

**lowen2-Lanaly**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, January 28, 2014 3:42 PM  
**To:** waltestimony  
**Cc:** lynnehi@aol.com  
**Subject:** Submitted testimony for HB1863 on Feb 8, 2014 08:30AM

**HB1863**

Submitted on: 1/28/2014

Testimony for WAL on Feb 8, 2014 08:30AM in Conference Room 325

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| lynne matusow       | Individual          | Support                   | No                        |

Comments: This bill is important to the future of the Kaka'ako area and the population at large of Honolulu. I strongly urge you to pass it. If eliminating the HCDA budget is the only way for community progress, then so be it. If forcing the HCDA through legislative action is the only way to get them to follow the rules, sensible rules, then so be it. As it stands now the HCDA is willing to grant waivers, exceptions, or whatever developers want instead of looking out for the best interests of the community. The executive director will talk to anyone (he believes it is his duty) with a proposal, including granting a lease for a light show so persons will have to pay to enter public space. There needs to be, in our aina, breathable visible space between buildings. we are not a concrete jungle like New York City, where walks of one building back up on walls of the one next door, with no ventilation, no street view, etc. lynne matusow 60 n. beretania, #1804 honolulu, hi 96817 531-4260

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, January 30, 2014 8:42 AM  
**To:** waltestimony  
**Cc:** georgeandmary@mac.com  
**Subject:** Submitted testimony for HB1863 on Feb 8, 2014 08:30AM

**HB1863**

Submitted on: 1/30/2014

Testimony for WAL on Feb 8, 2014 08:30AM in Conference Room 325

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| George Outlaw       | Individual          | Support                   | No                        |

Comments: The HCDA disregards public testimony, caters to the developers and unions and is constituted as a politically appointed representative of developers. There is no accountability for their actions.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Saturday, February 01, 2014 9:55 AM  
**To:** waltestimony  
**Cc:** hiromiinhawaii@gmail.com  
**Subject:** Submitted testimony for HB1863 on Feb 8, 2014 08:30AM

**HB1863**

Submitted on: 2/1/2014

Testimony for WAL on Feb 8, 2014 08:30AM in Conference Room 325

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Hiromi Saito        | Individual          | Comments Only             | No                        |

Comments: I support HB 1863 because: \*I agree with a zero-based budget for HCDA. \* There is a growing wall of concrete in Kakaako that is spoiling beautiful public vistas of the last remaining shoreline of urban Honolulu. Buildings in Kakaako should have stricter limits on height and density, more in line with the City's standards. A density limit of 1.5 FAR would be ideal. \* I strongly agree with a minimum horizontal separation of 300 feet between each building that is more than 100 feet in height.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Sunday, February 02, 2014 7:57 PM  
**To:** waltestimony  
**Cc:** rontthi@gmail.com  
**Subject:** \*Submitted testimony for HB1863 on Feb 8, 2014 08:30AM\*

**HB1863**

Submitted on: 2/2/2014

Testimony for WAL on Feb 8, 2014 08:30AM in Conference Room 325

| <b>Submitted By</b>           | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|-------------------------------|---------------------|---------------------------|---------------------------|
| Ronald Taniguchi,<br>Pharm.D. | Individual          | Support                   | No                        |

Comments:

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 03, 2014 11:28 AM  
**To:** waltestimony  
**Cc:** rkorph@gmail.com  
**Subject:** Submitted testimony for HB1863 on Feb 8, 2014 08:30AM

**HB1863**

Submitted on: 2/3/2014

Testimony for WAL on Feb 8, 2014 08:30AM in Conference Room 325

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Ron Okamura         | Individual          | Support                   | Yes                       |

Comments: Agree with eliminating HCDA's operating and investment capital budget. Kakaako's building standards should be no different from the City and County of Honolulu's standards. Too many modifications are being allowed by HCDA. Since they are not accountable to the voting citizen, our only voice may be through courts.

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Kareen H. Tanoue  
1009 Kapiolani Boulevard, Apartment 1708  
Honolulu, Hawaii 96814

To: The Hawaii State Legislature  
Regarding: HB1863

February 3, 2014

I support HB 1863 because I believe that:

1. I agree with a zero-based budget for HCDA.
2. There is a growing wall of concrete in Kakaako that is spoiling beautiful public vistas of the last remaining shoreline of urban Honolulu. Buildings in Kakaako should have stricter limits on height and density, more in line with the City's standards. A density limit of 1.5 FAR would be ideal and safer.
3. I strongly agree with a minimum horizontal separation of 300 feet between each building that is more than 100 feet in height.

I thank you for hearing and considering my concerns.

Regards,  
Kareen H. Tanoue

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 03, 2014 2:47 PM  
**To:** waltestimony  
**Cc:** grant5301@gmail.com  
**Subject:** Submitted testimony for HB1863 on Feb 8, 2014 08:30AM

**HB1863**

Submitted on: 2/3/2014

Testimony for WAL on Feb 8, 2014 08:30AM in Conference Room 325

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| G                   | Individual          | Support                   | No                        |

Comments: I am in support of this bill.

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From: mailinglist@capitol.hawaii.gov  
Sent: Tuesday, February 04, 2014 8:03 AM  
To: waltestimony  
Cc: douglasvalenta@gmail.com  
Subject: \*Submitted testimony for HB1863 on Feb 8, 2014 08:30AM\*

**HB1863**

Submitted on: 2/4/2014

Testimony for WAL on Feb 8, 2014 08:30AM in Conference Room 325

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| douglas valenta     | Individual          | Support                   | No                        |

Comments:

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 04, 2014 11:45 AM  
**To:** waltestimony  
**Cc:** connie.smyth54@gmail.com  
**Subject:** Submitted testimony for HB1863 on Feb 8, 2014 08:30AM

**HB1863**

Submitted on: 2/4/2014

Testimony for WAL on Feb 8, 2014 08:30AM in Conference Room 325

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| connie smyth        | Individual          | Support                   | No                        |

Comments: I support HB 1863 building in Kakaako should have stricter limits on height and density. A density limit of 1.5 FAR. I strongly agree with a minimum horizontal separation of 300 feet between each building that is more than 100 feet in height.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 04, 2014 12:26 PM  
**To:** waltestimony  
**Cc:** ismyth@hawaiiantel.net  
**Subject:** Submitted testimony for HB1863 on Feb 8, 2014 08:30AM

**HB1863**

Submitted on: 2/4/2014

Testimony for WAL on Feb 8, 2014 08:30AM in Conference Room 325

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| isaac smyth         | Individual          | Support                   | No                        |

Comments: HB 1863 I support HB 1863 because: \*I agree with a zero-based budget for HCDA. \* There is a growing wall of concrete in Kakaako that is spoiling beautiful public vistas of the last remaining shoreline of urban Honolulu. Buildings in Kakaako should have stricter limits on height and density, more in line with the City's standards. A density limit of 1.5 FAR would be ideal. \* I strongly agree with a minimum horizontal separation of 300 feet between each building that is more than 100 feet in height.

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Testimony of

Eric Gay

Before the

House Committee on Water and Land

Saturday February 8, 2014

House Bills: 1860, 1861, 1863, 1864, 1865, 1866, 1867.

Chairperson Cindy Evans and members of the House Committee on Water and Land:

My name is Eric Gay. I live at the Royal Capital Plaza. My main concern for Kaka'ako is education for our children. My son Eric Gay Jr. attends Voyager Charter School in Manoa. I know of a least 5 other children in Kaka'ako who attend Voyager and 2 other children who attend a charter school outside of Kaka'ako because there is no space available in Kaka'ako's only district elementary school, Royal Elementary. Does the HCDA have plans to build schools? Where will the children from the proposed work force housing or reserve housing go to school? Education is the building blocks of our universe. HCDA, please build an elementary school, a middle school and a high school before any further development is done in Kaka'ako. I support House Bills 1860, as well as House Bills 1861, 1863 1864, 1865 1866, and 1867.

Thank You

Testimony of

James Gay

Before the

House Committee on Water and Land

Saturday February 8, 2014

House Bills: 1860, 1861, 1863, 1864 1865, 1866, and 1867.

Chairperson Cindy Evens and members of the House Committee on Water and Land:

My name is Sonny Gay. I'm a property owner at the Royal Capital Plaza in Kaka'ako . I have been a resident of Kaka'ako for twenty seven years. In 1949, I played football for a team in Kaka'ako (Primo A. C.). My mother and father were married in Bright's Church on Cook Street. While with the Honolulu Fire Department I worked At the Kaka'ako Fire Station. My grandfather grew up on the grounds of the Historical Mission House. I love Kaka'ako! I do not approve of some of the actions implemented by HCDA. It is questionable if Kaka'ako has adequate infrastructure. Trying to fit two forty foot towers in the Historical Honolulu Advertiser Lot is inharmonious. Work Force Housing is an Illusion. Kaka'ako has no schools and my grandson goes all the way to Manoa to school on the bus with his TuTu.

I testified twice before the HCDA. Both times I requested that the HCDA fill the vacant culture specialist position before the approval of the building permit. I'm a beneficiary of the Hawaiian Homestead Trust which makes me one half of the blood of the aborigine prior to 1778. I have a professional certificate in Family History and Genealogy from B Y U, Provo, Utah. Because of my culture belief, I'm deeply concern about burials that may be on this historical property. I searched the mahele records and the land court records. I found genealogies that go back to royalty. I'm disappointed that I could not get help from HCDA. I support House Bill 1860 as well as House Bills 1861, 1863, 1864, 1865, 1866 and 1867.

Please Kokua

Kindest Aloha

Testimony of

Jane Gay

Before the House Committee on Water and Land

Saturday February 8, 2014

**House Bill 1861: Relating to the Hawaii Community Development Authority**

Chairperson Evans and Members of the House Committee on Water and Land:

My name is Jane Gay and I have been a resident of Kaka'ako for the past 27 years.

Thank you for the opportunity to testify on **House Bill 1861**. I support HB 1861 and I support all the House Bills 1860 to 1867 being heard today.

I strongly favor 206E-33 Kaka'ako Community Development District, development guidance policies. HB 1861 No. 8, "Residential Development shall provide necessary and adequate community facilities and services, such as schools, etc." My concern is that there are no schools in Kaka'ako. My grandson, Eric, attends Voyager Charter School in Manoa. I am 81 years old and I go by bus to pick up Eric from school. First, Eric was attending Voyager Charter School in a commercial warehouse in Kaka'ako, then the school was moved to Halekauwila Street. Eric's classroom was directly across the street from where the prisoner escaped from the Court House. Voyager Charter School had no other choice but to move to Manoa. Voyager lives up to their name. The chorus in the Voyager Alma Mater is "Voyager, Voyager, the journey of learning never ends. What we learn as children will shape us as we grow into our world."

I urge you to pass HB 1861 to protect Kaka'ako. Thank you for your time and attention to present my testimony.

**lowen2-Lanaly**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 05, 2014 9:47 AM  
**To:** waltestimony  
**Cc:** Towerengr@aol.com  
**Subject:** Submitted testimony for HB1864 on Feb 8, 2014 08:30AM

**HB1864**

Submitted on: 2/5/2014

Testimony for WAL on Feb 8, 2014 08:30AM in Conference Room 325

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Jerry Whitehead     | Individual          | Support                   | No                        |

Comments: "I strongly support abolishing HCDA that has shown it does not understand nor does it act to be good stewards of Kaka'ako, Kalaeloa or Heeia lands. All other bills curb their actions so I also support those bills being heard on 2/8: HB1860, HB1861,HB1863,HB1865,HB1866,AND HB1867.

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Testimony of  
Michael Korman  
Before the  
House Committee on Water & Land  
House Bill 1861  
Relating to the Hawaii Community Development Authority

Chairperson Evans and Member of the House Committee on Water and Land

My name is Michael Korman, and as a local citizen very concerned about Kaka'ako, I urge you to support House Bill 1861 and all the House Bills 1860 to 1867.

I am providing this written testimony because I am extremely concerned about the future landscape of Kaka'ako in terms of how high the buildings will be, how close together, and how large they will be relative to their foot print on the ground.

Although I am in favor of community redevelopment as an economically and socially viable course of action, the HCDA's current operating system does not effectively take into consideration the health and quality of life of the existing Kaka'ako neighbors. HCDA should be more responsive to community concerns. Furthermore, HCDA needs more oversight by legislators. It should not be allowed to change building rules without legislative authorization.

HCDA has created, modified and even failed to follow their own rules because there is no oversight over their actions. HB 1860 requires HCDA to adopt and amend the plan only when authorized by the legislature. I suggest the clearer language of HB 1860 on requiring HCDA to submit any amendments and justification to the legislature and only upon 2/3 vote on a concurrent resolution can the plan or rules be adopted.

Currently planned housing projects will negatively influence the quality of the air, the open space, and the quiet atmosphere that led current residents to select this neighborhood as home. Kaka'ako citizens feel helpless with personal wellbeing and quality of life in jeopardy. If a person is adversely affected by HCDA's decisions, there should be a fair and clear administrative procedure to contest the decision.

Without thoughtfully-implemented plans, HCDA will foster overbuilding, which will lead to overcrowding and related health and safety problems. Today, HCDA's organizational practices favor the real estate developers who plan to come into our neighborhoods, create huge closely-spaced buildings, and then disappear with their giant profits and without any harmful ramifications.

Developers of Kaka'ako condos should be required to perform impact studies (just like elsewhere on Oahu) to evaluate sewers, roads, utilities including water and electricity, schools, parks, and other infrastructure requirements needed for the additional number of residents. Access to emergency services should be evaluated as well. If any infrastructure improvements are needed, the developer should be required to pay the necessary impact fees (just like elsewhere on Oahu).

There is a growing wall of concrete in Kaka'ako and new buildings should have stricter limits on height and density, similar to the City's standards. A density limit of 1.5 FAR (or 3.5 FAR at worse case) with height limit of 400 feet is reasonable. A minimum distance of 300 feet should be maintained between buildings that are more than 100 feet tall.

HCDA does not now work with the community or area legislators or councilpersons to ensure project developments follow the plan and rules and do not adversely affect community residents. HB1861 fixes this problem by requiring HCDA to give notice and needed information to legislators, district councilmembers and community residents so they can meaningfully participate; and report to legislators and district councilmembers on each project, including their responses on how they incorporated community concerns, before they approve a project.

Existing residents have minimal say in the present housing approval process, yet they are the ones who will feel the impact of overcrowding for the rest of their lives. HCDA should not have the authority to waive current rules when it comes to how a building looks. Master development plans and rules were made to be followed by everyone.

I enthusiastically urge you to pass HB1861 to protect Kaka'ako and its residents for many generations to come. Thank you very much for your consideration.

*Michael Korman*

*February 4, 2014*

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 04, 2014 9:28 AM  
**To:** waltestimony  
**Cc:** williamlee244@gmail.com  
**Subject:** Submitted testimony for HB1863 on Feb 8, 2014 08:30AM

**HB1863**

Submitted on: 2/4/2014

Testimony for WAL on Feb 8, 2014 08:30AM in Conference Room 325

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| William Lee         | Individual          | Support                   | No                        |

Comments: HCDA should be held accountable and we the citizens should have a right to file suit if their decisions adversely affect our lives or if their decisions have ignored or dismissed the agencies rules. Eliminate their operating budget till they are able to comply to the rules established.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 04, 2014 2:29 PM  
**To:** waltestimony  
**Cc:** mendezj@hawaii.edu  
**Subject:** \*Submitted testimony for HB1863 on Feb 8, 2014 08:30AM\*

**HB1863**

Submitted on: 2/4/2014

Testimony for WAL on Feb 8, 2014 08:30AM in Conference Room 325

| <b>Submitted By</b>   | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|-----------------------|---------------------|---------------------------|---------------------------|
| Javier Mendez-Alvarez | Individual          | Support                   | No                        |

Comments:

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From: mailinglist@capitol.hawaii.gov  
Sent: Tuesday, February 04, 2014 3:27 PM  
To: waltestimony  
Cc: rmyamauchi@gmail.com  
Subject: Submitted testimony for HB1863 on Feb 8, 2014 08:30AM

**HB1863**

Submitted on: 2/4/2014

Testimony for WAL on Feb 8, 2014 08:30AM in Conference Room 325

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Roy Yamauchi        | Individual          | Comments Only             | No                        |

Comments: I am in support of HB 1863 for the following reasons; A zero-based budget for HCDA. Building in Kakaako should be in line with City and County of Honolulu. A density limit of 1.5 FAR. Horizontal separation of 300 feet between each building that is more than 100 feet high. Respectfully submitted, Roy Yamauchi

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 04, 2014 4:12 PM  
**To:** waltestimony  
**Cc:** clamor808@yahoo.com  
**Subject:** Submitted testimony for HB1863 on Feb 8, 2014 08:30AM

### **HB1863**

Submitted on: 2/4/2014

Testimony for WAL on Feb 8, 2014 08:30AM in Conference Room 325

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Clara K Morikawa    | Individual          | Support                   | No                        |

Comments: I definitely agree that there should be a 300 feet separation between buildings more than 100 feet high.

