retention and renovation of buildings of historic, architectural, and cultural value, ensure design compatibility of new structures with historic structures and encourage the continuation and concentration of long established ethnic retail and light manufacturing activities on the street level while encouraging compatible residential use. In creating the Special District the City's Department of Planning and Permitting conducted a thorough inventory of all historic structures in the Chinatown District. The City has also established special street façade design guidelines to preserve the character and ambiance of the area.

The Hawai'i Capital Cultural Coalition ("HCCC") recognizes that Chinatown's physical environment has previously been surveyed and inventoried (HCCC Feasibility Study, p. 188), perhaps to a greater extent than any other area of Honolulu. Due to the existing overlay of Federal, State and County development regulations, there is no compelling reason to further survey, document or regulate the Chinatown District's physical environment. Sufficient governmental tax incentives and land use controls exist to encourage the private investment and public participation necessary to maintain and enhance the vibrant character and popularity of Chinatown as a destination for both tourists and kama'aina alike.

2. Fear of Public Redevelopment. As land owners and business owners, we have come to realize that the disparate mix of residents and businesses that give Chinatown its unique character and charm is the result of a unique combination of history, geography and market forces with an assistance of government incentives. Our organization desires to preserve this delicate balance of ethnic Asian stores, businesses, restaurants, museums and societies, with affordable housing, financial institutions, clothing stores, night clubs and art galleries. Approximately 40% of the land in the Chinatown District is publically owned, primarily by the City. Many of Chinatown's produce and food vendors occupy stalls in the City owned markets that the City has redeveloped over the last 25 years. We believe the land area comprised of public properties in Chinatown is sufficiently large that no more of Chinatown should be condemned for redevelopment. Publicly sponsored redevelopment of Chinatown for more ethnic markets, restaurants, museums or art galleries/studios could adversely affect this delicate balance, and destroy the uniqueness of Chinatown. The issue of gentrification has already been raised by Asian property owners and tenants who have expressed concerns that their businesses will be replaced by Western art galleries and boutiques. Additional outside "management plans" and recommendations could interfere with market forces and the private initiatives that make Chinatown the dynamic destination that it is today.

While the redevelopment of A'ala, and the Chinatown Cultural plaza and surrounding areas has resulted in the construction of much needed housing, it came at the expense of the unique character of these former neighborhoods which had evolved over time through private initiative, vision and creativity. Designation of the Hawaii Capital National Heritage Area could easily lead to more redevelopment.

Of great concern to land and business owners is that the designation of the Hawaii Capital National Heritage Area will lead to more public acquisition of private property in Chinatown. We do not believe the provisions in Section 8 of the proposed S. 359 afford sufficient protection to Chinatown District landowners who fear their lands will be condemned for private use in the name of economic development. Landowners do not wish to be subject to yet another "management plan" or "redevelopment plan" and possible additional restrictions and controls. The fact that one's land is being surveyed or studied for acquisition for a museum or cultural center will have a chilling effect on private redevelopment efforts. Owners will have a more difficult time attracting financing, investors and tenants if their land is subject to acquisition.

Property owners within the boundaries of the proposed Hawaii Capital National Heritage Area outside of the Chinatown District share these concerns. The HCCC's December, 2008, Feasibility Study mentions repeatedly that documentation and evaluation of properties could potentially lead to the kinds of land use and development controls and restrictions presently applicable to the Chinatown District (see Attachment B).

For these reasons we support extending to any Hawaii Capital National Heritage Area the kind of protection the Senate has agreed to extend to the land owners of North Dakota. We request the right to withdraw from any National Heritage Area designation.

3. Fear of Eminent Domain. Following the U.S. Supreme Court's decision in *Kelo v. City of New London*, 545 U.S. 469 (2005), private property may be condemned for the public purpose of economic development. Hawaii is one of only seven states that have placed no legislative limit, as the Supreme Court has suggested, on the use of eminent domain to further economic development or to transfer private property from one owner to another in the name of furthering economic development. In addition the Hawaii Supreme Court has followed that decision in *County of Hawaii v. C & J Coupe Family Ltd. Ptnrshp*, 119 Haw 352, 1989 P. 3d 615 (2008), upholding condemnation of private property for a public road as comporting with the public use requirement, notwithstanding the property would be transferred to a private entity to accomplish the purpose.

For that reason, we suggest that Section 8 of S. 359 be amended to further provide that no federal funds be expended to inventory, survey, record or otherwise study any private property without the consent of the owner of such private property, and no federal funds be expended to acquire any private property without the consent of the owner of such private property. In addition, we suggest that members and affiliates of the designated "managing entity" should be excluded from obtaining long term leases or partnering in redevelopment of properties about which that entity has made recommendations concerning *protection, enhancement, management or development of property* (Section 5.5 of S. 359).

4. Exclusiveness of HCCC Proposal. Our organization is appalled by HCCC's failure, over six years, to include Chinatown constituents in its feasibility study and consultation process. The majority of Chinatown property owners and businesses had no knowledge of the National Heritage Area proposal prior to February, 2009---after legislation had been introduced in the Senate. The lack of HCCC's accountability to Chinatown community stakeholders is potentially harmful and dangerous to the integrity of this long-standing vibrant community. Chinatown's attractiveness and vibrancy is due in large part to the great diversity of its businesses. As Chinatown's many constituents have widely disparate needs, desires and goals, maintaining the delicate balance among the competing constituents is not an easy proposition. Because HCCC will only be accountable to the National Park Service and Department of the Interior for its spending priorities, we are concerned that HCCC will attempt to implement programs to advance its agenda at the expense of other Chinatown constituents who do not share the same priorities.

5. Failure to Satisfy National Park Service Criteria. Among the National Park Service's criteria for the creation of a National Heritage Area is widespread public support for the initiative among owners within the proposed boundaries of the National Heritage Area. In our discussions with Chinatown residents, land owners

and business owners as well as residents of other proposed Hawaii Capital National Heritage Area communities such as Nuuanu, Liliha, and Makiki, few had heard of, let alone support the creation of the National Heritage Area. Disapproval by the owners of over one half of the privately held land in Chinatown alone demonstrates the lack of widespread public support for the National Heritage Area initiative. The request of residents, landowners and business owners to have their lands withdrawn from the proposed Heritage Area boundary map shows non-acceptance by members of the public of the proposed boundary map and plan. HCCC's failure--- over six years---to include Chinatown District constituents in any meaningful role in preparation of its feasibility study and consultation process also does not satisfy the criteria for public participation and involvement in the feasibility study.

Our conversations with Honolulu residents and Chinatown District business owners and landowners have led us to one conclusion: most know very little about the proposed Hawaii Capital National Heritage Area initiative. At neighborhood board meetings over the past four months, the initiative has been described by HCCC representatives as a cultural grants program whose map is a "virtual one" to be used for funding purposes. When its programs and implications are explained, the reaction is generally: (1) this is the first time we've heard about it; (2) we don't want to participate and; (3) we don't need more restrictions or outside oversight and management plans. In that regard our experience is very similar to the experience of North Dakotans. We therefore ask that you act to include similar safeguards for Honolulu's residents, business people and land owners.

6. Indefinite Term of the Initiative. A National Heritage Area can only be created or terminated by an act of Congress. The appointment of HCCC as the proposed managing entity for the proposed National Heritage Area seems a *fait accompli*. If the Hawai'i Capital National Heritage Area is created and HCCC is funded, affected Chinatown District property owners, business and residents will have virtually no real participation in decision-making (except in an advisory capacity) or ability to request exclusion from HCCC's programs. Although the proposed legislation does not delegate land use or other regulatory authority to HCCC as the local coordinating agency, no one can assure Honolulu's residents, business people and land owners that they will not be affected by feasibility studies, surveys, plans and programs in which they do not desire to participate, but that could adversely affect them and their interests.

For the foregoing reasons we request that Honolulu's Chinatown District be withdrawn from the proposed Hawaii Capital National Historic Area, ~~or~~ that the proposed legislation be amended to provide adequate protection to private property owners as well as safeguards to protect against conflict of interest and to assure openness and transparency about decision-making. Our organization supports certain objectives of the Hawai'i Capital National Heritage Area initiative, and we support initiatives to increase funding for tourism promotion, including tourism in Chinatown. However, we cannot support any such efforts at the expense of the rights of Honolulu residents and Chinatown District land and business owners.

We would like the opportunity to present our mana'o at any public hearing on this measure.

Sincerely,

CHINATOWN IMPROVEMENT DISTRICT

By: E. Lee Stack
E. Lee Stack
Its President

ATTACHMENT A

Amendment No. 2441 to the Senate's version of H.R. 2996, the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2010, that would apply only to the Northern Plains Heritage Area:

(g) REQUIREMENTS FOR INCLUSION AND REMOVAL OF PROPERTY IN HERITAGE AREA.-

(1) PRIVATE PROPERTY INCLUSION.-No privately owned property shall be included in the Heritage Area unless the owner of the private property provides to the management entity a written request for the inclusion.

(2) PROPERTY REMOVAL.-

(A) PRIVATE PROPERTY.-At the request of an owner of private property included in the Heritage Area pursuant to paragraph (1), the private property shall be immediately withdrawn from the Heritage Area if the owner of the property provides to the management entity a written notice requesting removal.

