

Testimony In Opposition of HB 2819, HD1 (HSCR390-12)

COMMITTEE ON FINANCE

Rep. Marcus R. Oshiro, Chair

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Rep. Derek S.K. Kawakami Rep. Gene Ward

DATE: Monday, February 27, 2012

TIME: 5:00 P.M.

PLACE: State Capitol

415 South Beretania Street

Conference Room 308

HB 2819, HD1 (HSCR390-12) RELATING TO THE HAWAII COMMUNITY  
DEVELOPMENT AUTHORITY.

Aloha Finance Committee Chairman Marcus R. Oshiro and Vice Chairman Marilyn B. Lee and Committee on Finance Members:

My name is Wayne Takamine. I have participated in the Kaka'ako Makai master planning process since late 2005 and continued to collaborate and provide recommendations to the Hawaii Community Planning Authority (HCDA) as the Chairman of the Kaka'ako Makai Community Planning Advisory Council (CPAC) during its approval. The HCDA Board approved the Kaka'ako Makai Conceptual Master Plan in 2011 and CPAC's formal relationship with HCDA to provide recommendations and to collaborate towards the completion of the master plan (HRS 206E-35) was concluded shortly thereafter. Since then, CPAC has continued role as an independent Kaka'ako Makai community group by holding regular monthly meetings at the HCDA conference room, participating at HCDA monthly staff briefings, providing interested parties with information regarding the Kaka'ako Makai Conceptual Master Plan and the Kaka'ako Makai Vision Guiding Principals, providing feedback and testimony on relevant Kaka'ako Makai matters at HCDA Monthly board meetings and provide the community with updates on Kaka'ako Makai issues and developments.

Although I am still considered the Chairman and Spokesman of the CPAC community group, I would like to offer my insights as an individual in opposition to HB 2819, HD 1 (HSCR390-12). The purpose of this measure is to require the Hawaii Community Development Authority to determine the costs and benefits of selling and purchasing certain properties within the Kakaako Community Development District. From my

experience during the Save Our Kaka'ako movement in 2006 and master planning process, I have witnessed strong support by various community groups, environmental groups, Kaka'ako Makai stakeholders and individuals for HRS 206E-31.5 that prohibit residential housing in Kaka'ako Makai and the sale of state land in Kaka'ako.

I believe state land in Kaka'ako Makai can best serve the public as "The Community's Gathering Place" as stated in the Kaka'ako Makai Vision and Guiding Principals, as the "The Public Cultural Market" as stated in 206E-34 and as proposed in the Kaka'ako Makai Conceptual Master Plan. Like many others that have participated in the Kaka'ako Makai Community Planning effort, these lands are unique and desired by the public and a study to determine the benefits of selling Kaka'ako Makai lands is not necessary.

I have seen a bill, SB 2360 S.D. 1, that has similar language with amended as follows:

- (1) Amending section 206E-31.5, Hawaii Revised Statutes, to prohibit the sale of makai lands in the Kakaako Community Development District;
- (2) Excluding makai lands from the Authority's analysis of costs and benefits of selling and purchasing certain properties;

Mahalo for allowing me to voice my opinion.

Respectfully,

Wayne Takamine  
Honolulu

## THE VISION FOR KAKA'AKO MAKAI

### The Hawaiian Place of Ka'ākaukukui and Kukuluae'ō

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

## GUIDING PRINCIPLES

### Community Cultural Gathering Place

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

- Celebrate the intertwined cultures of the community by ensuring a welcoming gathering place for a broad cross-section of people diverse in age, income and ethnicity.

- Provide enriching public recreational, cultural and educational opportunities for residents and visitors alike through Kaka‘ako Makai’s scenic coastal and marine environment, the Native Hawaiian cultural heritage, compatible facilities and activities, and historic sites and settings.

#### Hawaiian Culture and Values of the Ahupua‘a

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

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

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

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

#### Open View Planes

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

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

#### Coastal and Marine Resources

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

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

gathering, surfing and ocean navigation.

#### Expanded Park and Green Space

Ensure expansion of Kaka‘ako Makai’s shoreline parks as significant landscaped open spaces 4 joining the lei of green parks extending from Diamond Head (Lē‘ahi) to Aloha Tower.

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

#### Public Accessibility

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

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

#### Public Safety, Health and Welfare

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

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

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

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

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

#### Kewalo Basin

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

- Enable continued functional commercial boating uses at Kewalo Basin Harbor<sup>9</sup> and preserve the beneficial relationships between the existing small commercial fishing and excursion boat businesses and land-based maritime support service businesses.
- Ensure that Kewalo Basin will continue as a State of Hawaii commercial harbor and valuable public facility asset by repairing, maintaining and enhancing the harbor for small commercial fishing and excursion boat use.
- Ensure the protected use of Kewalo Basin Cove for Kewalo Keiki Fishing Conservancy keiki fishing and marine conservation programs.
- Support Kewalo Marine Laboratory's continued valuable marine biology and ecosystems research and education in the vicinity of Kewalo Basin.
- Ensure preservation of Kewalo Basin Park, the net house and parking lot for public use, upgrade and improve existing facilities within the park, and provide green open space between Ala Moana Park and the channel frontage.<sup>10</sup>

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

<http://beta.abc3340.com/news/stories/1007/460171.html>

[http://www.nytimes.com/2007/10/05/us/05labs.html?\\_r=1](http://www.nytimes.com/2007/10/05/us/05labs.html?_r=1)

<sup>6</sup> §206E-31.5, Hawaii Revised Statutes.

<sup>7</sup> HCR 30, 2006.

<sup>8</sup> Act 3, 2007, Special Session.

<sup>9</sup> §206E-33(2), Hawaii Revised Statutes.