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Dear House Water & Land Committee Members,

I support HB 1863 and all efforts to curb or abolish the HCDA. The HCDA does not properly represent the communities for which it serves. Its operations and decisions are not transparent nor reflect testimony it has received over the past year; it continues to ignore the will of the people.

I agree with a zero-based budget for HCDA that will make its operations and actions transparent to the public.

There is a growing wall of concrete in Kaka'ako that is spoiling beautiful public vistas of the last remaining shoreline of urban Honolulu. Buildings in Kaka'ako should have stricter limits on height and density, and follow the City's standards. A density limit of 1.5 FAR would be ideal.

I strongly agree with a minimum horizontal separation of 300 feet between each building that is more than 100 feet in height.

I agree that HCDA must be held accountable to follow the rules and if it does not, citizens who are adversely affected must have clear procedures for filing a citizen lawsuit against it.

There is a growing wall of concrete in Kaka'ako that is spoiling beautiful public vistas of the last remaining shoreline of urban Honolulu. Buildings in Kaka'ako should have stricter limits on height and density, similar to the City's standards. A density limit of 3.5 FAR with height limit of 400 feet is reasonable (although a density limit of 1.5 would be even better, as per my testimony for HB 1863).

Mahalo,

AL Frenzel

**lowen2-Lanaly**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 04, 2014 7:31 PM  
**To:** waltestimony  
**Cc:** drlspina@gmail.com  
**Subject:** \*Submitted testimony for HB1863 on Feb 8, 2014 08:30AM\*

**HB1863**

Submitted on: 2/4/2014

Testimony for WAL on Feb 8, 2014 08:30AM in Conference Room 325

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Laila Spina         | Individual          | Support                   | No                        |

Comments:

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 04, 2014 8:23 PM  
**To:** waltestimony  
**Cc:** suzanne@punapono.com  
**Subject:** Submitted testimony for HB1863 on Feb 8, 2014 08:30AM

**HB1863**

Submitted on: 2/4/2014

Testimony for WAL on Feb 8, 2014 08:30AM in Conference Room 325

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Suzanne Wakelin     | Individual          | Support                   | No                        |

Comments: If you cannot REPEAL the HCDA then please PASS this Bill while keeping the following elements: Eliminates HCDA's operating and investment capital budget Establishes a minimum horizontal separation between each building more than 100 feet high Provides for any person to act as a private attorney general and bring a civil suit against HCDA if HCDA fails to perform any act or duty required under Hawaii Revised Statutes Chp 206E Hawaii Community Development Authority

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From: mailinglist@capitol.hawaii.gov  
Sent: Wednesday, February 05, 2014 8:40 AM  
To: waltestimony  
Cc: kumemoto@hawaii.edu  
Subject: \*Submitted testimony for HB1863 on Feb 8, 2014 08:30AM\*

**HB1863**

Submitted on: 2/5/2014

Testimony for WAL on Feb 8, 2014 08:30AM in Conference Room 325

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Karen Umemoto       | Individual          | Support                   | No                        |

Comments:

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**lowen2-Lanaly**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 05, 2014 2:50 PM  
**To:** waltestimony  
**Cc:** eo50@icloud.com  
**Subject:** Submitted testimony for HB1863 on Feb 8, 2014 08:30AM

**HB1863**

Submitted on: 2/5/2014

Testimony for WAL on Feb 8, 2014 08:30AM in Conference Room 325

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Eric Okamura        | Individual          | Support                   | No                        |

Comments: I agree with the minimum horizontal separation of 300 feet between each building that is more than 100 feet high. Kakaako should have the same development standards as the City and County of Honolulu. Support zero-based budget.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 05, 2014 3:17 PM  
**To:** waltestimony  
**Cc:** autumnrose2010@yahoo.com  
**Subject:** Submitted testimony for HB1863 on Feb 8, 2014 08:30AM

**HB1863**

Submitted on: 2/5/2014

Testimony for WAL on Feb 8, 2014 08:30AM in Conference Room 325

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Autumn Rose         | Individual          | Support                   | No                        |

Comments: Especially we need a minimum horizontal separation between each building more than 100 feet high -- or ABOLISH HCDA that granted too many variances. In spite of its OWN RULES, only one variance was NOT granted.

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**From:** Web Nolan <webnolan@hawaii.rr.com>  
**Sent:** Wednesday, February 05, 2014 3:38 PM  
**To:** waltestimony  
**Subject:** Testimony in support of HB1863

### **Testimony by Kakaako resident Webster Nolan in support of HB1863 for Feb 8 2014 hearing by House Water and Land Committee**

As a 20-year resident of Kakaako and co-owner with my wife of a 900-foot-square condo in the Advertiser block, I fully support HB1863 because it would force the Authority to justify its operating budget or lose its appropriation, establish limits on the density of residential buildings and the distance between them, requires the Authority's basic development rules to comply with the City's ordinances and rules for development, and directs the Authority to meet minimum standards of good design, pleasant amenities and coordinated development.

In recent years, and particularly in its approval of "801 South Street Phase II," the Authority's interpretation of its statutory obligation to "revitalize" Kakaako has departed from legislative intent in establishing the agency. It allowed double density on the "801 South" high rises on the highly debatable basis that the development meets "workforce" affordability. Its rules for distance between high-rise residential buildings are vague enough to justify the variations it allows and consequently permit egregious violations of good design, pleasant amenities and coordinated development. (In the case of "801 South" the project, if completed, will architecturally resemble a grim military or penal institution rather than a welcoming apartment complex.)

The bill also, with a single word, changes the Authority's current power to "supersede" the City's basic standards for construction and development, and instead requires it to "comply" with those standards, an amendment that would bring far more clarity in development than now exists in Kakaako.

HB1863 also facilitates the ability of individual citizens to sue the Authority in circuit for failing to perform its duty. Currently, a citizen alleging such failures must appeal the case to the Authority itself, which seems a clear violation of constitutionally granted due process.

For these reasons, I strongly urge passage of HB1863 into law.

Webster Nolan  
876 Curtis St. #1005  
Honolulu HI 96813

Ph: 593-1189

**lowen2-Lanaly**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 04, 2014 1:58 PM  
**To:** waltestimony  
**Cc:** jjn@lava.net  
**Subject:** Submitted testimony for HB1864 on Feb 8, 2014 08:30AM  
**Attachments:** TestimonyHB1864.docx

**HB1864**

Submitted on: 2/4/2014

Testimony for WAL on Feb 8, 2014 08:30AM in Conference Room 325

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| JJ Nelson           | Individual          | Support                   | Yes                       |

Comments:

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Aloha Chair Evans, and Representatives

As an Ewa resident and member of the Kanehili Cultural Hui who has witnessed how HAWAII COMMUNITY DEVELOPMENT AUTHORITY operates in Kalaeloa and how poorly they communicate with the community and how evasive they are when information about developments is sought.

I believe this organization clearly needs to be shut down because of lack of community oversight and adherence to State and Federal historic and cultural preservation laws and City planning rules and ordinances. They have a dedicated "Cultural Heritage Park," but really it has been used as an illegal dump site and as an excuse to do widespread damage to other very pristine areas that HCDA plans to turn into industrial areas. The word "front" or "façade" is made for how HCDA operates in Kalaleloa.

Coordination and cooperation with City zoning and planning is severely lacking and HCDA doesn't even follow its own rules. During the Kalaeloa Draft Rules process a couple of years ago they completely rejected every single suggestion made by the attorney from the National Trust for Historic Preservation. These were suggestions that were showing how HCDA's rules would NOT be in compliance with national standards and allowed many variances and loopholes for developers to avoid State and Federal historic and cultural preservation compliance. These comments were all REJECTED by the HCDA director.

Clearly today the results are in- a blatant disregard for historic and cultural preservation and a complete blindness to apparently on-going developer sponsored "vandals" who systematically desecrate historic and cultural sites to reduce and destroy "historic integrity" and "cultural value."

There are many examples in Kalaeloa of extensive damage to valuable infrastructure and historic buildings that has been going on for years. It is being done apparently so that it requires a full replacement and of course that means by Hawaii tax-payers. I could send you a hundred photos of intentional damage done by Kalaeloa developers who want see everything out there flattened for land flips to the highest bidder. The more they can make Kalaeloa a cleared parking lot free of any historic and cultural issues, native plants, etc. the better for the land developers and HCDA insiders.

We now increasingly hear that all HCDA Kalaeloa lands "must be developed to their highest potential (income for HCDA developers.) This means all previously promised open space, cultural and historic sites must be wiped out because the highest developer dollar wants it. It really makes you wonder if anything the State does anymore is about "the future" and "the keiki" or just about how much land development cash can be pocketed RIGHT NOW. The message here is that there REALLY ISN'T a future for anyone unless you are rich and can leave once all of the environment that once made the area a wonderful place to live has all been raped away. HCDA developers just move on to the next target somewhere else and the local residents get stuck with tax bills and a depleted, polluted, unsustainable landscape.

HCDA has been cited for illegal dumping on HCDA's own property by the City building inspector (after it was pointed out to them.) Otherwise the people who are supposed to be enforcing City and State laws have NO IDEA what is going on in Kalaleoa unless HCDA calls them in- and that basically NEVER HAPPENS. And development continues with roads and other infrastructure NOT being done to City spec or State environmental laws in Kalaeloa since no one really watches what is happening.

HCDA's director recently expressed surprise at a community meeting when learning that Hunt Corporation was selling off Kalaleoa land (which they lease from the Navy and has NOT undergone a required Federal Section 106 process) while real estate signs have been up all over Kalaeloa for months offering these properties already for sale. This really begs the question that the Kalaeloa director doesn't even know what is going on in Kalaeloa, which they supposedly "manage." In HCDA's Kalaeloa the "rules" become whatever the developer wants it to be, including with Federal property.

I have spoken with a current (and still largely understaffed) State Historic Preservation Division branch manager and was told that HCDA rarely if ever consults with them on anything, despite many ongoing projects in Kalaeloa in very sensitive cultural and historic areas. Kalaeloa is pretty well known as a "Wild West" place of developer lawlessness. Damage is done by "vandals," often in broad daylight. Powerlines, lightpoles, etc are regularly cut down along main roadways or side streets by "vandals." This is so that new ones must be put in and of course the Hawaii tax-payer always pays for it so who really cares?

It is amazing how the "vandals" and firestarters seem to be able to operate in Kalaleoa in broad daylight during working hours without any police or security noticing anyone doing anything. Only after a great deal of news media coverage have all of the continuous, almost daily fires (and perhaps with the help of the weather) allowed this aspect of Kalaleoa destruction to be at least temporarily curbed.

Large areas of military base electrical and telecommunication vaults and buildings have been stripped of copper wire, switching rooms trashed, equipment removed and valuable telephone/power poles (I have been told are worth around \$2000 each) sawed down everywhere. Nothing is ever done about it, over a period of over one and a half years, despite constant "security" patrols. Unless there are some really incompetent druggie thieves who get caught because they cut into live electrical wires and nearly get electrocuted, does any attention result. Amazingly these same people seem to just get away and return again and again. They also inhabit empty historic buildings right next door to developer offices!

Around a year and a half ago HCDA allowed a prospective PV site developer to go into a highly sensitive Hawaiian cultural area in Kalaleoa with a D9 Bulldozer and cut huge swaths of roads over a very large area. Not even straight lines (which is usually always done with a small, rubber tread BobCat for survey work), but wandering, unmitigated massive damage was done to one thousand year old ancient Hawaiian trails, habitation sites and heiau structures. No one at HCDA Kalaeloa questioned this!

Only because of outside complaints to DLNR was this project stopped. To this very day there has never been anything publicly disclosed as to WHO at HCDA authorized this massive and completely insane destruction. It has all been hushed up and likely it seems now the PV site developer paid someone some money so that nothing further was ever said about it. But they are planning MORE like this already!

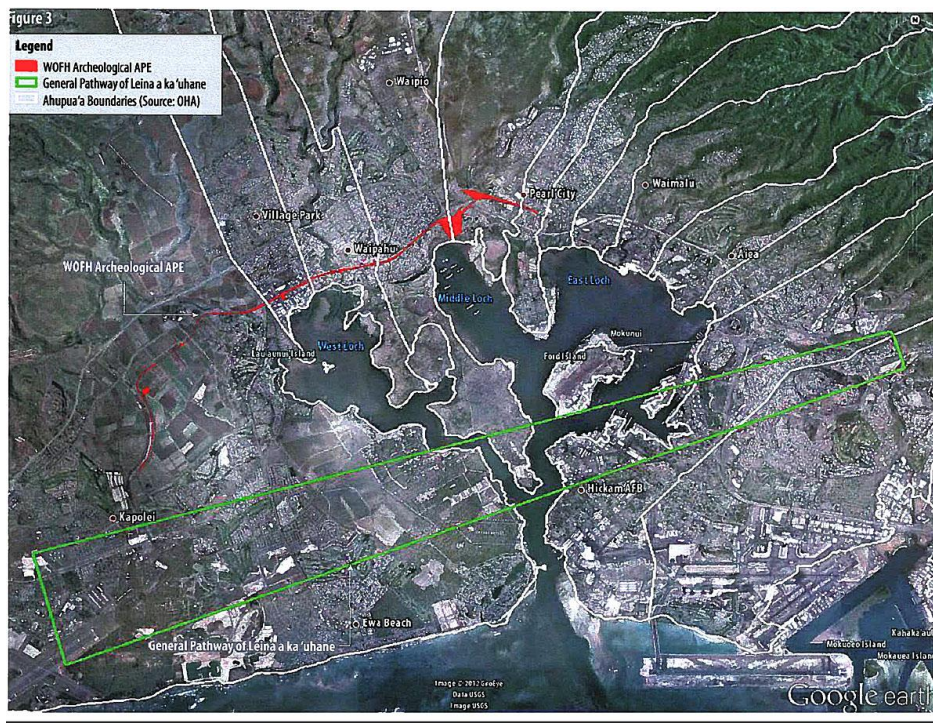
Our Kanehili Cultural Hui was able to photograph the damage many months later when apparently an archaeological contractor (not SHPD which rarely looks at anything in Kalaeloa ) was brought in to begin tagging all the site damage. We assume the contractor who did all the damage paid for the survey, but this doesn't address who at HCDA allowed this stupid fiasco to happen in the first place.

By the way, Kanehili is the ancient Hawaiian name for this area, not "Kalaeloa." Kalaeloa was just another land developer created name, like "Hoopili" is for Honouliuli and "East Kapolei" is for Ewa. It makes it a lot more easy and convenient to bulldoze historic and cultural areas when they can't be remembered and linked to the past cultural history. At least DHHL did some native Hawaiian research when they named their nearby home development projects Kaupe'a and Kanehili. These are the true local area cultural names according to Hawaiian oral history. Ewa's history is still largely ignored.

HCDA's Kalaeloa is a Wild West area where developers make the rules they want. HCDA needs to be SHUT DOWN with by House Bill 1864 in the hope that some zoning and planning law and order can be established in this HCDA developer free fire zone. This is NOT what the local community wants!

John Bond, President, Kanehili Cultural Hui

*BELOW: The HART Federal EIS has designated this Kanehili area as a National Register Eligible site for historic and cultural protection under State and Federal laws. It was the original intention of the community at the time of the Barbers Point Naval Base closure that significant historic and cultural sites would be forever protected for future generations to enjoy and not become just another paved over area like everything else in West Oahu.*



**HART EIS designated Leina a ka Uhane – Wahi Pana in 2012**



However this is the HCDA Kalaeloa agenda, to cover over everything with development and use a process of continuous land degradation and pollution with truckloads of unchecked dump materials, including very dangerous substances known to cause genetic mutations and cancer. At the Kalaleoa shore the public is swimming in this chemical pollution and eating the remaining contaminated coastal food resources that haven't yet been killed off. And they say this is about the "Keiki and the future"?

Please pass House Bill 1864 and end this historic and cultural destruction!