(B) PUBLIC PROPERTY.- On written notice from the appropriate State or local government entity, public property included in the Heritage Area shall be immediately withdrawn from the Heritage Area.

ATTACHMENT B

HCCC Feasibility Study Published 12/08

Mentions of Property Inventories, Documentation and/or More Legislative and Regulatory Controls

p. 67: "In addition to the further compilation of existing data, additional field surveys of the many residential and mixed-use areas within the proposed NHA will also be required. This will include individual evaluations of houses and small businesses in Palama, Liliha, Kaka'ako and especially Kalihi, all of which have many remaining examples of modest frame houses, buildings housing manufacturing and repair shops and simple concrete block and frame shops and mixed-use buildings."

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Chinatown (listed and regulated)
Kalihi (not surveyed)
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Liliha (not surveyed)
Kapalama (not surveyed)
Kaka'ako (not surveyed)

Source: http://www.hawaiicapitalculture.org/nha-study/NHAS_BOOK_2-18-09.pdf

LATE

Senator Fukunaga
Hawaii State Capitol

RE: Resolution SC 56

Resolution SCR 138

Hawaii National Capitol Heritage Area

Dear Senator Fukunaga,

I am a stakeholder and resident within the affected area
(TMK 1-9-005-005 and TMK 1-9-003-001)

I oppose this legislation and would like my property to
be removed.

Some of my reasons are as follows:

I first heard of this proposal last year after legislation
was introduced in Congress.

I was not ~~part~~ of the decision-making.

There is no apparent accountability of a private non-
elected group. This has led to problems in other Heritage
areas.

I ~~also~~ have an interest in several properties in Historic
Chinatown and would like them to be removed also.

Sincerely,

Elizabeth M. Stack

Elizabeth M. Stack

March 22, 2010

Senator Fukunaga
Hawaii State Capital

To whom it May Concern

c

Aloha,

My name is Lynn Vasquez.

I LIVED AT Napala Lane for one year and at Mayor Wright housing for 13 years.

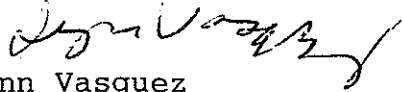
I served two ~~terms~~ terms on the Kaliki Neighborhood Board, ending in late 2009..

In early Spring of 2009 a person from the Hawaii Capitol Coalition came to our Neighborhood Board. They spoke during the two-minute public concerns part of the agenda. They asked us to sign a letter in support of the proposed Honolulu National Heritage Area (N.H.A.).

We decided not to sign their letter in support of the N.H.A. We wanted to hear both the pros and cons of an N.H.A. in Honolulu.

We put the proposed Honolulu N.H.A. on the Kalihi Neighborhood Board agenda in order to let the neighborhood we represent tell us what they thought about an N.H.A.

Sincerely,



Lynn Vasquez

March 22, 2010

To whom it may concern,

My name is Allen Stack Jr.

I am a fourth generation stakeholder in Chinatown.

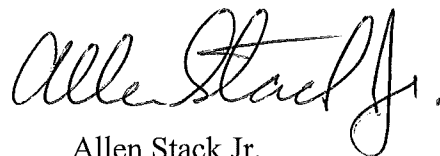
I oppose a National Heritage Area (N.H.A.) designation for large portions of Honolulu for the following reasons.

1. A critical step in the formation of an N.H.A. is resident input in the feasibility study .(Attachment#1) The feasibility study done by the Hawaii Capital Cultural Coalition (H.C.C.C.) lists only forty-one participants in the community forums. At forum #3, September 9 held at the Children's Discovery Center the four participants appear to be counted twice each. (Attachment #2). The H.C.C.C. did not engage the residents within the proposed N.H.A. in any meaningful way. .
2. Control by Outsiders: The last I heard only three of their Board of Directors reside within the proposed N.H.A. boundaries.
3. Potential for Land Condemnation: Federal government documents outline how N.H.A.'s can move to effect condemnation of land. On the Mainland, in Wheeling, West Virginia, an N.H.A. moved to condemn 90% of downtown Wheeling and turn the land into a Victorian themed outlet mall. (Attachments #3 and #4).
4. N.H.A. web site documents say that the conceptual boundary map of a N.H.A. is supported by the public (Attachment #5). The results of a survey of Chinatown landowners opposes inclusion in the proposed N.H.A.

I ask that Chinatown be removed from the conceptual boundary map of the N.H.A. AT the least, I ask that my real property at 1152 Nuuanu, 1026 Nuuanu and 25 N. Hotel St. be removed from the N.H.A. conceptual boundary map

The N.H.A. designation is best suited for the Capitol District. Entities within this area have already expressed an interest in inclusion . The N.H.A. would be able to partner with other groups outside a Honolulu Capitol District (Attachment #6)

Sincerely,

A handwritten signature in cursive script that reads "Allen Stack Jr." with a small flourish at the end.

Allen Stack Jr.

What is a Feasibility Study?

A feasibility study is a report that documents the processes undertaken by the residents of a region to determine whether their landscape has the distinctive resources and local capacity necessary for designation as a National Heritage Area. It examines whether authorization as a NHA is an appropriate strategy for achieving a region's resource conservation and economic development goals. ★

The feasibility study process explores a number of important factors that inform whether national designation is the best way to achieve a region's conservation, preservation and economic development goals; it also provides Congress with information regarding the appropriateness of designating the landscape as an NHA.

In some cases, Congress directs NPS to conduct a feasibility study in conjunction with local participants. In most cases, though, supporters of the NHA work within the region to develop the study, with the NPS serving in an advisory capacity.

Who organizes the process and compiles what we find?

There is no one formula for successfully completing a study process. When Congress directs the NPS to undertake a study, a team will work with residents as they determine whether National Heritage Area designation is an appropriate strategy. Funds for this approach are allocated directly by the National Park Service and made available as the budget process allows – which can take a number of years.

In other cases, a local non-profit may take the lead in reaching out to stakeholders. The NPS offers guidance, but does not provide funding to these efforts. A state or local government can also facilitate planning and public involvement, with NPS guidance but, once again, without the possibility of financial support from the agency. However, NPS strongly recommends frequent contact with staff people at the park unit (if applicable), regional office and national office level – NHA experts at NPS will help make the study process more understandable and useful for you. A list of contacts is available at www.nps.gov/history/heritageareas/CNTC/INDEX.HTM.

How are National Heritage Area Feasibility Studies funded?

As noted above, funds for the feasibility process can come from a variety of sources. In some cases, Congress will pass a bill directing NPS to complete a study. Under these circumstances, resources are made available as the budget process allows.

If a study is undertaken by an entity other than the NPS, funding is often obtained through state or local government, universities or private foundations. In these cases, the NPS provides guidance, but not direct material support to interested communities. Partners can provide key pieces, such as inventories. In this way, feasibility studies can serve as a partnership-building process that increases local buy-in and reduces costs.

voices and perspectives as possible. This should be one of the overarching goals of any outreach strategy. Organizations, local and state government, business, educational institutions and private citizens should be given opportunities to share their views. Though this may take time, it will pay dividends in partnership development and public support – two critical factors for success later on should designation occur.

Throughout the feasibility study process, organizers should document all public involvement. How many people attended public meetings? What were their comments? Was there follow-up? Public involvement can include meetings, workshops, newsletters, open houses, mailings, websites, booths, presentations, press releases, newspaper articles, etc. It is important for Congress and the NPS to know that outreach took place, but it is even more important for all the residents of a region to know that they were involved in the process. NHA designation should not come as a surprise to local communities and government bodies. ★

Who is “in charge” of a National Heritage Area?

During the feasibility study process, residents decide on the best way to coordinate heritage area activities. This can be through a non-profit alliance, a loose confederation of interested individuals or a more formal local or state government body. If a designation bill is introduced in Congress, it will identify a “local coordinating entity.” This body is authorized to manage the federal funding allocated to carry out the purposes of the legislation.

It is important for residents of a region to consider carefully when considering different options for their local coordinating entity. Think beyond the first few organizations or bodies that come to mind. Engage as many people as possible in the feasibility study process, in order to get a diverse scope of ideas for management of your National Heritage Area. Do they all have a passion for the region, or a commitment to community well-being? Do boards have diverse skill sets, marketing savvy, etc? Are they well-connected people in the area? A few of these might be helpful, even if they're too specific to be perfect in every case.

What kind of financial and human resources are necessary for success?

When considering National Heritage Area designation, one of the critical components is demonstrated support and commitment from a wide variety of partners. Support comes in all forms – time, supplies, money, expertise etc. In order to demonstrate this cooperation, the NPS asks regions to complete a “conceptual financial plan” as part of the feasibility study process. This important document assigns a financial value to the commitments made verbally and in letters of support associated with the study. Not only does it demonstrate commitment from stakeholders, it also shows that should designation occur and limited federal funds become available, the proposed coordinating entity already has a plan in place for matching these funds as required by law.