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

#### Cultural Facilities

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

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

#### Small Local Business

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

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

Site Design Guidelines – A Hawaiian Sense of Place in Landscape, Setting and Design  
Ensure that Kaka'ako Makai's public use facilities are compatible in placement, architectural form, and functional design within the landscape of the shoreline gathering place.<sup>15</sup>

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

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

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

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

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

15 Encourage private development mauka of Ilalo Street to compliment the gathering place concept of the Kaka'ako Makai public use area on public lands by providing

landscaped set-backs and inviting open architecture at the street level.

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

### Community/Government Planning Partnership

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

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

### Future Funding and Management

Assure and assist viable and sustainable operation of public uses and facilities on State public land in Kaka'ako Makai through public/private partnerships and 501(c) (3) non-profit management<sup>17</sup> similar to successful park conservancies and their stewardship programs.

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

<sup>17</sup> §206E-34(c)(3), Hawaii Revised Statutes.

<sup>18</sup> A public/private community benefits agreement may be developed upon completion of the master plan to define respective responsibilities and contributions. KAKAAKO COMMUNITY DEVELOPMENT DISTRICT

§206E-34 Cultural public market. [Act 231, 2005)

- a) There shall be established within the Hawaii community development authority a state cultural public market.
- b) The cultural public market shall be located on state land within the Kakaako Makai area and developed pursuant to sections 206E-31, 206E-32, and 206E-33. A public parking lot shall be included.
- c) The Hawaii community development authority shall:
  - (1) Designate and develop the state-owned land for the cultural public market;
  - (2) Accept, for consideration, input regarding the establishment of the cultural public market from the following departments and agencies:

- (A) The department of agriculture;
  - (B) The department of business, economic development, and tourism;
  - (C) The department of land and natural resources;
  - (D) The department of labor and industrial relations; and
  - (E) The Hawaii tourism authority;
- (3) Consider and determine the propriety of using public private partnerships in the development and operation of the cultural public market;
  - (4) Develop, distribute, and accept requests for proposals from private entities for plans to develop and operate the cultural public market; and
  - (5) Ensure that the Hawaiian culture is the featured culture in the cultural public market.
- (d) Requests for proposals for the cultural public market shall contemplate but not be limited to the inclusion of the following types of facilities and services:
    - (1) Retail outlets for ethnically diverse products;
    - (2) Venues for businesses with ethnic themes, including restaurants and other service-related businesses;
    - (3) Theaters, stages, and arenas designed to showcase cultural performing artists as well as community performing arts;
    - (4) Exhibition space or museums that showcase artwork created by international and local artists; and
    - (5) Museums or other educational facilities focusing on the history and cultures of the various ethnic groups within Hawaii, including Hawaiian history. (Emphasis added)



## FINTestimony

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**From:** Michael M. Kliks, PhD [mmkliks@hawaii.rr.com]  
**Sent:** Monday, February 27, 2012 4:38 PM  
**To:** FINTestimony  
**Subject:** Testimony In Opposition of HB 2819, HD1

**Importance:** High

Testimony In STRONG Opposition of HB 2819, HD1 (HSCR390-12)

### COMMITTEE ON FINANCE

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### HB 2819, HD1 (HSCR390-12) RELATING TO THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY.

*Aloha* Finance Committee Chairman Marcus R. Oshiro and Vice Chairman Marilyn B. Lee and Committee Members:

We again step forward on behalf of the people who now enjoy, and of those who will in the future enjoy, the benefits of these precious and irreplaceable urban shoreline parklands.

Under HRS 206E-31.5 the people of the State of Hawai'i have been given a sacred promise from those whom we have elected to make our voices heard on this vital land use issue.

HB2819 and similar bills would break this promise by taking these lands for residential and commercial development and are not acceptable!

**WE ARE THE PEOPLE!**

Michael M. Kliks, for the members of the *Hui o Malama Kaka`ako Makai*

**HOUSE COMMITTEE ON FINANCE HEARING**  
**Monday, February 27, 2012**  
**5:00 PM**  
**House Bill 2819, HD1**

Aloha Chair Oshiro and Finance Committee Members:

This testimony provides comments in **opposition** to HB 2819, HD1 as presently written. This bill flies in the face of the important statutory prohibition of the sale of state public land in Kaka'ako, **HRS 206E-31.5**, which is vitally important in serving to protect the public open space and recreational shoreline of Kaka'ako Makai state public lands for present and future generations.

The Senate has formally recognized this by amending a companion bill, SB 2360, to be consistent with the protective statute, and SB 2360 SD1 now "**Prohibits the sale of Kakaako makai lands by HCDA**" in the greater public interest. This amended measure now protectively sustains the prohibition on the sale of Kaka'ako makai lands to which the Hawaii Community Development Authority (HCDA) holds title, while allowing the HCDA to determine and report to the legislature on the costs and benefits of selling and purchasing properties, except makai lands, within the Kaka'ako community development district.

Thus the intent of the measure is rendered somewhat more reasonable in order for the Legislature to make informed decisions regarding the approval or disapproval of the sale of Kaka'ako public lands in accordance with Section 171-64.7, HRS. It is also reasonable for the Legislature to better determine the costs and benefits of selling or purchasing certain limited properties in the Kaka'ako community development district, such as the sale of a reserved housing unit purchased under a buyback option or the sale of a parcel that is not contiguous to other state lands and has no public facility value (SSCR 2245).

Therefore, House Bill 2819 HD1 should be amended accordingly to remain consistent with HRS 206E-31.5 specific to the prohibition on any sale of State public lands in Kaka'ako Makai, a vital public open shoreline and recreational area, while enabling the Legislature to receive and act upon more comprehensive information. Thank you for your consideration of the above concerns.

Most sincerely,

MS Matson  
Honolulu