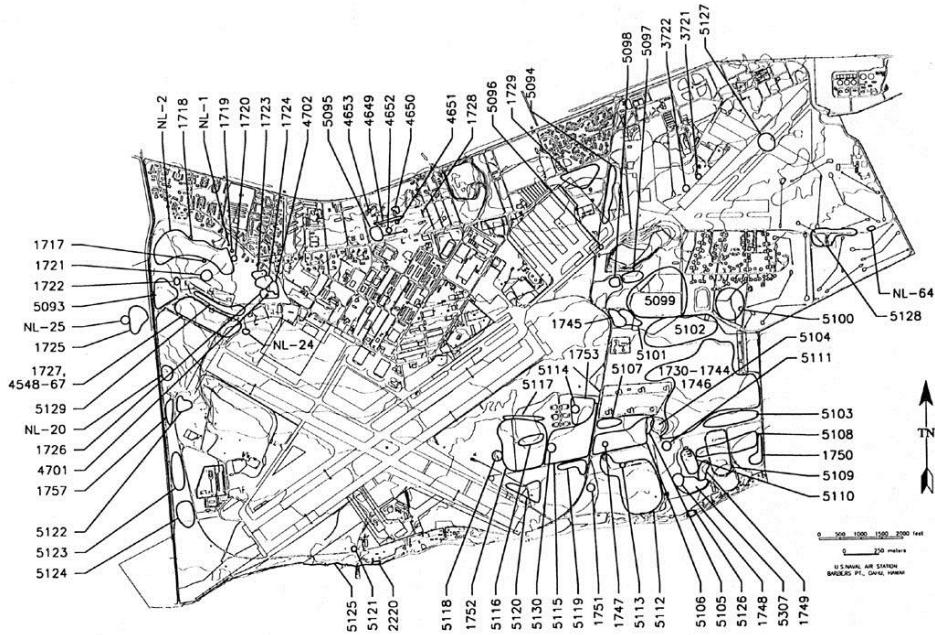
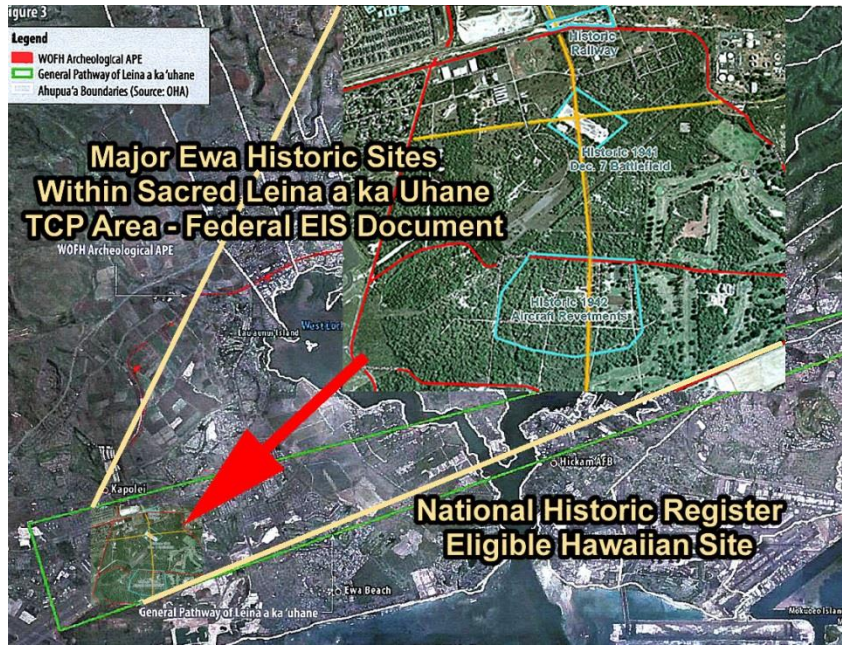
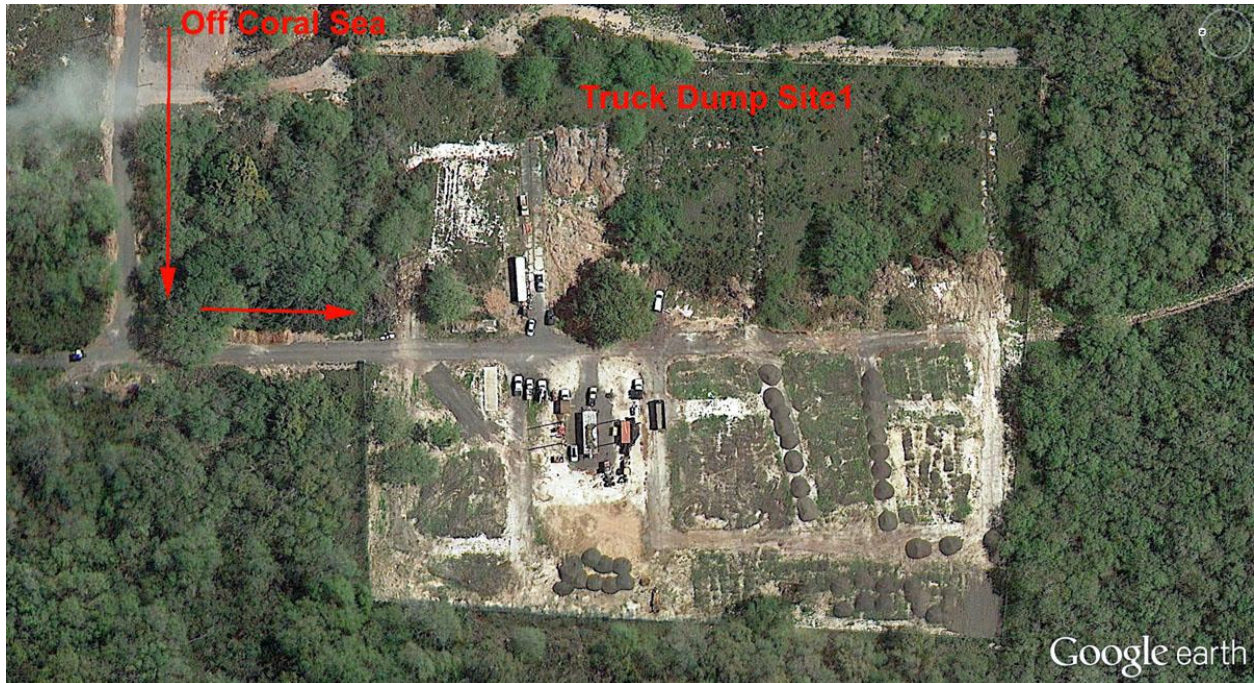


Figure 28. Archaeological and historical sites of NAS Barbers Point.





*Large areas within former Naval Air Station Barbers Point in 1997 were NEVER adequately surveyed for important native Hawaiian cultural sites. Much more information has now become available showing how very incomplete and random these past archeological surveys really were just to meet deadlines.*

*Kanehili Cultural Hui has found there are large areas of unidentified Hawaiian trails, habitations and cultural areas that have never been adequately surveyed in what is really ancient Kanehili and which only in April 2012 was it established that this area is a major Oahu wahi pana called the Leina a ka 'Uhane.*









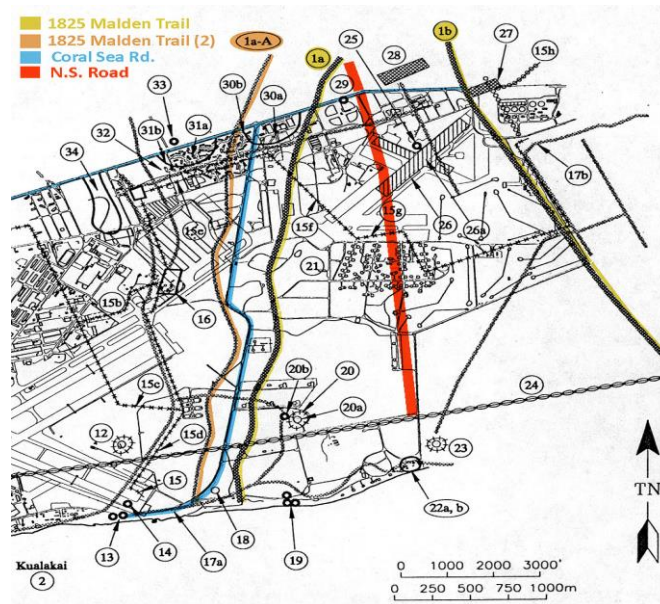
Table 7 presents the Leina a ka 'uhane as a single sacred and storied place, identifying the applicable ahupua'a, theme, National Register criteria, and integrity of relationship and condition.

**Table 7. Leina a ka 'Uhane with Associated Theme and National Register Eligibility Criteria.**

| Wahi Pana         | Ahupua'a   | Theme | National Register A   | National Register B                                   | Integrity of Relationships | Integrity of Condition |
|-------------------|--|-------|---|---|----------------------------|------------------------|
| Leina a ka 'uhane | Hālawa Moanalua, Waiau, Waimano, Pu'uloa, Honouliuli | 2     | Associated with pattern of events – Leaping off place to the spirit world | Associated with the akua Kānehili, Leiolono, and Milu | TBD                        | TBD                    |

In our opinion, each of the 26 individually identified wahi pana, as well as the Leina a ka 'uhane, likely has integrity of relationship. Wahi pana are sacred and storied places on the land and our archival research and informant interviews suggest that these storied places are important to the retention and or transmittal of knowledge and beliefs about the land and history of the Hawaiian People on O'ahu.

HART EIS 2012 study by Kumupono LLC and SRI, Inc. shows National Register Eligibility for Kanehili Leina



Navy BRAC of NASBP by Tuggles (IARII) shows Kanehili Trails and important sites HCDA wants destroyed.



British Royal Navy 1825 Malden Trails map shows ancient Hawaiian Trails in Kanehili, Honouliuli.





**lowen2-Lanaly**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 06, 2014 8:38 AM  
**To:** waltestimony  
**Cc:** rdulcich@gmail.com  
**Subject:** Submitted testimony for HB1864 on Feb 8, 2014 08:30AM

**HB1864**

Submitted on: 2/6/2014

Testimony for WAL on Feb 8, 2014 08:30AM in Conference Room 325

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Richard Dulcich     | Individual          | Support                   | No                        |

Comments: I strongly support abolishing HCDA that has shown it does not understand nor does it act to be good stewards of Kaka'ako, Kalaeloa or Heeia lands. All other bill curb their action so I also support those bills being heard on 2/8: HB1860, HB1861, HB1863, HB1865, HB1866 and HB1867.

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Testimony of  
Ann L. Miller  
Before the  
House Committee on Water & Land  
Saturday, Feb. 8, 2014, 8:30 a.m., Conference Room  
325

**In Support of HB 1865**, Relating to the Hawaii  
Community Development Authority

Chairperson Evans and Members of the House  
Committee on Water and Land

My name is Ann Miller and I have been a resident of Kaka'ako for 22 years. I support HB 1865 and all the other bills being heard by your committee today (HB1860, HB1861, HB1863, HB1864, HB1865, HB1866 and HB1867) because all address continuing frustration we have about what HCDA is doing and how it ignores people who live, work, play and enjoy Kaka'ako.

HB1865 is important because it places a one-year moratorium prohibiting the HCDA from approving any plan or development proposals in Kaka'ako. The rash of HCDA approvals recently have come without serious regard to input from the community surrounding these projects and often based only on "conditional approvals" by the city for infrastructure. Our constant sewer problems have continued, there are no public schools available for our young children

and traffic is a disaster ... now.

Can you envision the impact of thousands more people and cars without proper planning, by an unelected board that does not truly represent any segment of our community with the exception of the construction and real estate industries? Can you envision a Kaka'ako made up of concrete walls, little green space and absolutely no sense of place?

HCDA must learn to respect the land and people it should be serving—those living, working and using Kaka'ako and those who want to join us as neighbors. If it cannot perform that very basic function, something needs to change. If it cannot follow its own rules — instead offering constant variances and exemptions for height, density, distance between buildings and alignment with little regard for truly affordable housing — it must be shut down and put back together again with a renewed sense of purpose and vision.

Please support the Kaka'ako community. We want a living, working, thriving community that is affordable to the working people of Hawaii. HB 1865 will force the HCDA to follow the guidelines set forth by the legislature in 1975. I strongly urge you to pass HB 1865 and all the supporting bills you are scheduled to hear today.

Thank you for the opportunity to testify.

Ann L. Miller

[Mphalm1@hawaiiantel.net](mailto:Mphalm1@hawaiiantel.net)

808-591-1780



Testimony of  
Martha P. Hernandez  
Before the  
House Committee on Water & Land  
Saturday, Feb. 8, 2014, 8:30 a.m., Conference Room 325

**In Support of HB 1865**, Relating to the Hawaii Community Development Authority

Chairperson Evans and Members of the House Committee on Water and Land

My name is Martha P. Hernandez and I am a resident and work in Kakaako. I'm writing today to support HB 1865 and all the other bills being heard by your committee today (HB1860, HB1861, HB1863, HB1864, HB1865, HB1866 and HB1867).

The development of Kakaako is very important and must be done with care to follow rules that have been set with community input under the guidance of the HCDA. When you look at the HCDA's website and read about the vision for Kakaako you want to be part of it. The plan for a community that lives, works and plays with open spaces and a mix of building heights that are visually appealing is a good one.

Why then does the entity that was created to oversee the vision consistently ignore the guidelines? It allows taller buildings and double density that create walls of concrete and add to our traffic congestion.

The agency creates an illusion of listening the community through hearings that are required by law. The hearings are set and the testimony is heard and the decision given with the same result — approval of developments that are allowed to break the rules.

The HCDA is irresponsible and needs to be stopped. Furthermore, before more development is approved, the HCDA should make upgrades to infrastructure to support the added population. Please bring back responsible planning and let's get back to creating the vision that was promised.

Thank you for taking time to read my testimony and taking action before the HCDA's wall of concrete becomes a permanent fixture in our city.

Aloha  
Martha P. Hernandez  
[Mphalm1@me.com](mailto:Mphalm1@me.com)  
808 372-4459



**lowen2-Lanaly**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 04, 2014 8:23 PM  
**To:** waltestimony  
**Cc:** suzanne@punapono.com  
**Subject:** Submitted testimony for HB1863 on Feb 8, 2014 08:30AM

**HB1863**

Submitted on: 2/4/2014

Testimony for WAL on Feb 8, 2014 08:30AM in Conference Room 325

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Suzanne Wakelin     | Individual          | Support                   | No                        |

Comments: If you cannot REPEAL the HCDA then please PASS this Bill while keeping the following elements: Eliminates HCDA's operating and investment capital budget Establishes a minimum horizontal separation between each building more than 100 feet high Provides for any person to act as a private attorney general and bring a civil suit against HCDA if HCDA fails to perform any act or duty required under Hawaii Revised Statutes Chp 206E Hawaii Community Development Authority

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 05, 2014 7:59 PM  
**To:** waltestimony  
**Cc:** evalaviva@gmail.com  
**Subject:** Submitted testimony for HB1863 on Feb 8, 2014 08:30AM

**HB1863**

Submitted on: 2/5/2014

Testimony for WAL on Feb 8, 2014 08:30AM in Conference Room 325

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Eva Gallegos        | Individual          | Support                   | No                        |

Comments: I agree with a zero-based budget. A density of 1.5 FAR and a minimum of 300 feet between building, including a parking structure.

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From: mailinglist@capitol.hawaii.gov  
Sent: Wednesday, February 05, 2014 9:35 PM  
To: waltestimony  
Cc: arbeit@hawaiiantel.net  
Subject: Submitted testimony for HB1863 on Feb 8, 2014 08:30AM

**HB1863**

Submitted on: 2/5/2014

Testimony for WAL on Feb 8, 2014 08:30AM in Conference Room 325

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Wendy Arbeit        | Individual          | Support                   | No                        |

Comments: HCDA has routinely allowed changes to codes and rules established for a livable and healthy Honolulu and even ignored its own guidelines. That's why I think it should be abolished (HB1864). Short of that I support HB1863 in its holding HCDA accountable to following rules and providing procedures for citizen lawsuits for those negatively affected. As I look makai, I find my view to the sea increasingly obstructed. Therefore I agree with the minimum separation of 300 feet between buildings in excess of 100' high. In addition, I believe that City standards of 350 maximum height should be followed and a density limit of 1.5 FAR would provide a more livable city with less stress on infrastructure. I strongly support a zero-based budget for HCDA as it will make its operations and actions transparent to the public.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 05, 2014 11:13 PM  
**To:** waltestimony  
**Cc:** morik369@hawaiiantel.net  
**Subject:** \*Submitted testimony for HB1863 on Feb 8, 2014 08:30AM\*

**HB1863**

Submitted on: 2/5/2014

Testimony for WAL on Feb 8, 2014 08:30AM in Conference Room 325

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Keith Morikawa      | Individual          | Support                   | No                        |

Comments:

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## lowen2-Lanaly

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**From:** Pam Wood <pwood229@gmail.com>  
**Sent:** Thursday, February 06, 2014 11:24 AM  
**To:** waltestimony  
**Subject:** Fwd: HB1864

Testimony of Pamela Wood

For the House Committee on Water & Land  
Saturday, February 8, 2014  
Re: Support for HB1864

Chair Cindy Evans and Members of the House Committee on Water & Land:

My name is Pamela Wood. I live in Kakaako. Thank you for giving me the opportunity to testify in support of HB1864 and share my experience of working with the Hawaii Community Development Authority (HCDA) during 2013.

HCDA has not taken responsibility for infrastructure deficiencies within Kakaako. Instead they approve development permit applications based on general letters of conditional approval from city agencies, then expect the city to address the infrastructure deficiencies during the building permit process.