After designation, a NHA needs to hit the ground running in order to complete its legislated requirements - including preparation of a management plan – usually within three years. A well-thought out financial plan is one of the best ways to prepare your region for success. A financial plan can also

Attachment #2

COMMUNITY FORUM PARTICIPANTS

Last Name	First Name	Organization
FORUM 1: SEP. 7, HHSAM		
Abadir	Mona	HCCD/Honu Group
Awaya	Tandy	Pacific and Asian Affairs Council
Delatorre	David	HSFCA/APP
Espero	Will	Senate
Faulkner	Kiersten	Historic Hawai'i Foundation
Fujitani	Keoni	Hawai'i Community Foundation
Hanson	Kim	Enterprise Honolulu
Kosaka	Denise	Hawai'i State Art Museum
Lee	Steven	DBEDT/Creative Industries
Masaki	Karen	The Cultural + Planning Group
Scott	David	Daughters of Hawai'i
Thomason	Kathi	DAGS
Torres	Cherry	Office of Senator Norman Sakamoto
Whitman	BJ	Communications Pacific
Yamakawa	Ron	HSFCA
Yee	Florence	Hawai'i State Library
FORUM 2: SEPT 7, ARTS AT MARKS		
Bruce	Patti	YWCA
Evilsizor	Sarah	Community Member
Minnes	Chris	Honolulu Symphony
Pretofori	Marilyn	Art Alliance
Smyth	Tom	Downtown Neighborhood Board/DBEDT
Takeshita	Erik	Arts at Marks Garage
Tiller	Karen	Hawai'i Opera Theatre
FORUM 3: SEP 9, CHILDREN'S DISCOVERY CENTER		
Dinell	Daniel	Hawai'i Community Development Auth
Killeen	Kevin	Community Member
Matson	Michelle	Community Member
Yajima	Loretta	Children's Discovery Center
Dinell	Daniel	Hawai'i Community Development Auth
Killeen	Kevin	Community Member
Matson	Michelle	Community Member
Yajima	Loretta	Children's Discovery Center
FORUM 4: SEP 13, ALOHA TOWER MARKETPLACE		
Kastner	Katie	SHPO
Korybski	Ed	Hon. Cult & Arts District
Ulveling	Margi	Hawai'i Pacific University
Watanabe	Suzanne	Hawai'i Opera Theatre
Young	Tracie	DBEDT
FORUM 5: SEP 14, WAIKIKI IMPROVEMENT ASSOC (HELD AT PACIFIC BEACH HOTEL.)		
Abenoja	Teresa	Honu Group
Gonsalves	Mike	WIA
Masaki	Karen	The Cultural + Planning Group
Panoke	Wayne	Comm. Planning Erg.
Sasaki	Jason	JS & J Software

Attachment #3



National Heritage Areas

National Park Service
U.S. Department of Interior

FEASIBILITY
GUIDELINES

APPENDIX 1

APPENDIX 2

APPENDIX 3

APPENDIX 4

HOME

NHA
HOME

NATIONAL HERITAGE AREA FEASIBILITY STUDY GUIDELINES

APPENDIX 4

SAMPLE PORTRAYAL OF PARTNERSHIP COMMITMENTS TO POTENTIAL NHA

Partnership commitments demonstrate, in large part, the capacity of the local participants to undertake and implement a future NHA. They may be agreements for working relationships, financial contributions, or pledges of other types of assistance. A sample way to portray commitments to the partnership is presented below:

Organization	Activity	\$ Commitment	TA/Education Commitment
State Lands Agency And Nonprofit Land Trusts	<u>Land Acquisition and Trails Development in Heritage Area *</u>	X \$\$	Heritage Planning, Programming and Open Space Preservation
Management Entity Operational Budget (exclusive of federal funding)	Planning and Implementation	X\$\$	Partnership Development, Historic and Open Space Preservation and Interpretation
Nonprofit Organization	Historic Preservation	X \$\$ to Provide Match to NHA Local Grantees	Historic Preservation and National Register Nomination Advice
State Tourism Association	Tourism Development		Marketing and Tourism Advice
Private Foundation	Open Space and Historic Preservation	50/50 matching Grant for Planning and Resource Protection Projects	
Corporate Sponsor	Sponsor and Provide Tangible		

	Contributions for Heritage Events		
County Government	Provide Office Space for Management Entity		Provide Web Page for Heritage Area Activities
Chamber of Commerce	Provide Design and Printing of Heritage Area Brochure		



*Land acquisition costs are not normally an authorized use of NHA federal funding authorizations, but can be undertaken to support the heritage area by others using non-NHA funds.

As in the case of the conceptual financial plan, specific commitments may be difficult to ascertain during the study. Indications of commitments to assist and work in partnership with the management entity by state and local governments and other organizations may be substituted for actual dollar or other specific contributions. The study team should, however, attempt to ascertain tangible commitments that partners are willing to contribute to the successful implementation of the heritage area.

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National Heritage Areas

National Park Service
U.S. Department of Interior

Attachment #4

governments. In short, economic development takings are valid if they are filtered through a democratic process, and the enactment of constraints on eminent domain takings are up to state legislatures, governors, and their courts.

The West Virginia Supreme Court has not been a sufficient brake on *Kelo* style transfers. The most egregious abuses of eminent domain have occurred in Charleston and Wheeling. In Charleston, the state's top eminent domain abuser is the Charleston Urban Renewal Authority (CURA). Since the 1960s, CURA has seized 523 properties for 47 projects, 28 of which were private projects (Berliner 2006). In the mid 1990s, CURA again condemned property in downtown Charleston to sell to private developers. This time the property owner fought back. The Courtland Company, which operated a commercial parking lot on this property, challenged the taking on the argument that the property itself was not blighted. However, this property was located within a redevelopment area that CURA had declared blighted. In *CURA v. Courtland* (1998), the West Virginia Supreme Court ruled in favor of CURA, and this precedent stands today in West Virginia.

➤ In Wheeling, the legislature designated the downtown area as a National Heritage Area in October 2000 when it passed the Wheeling National Heritage Act (WNHAA).¹⁶ This act created the Wheeling National Heritage Area Corporation (WNHAC) to manage and redevelop the area.¹⁷ In 2002, The WHNAC proposed to convert 90 percent of downtown Wheeling into a 'Victorian-themed outlet mall.' This plan would have condemned properties and transferred them from their present owners to private retail businesses chosen by City officials (Berliner 2003). Fortunately, the West Virginia Supreme Court ruled the financing of the plan unconstitutional in May 2003.¹⁸

In addition to these examples, a case involving a family farm and Snowshoe Mountain provides another illustration of eminent domain abuse in West Virginia. For eight generations, the Sharp family has owned a farm in Pocahontas County, near Slatyfork, WV (Nabors 2006). This area is also home to Snowshoe Mountain ski resort. Due to expansion, Snowshoe claims it needs the Sharp farm to build a larger sewage treatment facility. Although Governor Joe Manchin has offered Snowshoe nearby public land for \$1 on which to build a treatment plant, Snowshoe and local government remain focused on seizing the Sharp Farm, citing higher project costs (HuntingtonNews.net 2006).

If West Virginia is going to achieve pro-growth policies, we need to take it into our own hands to impose meaningful restraints on eminent domain abuse. Property owners need the security to ensure their property improvements will be protected, not condemned from beneath them and handed off to another private owner. Otherwise, fewer property improvements and investments will take place, and economic growth will be slowed. In order to truly serve the public purpose, West Virginia needs to enact its own restrictions on the use of eminent domain takings to better protect the property rights of our citizens.

¹⁶Wheeling National Heritage Area Act (WNHAA), Pub. L. No. 106-291, § 157, 114 Stat. 922,963 (2000).

¹⁷ Wheeling National Heritage Area Act (WNHAA), Pub. L. No. 106-291, § 157, (d)(2)(B), 114 Stat. 922, 964 (2000).

¹⁸ *State ex rel. West Virginia Citizens Action Group v. West Virginia Economic Development Grant Committee*, 213 W.Va. 255, 580 S.E.2d 869 (2003).



Critical Steps

The National Park Service has outlined *four critical steps* that need to be taken prior to congressional designation of a national heritage area. These steps are:

1. Completion of a suitability/feasibility study;
2. Public involvement in the suitability/feasibility study;
3. Demonstration of widespread public support among heritage area residents for the proposed designation; and
4. Commitment to the proposal from key constituents, which may include governments, industry, and private, non-profit organizations, in addition to area residents.

Suggested Criteria

The following components are helpful in assessing whether an area may qualify as a national heritage area. *A suitability/feasibility study should include analysis and documentation that illustrates that:*

1. The area has an assemblage of natural, historic, or cultural resources that together represent distinctive aspects of American heritage worthy of recognition, conservation, interpretation, and continuing use, and are best managed as such an assemblage through partnerships among public and private entities, and by combining diverse and sometimes noncontiguous resources and active communities;
2. The area reflects traditions, customs, beliefs, and folk life that are a valuable part of the national story;

3. The area provides outstanding opportunities to conserve natural, cultural, historic, and/ or scenic features;
4. The area provides outstanding recreational and educational opportunities;
5. Resources that are important to the identified theme or themes of the area retain a degree of integrity capable of supporting interpretation;
6. Residents, business interests, non-profit organizations, and governments within the proposed area that are involved in the planning, have developed a conceptual financial plan that outlines the roles for all participants including the federal government, and have demonstrated support for designation of the area;
7. The proposed management entity and units of government supporting the designation are willing to commit to working in partnership to develop the heritage area;
8. The proposal is consistent with continued economic activity in the area;
9. A conceptual boundary map is supported by the public; and
10. The management entity proposed to plan and implement the project is described.