I learned this first hand during HCDA's public hearings and information sessions regarding the 803 Waimanu project. The property is located in the commercial/industrial Central Kakaako Neighborhood. The FAR (Floor Area Ratio) was set at 1.5 because of the lack of infrastructure. The 2008 Environmental Impact Statement (EIS) and the 2011 Mauka Area Rules and Plan describe the inadequate infrastructure in detail. The small property owners did not agree to participate in the cost of establishing improvement districts, and so development was limited to 1.5 FAR. If property owners agreed to an improvement district or if a developer agreed to make the improvements the FAR could be increased to 3.5. We discovered there is a third way to increase the FAR. The Executive Director can determine the infrastructure is adequate and can unilaterally increase the FAR to 3.5.

The 803 Waimanu sewer line will connect to the existing 6-inch Kawaihāo Street sewer line that is more than 100 years old. This aged line runs 200 feet, then connects to the improved line on Cooke Street. The 2008 EIS requires a storm drain. When HCDA was asked if the developer was required to make these improvements, I was first told it would not be fair to ask one developer to be responsible for the entire cost; then I was told the developer was going to control all storm drainage runoff onsite and the city accepted the sewer permit application; and then I was told these issues would be addressed during the building permit process.

The process need to change. Infrastructure must be addressed before development permit applications are approved. If the City & County of Honolulu is responsible for the infrastructure and the Honolulu taxpayer is responsible for the costs, then the City should be given the control.

Pamela Wood  
725 Kapiolani Blvd., #3002  
[808.781.1732](tel:808.781.1732)

February 8, 2014

Honorable Cindy Evans, Chair  
Honorable Nicole Lowen, Vice Chair  
House Committee on Water & Land

**RE: HB 1863 – Relating to the Hawaii Community Development Authority – IN OPPOSITION**  
**Hawaii State Capitol, Rm. 325; 8:30 AM**

Aloha Chair Evans, Vice Chair Lowen and Members of the Committee,

The Howard Hughes Corporation, and its wholly-owned subsidiary Victoria Ward, Limited (“VWL”) oppose HB 1863, which among other things, eliminates the operating budget for the HCDA for FY 2015-2015; requires a minimum horizontal separation of 300 feet between each building in the Kakaako community development district that is more than 100 feet in height; and establishes a maximum floor area ratio of 1.5 for any building in the Kakaako community development district.

Under the Ward Master Plan and development permits, VWL has certain development rights. One of the most important approved components of the Ward Master Plan was the ability to transfer the approved floor area ratio (“FAR”) of 3.8 between contiguously-owned development lots, as provided under the master planning rules at HAR §15-22-203(b). This provision is needed to achieve the pedestrian-friendly, smart-growth, public plaza vision of the Ward Master Plan. HB 1863 imposes a blanket floor area ratio (“FAR”) of 1.5 “for any building” which will violate VWL’s vested development rights.

A significant effect of re-developing and providing additional housing opportunities in Kakaako is that development occurs in the urban core, and not on outlying agricultural lands. It builds upon and upgrades already existing infrastructure, and takes advantage of the ability to become a pedestrian-centered area, with close proximity to downtown Honolulu and the tourism capital of Waikiki. This benefit was mentioned by numerous community members in support of our projects.

Without exempting approved master plans with development rights under Vested Rules, HB 1863 infringes upon VWL’s development rights and therefore, we respectfully urge you to hold HB 1863. We appreciate the opportunity to express our concerns.

David Striph  
Senior Vice President-Hawaii

*Howard Hughes*





Testimony of Cindy McMillan  
The Pacific Resource Partnership

House Committee on Water & Land  
Representative Cindy Evans, Chair  
Representative Nicole E. Lowen, Vice Chair

HB 1863 – Relating to the Hawaii Community Development Authority  
Saturday, February 08, 2014  
8:30 AM  
Conference Room 325

Dear Chair Evans, Vice Chair Lowen and members of the committee,

The Pacific Resource Partnership (PRP) is a labor-management consortium representing over 240 signatory contractors and the Hawaii Regional Council of Carpenters.

PRP opposes HB 1863, which eliminates the operating budget for the HCDA for FY 2014-2015, requires a minimum horizontal separation of 300 feet between each building in the Kakaako community development district that is more than 100 feet in height, establishes a maximum floor area ratio of 1.5 for any building in the Kakaako community development district, authorizes citizen suits against the HCDA for violations of its required duties, and requires rules established by the HCDA to comply with all laws, ordinances, and rules.

If enacted, this bill will put the deep freeze on new housing in Kakaako because developers will be unable to finance projects with these restrictions. This might at first sound attractive to some, but consider the consequences:

- Local people will find very little housing available, and households will have to double- and triple-up as young people start their own families because there is so little housing inventory.
- The limited number of homes that do come online will be too expensive and out of reach for the average family. It is a simple matter of supply and demand.
- Meanwhile, people who can afford a home here, whether it's a primary residence, second or even third home, regardless of price, will continue to buy, putting even more pressure on the price of homes for local people.

This scenario doesn't have a happy ending. The eroding quality of life and increasing cost of living will drive kids whose families have been in the islands for generations, some of whom are descendants of the

February 8, 2014

Testimony Opposing HB 1863 Relating to the Hawaii Community Development Authority

Page 2

original Polynesian settlers, to leave the islands. In addition, the lack of housing reduces job opportunities and curbs property tax revenue.

The need to make housing accessible by providing alternatives that local residents can afford has never been greater. For example, on Oahu, official state and city/county projections for population growth through 2050 anticipate the need for about 104,500 additional homes to accommodate its resident population.

PRP recognizes that Hawaii residents have been very clear about the need to find a balance between permitted growth and the preservation of the natural environment, culture, local identity and quality of life. We believe that the unmet housing needs of people living in the Islands can be met while being sensitive to these priorities. We believe this bill goes too far in tipping the balance in the wrong way.

We respectfully ask that the Committee defer this bill.



February 6, 2014

**TESTIMONY TO STRONGLY SUPPORT HB1864 – REPEAL OF THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY**

Chair Evans and Members of the Water and Land Committee,

My name is Bernard Nunies. I am a 7 year resident of Kaka'ako and have seen, in 2013 alone, the devastation a single rogue government agency can cause in our community. I am, of course, referring to the Hawaii Community Development Authority (HCDA), who this year alone, has approved 11 developments in Kaka'ako without regard to infrastructure issues, established rules & regulations, or community feedback and input. I have testified at several of their hearings in 2013, only to have our community concerns fall on deaf ears as the governor-appointed board do the bidding of big business without concern for the current or future residents of my community.

The 2011 Mauka Area Rules were established to guide smart development in Kaka'ako, yet the HCDA has taken it upon themselves to select which rules apply and when to apply then, often granting developers extreme exemptions and allowing them to take advantage of loopholes.

- The 2011 Mauka Area rules established the Floor-Area-Ratio (FAR) of central Kaka'ako to be 1.5 due to poor infrastructure. However, the director of the HCDA arbitrarily increased the far to 3.5 (more than doubling the density of this area) despite having made no infrastructure improvements to justify the increase.
- There are no guidelines in place that prevent inventors from purchasing "reserved housing" units and flipping them for a profit as the only regulation in place is that these units be offered to the public for 60 days. After that, anyone can purchase.
- There is no elementary school capacity in Kaka'ako and the neighboring schools are all full. Yet, the HCDA continues to approve development without regard as to where our keiki will be educated. The HCDA claims this is a DOE issue, yet the only parcel of land in Kaka'ako that could be used for an elementary school (690 Pohukaina) was given to developers by the HCDA for housing development.

These are just a few examples of how the HCDA has failed the Kaka'ako community and needs to be abolished.

**I strongly support HB 1864 and other bills that have been introduced that limit and rein in the authority of the HCDA (HB 1860, 1861, 1863, 1865, 1866, and 1867)** and hope to have the build-up of my community be accomplished in a way that addresses the infrastructure issues first, listens to the concerns of the current residents, and provides for truly affordable housing for the working families.

Best Regards,

Bernard K. Nunies  
725 Kapiolani Blvd  
Honolulu, HI 96813

Email: [bknunies@gmail.com](mailto:bknunies@gmail.com)  
Phone: 808-215-9016

From: mailinglist@capitol.hawaii.gov  
Sent: Thursday, February 06, 2014 10:49 PM  
To: waltestimony  
Cc: nancylhedlund@yahoo.com  
Subject: Submitted testimony for HB1863 on Feb 8, 2014 08:30AM

**HB1863**

Submitted on: 2/6/2014

Testimony for WAL on Feb 8, 2014 08:30AM in Conference Room 325

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Nancy Hedlund       | Individual          | Support                   | No                        |

Comments: Aloha Members of the Water & Land Committee: I offer testimony in favor of bills abolishing or limiting the authority of HCDA, a State government unit that has entirely failed to fulfill the intended purpose of advancing development and flourishing of Kaka'ako through providing appropriate direction and leadership to development in Hawai'i. The following bills relate to urgently needed actions to curb the authority and actions of HCDA: HB1860, HB1861, HB1863, HP1864, HB1865, HB1866, HB1867. With great urgency and sincerity, I ask you to support all proposed bills that abolish or limit the authority and actions of the HCDA in Kaka'ako and other areas for which HCDA has inappropriately been given authority, including Kalaeloa and He'eia lands. My experience with HCDA dates back to membership on the Ala Moana/Kaka'ako Neighborhood Board, CPAC, and previous community actions to oppose development of luxury high rises in Kaka'ako Makai by Alexander and Baldwin. In the aftermath of community success in blocking this development, we were most disappointed to learn the ways that a developer had been favored in the approval process and then to see how favors and variances continued to characterize the approval process for other projects with total disregard for community input. It was equally disappointing to realize that there was no integration of community input in HCDA's process. Yes, there were meetings and pretenses of exchange of information. But at every turn, the outcomes never reflected the community's preferences. Standards that should have been respected were modified by variances, even in the face of community concern. Even when CPAC and the community took the time and did the work to create a formal plan, the substance of the community's inputs was given no place in the process. There are many examples of these failures to serve the community that provide evidence for this pattern of decision making. Kaka'ako is a community with strengths, needs and great potential to contribute to the sustainability of Honolulu, Oahu and Hawai'i. One of its greatest strengths now is that there is a larger community of citizens who demonstrate spirit, knowledge, experience and engagement. Yet HCDA has continued to operate with the single agenda of economic gain for developers. Immensely important arenas of sustainability have been bypassed entirely such as: water, schools, traffic, sewage, view planes and parking. When confronted with challenges concerning these dimensions of community viability, HCDA's response has been indifference. How can we look the other way at HCDA's Indifference to schools? to sewage? to the sufficiency of water for proposed developments? As one of many concerned citizens who lives here in the Kaka'ako/Ala Moana part of Honolulu, I have made many attempts to participate in planning for Kaka'ako over the past 8 years. I speak from experience. But instead of seeing positive results, every day I see one or more of the many deleterious effects of HCDA's ways of doing business. It has failed to serve our

community through vision, principle or effective planning methods. Please take action to move us into a more viable process for our community's future. Nancy Hedlund, Honolulu, Hawai'i

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)

Matt Vossen  
P.O. Box 1829  
Waianae, HI 96792

February 8, 2014

State of Hawaii House of Representatives  
House Committee on Water & Land  
Hawaii State Capitol  
415 S. Beretania Street  
Honolulu, Hawaii 96813

Dear Chair Evans, Vice Chair Lowen and Members of the Committee,

Subject: HB 1860, HB 1861, HB 1863, HB 1864, HB 1865, HB 1866, and HB 1867  
Relating to the Hawaii Community Development Authority and the  
Kakaako Community Development District

I am *Matt Vossen*, a member of the Hawaii Regional Council of Carpenters.

I strongly urge your support of the Hawaii Community Development Authority (HCDA) and the vision of Kakaako. The authority and vision will:

- ✓ *Provide a live, work, play, mixed-use development in the urban-core*
- ✓ *Add new housing including affordable homes and homes for seniors – built by Hawaii workers*
- ✓ *Bring a sense of shared values with neighbors*
- ✓ *Create housing near public transit*
- ✓ *Generate new County and State taxes*
- ✓ *Address population growth and needs*
- ✓ *Create construction and permanent jobs*
- ✓ *Keep country, country*

We have waited a long time for the development of housing, parks, open areas, as well as new commercial and industrial space near the downtown core. Please don't make any changes and delay the vision of Kakaako.

Thank you for allowing me to share my views.

| Sincerely,

Matt Vossen

February 8, 2014

State of Hawaii House of Representatives  
House Committee on Water & Land  
Hawaii State Capitol  
415 S. Beretania Street  
Honolulu, Hawaii 96813

Dear Chair Evans, Vice Chair Lowen and Members of the Committee,

Subject: HB 1860, HB 1861, HB 1863, HB 1864, HB 1865, HB 1866, and HB 1867  
Relating to the Hawaii Community Development Authority and the  
Kakaako Community Development District

I am *Robert Locquiao*, a member of the Hawaii Regional Council of Carpenters.

I strongly urge your support of the Hawaii Community Development Authority (HCDA) and the vision of Kakaako. The authority and vision will:

- ✓ *Provide a live, work, play, mixed-use development in the urban-core*
- ✓ *Add new housing including affordable homes and homes for seniors – built by Hawaii workers*
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Thank you for allowing me to share my views.

Sincerely,

Robert Locquiao  
Rob4x4rl@aol.com



# KAMEHAMEHA SCHOOLS

February 7, 2014

## WRITTEN TESTIMONY TO THE HOUSE COMMITTEE ON WATER AND LAND

By

Walter F. Thoemmes  
Kamehameha Schools

Hearing Date: February 8, 2014  
8:30 a.m. Conference Room 325

To: Representative Cindy Evans, Chair  
Representative Nicole E. Lowen, Vice Chair  
Members of the House Committee on Water and Land

**RE: Comments for House Bill Nos. 1860, 1861, 1863, and 1867 Relating to the Hawaii Community Development Authority (collectively, the “Bills”)**

As an organization dedicated to the education of Native Hawaiians, and longtime steward of legacy lands to perpetuate that mission, Kamehameha Schools (KS) provides the following comments to the Bills.

KS has spent years and valuable resources developing the Kaiāulu ‘O Kaka‘ako Master Plan (the “Master Plan”) for its legacy lands. The Master Plan is more than a set of zoning rules. Instead, it is a plan of holistic and comprehensive development framed by careful study, extensive community input and a commitment to stewardship of our lands in Kaka‘ako. Accordingly, the Plan is rooted in three core values: (i) a deep understanding and commitment to the surrounding community, its economic and social vitality, and its vested stakeholders; (ii) the creation of a sustainable and vibrant cultural life through sustainable land and building practices; and (iii) as first articulated by the State Legislature in 1976 and re-affirmed by enthusiastic community support in 2004, the cultivation of a mixed-use “urban village” and “urban-island culture” within the Honolulu’s core.

These values (and the current Master Plan) were developed in concert with extensive stakeholder meetings and workshops with representatives from the Kaka‘ako Improvement Association, the Kaka‘ako Neighborhood Board, Enterprise Honolulu and the Hawaii Community Development Authority (“HCDA”) solicitation and input over the last ten years. The parties understood that developing an urban village involves substantially more than creating new building structures and constructing residential housing. It requires a commitment to the community and providing the types of urban-island lifestyle choices demanded by those who make Kaka‘ako their home. In this way, the Master Plan serves as the community’s collective blueprints for the economic and social fabric of Kaka‘ako.



Representative Cindy Evans, Chair  
Representative Nicole E. Lowen, Vice Chair  
Members of the House Committee on Water and Land  
Testimony relating to House Bill Nos. 1860, 1861, 1863, and 1867 Relating to the Hawaii Community  
Development Authority  
February 7, 2014  
Page 2

Prior to KS' Master Plan application submission to HCDA in November 2008, KS met with HCDA staff, planning professionals, and its greater community to develop the Master Plan. Since then, the public had the opportunity to comment on KS' Master Plan. HCDA took formal action to ensure public input on the plan including (1) mailing almost 12,000 flyers to persons on its "Connections" list, (2) posting the Master Plan on its website, (3) inviting comments from the public through an on-line site and a telephone comment line, (4) holding a community meeting for additional public input, (5) working with KS to address public comments, (6) conducting a contested case hearing (noticed and open to the public), and (7) holding a public hearing for final decision making.

By September 2009, when the Master Plan was adopted, the public had the opportunity to review and comment on the Master Plan for more than nine months and HCDA provided numerous comments to KS on changes to the Master Plan to address public input.