For more information, visit our website:
<http://www.cr.nps.gov/heritageareas/>

Attachment # 5



Attachment # 6

Q: How will that management role play out?

A: Coordinating information will be a primary activity.

Q: How will all this be coordinated?

A: Aggregating information, putting together brochures, etc.

Q: Is there currently another group that does these kinds of activities now? Is there redundancy in providing this kind of information?

A: There really is not one place where all of this information is organized and effectively communicated to public. It requires a coordinated effort.

A: A lot of these ideas already exist in the plan, but it is about connecting the partners and opportunities together. We need to connect and coordinate them.

Q: The idea of content may help to "bring it out". Does HCCD see itself helping partners do that well, effectively, etc? Would there be a standardized format, checks for accuracy, etc?

A: We haven't addressed that so far, but some guidelines would be useful.

Q: How does National Heritage Area designation affect economic development (physical) in the area?

A: It's up to the partners. The regulations don't restrict economic or physical development. HCCD's job is to advise and support.

Q: What about physical changes to the area, such as roads, etc?

A: Partners may look at that if needed. HCCD's role is to help neighborhoods accomplish what THEY want.

GEOGRAPHIC BOUNDARIES OF THE HAWAI'I CAPITAL CULTURAL DISTRICT

The geographic boundaries of the Hawai'i Capital Cultural District and the National Heritage Area are of significant concern for the forum participants. While many participants expressed comfort with the concept of "porous" or "virtual" boundaries, others found any reference to geographic boundaries very limiting. Many of these participants would advocate for the entire state being designated as a National Heritage Area. At

minimum, the participants strongly supported the development of methods to connect the district to vital areas beyond the district's geographic boundaries, on O'ahu and statewide.

Q: Is the Academy of Arts or Washington Place in the district?

A: Yes, they are. The map needs to be re-drawn to accurately put the boundary lines on the other side of the physical spaces.

Q: Are the boundaries legally designated in a resolution?

A: The legislative resolution that affirmed the establishment of the district was based on the map designating a particular area. However, this was not a binding resolution. In practice, the geographic boundaries are more virtual. That's why the word "capital" is spelled with an "a" rather than an "o".

Q: What about the Art Academy?

A: It's in the district.

Q: In terms of accessing resources, what if someone is not in the boundaries of the district?

A: You don't have to be in the area to access funding. We can partner with those outside the district and funnel funding to those partners and/or projects.

Q: Is this the only National Heritage Area in Hawai'i?

A: A state can have more than one area designated; there aren't any yet in Hawai'i. Some National Heritage Area designations are the whole state. More recently, however, the National Park Service has moved away from "whole state" designations.

Q: Why did we not include the windward, leeward and other districts in the area?

Q: Is there room for expansion of the district?

A: Yes. As the coalition progresses, there is an opportunity for change.

Q: Is there a concern that because HCCD, the district, has been legislated that change would be difficult?

A: It's not legislated, but it was used as an initial designation.



SEP 24 2009

September 20, 2009

LATE

Senator Carol Fukunaga
State Capitol Rm. 216
415 South Beretania St.
Honolulu, HI 96813

Proposed National Heritage Area in Honolulu

Dear Senator ~~Fukunaga~~ *Carol*:

The Tantalus Community Association (TCA), consisting of some 160 households, requests that the Round Top – Tantalus area be excluded from the proposed Hawaii Capital National Heritage Area (S. 359). It is our understanding that a private coalition has proposed inclusion of our residential area in conceptual map and the pending enabling legislation. At this point, the TCA has not been included in the discussions, and is unwilling to be included in the program that we neither have participated in nor fully understand.

Our specific concerns include the following:

1. Apparently the informal coalition has been planning this for some seven years. It is our understanding that such designations require buy-in by residents and stakeholder groups. We are the only resident organization in the Round Top – Tantalus area, yet have been excluded to date. This is not a case of not knowing which group to contact. It is the case that our area seems to have been an afterthought, and not part of the primary motivation of the advocates. A feasibility study completed in 2008 did not include our area!
2. It is not clear to us what the implications of such a designation would be. We are aware that certain well known designations carry with it considerable implications for property owners – such as the Gettysburg National Battlefield. We are not clear that at some time in the future, older homes in our area would not be somehow involved in the group's work. Act 228, requiring the submission of fifty archival photos for structures over fifty years of age in order to obtain a building permit, was recently repealed as too burdensome and costly for property owners on Oahu. TCA residents are wary of more restrictions and requirements placed on our properties and managed by an appointed committee.
3. TCA is not clear as to how or whether the conceptual map can be amended.
4. We do understand that the designation carries with it some \$10 million in potential grants over the next ten years, or approximately \$1 million per year. We think this benefit would be most productively used by the many fine cultural organizations in the capital district, such as Iolani Palace. It is highly unlikely that the TCA residential community would qualify or benefit from these funds.
5. It is also our understanding that a non-elected board or commission would be appointed to develop and implement a management plan. TCA is not clear how this happens, who

can be appointed, and whether or not TCA would ever be represented. TCA is also not clear as to the powers and duties of such a governing board.

National Park Service requirements specify that a key criteria for a Heritage Area designation is wide-spread support among area residents and also that a conceptual map of the proposed area is supported by the public. TCA has no objection to the creation of a cultural district around the state capital, but believe that it is not appropriate for our community to support or oppose it for others. We understand similar concerns regarding nonparticipation or transparency have been raised by other communities that may be affected.

TCA does not support such a designation for our residential area and we ask that the Round Top -- Tantalus portion be removed from the conceptual map of the area.

Thank you for your consideration.

Sincerely

A handwritten signature in black ink, appearing to read 'ALICE LUNT', written over a horizontal line.

Alice Lunt, President
Tantalus Community Association

OCT 13 2009
LATE

October 7, 2009

Senator Carol Fukunaga
State Capital Rm. 216
415 South Beretania Street
Honolulu, HI 96813

Proposed National Heritage Area in Honolulu

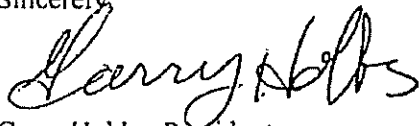
Dear Senator Fukunaga:

The Woodlands at Nuuanu, AOA, consisting of 18 homeowners on Waokanaka Street in Nuuanu, requests that our neighborhood be excluded from the proposed Hawaii Capital National Heritage Area (S.359). It is our understanding that a private coalition has proposed inclusion of our residential area in the conceptual map and the pending enabling legislation. At this point, The Woodlands at Nuuanu has not been included in the discussions, and is unwilling to be included in the program that we neither have participated in nor fully understand.

National Park Service requirements specify that a key requirement for a Heritage Area designation is wide-spread support among area residents. The Woodlands at Nuuanu, AOA, does not support such designation for our residential area and we ask that the Waokanaka Street area of Nuuanu be removed from the conceptual map.

Thank you for your consideration.

Sincerely,



Garry Hobbs, President
The Woodlands at Nuuanu, AOA

LATE

May 19, 2009

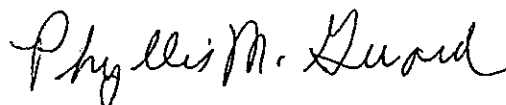
Dear Nuuanu/Punchbowl/Pauoa Neighborhood Board,

I am a resident of Nuuanu and have lived in my house in the valley for fifty-nine years. My family has owned property in the area for three generations. I am opposed to the proposed designation of the ahupua'a of Honolulu and Kapalama (including Nuuanu valley) as a National Heritage Area for the following reasons:

1. There has been limited public involvement to date in the decision to pursue such a designation and the development of the recently released feasibility study.
2. The proposed managing entity is not of our community and we would end up being managed by outsiders.
3. Since many historical and cultural sites already have state, and in some cases, national protective status, a National Heritage Area designation would be redundant.

I urge you not to pass any resolutions calling for support of the National Heritage Area.

Sincerely,



Mrs. Richard R. Guard
4109 Nuuanu Pali Dr.
Honolulu, HI 96817

TESTIMONY REGARDING THE PROPOSED HAWAII CAPITAL NATIONAL HERITAGE AREA

Wing Tek Lum

March 22, 2010

I am submitting testimony today as someone with some background in the history and culture of Chinatown. I have worked at Lum Yip Kee, Limited as a businessman in Chinatown for the past 35 years. I have also been connected for three decades with the Hawaii Chinese History Center, also located in Chinatown. Lastly, I am a poet, associated with Bamboo Ridge, and have in the past written creatively about the history and culture of local Chinese in Hawaii.

Since our grandfather immigrated to Honolulu Chinatown 125 years ago, our family, which now extends to the fourth generation, has lived, worked and owned property in this area. We have seen Chinatown as a vibrant, entrepreneurial neighborhood populated by our first, pioneer generation; they survived and thrived even after the Chinatown fire of 1900. We further witnessed the continued growth of our community as second generation families built upon this initial infrastructure and flourished. Unfortunately, we have also lived through the decline of Chinatown especially after World War II as third generation families moved out as the structures built after the fire reached the end of their useful lives. Wide swatches of Greater Chinatown were then lost to urban renewal, the Mauka Arterial (aka H-1), Vineyard Boulevard and Aala Park.

We know in the past 30 years several property owners have attempted on their own to renovate their individual buildings in an effort to improve Chinatown. The City to its credit also developed several large housing projects. But much more must be done to revitalize Chinatown, especially to encourage the return of families to provide the stable social network essential for the health of any community. Only then will the unique character of our neighborhood be preserved. Only then will we be able to meet the challenges of the future.

The proposed Hawaii Capital National Heritage Area also claims to revitalize our community as part of the Honolulu/Kapalama ahupua'a. Yet I fear that it will not. Until last year no one in Chinatown that I have spoken with – no resident, storekeeper, or property owner – has said that they were aware of this proposal or its import. No proponent asked about their concerns about Chinatown, none consulted them about their visions for the community in which we live and work. Furthermore, they have said when hearing about these proposals that they are against them.

My conclusion then is that this proposal for an NHA is one that is not generated by grass roots folk in Chinatown – the noodle maker, the fishmonger, the musicians of the opera societies, the students in the Chinese language schools, the popos worshipping daily at the temple. Such a top down approach to urban planning from those who appear not to have any roots in our community does not augur well for the development and implementation of any NHA management plan in any democratic way, where the real people affected should have a legitimate say.

Proponents call for establishing a federal overlay of regulations via this NHA management plan. Yet in Chinatown, as everyone knows, we already live under unique City and State historic preservation ordinances which determine what we can or cannot do with our businesses and our properties. We do not need another layer. Please remove Chinatown from the designation map.

March 30, 2010

I have been in the real estate industry for more than 30 years. Many of the property owners I represent own property within the boundary areas of the proposed National Heritage Area and have never heard of the proposed legislation. The Hawai'i Capital Cultural Coalition ("coalition") has been working on the heritage area since 2003 and has done less to notify the effected public than what an applicant for a liquor license must do. The license applicant is required to do a mailing to all residents in the effected community.

The "coalition" has gone to small groups, neighborhood boards. Have they done a mailing to property owners? Have they contacted large trade association like the Hawaii Association of Realtors or the Honolulu Board of Realtors who represent property owners?

Once approved, the effects of the National Heritage designation, a partnership with the State of Hawaii and City & County of Honolulu, will have far more potential to impact property owners than a business with a liquor license. The management plan for the area will not be completed until after the legislation has passed and the "coalition" has authority. The plan should be available to the public for review and comment prior to the legislation passing.

Question: How can the "coalition" inform the community of the effects of the bill if they have not completed a plan? Question: Will the state and city have to amend or create statutes and ordinances to comply with the new designation? Such as requiring the review and approval of building permits by the "coalition" for any possible ramification to their plan. That question has been asked but not answered. Question: The coalition does not have the power of condemnation. The city and state do have the power. Is there a guaranty that the city and state will not use their power to condemn a property based on the "coalition" implemented plan. Question: The governing authority for the Heritage Area is the department of the interior. What are the local checks and balances on the "coalition" which will be managing the area? How do you un-elect a nonprofit? Do we need to go to Washington DC to implement changes to the management plan? What is the process to opt out of the heritage area or is it even an option?

There are good planning reasons why we have ordinances and zoning governing real

property. However these may be appealed or a request for a variances may be made.

There are just to many unknowns and unanswered questions to allow this legislation to move forward. The community is being asked to have faith in a nonprofit governing entity who has been working on the heritage area for seven years but still does not have a plan it wishes to present to the community. It wants up to three (3) years after the legislation is passed and grants it authority to manage the heritage area to unveil their plan. This is placing the cart before the horse.

Sincerely yours,

Robert V. Cooper

Senator Carol Fukunaga, Chair
Senator Rosalyn H. Baker, Vice Chair

LATE

Senate Committee on Economic Development and Technology

Wednesday, March 24, 2010, 1:15pm, Conference Room 329

Comments on SCR138 and SR56, Requesting Status Report from the Hawai`i Capital Cultural Coalition

To the Honorable Chair Fukunaga and Honorable Vice Chair Baker:

Thank you for the invitation to provide comments on these measures.

I am writing on behalf of the Hawai`i Capital Cultural Coalition. The Hawai`i Capital Cultural Coalition (HCCC), is a dynamic partnership of 25 central Honolulu arts and cultural organizations and more than 50 businesses, public agencies, and service organizations who share a vision of a premier heritage area in Honolulu's historic core. In 2003, the Coalition established the Hawai`i Capital Cultural District located in the area between Kalihi and Pi`ikoi Streets, and Beretania Street and the Pacific Ocean. The HCCC is currently taking steps to achieve designation as a National Heritage Area for the ahupua`a covering downtown Honolulu, Nu`uanu Valley, and adjacent areas.

SCR138 and SR56 requests from the Hawai`i Capital Cultural Coalition:

- (1) The organization's development of the management plan required as part of the proposed designation of the Hawai`i Capital National Heritage Area;
- (2) The organization's efforts to address concerns raised by residential property owners and others during the 2009 Legislature's hearing process on S.C.R. No. 3 and H.C.R. No. 213, as well as current outreach efforts to area property owners, individuals, commercial entities, and others; and
- (3) Any concerns or other issues raised during the outreach efforts and how these will be addressed in the management plan.

HCCC looks forward to continuing to work with the legislature on moving towards this important designation and in working together through our collective outreach efforts to dispel the misinformation being placed in the community by a few misguided and self-interested individuals.

Thank you for the opportunity to testify on these Resolutions. Should any questions arise from legislators or constituents, please do not hesitate to have them contact me directly at watson@honuaconsulting.com



Trisha Kehaulani Watson, JD, PhD

LATE

H. William Burgess

2299-C Round Top Drive • Honolulu, Hawaii 96822

Telephone: (808) 947-3234 • Fax: (808) 947-5822

Email: hwburgess@hawaii.rr.com

March 31, 2010

Senator Carol Fukunaga, Chair
Economic Development and Technology Committee

Dear Chair Fukunaga:

Re: SR 56 and SCR 138

Please accept this letter in opposition to the proposed National Heritage Area boundary map. As a property owner in Chinatown and as a homeowner for over 50 years in the proposed Hawaii Capital National Heritage Area, I request that my property be removed from the proposed boundary map. National Park Service requirements specify that a key criteria for Heritage Area designation is that a conceptual map of the proposed area be supported by the public. I do not support such a designation and ask that both the Makiki Round Top area where my home is located and Chinatown be removed from the conceptual map.

My property in Chinatown, which I have owned for over 40 years, is the Foster Building located at:

902 Nuuanu Avenue and 6 and 10 Marin Street.

If the NHA is to be imposed on Hawaii it should be limited to the Capitol District.

Thank you for considering this.

Sincerely,



H. WILLIAM BURGESS

LATE

March 30, 2010

Senator Carol Fukunaga
State Capitol, Mr. 216
415 S. Beretania Street
Honolulu, HI 96813

Re: SR No. 56 and SCR No. 138

Dear Senator Fukunaga:

On Monday, March 22nd, I testified before the Senate Committee on SR56 and SCR138. At the end of the session, Tom Smyth, a member of Neighborhood Board 13 testified. I write now to correct the record regarding statements that Mr. Smyth made. Firstly, I do not believe that Mr. Smyth was authorized to represent Neighborhood Board 13 on this matter. Secondly, Mr. Smyth's assertion that I had submitted a "resolution calling for the withdrawal of Chinatown" before Neighborhood Board 13 is a gross misstatement. Third, Neighborhood Board 13 has not taken a position to support or oppose the proposed Hawaii Capital National Heritage Area.

On February 4, 2010, Neighborhood Board 13 scheduled the proposed Hawaii Capital National Heritage Area as an agenda item for presentation. Lorraine Lunow-Luke and I were each allotted five minutes to present views on the pending legislation; a question and answer session followed. I believe that the approved February minutes of record (attached) will reflect this order of events. At the March 4, 2010 meeting of Neighborhood Board 13, the Hawaii Capital National Heritage Area was scheduled as an agenda item for action. The board deferred action on this matter.

Mr. Smyth seems to believe that because the Board voted to support the Capital Cultural District in January of 2004 that confers automatic support of the proposed NHA legislation. In reviewing Neighborhood Board 13 minutes from 2004 through September of 2009, I could find no reference to a presentation, community discussion, or vote to support or oppose the proposed NHA legislation. To the best of my knowledge, the only presentation, discussion, and position on the proposed NHA legislation occurred in February, 2010.

Sincerely,



E. Lee Stack

Encls.



DOWNTOWN NEIGHBORHOOD BOARD NO. 13

c/o NEIGHBORHOOD COMMISSION • 530 SOUTH KING STREET ROOM 406 • HONOLULU, HAWAII 96813
PHONE (808) 768-3710 • FAX (808) 768-3711 • INTERNET: <http://www.honolulu.gov/nco>

DRAFT REGULAR MEETING MINUTES THURSDAY, FEBRUARY 4, 2010 PAUHI COMMUNITY CENTER

CALL TO ORDER: Chair Frank Lavoie called the meeting to order at 7:02 p.m. **with a quorum of nine (9) members present.** Note – This nine (9) member Board requires five (5) members for a quorum and to take official Board action.