Like blueprints for any major project, changes to carefully crafted rules should not be made in piecemeal without regard to its effects on the whole community. Throughout the formulation of the Master Plan, stakeholders understood the importance, for example, of density in order to create a critical mass within the Master Plan area to ignite and sustain the revitalization of the Kaka'ako area. Simultaneously, planners balanced urban density with natural open public space to promote a healthy and sustainable community with renewed energy and spirit. Thus, spot changes to carefully reviewed plans and rules would undermine the economic and social fabric woven by the community without regard to the consequences on the entire neighborhood. Early entrants into this developing community should not be able to thwart the opportunity for thousands of new residents.

In the past four years, KS has devoted its resources to have its blueprint implemented by the completion of Six Eighty (a reserve housing rental project), its continuing development of the SALT project (with a focus on nurturing developing small businesses), and its work with developers to provide a variety of housing alternatives. KS is asking for these pieces of a complex puzzle be allowed to finally come together to create the urban village with an island-urban culture as envisioned by the Master Plan, for the benefit of the larger community of Honolulu and its residents. Time is of the essence.

Many provisions of the Bills are in conflict with what has already been approved under the Master Plan. Implementation of the Master Plan is well underway and changing the rules at this point is fundamentally unfair and will halt the current momentum of developing a vibrant, sustainable community of people, culture, business enterprises and natural open spaces.

Thank you for the opportunity to provide our comments on these Bills.

Antonio Espiritu  
109 Karsten Drive  
Wahiawa, HI 96786

February 8, 2014

State of Hawaii House of Representatives  
House Committee on Water & Land  
Hawaii State Capitol  
415 S. Beretania Street  
Honolulu, Hawaii 96813

Dear Chair Evans, Vice Chair Lowen and Members of the Committee,

Subject: HB 1860, HB 1861, HB 1863, HB 1864, HB 1865, HB 1866, and HB 1867  
Relating to the Hawaii Community Development Authority and the  
Kakaako Community Development District

I am *Antonio Espiritu*, a member of the Hawaii Regional Council of Carpenters.

I strongly urge your support of the Hawaii Community Development Authority (HCDA) and the vision of Kakaako. The authority and vision will:

- ✓ *Provide a live, work, play, mixed-use development in the urban-core*
- ✓ *Add new housing including affordable homes and homes for seniors – built by Hawaii workers*
- ✓ *Bring a sense of shared values with neighbors*
- ✓ *Create housing near public transit*
- ✓ *Generate new County and State taxes*
- ✓ *Address population growth and needs*
- ✓ *Create construction and permanent jobs*
- ✓ *Keep country, country*

We have waited a long time for the development of housing, parks, open areas, as well as new commercial and industrial space near the downtown core. Please don't make any changes and delay the vision of Kakaako.

Thank you for allowing me to share my views.

Sincerely,

Antonio Espiritu



Harold Slate  
225 Kaiulani Av #605  
Hon. Hi. 96815

February 8, 2014

State of Hawaii House of Representatives  
House Committee on Water & Land  
Hawaii State Capitol  
415 S. Beretania Street  
Honolulu, Hawaii 96813

Dear Chair Evans, Vice Chair Lowen and Members of the Committee,

Subject: HB 1860, HB 1861, HB 1863, HB 1864, HB 1865, HB 1866, and HB 1867  
Relating to the Hawaii Community Development Authority and the  
Kakaako Community Development District

I am *Harold Slate*, a member of the Hawaii Regional Council of Carpenters.

I strongly urge your support of the Hawaii Community Development Authority (HCDA) and the vision of Kakaako. The authority and vision will:

- ✓ *Provide a live, work, play, mixed-use development in the urban-core*
- ✓ *Add new housing including affordable homes and homes for seniors – built by Hawaii workers*
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Thank you for allowing me to share my views.

Sincerely,

Harold Slate  
Outside1952@yahoo.com

Dellas Alexander  
[dellas96819@gmail.com](mailto:dellas96819@gmail.com)

February 8, 2014

State of Hawaii House of Representatives  
House Committee on Water & Land  
Hawaii State Capitol  
415 S. Beretania Street  
Honolulu, Hawaii 96813

Dear Chair Evans, Vice Chair Lowen and Members of the Committee,

Subject: HB 1860, HB 1861, HB 1863, HB 1864, HB 1865, HB 1866, and HB 1867  
Relating to the Hawaii Community Development Authority and the  
Kakaako Community Development District

I am Dellas Alexander, a member of the Hawaii Regional Council of Carpenters.

I strongly urge your support of the Hawaii Community Development Authority (HCDA) and the vision of Kakaako. The authority and vision will:

- ✓ *Provide a live, work, play, mixed-use development in the urban-core*
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Thank you for allowing me to share my views.

Sincerely,



Dellas Alexander

From: mailinglist@capitol.hawaii.gov  
Sent: Friday, February 07, 2014 1:52 PM  
To: waltestimony  
Cc: scoleman@surfrider.org  
Subject: Submitted testimony for HB1864 on Feb 8, 2014 08:30AM

**HB1864**

Submitted on: 2/7/2014

Testimony for WAL on Feb 8, 2014 08:30AM in Conference Room 325

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Stuart Coleman      | Individual          | Support                   | No                        |

Comments: My name is Stuart Coleman, and I am a writer, teacher and pro-activist in the McCully area. I'm writing to express my strong support for HB 1864. I strongly support abolishing HCDA because this shadowy government agency has no oversight and has shown a reckless desire to develop Kaka'ako. I also support other bills that curb their actions, including those being heard on 2/8: HB1860, HB1861,HB1863,HB1865,HB1866,AND HB1867.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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## Support Bills in Legislature re HCDA

I support all of the bills, HB1860 through HB1867, introduced by Representative Scott Saiki and others since all contain some measure of restraint on the Hawaii Community Development Authority (HCDA). HCDA needs to be restrained and reconstituted or repealed because of excessive use of its power and authority to favor developers' interests over the well-being of the Kaka'ako community. My comments relate to the Kaka'ako mauka/makai area.

I support **HB1860** since it requires accountability and transparency in HCDA's actions; provides for contested case proceedings with judicial review, expanded public notice requirements, and legislative authority over amendments to mauka and makai area plans and rules; defines Kaka'ako community development policies; and requires comprehensive studies and plans for infrastructure capacity in the area plus a requirement to impose impact fees on developers.

I support **HB1861** since it reiterates and expands on much-needed provisions of HB1860.

I support **HB1862** since it addresses issues of "reserved housing" and "affordable housing" under Hawaii Revised Statutes that have not been properly defined or carried out by HCDA. It would require HCDA to implement affordable housing policies that are in greater conformity with those of the City and County of Honolulu.

I support **HB1863** since it provides for minimum horizontal separation of 300 feet between buildings that are more than 100 feet in height. (HCDA recently approved a developer's proposals at 801 South Street for buildings more than 100 feet in height to be immediately adjacent to each other, an egregious example of what HCDA is willing to do.) Since HCDA needs to be restrained, eliminating its budget for one year would be one way to do it.

I especially support **HB1864** since it repeals the authority of HCDA under Chapter 206E, Hawaii Revised Statutes, while providing for an orderly transition of duties and functions from HCDA to the City and County of Honolulu, and includes job protection with the State for current HCDA employees. A seamless transition over a one-year period to the City and County is a better option than trying to reform or reconstitute HCDA.

Kaka'ako has grown so much in population and is expected to grow more with projects already approved that it needs to be fully integrated with the larger Honolulu community under City and County auspices. Infrastructure in particular needs to be integrated, and the rail line with stations in Kaka'ako also points to needed integration.

I also especially support **HB1865** which places a one-year moratorium on HCDA approving any plans or proposals for development in the Kaka'ako community development district. A one-year moratorium would provide time for the legislature to consider the best long-term considerations for Kaka'ako, where developments already approved plus those under construction in many cases exceed the capabilities of infrastructure in the area.

I support **HB1866** since it provides for reconstituting HCDA with members to be appointed from lists of nominees received from the state legislature and other community entities rather than largely from the executive branch. An important feature of this bill is that HCDA's rule making and various operations would be subject to prior approval by the legislature.

I support **HB1867** for its amendments to Chapter 206E, Hawaii Revised Statutes: HCDA must require, prior to receipt of any application for a development permit, a project eligibility review of the development project, and shall obtain approval from applicable governmental agencies regarding the adequacy of infrastructure requirements. HCDA may not grant any variance, exemption, or modification to any provision of any rule or development plan relating to maximum floor area ratio. Limits on building heights and distance between buildings are also important.

Provisions of **HB1867** are important to have in addition to those of other major bills in the **HB1860's** list. If measures in this bill had been in effect, HCDA would not have been able to accept applications for several development projects they recently approved.

For example, HCDA accepted the developer's application for 801 South Street, Phase 2, without requiring the Traffic Impact Assessment Report (TIAR) requested by the City and County Department of Transportation Services. HCDA's website for the proposed development includes a July 2013 memorandum from a traffic management company in Honolulu that primarily describes street improvements and level of service on Kawaiahao Street, the Phase 1 side of the block, not useful for Phase 2. Since the Phase 1 garage now under construction has 915 parking stalls for 635 units in the residential tower, even though there's an alley connecting the two, the driveway to Kawaiahao will have its own traffic buildup, not useful for Phase 2 which exits to Kapiolani Boulevard. The memo's statement about level of service to Kapiolani is incorrect compared to McKinley High School's 2011 EIS traffic analysis. A trip generation summary is clearly inaccurate based on the 788 parking stalls planned for the Phase 2 garage.

HCDA should have rejected the developer's traffic memorandum as inaccurate and inadequate for the purpose for which it was submitted. As of today, in the first week in February 2014, the inaccurate traffic memorandum remains on HCDA's website and there is no TIAR as requested by Director Michael Formby of the Department of Transportation Services. HCDA ignored the City and County request and approved Phase 2 development without a TIAR.

Everyone who drives in and out of downtown Honolulu, especially the Capitol district, via Kapiolani, King Street or South Street should be concerned about the additional 1700 vehicles from the two units of 801 South that will be driving in and out of one block immediately back of the historic Advertiser/News building.

Another example of HCDA disregarding its own rules and government agency requirements is their failure to require the developer at 801 South Street, Phase 2, to submit their plans for the historic Advertiser/News building on the property to the State of Hawaii's Department of Land

and Natural Resources for review. A letter dated August 29, 2013 from an official in a division of that department to HCDA's executive director reminded HCDA of the requirement according to HCDA's 2011 Mauka Area Rules. According to the rules which apply to all historical or culturally significant properties, a written letter of concurrence from the State Historical Preservation Division (SHPD) shall be included with the permit application to HCDA, and all SHPD requirements shall be completed by the developer prior to submitting the application.

If HB1867 had been in effect at the time, HCDA would not have been able in September 2011, effective November 11, 2011, to write the one and one-half page subchapter on Workforce Housing Project(s) rules that was tacked onto the end of Kaka'ako Reserved Housing Rules in Title 15, Subtitle 4, Chapter 218. The subchapter says workforce housing project(s) shall receive a floor area bonus of one hundred percent (double density FAR), provided that such bonus floor area shall be used for workforce housing project(s) only. Being able to build up to a double density FAR is a large financial benefit for developers.

One of the criteria for determining that a project is a workforce housing project is when it does not require financial assistance for construction from Federal, State, or County governmental bodies. Claiming that 801 South Street was workforce housing, the developer applied for modification to build a free standing 107-foot high parking structure rather than a 65-foot high podium parking structure in order to be more cost effective. We do not understand why increased floor area density and construction modifications approved by HCDA are not considered financial assistance from a governmental body.

Another example of HCDA disregarding its own rules: Under 2005 Mauka Area rules on affordability criteria, one-half of a percentage point (0.5%) could be subtracted from six-months average interest rates on thirty year fixed rate mortgages. In 2011 Mauka Area rules the affordability criteria did not include subtraction of 0.5%. Yet in its August 2013 permit application for 801 South Street, the developer subtracted 1/2% from the six month average and HCDA accepted the application. Other factors not questioned by HCDA point to a project given benefits of a workforce housing project that may not actually meet the defined criteria.

A Star Advertiser article of August 22, 2012 said a developer (who was later the developer of 801 South Street) had a deal to buy the News Building property but hadn't completed a sale. The article also said HCDA executive director Anthony Ching had met with representatives of the developer about the project. The Kaka'ako community and others in Honolulu appreciate news reports of development projects; HCDA isn't likely to inform us. The 801 South Street project is one of many that need the attention of concerned citizens. In the meantime, I support HB1864 that repeals HCDA's authority and others that limit its authority.

Thank you for the opportunity to comment on proposed legislation.

Mary Caywood, [geckoyard@hotmail.com](mailto:geckoyard@hotmail.com)

## lowen2-Lanaly

---

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 06, 2014 9:37 PM  
**To:** waltestimony  
**Cc:** eddiejohnson@yahoo.com  
**Subject:** Submitted testimony for HB1863 on Feb 8, 2014 08:30AM

### HB1863

Submitted on: 2/6/2014

Testimony for WAL on Feb 8, 2014 08:30AM in Conference Room 325

| Submitted By  | Organization | Testifier Position | Present at Hearing |
|---------------|--------------|--------------------|--------------------|
| Eddie Johnson | Individual   | Support            | Yes                |

Comments: I support HB 1863 because: \*I agree with a zero-based budget for HCDA. \* There is a growing wall of concrete in Kakaako that is spoiling beautiful public vistas of the last remaining shoreline of urban Honolulu. Buildings in Kakaako should have stricter limits on height and density, more in line with the City's standards. A density limit of 1.5 FAR would be ideal. \* I strongly agree with a minimum horizontal separation of 300 feet between each building that is more than 100 feet in height.

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**lowen2-Lanaly**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 06, 2014 9:54 PM  
**To:** waltestimony  
**Cc:** clkkimura@gmail.com  
**Subject:** Submitted testimony for HB1863 on Feb 8, 2014 08:30AM

**HB1863**

Submitted on: 2/6/2014

Testimony for WAL on Feb 8, 2014 08:30AM in Conference Room 325

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Cara Kimura         | Individual          | Support                   | No                        |

Comments: I support this bill for the same reasons outlined in my written testimony for HB1867 -- if HCDA cannot be relied upon to enforce its own rules, then those rules need to be enforced by the power of law -- the statute which establishes HCDA. This bill is the vehicle for this.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 06, 2014 9:55 PM  
**To:** waltestimony  
**Cc:** amybugala@yahoo.com  
**Subject:** Submitted testimony for HB1863 on Feb 8, 2014 08:30AM

### HB1863

Submitted on: 2/6/2014

Testimony for WAL on Feb 8, 2014 08:30AM in Conference Room 325

| Submitted By | Organization | Testifier Position | Present at Hearing |
|--------------|--------------|--------------------|--------------------|
| Amy Bugala   | Individual   | Support            | No                 |

Comments: I support HB 1863 because: \*I agree with a zero-based budget for HCDA. \* There is a growing wall of concrete in Kakaako that is spoiling beautiful public vistas of the last remaining shoreline of urban Honolulu. Buildings in Kakaako should have stricter limits on height and density, more in line with the City's standards. A density limit of 1.5 FAR would be ideal. \* I strongly agree with a minimum horizontal separation of 300 feet between each building that is more than 100 feet in height.

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From: mailinglist@capitol.hawaii.gov  
Sent: Thursday, February 06, 2014 11:11 PM  
To: waltestimony  
Cc: bsuzui@msn.com  
Subject: Submitted testimony for HB1863 on Feb 8, 2014 08:30AM

**HB1863**

Submitted on: 2/6/2014

Testimony for WAL on Feb 8, 2014 08:30AM in Conference Room 325

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Bryan Suzui         | Individual          | Support                   | No                        |

Comments: In Support of HB 1863 Chairperson Evans and members of the House Committee on Water and Land, I support HB 1863. I agree with the height limits and density limits in this bill. We should not allow a wall of concrete to be built, as this would affect all of us in one way or another. In speaking with visitors from the mainland U.S. and Asia, they tell me they are already unhappy with the increasing number of high-rises in Honolulu. I am concerned that a growing wall of concrete will cause tourism to suffer. And when tourism suffers, everyone in Hawaii suffers. Please pass HB 1863. Thank you for your attention.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 06, 2014 11:32 PM  
**To:** waltestimony  
**Cc:** candychoi68@gmail.com  
**Subject:** \*Submitted testimony for HB1863 on Feb 8, 2014 08:30AM\*

**HB1863**

Submitted on: 2/6/2014

Testimony for WAL on Feb 8, 2014 08:30AM in Conference Room 325

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Candy Choi          | Individual          | Support                   | No                        |

Comments:

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**lowen2-Lanaly**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, February 07, 2014 12:25 AM  
**To:** waltestimony  
**Cc:** kkbtr@earthlink.net  
**Subject:** \*Submitted testimony for HB1863 on Feb 8, 2014 08:30AM\*

**HB1863**

Submitted on: 2/7/2014

Testimony for WAL on Feb 8, 2014 08:30AM in Conference Room 325

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Vivien Tham         | Individual          | Support                   | No                        |

Comments:

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*Thomas Lee Travis*

**RR 2 Box 3317**

**Pahoa, Hi 96778**

email: [ttravis12@mac.com](mailto:ttravis12@mac.com)

mobile: (757) 639-7364

### **Members of the Water and Land Committee:**

Much like the Public Land Development Corporation (PLDC), the Hawaii Community Development Authority (HCDA) was conceptually flawed in its creation and, to the degree it continues to exist, must be changed to meet the needs of Hawaii. It was created to streamline administrative procedures needed to begin community developments. But the streamlining power given to the HCDA cut to bone, removing community planning, community hearings, and opportunities for community recourse with disagreement.