Members Present – Alvin Au (departed at 9:15 p.m.), Anthony Chang, Frank Lavoie, Lynne Matusow, Carl Middleton, Dolores Mollring, T.A. Ruby, Tom Smyth, and Stanford Yuen (departed at 9:15 p.m.).

Members Absent – None.

Guests: Sergeant Y.K. Chan and Officer Richard Fikani (Honolulu Police Department); Bertrand Kobayshi (Representative Karl Rhoads Office); Marsha Joyner and Ed Korybski (Arts District Merchants Association); Allen Stack Jr., Lee Stack, (Chinatown Improvement District); Gifford Chang (Chinatown Merchants Association); Al Canopin (Councilmember Rod Tam's Office); Phil McInnis (Senator Suzanne Chun Oakland's Office); Connie Geisler (OH-NO); Bill Brennan (Mayor Mufi Hannemann's Office); Andrea Kirby, Nani Peltier, Shauntei Mendoza, Sheryl Ribao, Daryl Tanashiro (UH); Gary Omori (HHCTCP); Lorraine Lunow-Luke (Hawaii Capital Cultural Coalition); Alenka Remec (City's Representative for the Hawaii Capital Cultural Coalition) Wen Chung Lin (Chinese Chamber of Commerce of Hawaii); Valerie Sanchez; Gwen Abella; Howard Lum; Robert Au; Lai Fong; and Theona Kapoi (Neighborhood Commission Office).

Moment of Silence – Au requested members in attendance to stand and give a moment of silence for former Mayor Frank Fasi; he has accomplished a lot for the City and County of Honolulu and will be missed.

INTRODUCTION OF BOARD MEMBERS: Those present introduced themselves.

CITY MONTHLY REPORTS:

Honolulu Fire Department (HFD) – HFD representatives left for an emergency call.

Honolulu Police Department (HPD) – Sergeant Chan circulated a report and highlighted the following:

- **January 2010 Statistics** – 17 assaults, 6 burglaries, 7 drug offenses, 10 DUI's (driving under the influence), 6 family offenses, 1 graffiti offense, 96 motor vehicle collisions (MVC), 3 motor vehicle thefts, 4 property damage offenses, 2 robberies, 4 prostitution offenses, 18 UEMV (unauthorized entry into a motor vehicle) offenses and 134 miscellaneous service calls.
- **Video Monitoring** – Sergeant Chan assured the Board all the cameras are working.
- **Kamalii Park** – Officers have been sent to Kamalii Park after 10:00 p.m. Doing so resulted in two citations, one of which was for the consumption of alcohol.
- **Weed and Seed** – Officer Fikani is a part of the fourth watch patrol for the downtown area. The Weed and Seed project led to five prostitution arrests. It is difficult to completely stop prostitution; measures are being taken to head in that direction. There is a process going through the legislature which would allow people to get involved to help with the social concerns prostitutes have. The arrests made on the morning of February 6th were not related to the five prostitution arrests earlier announced.

Questions, comments and concerns followed:

1. **Construction Warning Signs** – Matusow stated there was no warning of construction to be done on Alakea Street between Hotel Street and Beretania Street at night and a worker was almost hit as he stood in a lane



with a mask and wearing blue jeans. Sergeant Chan responded that contractors doing road work and shutting lanes have to obtain permits from the Department of Transportation Services (DTS). Call 911 to get an officer on the scene to inspect the road closure permit. The type of permit obtained will indicate safety measures the contractor will have to do during construction.

2. Loading/Unloading Street Permit – In the case of an individual moving in or out of an apartment complex, DTS, Street Usage Section, may issue a Street Usage permit that will allow parking along the curb. This permit can be obtained at the Street Usage Section which is located on the second floor of the Fasi Municipal Building. The permit will have details on when the permit is valid and should be displayed on the dashboard of the vehicle. The HPD are in agreement with this arrangement and will honor the permit.
3. Noise Complaint – Middleton reported on King Street near River Street and Kekaulike Mall, there is bass noise between the hours of 9:15 p.m. to 6:00 a.m. Mollring stated there is a youth club in that area located on the second floor of a building, where no liquor will be served. Sergeant Chan stated that officers can issue warnings, if the complaints continue citations will be issued.

Middleton was reminded by Chair Lavoie of Board speaking rules and for proper decorum.

Neighborhood Citizens' Patrol – Mollring stated the neighborhood has been relatively quiet. It rained last week which cancelled the walk and there have been fewer prostitutes on the streets. It is believed excessive gambling is taking place at an area called the 'Backdoor' on the corner of River Street and Beretania Street.

COMMUNITY CONCERNS:

Hawaii Pacific University (HPU) – No representative present.

Honolulu Culture and Arts District – Ed Korybski and Marsha Joyner reported the following:

- Mardi Gras – On Tuesday, February 16, 2010 Nuuanu Avenue will be closed from 6:00 p.m for the activities. Half of the street will be closed at noon to begin setting up for the night. There will be a costume contest and floats which will be Brazilian inspired.

Questions, comments and concerns followed:

Chinatown Gateway Residents – Lavoie stated the Chinatown Gateway residents would like someone to hand deliver a flyer or notice of the events that will generally affect the building. It was responded that the major events are always Mardi Gras, Cinco de Mayo and Halloween.

Safe Haven – No representative present.

Honolulu Rail Transit – Gary Omori reported the following:

- Federal Transit Administration (FTA) – FTA Administrator, Peter Rogoff, expects the project will get final approval. An Environmental Impact Statement (EIS) approval essentially is not contingent on a financial plan and according to Rogoff, "FTA takes an independent look at the financing of such a project and will do so again when they present a financial plan and final design."

FTA is continuing to work with the City regarding the financing of the Rail Project and included \$55 million in the President's budget which further reinforces their commitment to the City's Rail Project. The City is looking forward to receiving \$1.55 billion in federal "New Starts Money" beginning fiscal year 2011.

During the discussion, Chair Lavoie again reminded Middleton to follow proper procedures and decorum and to refrain from personalities.

- Announcements – 1) Wednesday, February 10th from Noon to 1:30 p.m. at the Hawaii State Capitol Auditorium, Mayor Hannemann is having up-to-date news and financial facts on the Honolulu Rail Transit Project. 2) The Youth Summit 2010 on rail will be at Leeward Community College from 9:00 a.m. to 3:00 p.m. on Friday, February 12th.

Chinatown Business and Community Association (CBCA) – Mollring stated the CBCA will have a meeting about the mid-block crosswalk on Pauahi Street. The CBCA and Arts District was commended for the Chinese artwork on the police substation. The CBCA will also participate in the Chinese New Year Parade Saturday, February 6th.

Public Concerns – None.

ELECTED OFFICIALS:

Mayor Mufi Hannemann's Representative – Bill Brennan reported the following:

- Loading/Unloading Street Permit – As previously mentioned, in the case an individual moving in or out of an apartment complex, DTS, Street Usage Section, may issue a Street Usage permit that allows curbside parking. The permit can be obtained at the Street Usage Section which is located on the second floor of the Fasi Municipal Building. The permit will have details on when the permit is valid and should be displayed on the dashboard of the vehicle. HPD is in agreement with the arrangement and will honor the permit.
- Chinatown Gateway Parking – The reserved City stalls in the Chinatown Gateway Parking structure are reserved 24 hours. Follow up will be done regarding space No. 64.

Questions, comments and concerns followed:

1. Wilcox Park – 1) Smyth requested the yellow tape be removed now that the construction is done. 2) There are two signs that need to be fixed. The first is blocked by stickers and it is too high for Smyth to remove the stickers himself. The second sign has a lot of things listed on it, making it cumbersome for park goers to read. Smyth requested a separate sign saying, "Do NOT feed the birds," and also indicating it is a sanitation issue, as done by signs at Union Mall.
2. Cleaning Vehicles – Matusow asked if the clean team vehicles are allowed to drive on sidewalks, blocking pedestrians and creating a hazard. Today one was on the sidewalk on the makai side of Kukui Street between Maunakea Street and Nuuanu Avenue at 1:35 p.m.
3. Moped Parking – Mopeds are allowed to park near Ross'. Mollring requested to have the "no moped parking" sign removed. Wayne Yoshioka, DTS director okayed the change; Brennan will follow up.
4. First Friday Signs – Middleton requested to keep the alternate bus routes for First Fridays up.

Middleton was reminded that the Chair runs the meeting.

Councilmember Rod Tam – Al Canopin reported the following:

- Bill 4 (2010) – This bill will authorize HPD to impound a vehicle used in patronizing a prostitute. The bill passed First Reading and it now goes to the Public Safety and Services Committee for discussion.
- Bill 8 (2010) – This bill will regulate shopping carts in the parks maintained by the City and County of Honolulu by making it unlawful for any person to utilize, place, occupy, leave, or in any other manner situate a shopping cart within the limits of any public park. The City Council passed this bill for First Reading and it now goes to the Executive Matters and Legal Affairs for discussion.
- Affordable Housing Project – Councilmember Tam was told the City has no intention of putting in a request for proposal for the affordable housing project on River Street.
- Chinatown Gateway Noise – The sound level is below the levels required by law. As for bass noise, it is difficult to pinpoint where bass noise is coming from and therefore, more difficult to cite offenders.
- Kekaulike Mall – The City is taking part in cleaning the Mall by trimming trees and clearing gutters.
- Friends of Chinatown – A new organization was formed called the Friends of Chinatown. They will be adopting Kekaulike Mall and with the areas maintenance.

Questions, comments and concerns followed:

1. Bill 7 (2010) & 8 (2010) – Smyth commented the bills were steps in the right direction, the difficulty would be found in the enforcement effort.
2. Bass Noise Regulations – Smyth noted the bass noise passed legislation which entails the Liquor Commission to buy the proper meters to check sound levels. There is no noise standard to enforce the law by meaning there would need to be a definite level to compare noise.
3. Transitional Housing – Middleton questioned if the transitional housing is not at 1330 River Street, where would it go? Mollring stated the Institute for Human Services (IHS) owns the land and the IHS should trade the land next to the IHS building in Iwilei so the homeless people will be able to get help at the IHS building. Smyth stated the project is pending in legislation and the funding is there. However it is not in the amendment to trade the properties.
4. Running for Office – Matusow stated that people are now able to pull and file papers to run for political office. This is a neighborhood board meeting and everyone in the room, board members and audience, should be cognizant of the fact that we are here to conduct board business and those running for political office should not be grandstanding at the meeting.

Senator Suzanne Chun Oakland – Phil McInnis circulated a report and was available for questions.

Senator Brickwood Galuteria – No representative present; a report was circulated.

Representative Karl Rhoads – Bertrand Kobayashi reported the following:

- Prostitution Bill – The bill to change the penalty for soliciting a prostitute within 750 feet of a school from a petty misdemeanor to a misdemeanor has been deferred.
- Third Conviction for "Johns" – This bill had an expiration date of June 30, 2010. The bill was passed with amendments to remove the sunset date and extend it's effectiveness of habitual solicitors of prostitutes.
- Urination Bill – The bill to extend the sunset date passed in committee.
- Bring Your Own Beer (BYBO) Bill – The BYOB Bill is up for public opinion. A major concern is the Liquor Commissions ability to regulate BYOB establishments.

UNFINISHED BUSINESS:

Privatization of TheBus Bus Stops – Brennan stated the Department of Transportation Services (DTS) is researching the ability to privatize bus stops and is not ready to comment yet. Bus stops are of a legitimate concern for the downtown area and the possibility of adopting a bus stop could be an alternative to privatizing it.

Questions, comments and concerns followed:

1. Advertisements at Bus Stops – Smyth stated in cities where bus stops are privatized, it is generally paid for by an ad by the sponsoring company.
2. Honolulu Park Place Bus Stop – Matusow noted Honolulu Park Place adopted their bus stop, but could not force people to move. It does not have the same legal effect.
3. Pflueger Honda Bus Stop – The bus stop fronting Pflueger Honda on Beretania Street is not owned by Pflueger and they do not have the rights to the bus stop. They obtained a permit to beautify the bus stop and have maintained it's appearance because it fronts their property.

Park Benches for Fort Street Mall – Brennan stated the Department of Facility Maintenance (DFM) turned over the responsibility of Fort Street Mall to the Department of Parks and Recreation (DPR). Discussion regarding benches is ongoing between DPR and the Fort Street Business Improvement District (BID). Any future decisions will be guided by the on going discussions relevant to the concerns and recommendations made.

Questions, comments and concerns followed:

1. Board Decision – Chair Lavoie stated a letter has been sent to the Mayor indicating the Board's and community's concern regarding the need for benches mauka of King Street. Kapoi will give Brennan a copy of the letter.

2. Missing Benches – Matusow noted the benches were taken over night years ago by former Mayor Jeremy Harris without notice and since they were taken it's been difficult to get them back. Matusow cited an Advertiser report several years ago which talked about Margaret Fuss, a 76 year old who lives in Kukui Plaza, who found it difficult to do her errands downtown, shopping, banking, etc. because there was no place to sit. She is now in her 80's and the situation has not improved. Mollring reiterated Matusow's point stating there is nowhere to sit making it difficult for seniors to do errands.
3. Bench Type – Ruby suggested using benches like the green bus stop benches on Beretania at the Foodland because it has two dividers per bench making it impossible to lie down on the bench.

NEW BUSINESS:

Chinatown Rail Transit Station – Andrea Kirby with the School of Architecture at UH presented part of her thesis to the Board about the design of the Chinatown rail transit station. Kirby stated the station at Kekaulike Street and Nimitz Highway will benefit the Chinatown area. Kirby spoke with various community members to get an idea of what the station should look like, suggesting a Chinatown museum. Kirby stated other buildings could also be renovated as a result of the station and the possibility of River Street becoming a Pedestrian Mall. Further ideas, comments or questions may be submitted to Kirby through email at akirby@hawaii.edu.

Questions, comments and concerns followed:

1. Station Design Meetings – Smyth recommended Kirby attend station design meetings. Kirby has obtained the information from past meetings and will attend a design meeting when possible. Smyth was assured the two downtown stations will not look like the other stations to preserve the community's atmosphere.
2. Transportation Organization Development (TOD) – Smyth is in favor of TOD's. It is not only to get people from one destination to another, it is an effective tool to a city's development where growth is not only projected, but desired or directed by a community. A TOD is an effective method of integrating the development of a new transportation system into people's daily lives.

Chinese New Year's Street Closures – Chair Lavoie stated after the January meeting he was invited to the meeting which involved the street closures and cultural events that will occur on February 5th and 6th.

- Friday, February 5, 2010 – Chinese Chamber of Commerce member, Wen Chung Lin reported there will be fireworks and a lion dance that evening. The street closure includes Nuuanu Avenue to River Street between Beretania Street and Nimitz Highway beginning at 6:00 p.m. and ending at 10:00 p.m. The festivities particularly at King Street and Nuuanu Avenue will begin a little before 6:00 p.m. and is scheduled to end at 8:00 p.m. This way that particular street closure will reopen by 8:30 p.m.

Questions, comments and concerns followed:

1. Deposit Fee – Chair Lavoie questioned if vendors involved in the festivities scheduled to end at 8:00 p.m. paid a deposit fee to assure they end as scheduled. Lin stated no deposit fee was collected, however they will not be considered for next year's festivities if they do not follow the rules.
 2. Parking – The private parking for residents will not be open on Friday until the end of the event. Municipal parking will be available at normal locations except the parking on Maunakea Street and Kekaulike Street.
 3. Proper Notice – Matusow requested proper notice be given to residents throughout Chinatown and Downtown not just the surrounding buildings because many residents are affected.
 4. Bus Routes – DTS will post the signs that will reroute the busses.
- Saturday, February 6, 2010 – Chinatown Merchants Association representative, Gifford Chang reported all surrounding buildings within a block of the festivities had been notified that the streets will be closed and will try to make every thing work. Many invitations were extended as the event is expected to attract many people from various communities.

Questions, comments and concerns followed:

1. Street Closures – Traffic will be contra-flowed from the Smith Beretania parking garage where residents will make a left turn from Pauahi Street to Nuuanu Avenue.
2. Parade – Middleton was told the parade will start at the State Capitol and go through Hotel Street beginning at 3:30 p.m.

3. Appreciation – Yuen commended the Chinatown Merchants and Chinese Chamber of Commerce for the efforts for making all the Chinatown events happen. It was understood to have been a complex process.
4. Planning Next Year's Event – Au suggested planning for next year's festivities as soon as this one is done. Planning way in advance will be able to get more people involved.
5. Chinatown News – Valerie Sanchez, an intern for the Chinatown News Newspaper stated many people outside of the Chinatown area were excited about the event and looked forward to visiting.

Hawaii Capital National Heritage Area –

- Hawaii Capital Cultural Coalition (HCCC) – Lorraine Lunow-Luke, Coordinator for the HCCC took the opportunity to tell the Board about the Hawaii Capital National Heritage Area, an initiative to celebrate and support Hawaii's cultural heritage in the Nuuanu Ahupuaa.

A National Heritage Area (NHA) is a grass roots community partnership that involves collaboration to carry out new or existing programs that nurture and celebrate the unique cultural heritage of an area. The purpose of an NHA is helping people share their stories and perpetuate their living culture for future generations.

The designation comes from Congress which recognizes the "specialness" of a place's cultural legacy and then provides some resources to support the perpetuation of that heritage. It's basically a cultural grants program, similar to the Preserve America program. There are 49 other NHA's around the States.

The benefits of NHA's include: 1) New resources to support cultural programs; 2) Education about culture and history; 3) Increased awareness of cultural significance; 4) Promote beneficial partnerships and collaborations; 5) Economic Development; 6) In the end, heritage is perpetuated for future generations.

NHA's are managed at the local level – there is no federal regulation or management. The community decides what it wants to do with the designation – the kinds of projects that it wants support for – and requests can be put in for support of the projects.