Although justification for economic reasons might be made, it is wrong headed for State government to bypass local desires, direction, and planning.

Communities should be given full voice and control of their cultural, social, environmental, visions for the future. The State of Hawaii should not preempt the local decision making, but instead should champion it. Emphasis on reestablishing local initiative serves several very important purposes:

- It breaks up the partnerships between big business and other powerful lobbies and the government, leveling the playing field for smaller and more innovative players.
- It will move us to a more sustainable model, as each community attempts to preserve what is considered best in that community.
- It will incentivize those with business interests to work with the local people, learning about the community and responding to it, rather than simply influencing the State Government through lobbying and political contributions.

Although passage of HB 1863 will not restore the needed local influence, it is a step in the right direction. I strongly urge you to support this bill.





HAWAII COMMUNITY  
DEVELOPMENT AUTHORITY



KAKA  
KALAELOA

Neil Abercrombie  
Governor

Brian Lee  
Chairperson

Anthony J. H. Ching  
Executive Director

461 Cooke Street  
Honolulu, Hawaii  
96813

Telephone  
(808) 594-0300

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E-Mail  
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Web site  
www.hcdaweb.org

STATEMENT OF  
ANTHONY J. H. CHING, EXECUTIVE DIRECTOR  
HAWAII COMMUNITY DEVELOPMENT AUTHORITY  
BEFORE THE  
SENATE COMMITTEE ON WATER & LAND

ON

Saturday, February 8, 2014

8:30 A.M.

State Capitol, Conference Room 325

in consideration of

**H. B. 1863 – RELATING TO THE HAWAII COMMUNITY  
DEVELOPMENT AUTHORITY.**

**Purpose:** Revokes appropriation for 19 of the 23 agency positions. Removes the FTE count for the Executive Director and Assistant. Sets minimum horizontal separation between each building that is more than 100 feet high as 300 feet. Sets maximum FAR for any building at 1.5. Establishes citizen suits where any person may commence a civil suit against the authority. Requires that community development rules comply with all other laws and be consistent with good practice and design.

**Position:** I offer the following comments relative to this proposal. I also note that as the Authority has not taken a position on this proposal, this testimony reflects my own position.

The HCDA currently does not receive any operating or development funds from the Legislature, yet is able to work with area developers to produce a blend of housing, parks and other facilities and real public benefits.

Testimony reflects the view and position of the Executive Director and not that of the Authority.

Stripping funding for 19 of the 23 agency positions and authorization to spend those funds the agency generates on its own is not consistent with the results the HCDA provides in building community in Kakaako. Without funding staff positions, the HCDA would be unable to enforce zoning rules and regulations or process any permit applications. The HCDA would also be unable to provide any public hearings or community briefings, which would bar the public from giving testimony on all new developments. Please remember that the community and mix of for-sale and rental housing being developed will allow our youth and innovation to stay at home.

***Elimination of CIP Project Staffing.*** As this appropriation is the only financial support given by the Legislature and pays for the salaries and fringe benefits for 19 of the 23 HCDA positions, this action would be tantamount to closing the agency down.

***Elimination of the Agency Operating Ceiling and Authorization.*** The proposal would eliminate the agency's authorization to expend special funds to cover operational costs. As the HCDA receives no funding for operations from the Legislature, this would cripple the agency.

***Set FAR maximum at 1.5.*** The FAR for comparable C&C zoning categories range from 3.5 to 7.5. Given the investment by the State of Hawaii of \$200M in infrastructure, it would seem shortsighted to lower the FAR in Kakaako to 1.5 and severely limit any future development. It also goes against conventional wisdom and best practices in other areas of the city to reduce FAR below that uniformly allowed elsewhere.

***Set Minimum Tower Separation at 300' for all buildings 100' and higher.*** Existing projects such as Royal Capitol Plaza, Imperial Plaza and One Waterfront Towers could not have been constructed if this rule were established. In other cases, this may have a limiting effect on small businesses/landowners in the more densely occupied neighborhoods such as Central Kakaako. In many cases, this type of rule would only benefit the first development and not the subsequent.

***Citizen Suits.*** By enacting this provision, the State is effectively waiving its sovereign immunity and specifically authorizing individuals to bring suit against the HCDA.

***Technical Details.*** Subject verb agreement on Page 1 line 16, the minimum horizontal separation between buildings that *is ~~are~~* more than ... A provision should be inserted in the proposal to note “that the Act does not affect rights and duties that matured, penalties that incurred, and proceedings that began before the effective date of the Act.”

Thank you for the opportunity to provide comments on this proposal.

**lowen2-Lanaly**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, February 07, 2014 8:21 AM  
**To:** waltestimony  
**Cc:** barb@punapono.com  
**Subject:** Submitted testimony for HB1863 on Feb 8, 2014 08:30AM

**HB1863**

Submitted on: 2/7/2014

Testimony for WAL on Feb 8, 2014 08:30AM in Conference Room 325

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Barb Cuttance       | Individual          | Comments Only             | No                        |

Comments: Thank you for hearing HB1863, I strongly support this bill. Important elements that should NOT be removed Eliminates HCDA's operating and investment capital budget Establishes a minimum horizontal separation between each building more than 100 feet high Provides for any person to act as a private attorney general and bring a civil suit against HCDA if HCDA fails to perform any act or duty required under Hawaii Revised Statutes Chp 206E Hawaii Community Development Authority Please pass this bill. Barbara Cuttance 14/266 Papaya Farms Road Pahoa, Hawaii 96778

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*A'ohe hana nui ka alu'ia*  
*"No Task Is Too Big When Done Together By All"*

**HAWAII BUILDING AND CONSTRUCTION TRADES COUNCIL, AFL-CIO**

735 Bishop Street, Suite 412 \* Honolulu, Hawaii 96813  
(808) 524-2249 - FAX (808) 524-6893

**KIKA G. BUKOSKI**  
*Executive Director*

February 7, 2014

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Workers United Union of Roofer  
Local 221

Honorable Representative Cindy Evans, Chair  
Honorable Representative Nicole Lowen, Vice Chair  
Members of the Committee on Water and Land  
Hawaii State Capitol  
415 South Beretania Street  
Honolulu, HI 96813

**RE: IN OPPOSITION TO HB1863 RELATING TO HCDA**  
Hearing: Saturday, February 8, 2014, 8:30 a.m. Conference Room 325

Honorable Chair, Vice Chair and Committee Members;

The Hawaii Building & Construction Trades Council, AFL-CIO is a chartered member of the Building and Construction Trades Department, AFL-CIO which was first organized in 1908 and comprised of 16 out of 17 construction trade unions with 386 state, local and provincial councils in the United States and Canada and an estimated 15,000 members locally. Our primary mission being to provide employment opportunities and living wages for many of Hawaii's working men and women in the construction industry.

The Council respectfully OPPOSES HB1863, which eliminates HCDA's operating budget, increases horizontal separation, authorizes citizen suits against HCDA for violations of its required duties requires rules comply with all laws, ordinances and rules.

The Hawaii Community Development Authority was created in 1976 by the State Legislature to plan future developments of underutilized urban areas in Hawaii. In an effort to balance the increasing challenges of urban sprawl, preserving open space, promoting local agriculture, planning for future growth, and reinvigorating and maximizing high density urban core areas, HCDA has risen to that challenge and the charge given them over three decades ago.

We understand and appreciate that not all will agree with change, especially when it might directly and adversely impact individuals, but sometimes change is necessary in order to evolve and adapt for continued growth and sustainability.

HCDA is not just a single community's issue. It's an island wide issue and a piece of a larger "General" Plan that includes Ewa (Kalaeloa) and Windward (Ko'olaupoko) O'ahu. It's an island wide initiative to direct smart growth concepts to certain areas of the island for certain area specific reasons in order to maximize the efficiencies and deficiencies of the area and improve on what's currently there.

Infrastructure, roadways, modes of travel, maximizing and reinvigorating existing footprint, economic opportunity, quality of life...although just a few, these are all part of the overall plan to improve O'ahu.

The provisions in HB1863 contravene the stated intent and purpose of HCDA as envisioned in 1976. It took great vision and courage to adopt such forward thinking legislation over three decades ago.

It takes even greater vision, coupled with perseverance, resolve, commitment and fortitude to 'realize' that vision and "stay the course"

A known philosopher-poet, Ralph Waldo Emerson once quoted,

"Whatever course you decide upon, there is always someone to tell you that you are ...

There are always difficulties arising that tempt you to believe that your critics are right...

To map out a course of action and follow it to an end requires courage."

This is not 'just' about jobs, this is not just about one community, or one or two individuals, this about recognizing the possibilities (HCDA) before us, identifying and evaluating all of the variable externalities, concerns and considerations; applying the best methods of sustainable planning available today and plotting a 'course' for O'ahu's future...the kind of future we would want to pass on to our next generation.

We urge you to reconsider this measure and allow the Hawaii Community Development Corporation to realize the vision of a "Better O'ahu".

Thank you for the opportunity to provide comments in opposition to HB1863.

*A'ohe hana nui ka alu'ia*  
*"No Task Is Too Big When Done Together By All"*





**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
TWENTY-SEVENTH LEGISLATURE, 2014**

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**ON THE FOLLOWING MEASURE:**

H.B. NO. 1863, RELATING TO THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY.

**BEFORE THE:**

HOUSE COMMITTEE ON WATER AND LAND

**DATE:** Saturday, February 8, 2014 **TIME:** 8:30 a.m.

**LOCATION:** State Capitol, Room 325

**TESTIFIER(S):** David M. Louie, Attorney General, or  
Lori N. Tanigawa, Deputy Attorney General

---

Chair Evans and Members of the Committee:

The Department of the Attorney General opposes this bill.

The purpose of the bill is to eliminate the operating budget for Hawaii Community Development Authority (HCDA) for fiscal year 2014-2015, establish minimum horizontal building separations and maximum floor area ratios for any building in the Kakaako community development district, authorize private citizen suits against HCDA for violations of its required duties, and require HCDA to establish community development rules that comply with all other applicable laws, ordinances, and rules.

Eliminating HCDA's operating budget will result in the defunding of 19 of the agency's 23 positions. This will effectively disable the agency and prevent it from carrying out its statutory duties, thereby exposing it and the State to liability for its failure to do so.

On page 2, lines 15-18 and page 3, lines 1-10, the bill authorizes "any person, acting as a private attorney general," to commence a civil suit against HCDA if HCDA fails to perform any act or duty required under part II of chapter 206E, HRS. This provision is unnecessary. A means of redress already exists. A person aggrieved by an action or decision of HCDA may seek declaratory judgment pursuant to chapter 632, Hawaii Revised Statutes (HRS).

In addition, the provision that "any person" may bring suit is too broad. Standing should only be conferred on those persons who are actually aggrieved by an action or decision of HCDA.

We respectfully ask that the Committee hold this bill.

**lowen2-Lanaly**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, February 07, 2014 9:32 AM  
**To:** waltestimony  
**Cc:** aycockburr@aol.com  
**Subject:** Submitted testimony for HB1863 on Feb 8, 2014 08:30AM

**HB1863**

Submitted on: 2/7/2014

Testimony for WAL on Feb 8, 2014 08:30AM in Conference Room 325

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Virginia Aycock     | Individual          | Support                   | No                        |

Comments: I write in favor of passing this bill because it imposes important building standards which HCDA must follow, particularly a 300 foot separation between buildings more than 100 feet in height; maximum 1.5 FAR. Also, I support citizens having the right to bring suits to enforce HCDA statutes. Also, for all Oahu, it would be better to require HCDA rules to be consistent with existing statutes and county ordinances. Thank you for passing this legislation.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, February 07, 2014 9:48 AM  
**To:** waltestimony  
**Cc:** CLSKWOCK@GMAIL.COM  
**Subject:** \*Submitted testimony for HB1863 on Feb 8, 2014 08:30AM\*

**HB1863**

Submitted on: 2/7/2014

Testimony for WAL on Feb 8, 2014 08:30AM in Conference Room 325

| <b>Submitted By</b>   | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|-----------------------|---------------------|---------------------------|---------------------------|
| CHU LAN SHUBERT-KWOCK | Individual          | Support                   | No                        |

Comments:

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, February 07, 2014 11:22 AM  
**To:** waltestimony  
**Cc:** ralpheburr@aol.com  
**Subject:** Submitted testimony for HB1863 on Feb 8, 2014 08:30AM

**HB1863**

Submitted on: 2/7/2014

Testimony for WAL on Feb 8, 2014 08:30AM in Conference Room 325

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Ralph E. Burr       | Individual          | Support                   | No                        |

Comments: I support this bill and hope you will, too. Thank you.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, February 07, 2014 1:52 PM  
**To:** waltestimony  
**Cc:** daneknish@yahoo.com  
**Subject:** Submitted testimony for HB1863 on Feb 8, 2014 08:30AM

### **HB1863**

Submitted on: 2/7/2014

Testimony for WAL on Feb 8, 2014 08:30AM in Conference Room 325

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Daniel Nishimura    | Individual          | Support                   | No                        |

Comments: To preserve public enjoyment of views of Kakaako's beautiful shoreline and skies, I feel there should be stricter limits on building height and density. A concrete jungle should be avoided, to protect the natural beauty of the area. A density limit of 1.5 FAR (as stated in this bill) is ideal. I strongly agree with a minimum horizontal separation of 300 feet between each building that is more than 100 feet in height (as stated in this bill).

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Testimony of

Anna Filler

Before the House Committee on Water and Land

Saturday February 8, 2014

**House Bill 1863:** Relating to the Hawaii Community Development Authority

Chairperson Evans and Members of the House Committee on Water and Land:

My name is Anna Filler and I have been a resident of Kaka'ako for the past 25 years.

Thank you for the opportunity to testify on **House Bill 1863**. I support HB 1863 and I support all the House Bills 1860, 1861 and 1864 to 1867 being heard today.

I strongly support of HB 1863 because I agree with eliminating the budget for the Hawaii Community Development.

The HCDA rules should be consistent with existing City & County rules, laws, ordinances and minimum standards of good design.

I strongly agree with a minimum horizontal separation of 300 feet between each building that is more than 100 feet in height. Buildings in Kaka'ako should have stricter limits on height and density with City & County standards.

I urge you to pass HB 1863 to protect Kaka'ako. Thank you for your time and attention to present my testimony.

**lowen2-Lanaly**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, February 07, 2014 2:47 PM  
**To:** waltestimony  
**Cc:** henry.lifeoftheland@gmail.com  
**Subject:** \*Submitted testimony for HB1863 on Feb 8, 2014 08:30AM\*

**HB1863**

Submitted on: 2/7/2014

Testimony for WAL on Feb 8, 2014 08:30AM in Conference Room 325

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Henry Curtis        | Life of the Land    | Support                   | Yes                       |

Comments:

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# Chamber of Commerce HAWAII

*The Voice of Business*

**Testimony to the House Committees on Water and Land  
Saturday, February 8, 2014 at 8:30 A.M.  
State Capitol - Conference Room 325**

**RE: ALL HOUSE BILLS ON COMMITTEE ON WATER AND LAND HEARING AGENDA FOR  
SATURDAY, FEBRUARY 8, 2014 AT 8:30 A.M.**

Chair Evans and Vice Chair Lowen, and members of the committee:

The Chamber opposes H.B. No.s 1860, 1861, 1863, 1864, 1865, 1866, and 1867.

The Chamber is the largest business organization in Hawaii, representing more than 1,000 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of its members, which employ more than 200,000 individuals, to improve the state's economic climate and to foster positive action on issues of common concern.

We understand that the recent activities in Kakaako have brought attention to the manner in which HCDA oversees redevelopment activities in Kakaako. Consideration should be given to the fact that HCDA was originally established in 1976 to redevelop substantially undeveloped, blighted, or economically depressed areas that are or are potentially in need of renewal, renovation, or improvement to alleviate such conditions as dilapidation, deterioration, age, and other such factors or conditions which make such areas an economic or social liability.

The legislature also found that there exists within the State vast, unmet community development needs. These include, but are not limited to, a lack of suitable affordable housing; insufficient commercial and industrial facilities for rent; residential areas which do not have facilities necessary for basic live-ability, such as parks and open space; and areas which are planned for extensive land allocation to one, rather than mixed uses.

It is further determined that the lack of planning and coordination in such areas has given rise to these community development needs and that existing laws and public and private mechanisms have either proven incapable or inadequate to facilitate timely redevelopment and renewal.

Based on these pressing needs, the legislature created a new and comprehensive authority for community development to join the strengths of private enterprise, public development and regulation into a new form capable of long-range planning and implementation of improved community development. The purpose of Chapter 206E HRS was to establish such a mechanism in the Hawaii community development authority, a public entity which shall determine community development programs and cooperate with private enterprise and the various components of federal, state, and county governments in bringing plans to fruition. For such areas designated as community development districts, the legislature believes that the planning and implementation



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program of the Hawaii community development authority will result in communities which serve the highest needs and aspirations of Hawaii's people.

After almost 40 years of public investment in infrastructure based on the planned redevelopment of the area, the market conditions are such that private developers are moving forward with a variety of projects in Kakaako. The plans to redevelop Kakaako and the public investment in infrastructure are being realized.

It would be unfortunate if the planned density and the return on investment in infrastructure are not fully realized in Kakaako by allowing full build out. It would also raise legitimate questions on the type of business climate the State is creating if investors and developers have no predictability or certainty when a state agency is overseeing redevelopment efforts. The Chamber does support reasonable increases in time allotments for public input should there be compelling evidence that the public does not have enough time to provide their input.

Thank you for the opportunity to express our views on this matter.

Antonio Espiritu  
109 Karsten Drive  
Wahiawa, HI 96786

February 8, 2014

State of Hawaii House of Representatives  
House Committee on Water & Land  
Hawaii State Capitol  
415 S. Beretania Street  
Honolulu, Hawaii 96813

Dear Chair Evans, Vice Chair Lowen and Members of the Committee,

Subject: HB 1860, HB 1861, HB 1863, HB 1864, HB 1865, HB 1866, and HB 1867  
Relating to the Hawaii Community Development Authority and the  
Kakaako Community Development District

I am *Antonio Espiritu*, a member of the Hawaii Regional Council of Carpenters.

I strongly urge your support of the Hawaii Community Development Authority (HCDA) and the vision of Kakaako. The authority and vision will:

- ✓ *Provide a live, work, play, mixed-use development in the urban-core*
- ✓ *Add new housing including affordable homes and homes for seniors – built by Hawaii workers*
- ✓ *Bring a sense of shared values with neighbors*
- ✓ *Create housing near public transit*
- ✓ *Generate new County and State taxes*
- ✓ *Address population growth and needs*
- ✓ *Create construction and permanent jobs*
- ✓ *Keep country, country*

We have waited a long time for the development of housing, parks, open areas, as well as new commercial and industrial space near the downtown core. Please don't make any changes and delay the vision of Kakaako.

Thank you for allowing me to share my views.

Sincerely,

Antonio Espiritu

lowen2-Lanaly

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From: mailinglist@capitol.hawaii.gov  
Sent: Wednesday, February 05, 2014 11:13 PM  
To: waltestimony  
Cc: morik369@hawaiiantel.net  
Subject: \*Submitted testimony for HB1863 on Feb 8, 2014 08:30AM\*

**HB1863**

Submitted on: 2/5/2014

Testimony for WAL on Feb 8, 2014 08:30AM in Conference Room 325

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Keith Morikawa      | Individual          | Support                   | No                        |

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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lowen2-Lanaly

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From: mailinglist@capitol.hawaii.gov  
Sent: Friday, February 07, 2014 5:18 PM  
To: waltestimony  
Cc: heather.nishimura@gmail.com  
Subject: \*Submitted testimony for HB1863 on Feb 8, 2014 08:30AM\*

**HB1863**

Submitted on: 2/7/2014

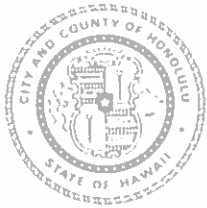
Testimony for WAL on Feb 8, 2014 08:30AM in Conference Room 325

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Heather Nishimura   | Individual          | Support                   | No                        |

Comments:

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# CITY COUNCIL

CITY AND COUNTY OF HONOLULU  
HONOLULU, HAWAII 96813-3065

**BREENE HARIMOTO**  
Councilmember District VIII  
Chair, Committee on Transportation  
Telephone: (808) 768-5008  
Email: bharimoto@honolulu.gov

February 8, 2014

The Honorable Cindy Evans, Chair  
Committee on Water & Land  
State House of Representatives  
Hawaii State Capitol  
415 South Beretania Street  
Honolulu, Hawaii 96813

Subject: **House Bill 1860**  
**Relating to the Hawaii Community Development Authority**

Dear Chair Evans and members of the Committee on Water and Land:

As evident by the number and scope of bills introduced by legislators this session, it is abundantly clear that both the public and our elected officials have serious concerns regarding the policies, actions and operations of the Hawaii Community Development Authority. As such, I support the intent of all Bills on your agenda that would create more accountability, oversight, and transparency with respect to the operations and actions of HCDA.

At this time, however, I direct my testimony to **HB 1860**, which proposes amendments to HCDA's public notice and project approval requirements, and also creates an appeal process for HCDA actions and decisions.

I firmly believe that for HCDA to successfully fulfill its public mission, it is essential to fully engage the public and area residents in its actions and decisions. This Bill is a step in the right direction, and will help to ensure the preferred level of public involvement.

I encourage your support of this measure.

Sincerely,

A handwritten signature in black ink that reads "Breene Harimoto". The signature is written in a cursive style with a prominent flourish at the end.

Breene Harimoto  
Councilmember, District VII



# CITY COUNCIL

CITY AND COUNTY OF HONOLULU  
HONOLULU, HAWAII 96813-3065

**BRENE HARIMOTO**  
Councilmember District VIII  
Chair, Committee on Transportation  
Telephone: (808) 768-5008  
Email: bharimoto@honolulu.gov

February 8, 2014

The Honorable Cindy Evans, Chair  
Committee on Water & Land  
State House of Representatives  
Hawaii State Capitol  
415 South Beretania Street  
Honolulu, Hawaii 96813

Subject: House Bill 1861  
Relating to the Hawaii Community Development Authority

Dear Chair Evans and members of the Committee on Water and Land:

As evident by the number and scope of bills introduced by legislators this session, it is abundantly clear that both the public and our elected officials have serious concerns regarding the policies, actions and operations of the Hawaii Community Development Authority. As such, I support the intent of all Bills on your agenda that would create more accountability, oversight, and transparency with respect to the operations and actions of HCDA.

At this time, however, I direct my testimony to **HB 1861**, which proposes amendments to HCDA's public notice and project approval requirements, and also creates an appeal process for HCDA actions and decisions.

I firmly believe that for HCDA to successfully fulfill its public mission, it is essential to fully engage the public and area residents in its actions and decisions. This Bill is a step in the right direction, and will help to ensure the preferred level of public involvement.

I encourage your support of this measure.

Sincerely,

A handwritten signature in black ink that reads "Brene Harimoto".

Breene Harimoto  
Councilmember, District VII



# CITY COUNCIL

CITY AND COUNTY OF HONOLULU  
HONOLULU, HAWAII 96813-3065

**BREENE HARIMOTO**  
Councilmember District VIII  
Chair, Committee on Transportation  
Telephone: (808) 768-5008  
Email: bharimoto@honolulu.gov

February 8, 2014

The Honorable Cindy Evans, Chair  
Committee on Water & Land  
State House of Representatives  
Hawaii State Capitol  
415 South Beretania Street  
Honolulu, Hawaii 96813

Subject: **House Bill 1863**  
**Relating to the Hawaii Community Development Authority**

Dear Chair Evans and members of the Committee on Water and Land:

As evident by the number and scope of bills introduced by legislators this session, it is abundantly clear that both the public and our elected officials have serious concerns regarding the policies, actions and operations of the Hawaii Community Development Authority. As such, I support the intent of all Bills on your agenda that would create more accountability, oversight, and transparency with respect to the operations and actions of HCDA.

At this time, however, I direct my testimony to **HB 1863**, which establishes some minimum development standards in addition to eliminating its current operating budget.

The public purpose for HCDA to should be create a quality, affordable environment for Hawaii's residents, and not to simply maximize development density. The development standards included in this Bill will help force HCDA to meet that true public propose.

I encourage your support of this measure.

Sincerely,

A handwritten signature in black ink that reads "Breene Harimoto". The signature is written in a cursive, flowing style.

Breene Harimoto  
Councilmember, District VII



# CITY COUNCIL

CITY AND COUNTY OF HONOLULU  
HONOLULU, HAWAII 96813-3065

**BREENE HARIMOTO**  
Councilmember District VIII  
Chair, Committee on Transportation  
Telephone: (808) 768-5008  
Email: bharimoto@honolulu.gov

February 8, 2014

The Honorable Cindy Evans, Chair  
Committee on Water & Land  
State House of Representatives  
Hawaii State Capitol  
415 South Beretania Street  
Honolulu, Hawaii 96813

Subject: **House Bill 1864**  
**Relating to the Hawaii Community Development Authority**

Dear Chair Evans and members of the Committee on Water and Land:

As evident by the number and scope of bills introduced by legislators this session, it is abundantly clear that both the public and our elected officials have serious concerns regarding the policies, actions and operations of the Hawaii Community Development Authority. As such, I support the intent of all Bills on your agenda that would create more accountability, oversight, and transparency with respect to the operations and actions of HCDA.

At this time, I direct my testimony to **HB 1864**, which proposes to repeal the Hawaii Community Development Authority.

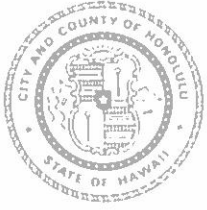
The initial mission of HCDA was to plan and facilitate the redevelopment of the Kakaako area of urban Honolulu. As all areas surrounding Kakaako are under the planning and development jurisdiction of the City & County of Honolulu, HCDA's efforts are essentially duplicative and grossly infringe on County home rule. The City is fully capable of planning and managing the development of the Kakaako area, and for that reason I support the intent of this Bill.

I encourage your favorable consideration of this measure.

Sincerely,

A handwritten signature in black ink, appearing to read "Breene Harimoto", with a stylized flourish at the end.

Breene Harimoto  
Councilmember, District VII



**CITY COUNCIL**  
CITY AND COUNTY OF HONOLULU  
HONOLULU, HAWAII 96813-3065

**BREENE HARIMOTO**  
Councilmember District VIII  
Chair, Committee on Transportation  
Telephone: (808) 768-5008  
Email: bharimoto@honolulu.gov

February 8, 2014

The Honorable Cindy Evans, Chair  
Committee on Water & Land  
State House of Representatives  
Hawaii State Capitol  
415 South Beretania Street  
Honolulu, Hawaii 96813

Subject: **House Bill 1865**  
**Relating to the Hawaii Community Development Authority**

Dear Chair Evans and members of the Committee on Water and Land:

As evident by the number and scope of bills introduced by legislators this session, it is abundantly clear that both the public and our elected officials have serious concerns regarding the policies, actions and operations of the Hawaii Community Development Authority. As such, I support the intent of all Bills on your agenda that would create more accountability, oversight, and transparency with respect to the operations and actions of HCDA.

At this time, I direct my testimony to **HB 1865**, which proposes a one-year moratorium on the Hawaii Community Development Authority's approval of plans or projects in the Kakaako Community Development District.

Over the past two years, the HCDA has been approving massive development projects at breakneck speed. The impact of those approvals is only now becoming apparent. To assure that Kakaako truly becomes the quality community the public desires, I believe it fully appropriate to put a one-year (or more) pause on any new approvals to give time to assess the impact of previous approvals and re-evaluate HCDA's plans and direction for Kakaako.

I encourage your favorable consideration of this measure.

Sincerely,

A handwritten signature in black ink that reads "Breene Harimoto".

Breene Harimoto  
Councilmember, District VII



# CITY COUNCIL

CITY AND COUNTY OF HONOLULU  
HONOLULU, HAWAII 96813-3065

**BREENE HARIMOTO**  
Councilmember District VIII  
Chair, Committee on Transportation  
Telephone: (808) 768-5008  
Email: bharimoto@honolulu.gov

February 8, 2014

The Honorable Cindy Evans, Chair  
Committee on Water & Land  
State House of Representatives  
Hawaii State Capitol  
415 South Beretania Street  
Honolulu, Hawaii 96813

Subject: **House Bill 1866**  
**Relating to the Hawaii Community Development Authority**

Dear Chair Evans and members of the Committee on Water and Land:

As evident by the number and scope of bills introduced by legislators this session, it is abundantly clear that both the public and our elected officials have serious concerns regarding the policies, actions and operations of the Hawaii Community Development Authority. As such, I support the intent of all Bills on your agenda that would create more accountability, oversight, and transparency with respect to the operations and actions of HCDA.

At this time, however, I direct my testimony to **HB 1866**, which proposes amendments to the manner in which members are appointed to the HCDA.

For all practical purposes, HCDA is a planning and development authority with sole control over a huge area in the middle of urban Honolulu. That area, however is neither an island nor a silo, it interfaces directly with urban areas on all sides where planning and development regulations are under the control of the City and County of Honolulu. To assure the proper and essential coordination and cooperation between HCDA and the City on matters of land use, transportation and basic public infrastructure, I strongly encourage this Committee to include the City's Director of the Department of Planning and Permitting as a designated voting member of the HCDA.

I firmly believe that including the City's planning director on the Authority will greatly enhance inter-jurisdictional coordination and cooperation, and result in improved planning and development within this greater part of Honolulu.



The Honorable Cindy Evans  
February 8, 2014  
Page 2

I thank you for your kind attention, and ask for your support of this proposed amendment to the composition and manner of appointment of members to the Hawaii Community Development Authority.

Sincerely,

A handwritten signature in black ink, appearing to read "Breene Harimoto". The signature is fluid and cursive, with a horizontal line extending from the end of the name.

Breene Harimoto  
Councilmember, District VIII



# CITY COUNCIL

CITY AND COUNTY OF HONOLULU  
HONOLULU, HAWAII 96813-3065

**BREENE HARIMOTO**  
Councilmember District VIII  
Chair, Committee on Transportation  
Telephone: (808) 768-5008  
Email: bharimoto@honolulu.gov

February 8, 2014

The Honorable Cindy Evans, Chair  
Committee on Water & Land  
State House of Representatives  
Hawaii State Capitol  
415 South Beretania Street  
Honolulu, Hawaii 96813

Subject: House Bill 1867  
Relating to the Hawaii Community Development Authority

Dear Chair Evans and members of the Committee on Water and Land:

As evident by the number and scope of bills introduced by legislators this session, it is abundantly clear that both the public and our elected officials have serious concerns regarding the policies, actions and operations of the Hawaii Community Development Authority. As such, I support the intent of all Bills on your agenda that would create more accountability, oversight, and transparency with respect to the operations and actions of HCDA.

At this time, however, I direct my testimony to **HB 1867**, which establishes certain building restrictions and prohibitions.

The public purpose for HCDA should be to create a quality, affordable environment for Hawaii's residents, and not to simply maximize development density. The development restrictions and prohibitions included in this Bill will help HCDA to meet that true public propose.

I encourage your support of this measure.

Sincerely,

A handwritten signature in black ink that reads "Breene Harimoto". The signature is written in a cursive style with a prominent flourish at the end.

Breene Harimoto  
Councilmember, District VII

Mr. Pete Holt  
1200 Queen Emma St.  
Honolulu, HI 96813  
2-7-2014

Chairwoman Evans  
Chair, Water & Land Committee  
State Capitol  
Honolulu, HI 96813

Hearing Date: Saturday, 2-8-2014

Referring to House Bills 1860, 1861 & 1863

Chairwoman Evans:

The recent bills filed to abolish the HCDA, defund it, change it, change how it works, and change how members of the board are selected will only accomplish one thing; stop the momentum of growth and positive change in Kaka'ako. This coupled with the fact that those clamoring for the change live in high-rises that either were made possible by the HCDA or exceed the changes that some are calling for, brings their motives into question. This is wrong and when it influences policy for Honolulu it is bad. If you go down to Cooke St. you can see the success stories of small local businesses, non-profits, art incubators, and new housing for the elderly, young professionals, and housing for teachers and the people who keep Honolulu safe. This is why the HCDA was created and it is why it should continue.

I thank you for your support and I respectfully urge you and your colleagues to oppose these bills.

Sincerely,

A handwritten signature in black ink, appearing to be 'Pete Holt', written in a cursive style.

Mr. Pete Holt  
MD & Downtown Honolulu Resident

To Representative Cindy Evans  
Chair, Water & Land Committee  
State Capitol  
Honolulu, HI 96813

*Saturday, February 8, 2014, 8:30 A.M.*

**I am writing in opposition to House Bills 1860, 1861, 1863, 1864, 1865, and 1866.**

In one way or another these bills seek to modify or eliminate the way that the Hawaii Community Development Authority operates or provides services to the public. I believe that making any changes at this point in time to the authority would slow the opportunity for people to own homes or condominiums in Kakaako at a time when housing is sorely needed. As someone who is employed in the area I can tell you that this kind of option is really needed.