NHA's are not the same as National Historic Registry, National Park, or a historic district where the focus is on building preservation. NHA's do not come with any property or land use regulations. The bill spells out a list of protections for private property owners; including that participation is voluntary that there are no new federal regulations and no new regulations. No one is required to participate in any project, plan, or activity of the NHA.

The NHA was initiated by the HCCC as a way to provide support for cultural programs and recognition of Hawaii's incredible heritage. The Coalition is a partnership of central Honolulu arts and cultural organizations, businesses, public agencies, service organizations and residents who are working together to preserve, nurture and celebrate the Honolulu's cultural legacy. The Hawaii Theatre has been a long-term supporter of the project.

The HCCC is proposed as the coordinating entity for the NHA. The HCCC believes a coalition model allows for a much greater level of direct public input – direct community control of the outcome – than other models. The coalition has an open membership policy, anyone who wants to participate is welcome, and then becomes part of the coordinating body for the NHA.

Within the timeline, a study was conducted. The study's review of the cultural resources of the area, recommendations from the community forums and Hawaiian cultural reviewers concluded that ahupuaa was a logical organizing principal for the assets that tell the stories of the area. The proposed area is the Nuuanu/Kapalama ahupuaa. Legislation was submitted by Senator Inouye, co-sponsored by Senator Akaka in January of 2009. An identical measure was submitted in the House by Congressman Abercrombie, co-sponsored by Congresswoman Hirono. It is currently in committee in both houses. Plans will not be made until legislation is in place. When it is in place, the community will be given to opportunity to voice input on what the on the wants and needs of the area.

- Chinatown Improvement District (CID) – Lee Stack, representative of the CID, took the opportunity to talk about the Hawaii Capital National Heritage Area, which will put property rights at risk.

The NHA is a land-based program under the Department of the Interior. The designation (and management group) is permanent until cancelled by another act of Congress. In Hawaii, the HCCC is proposed as the managing entity for the NHA. They have been working on this initiative for the past six years, yet very few people know about it and its affects. This federal program did not come before any neighborhood board in Honolulu prior to 2009 – after legislation was introduced in the U.S. Congress.

If legislation passes, one of the first tasks is to create a management plan for the entire area. It will not be only a local plan because the Department of the Interior can make revisions and require changes; a federal agency has the final say over a plan. The plan will include an inventory of all sites and properties within the area that should be protected, enhanced, managed or developed (S.359, Sec. 5(5)). Meaning, a private, self selected group who is not elected by the community, answerable to the community or appointed by elected officials, will make recommendations about other people's neighborhoods and properties. It is only mandated to have community meetings twice a year.

At minimum, an NHA may result in an extra layer of permitting. At the most, recommendations and reviews by a private unelected group could lead to condemnation as in the case of Wheeling, W. VA. Documentation, inventories and studies, could lead to rezoning of whole areas – something that has been proposed in other heritage areas. Act 228, required 50 archival photos be submitted prior to obtaining a building permit. The Act was overturned after less than a year because of public uproar. The people and groups who submitted and supported the bill were strong supporters of the proposed NHA. This is a glimpse of things to come if the NHA legislation passes.

Local governments often times commit to support the management plans of NHAs in order to receive the funds. The fact that these funds could be cut off or reduced by the Federal Agency is a huge lure for local governments to follow the recommendations of the NHA group (as opposed to the recommendations of other non-profits or community groups in that area). The recommendations of the HCCC will likely receive more consideration than those of other long-term elected community organizations with no funds, plans or agreements in place; allowing certain groups to benefit from an NHA at the expense of property, business and home owners as well as community groups and stakeholders.

Many of the areas mentioned in the study already have protection measures in place. For example, Chinatown has three layers of regulatory control – 1) a national historic district; 2) a State historic district; and 3) a City special design district. Many Chinatown business owners agree with the CID to request Chinatown be withdrawn from the proposed NHA boundary map. Many residents are unaware of the proposed legislation and supporters of the NHA were not aware of the actual boundaries in November 2009, when the issue was raised. No neighborhood board has supported the NHA to date. L. Stack requested the board not support the legislation at this time – not until adequate safeguards and measures are included to protect the majority of community stakeholders.

Questions, comments and concerns followed:

1. Testimony to Support Withdrawal – Several letters were received to support the CID's proposal to have the Chinatown area excluded from the boundary map of the proposed NHA. Chinatown business owner, Lai Fong stated his support for the withdrawal of Chinatown in the proposed NHA. There are too many variables and more discussion needs to be made with the people in the Chinatown area.
2. Zoning – Alenka Remec stated the Department of Planning and Permitting (DPP) is aware that the NHA will not affect zoning issues and it is understood that the NHA is an opt-out program.
3. Prior NHA Discussion – Smyth stated the Board discussed the NHA issue in 2004 yet no action was taken. L. Stack noted that there was no mention of the NHA until 2006.
4. Protect Private Owners – Chair Lavoie was told private property owners are protected by a unique legislation specifically crafted for that purpose.

Decision making was deferred until the March 2010 meeting in order for Board members to read all the materials.

Board Newsletter – Matusow moved, Smyth seconded for the **Downtown Neighborhood Board No. 13 do a Board Newsletter. The motion was UNANIMOUSLY ADOPTED, 9-0-0 (AYE: Au, Chang, Lavoie, Matusow, Middleton, Mollring, Ruby, Smyth, Yuen).**

A draft of the newsletter should be ready for the March meeting so the Board can approve the content.

Neighborhood Board Elections on State Ballots – Smyth reported that the January 25, 2010 Neighborhood Commission meeting, an agenda item included possible changes in the Neighborhood Board elections by combining them with regular state elections. Bryan Mick mentioned that he and Joan Manke met with Mr. Cronin, former head of the State Elections Office, to discuss the possibility of combining elections. All agreed that it would be very difficult to do since Neighborhood Board voters are not the same as the regular election voters and districts are very different. Since the elections office has no money now, such an effort would not happen for a long time.

APPROVAL OF MINUTES: The January 4, 2010 Downtown Neighborhood Board No. 13 regular meeting minutes were UNANIMOUSLY APPROVED AS CORRECTED, 9-0-0 (AYE: Au, Chang, Lavoie, Matusow, Middleton, Mollring, Ruby, Smyth, Yuen).

Corrections –

- Page 1 – Guests Sandy Pfund and Tom Otake should be corrected throughout the minutes where necessary.
- Page 2 – Question two, Public Urination the last sentence should read “... caught *outside* the boundaries could also be arrested for open *lewdness*.”
- Page 3 – Public Concerns, the last sentence should replace the word “I’d” with “She’d”.
- Page 4 – Senator Suzanne Chun Oakland, question, comment and concern number three should read “...the bicycles racks on Alakea Street just before Queen Street.”
- Page 4 – Senator Brickwood Galuteria, bullet two, the sentence should read “...and Means *Committee* process of information...”
- Page 5 – Aloha Tower Development Corporation, question, comment and concern number one, should include the sentence, “The Harbors Division would like to keep NCL where it is.”
- Page 6 – Bullet three, census should be replaced with *census*.
- Page 8 – Number five, the last sentence should read, “...earns his rent money *on* First Friday.”

Au and Yuen departed; seven (7) members present.

BOARD REPORTS:

Chair’s Report – Chair Lavoie reported the following:

- 1) Liquor License Applications or Street Closures – Murphy’s Bar and Grill, Chinatown Gateway, LGW and Waterfront companies have all given notice to temporary changes of their liquor license allowances. The Liquor Commission will address Bar 35’s attempt to gain an exemption to cabaret license on their March 11, 2010 meeting after the Boards March 4th meeting.
- 2) Future Agenda Items –
 - a. Bar 35
 - b. National Heritage Association
 - c. Friends of Complete Streets – Smyth is a part of the taskforce that will look into the types of transportation that will be allowed on sidewalks.
 - d. Chinese New Year Wrap Up
- 3) Neighborhood Commission – Neighborhood Boards cannot be interveners as stated by the City. If the Board gives advice on a government issue, the board may be sued as a whole and as individuals and the City will not defend the Board.
- 4) Queen’s Medical Center Plan Review Use – Report stated no major changes to the project. The Board received a copy of the Variance for Community Noise Control.
- 5) Office of Information Practice – Nothing to report.

Treasurer’s Report – Mollring reported as of the month of January 2010, the Board has a balance of \$2,927.26.

City and County Affairs – Nothing to report.

Oahu Metropolitan Planning Organization (OMPO) – Nothing to report.

ANNOUNCEMENTS:

Next Board Meeting – Will be on Thursday, March 4, 2010, at 7:00 p.m. at the Pauahi Community Center, 171 North Pauahi Street.

Neighborhood Citizen's Patrol – The Neighborhood Citizen's Patrol meets every Tuesday on the Diamondhead side of the Kukui Plaza at 8:00 p.m. Please consider joining the patrol and supporting its efforts as they express their service and pride in our Downtown/Chinatown community.

ADJOURNMENT: The meeting adjourned at 9:32 p.m.

Submitted by: Theona Kapoi, Neighborhood Assistant

Reviewed by: Frank Lavoie, Chair