I would jump at the chance to own a high or low-rise condominium home in the Kakaako district. I think the district will prove its worth time-and-time again as families and people like myself actively seek to find more affordable housing in an urban setting that will be closer to work and other amenities like cafes, parks, lofts, stores, and high-rises with affordable and other housing options.

Thank you for the opportunity to offer these comments.



Shantise Eliasson  
726 Menehune Lane  
Honolulu, HI 96826

To Representative Cindy Evans  
Chair, Water & Land Committee  
State Capitol  
Honolulu, HI 96813

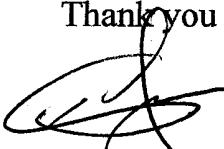
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Thank you for the opportunity to offer these comments.



Sergio Teoh  
624 South St #102  
Hon., HI 96813

To Representative Cindy Evans  
Chair, Water & Land Committee  
State Capitol  
Honolulu, HI 96813

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Thank you for the opportunity to offer these comments.

Jeffrey Santos  
183 Kuulei Road  
Kailua, HI 96734



To Representative Cindy Evans  
Chair, Water & Land Committee  
State Capitol  
Honolulu, HI 96813

*Saturday, February 8, 2014, 8:30 A.M.*

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Thank you for the opportunity to offer these comments.



Catherine Paredes  
1602 Tinker Ave  
Honolulu, HI 96818



To Representative Cindy Evans  
Chair, Water & Land Committee  
State Capitol  
Honolulu, HI 96813

*Saturday, February 8, 2014, 8:30 A.M.*

**I am writing in opposition to House Bills 1860, 1861, 1863, 1864, 1865, and 1866.**

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Thank you for the opportunity to offer these comments.

*Shantelle Alcaide*

SHANTELE ALCAIDE  
91-1067 HANALUA ST.  
ENA BEACH, HI 96706

To Representative Cindy Evans  
Chair, Water & Land Committee  
State Capitol  
Honolulu, HI 96813

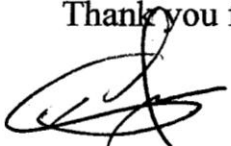
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Thank you for the opportunity to offer these comments.



Sergio Tejada  
627 South St #102  
Hon., HI 96813

To Representative Cindy Evans  
Chair, Water & Land Committee  
State Capitol  
Honolulu, HI 96813

*Saturday, February 8, 2014, 8:30 A.M.*

**I am writing in opposition to House Bills 1860, 1861, 1863, 1864, 1865, and 1866.**

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Thank you for the opportunity to offer these comments.



Catherine Paredes  
1602 Tinker Ave  
Honolulu, HI 96818

Testimony of Glenn Ida  
Representing  
The Plumbers and Fitters United Association, Local 675  
1109 Bethel St. Lower Level  
Honolulu, Hi. 96813

Committee on Water and Land  
Rep. Cindy Evans, Chair  
Rep. Nicole Lowen, Vice-Chair  
Saturday, 2-8-2014  
8:30 AM, Room 325

Re: Opposition of HB1861, Relating to the Hawaii Community Development Authority.

Aloha Chair Evans, Vice-Chair Lowen and Members of the Committee,

My name is Glenn Ida representing the 2000 active members and retirees of the Plumbers and Fitters UA, Local 675. Local 675 is an affiliate of the Hawaii Building and Construction Trades Council.

Local 675 opposes HB1861, which amends the HCDA public notice and public input for development projects and rule changes. Establishes additional requirements for development projects before HCDA approval can be granted. Creates an administrative appeal process for HCDA decisions or actions.

Once again trying to force more burdens to the decision making and project approval process.

Local 675 opposes HB1861.

Thank you for this opportunity to testify.

Mahalo,  
Glenn Ida  
808-295-1280

# Hawai'i Construction Alliance

P.O. Box 179441  
Honolulu, HI 96817  
(808) 348-8885

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February 7, 2014

The Honorable Cindy Evans, Chair  
The Honorable Nicole E. Lowen, Vice Chair  
and Members  
Committee on Water and Land  
Hawai'i State House of Representatives  
415 South Beretania Street  
Honolulu, Hawai'i 96813

## **RE: Strong Opposition to HB1863**

Dear Chair Evans, Vice Chair Lowen, and members of the committee:

The Hawai'i Construction Alliance would like to express its strong opposition to HB1863.

The Hawai'i Construction Alliance is comprised of the Hawai'i Regional Council of Carpenters; the Hawai'i Masons Union, Local 1 and Local 630; the Laborers' International Union of North America, Local 368; and the Operating Engineers, Local Union No. 3. Together, the four member unions of the Hawai'i Construction Alliance represent 15,000 working men and women in the four basic crafts of Hawai'i's construction industry.

HB1863 would eliminate the operating budget for the HCDA for FY 2014-2015, require a minimum horizontal separation of 300 feet between each building in the Kakaako community development district that is more than 100 feet in height, establish a maximum floor area ratio of 1.5 for any building in the Kakaako community development district, authorize citizen suits against the HCDA for violations of its required duties, and require rules established by the HCDA to comply with all laws, ordinances, and rules.

Taken together, we are extremely concerned that the provisions contained in this bill would make it impossible to proceed with the goal of transforming Kaka'ako into a place where the next generation of local residents can live, work, play, and raise families by eliminating HCDA's financial ability to conduct any permit review operations, legislatively inserting arbitrary conditions on the urban planning process, and introducing a potentially lengthy citizen suit process. Had the rules and conditions described in HB1863 been in place in earlier years, it is highly unlikely that Kaka'ako would have grown to include the many residential, commercial, and public projects it is home to today.

We urge you to thoroughly consider the negative impacts that the provisions contained within HB1863 would have on our state's ability to provide housing for Hawai'i families, jobs for local workers, and public facilities in the area.

Mahalo,

A handwritten signature in black ink that reads "Tyler Dos Santos-Tam". The signature is written in a cursive, flowing style.

Tyler Dos Santos-Tam  
Executive Director  
Hawai'i Construction Alliance  
[execdir@hawaiiconstructionalliance.org](mailto:execdir@hawaiiconstructionalliance.org)

lowen2-Lanaly

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From: mailinglist@capitol.hawaii.gov  
Sent: Saturday, February 08, 2014 1:45 AM  
To: waltestimony  
Cc: michelematsuo@yahoo.com  
Subject: Submitted testimony for HB1863 on Feb 8, 2014 08:30AM

**HB1863**

Submitted on: 2/8/2014

Testimony for WAL on Feb 8, 2014 08:30AM in Conference Room 325

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| michele matsuo      | Individual          | Support                   | No                        |

Comments: I strongly support this measure. Thank you for hearing it, and for your consideration and approval.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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February 7, 2014

Representative Cindy Evans, Chair  
Representative Nicole E. Lowen, Vice Chair  
House Committee on Water and Land

**Testimony in Strong Opposition to HB 1863, Relating to the Hawaii Community Development Authority (Eliminates the operating budget for the HCDA for FY 2014-2015. Requires a minimum horizontal separation of 300 feet between each building in the Kakaako community development district that is more than 100 feet in height. Establishes a maximum floor area ratio of 1.5 for any building in the Kakaako community development district. Authorizes citizen suits against the HCDA for violations of its required duties. Requires rules established by the HCDA to comply with all laws, ordinances, and rules.)**

**Saturday, February 8, 2014, 8:30 a.m., in Conference Room 325**

The Land Use Research Foundation of Hawaii (LURF) is a private, non-profit research and trade association whose members include major Hawaii landowners, developers and a utility company. One of LURF's missions is to advocate for reasonable, rational and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawaii's significant natural and cultural resources and public health and safety.

LURF appreciates the opportunity to provide testimony **in strong opposition to HB 1863**, and to offer comments recognizing some of the complaints, problems and issues relating to the Hawaii Community Development Authority ("HCDA") that gave rise to this proposed measure; and the unparalleled accomplishments and ongoing work being done by HCDA, its staff and working partnerships. Instead of passing this legislation in its current form, LURF encourages HCDA, the Legislature, government agencies and the various Kakaako stakeholders to work together positively in the spirit of *Aloha* to address the issues in HB 1863, and fulfill the potential and promise of Kakaako and HCDA.

**HB 1863.** The bill includes the following:

- Elimination of most of the HCDA's FY 2014-2015 operating budget, including removal of the funding for the Executive Director, Assistant and 19 of the 23 HCDA employee positions.

- Mandates a minimum horizontal separation of 300 feet between each building in the Kakaako Community Development District (KCDD) that is more than 100 feet in height.
- Establishes a maximum floor area ratio of 1.5 for any building in the KCDD.
- Authorizes citizen suits against the HCDA for violations of its required duties.
- Requires changing all existing HCDA rules and development standards to comply with all City and county laws, ordinances, and rules relating to use, zoning, planning and development of land and construction.

There is no purpose clause for this bill, however, it appears that the intent of this bill is to respond to citizen complaints about the HCDA by cutting its budget to the point that HCDA could not effectively operate; by mandating development standards based on the Legislature's preferences and judgment; and by freely allowing citizen lawsuits against HCDA, which will increased costs to state taxpayers.

**HCDA Background.** Based on a review of publicly available documents, LURF understands that the HCDA is a State agency that was established to supplement traditional community renewal methods by promoting and coordinating public and private sector community development.

The 1976 State Legislature created the HCDA as a way to plan for the future development of underutilized urban areas of Hawaii. Lawmakers determined these "Community Development Districts" were underused and deteriorating, but had the potential to address the housing and employment needs of Hawaii's people and to provide great economic opportunities to the State once they were redeveloped.

Upon the creation of HCDA, the Legislature designated the Kaka'ako area of Honolulu as the first Community Development District. Lawmakers recognized Kaka'ako was severely underdeveloped and underutilized, relative to its central location near urban Honolulu. They foresaw the area's potential and opened the door to tremendous opportunities in providing more housing, parks and open areas, as well as new commercial and industrial space near the downtown core.

The Kakaako Community Development District (KCDD) is composed of approximately 600 acres of land and includes the area bounded by Piikoi, King and Punchbowl Streets ad Ala Moana Boulevard, as well as the stretch of waterfront from Kewalo Basin to Forrest Avenue and the Hawaiian Electric Company power plant site in downtown Honolulu.

HCDA's staff, includes professional trained in planning, engineering, architecture, asset management, real estate development, finance, public information and administrative services. The HCDA and its staff serve as an infrastructure developer, landowner, city planner, regulator, and property manager to implement Kakaako's master plan.

Over the years, HCDA has had tremendous success with redeveloping Kakaako's infrastructure, housing, parks and open space and implementing other projects for the

benefit of the community. A partial list of HCDA's accomplishments are attached at the end of this testimony. No other government agency had had this kind of success.

In 2002, the State Legislature voted to transfer the development responsibility from the Barbers Point Naval Air Station Redevelopment Commission to HCDA, and as a result, HCDA also assumed the role of the redevelopment authority for the 3,700-acre Kalaeloa Community Development District (Kalaeloa). Kalaeloa encompasses all of the land within the former Barbers Point Naval Air Station, including land retained by the Navy and land conveyed to other Federal agencies. The 2002 State Legislature voted also approved the addition of new HCDA board members to represent the Kalaeloa District.

In March 2009, HCDA assumed the operation and management of the Kewalo Basin Harbor.

In 2011, the State Legislature passed Act 2010, Session Laws Hawaii 2011, which made Heeia the third designated Community development District under HCDA.

Over the years, HCDA has a proven record of accomplishment and is involved with a number of on-going projects, including, but not limited to the following:

- *Construction of essential infrastructure* such as roadways and utilities.
- Parks and open space development, including the *Kakaako Waterfront Park, Gateway Park and Kewalo Basin Park*, totaling 44 acres.
- Construction and promotion of the *Kakaako Waterfront Park Amphitheater-Concert Venue*.
- *Kakaako Waterfront Park concert performance donations to Kakaako-based non-profit organizations and charities* such as the Children's Discovery Center, KUPU, Next Step Shelter and the Voyager School.
- *Kakaako Beautification* efforts, including HCDA staff and volunteers.
- *Kakaako Homeless Outreach Program*, staffed by HCDA staff and volunteers from the Waikiki Health Center, Life 360 and KUPU.
- Establishing a *Kakaako Jobs Training Program* with the Department of Human Services to provide a venue to employ and train homeless persons to complete a specific scope of services within the KCDD.
- A *Security Deposit Matching Fund* to help persons in the Job Training program provide a security deposit for a new apartment.
- *Transit Oriented Development Overlay* for KCDD.
- *Market and affordable housing projects* (see attached list and 2012 HCDA Annual Report).
- *Kewalo Basin community stakeholders' advisory group*.
- Active *Kewalo Basin operations and management* by HCDA and its harbor agent has increased slip occupancy from 30% (prior to HCDA) to nearly 100% and generated a positive cash flow.
- Lease negotiations with a restaurateur regarding *the former Charter Boat Building* fronting Ala Moana Boulevard.

- Consideration of proposals for the use of *the former McWayne Supply Store site* at Kewalo Basin.
- *Kalaeloa Advisory Team* to engage stakeholders from Kaena to Ewa, with regular meetings since 2007.
- *Kalaeloa Landowners and Stakeholders Summit*, since 2010.
- *Base Realignment and Closure Land Conveyances*.
- Completion of the *Kalaeloa Federal Bureau of Investigations Complex* in 2012.
- Approval of the plans and funding for the new *Kalaeloa 12 –kv underground Enterprise Energy Corridor Project*, working with the State Department of Transportation and Hawaiian Electric Company.
- The HCDA's *Kalaeloa East Energy Corridor Project*, and working with Navy Facilities staff on securing the necessary roadway and utility easements for the new corridor.
- *Kalaeloa Solar 1 and 2 Photovoltaic Projects*.
- Hunt Companies' *Kalaeloa Renewable Energy Park Project*.
- Kalaeloa Sustainable Net-Zero Community Pilot Projects, with the National Renewable Energy Laboratory.
- Ongoing development of the *Kalaeloa Heritage Park Plan* with the Kalaeloa Heritage and Legacy Foundation.
- *Heeia Meadowlands Restoration Project*, a public-private partnership between the HCDA and non-profit *Kakoo Oiwi*, to restore HCDA's 400+ acre Heeia Meadowlands.

**LURF's Position.** LURF members include the major land owners and developers across the State of Hawaii, who engage in a wide array of diverse enterprises and activities ranging from conservation and preservation lands, Important Agricultural Lands and agriculture, providing energy, including renewable energy, residential, commercial and resort development. LURF and its members understand that the public may have differing views and may react in different ways, however, there is a belief and hope that the public and our governing bodies – the administration and its agencies, the legislative branch and the courts will act rationally, fairly and in the public interest.

LURF opposes HB 1863, based on the following:

- **There is no reasonable justification to revoke HCDA's budget and funding for employee positions, and doing so will have substantial impact on government services to the public, businesses and the personal lives of HCDA employees.** As indicated above, and in HCDA's meeting minutes and 2012 Annual Report, HCDA is in the midst of a number of important ongoing projects, involving a number of important projects in Kakaako, Kewalo Basin, Kalaeloa and Heeia. Revoking HCDA's budget and positions will have unintended (or intended) detrimental consequences on these other ongoing projects and programs. LURF respectfully recommends that this provision be deleted from HB 1863.



- **The legislative mandate for a minimum horizontal separation of 300 feet between each building in the KCDD more than 100 feet in height is arbitrary and capricious, given existing buildings in Honolulu and Kakaako.** LURF understands that the existing buildings in Kakaako, including the Royal Capital Plaza, Imperial Plaza and One Waterfront Towers would be in violation of this arbitrary development standard. There is a question as to whether this new restriction would be retroactively applied to projects which have been approved, and have spent substantial sums on those prior approvals. It would be unfair and unjustified to impose such a development standard. LURF respectfully recommends that this provision be deleted from HB 1863.
- **The legislative mandate for a maximum floor area ratio (“FAR”) of 1.5 for any building in the KCDD is also arbitrary and capricious and contrary to the City and County of Honolulu’s (“City”) development standards.** The bill does not include any justification or explanation for the 1.5 FAR restriction, and LURF understands that the FAR for comparable City zoning categories range from 3.5 to 7. Under the circumstances, the 1.5 FAR restriction appears to be unfair and unjustified. LURF respectfully recommends that this provision be deleted from HB 1863.
- **There is no justification for authorizing citizen suits against the HCDA.** The bill does not describe the justification or necessity for lawsuits against HCDA. Furthermore, this session there are a number of bills which are being passed to limit the liability of the State, so this proposed provision is very puzzling. LURF believes that this provision is unjustified, unnecessary and respectfully recommends that this provision be deleted from HB 1863.
- **Changing all existing HCDA rules and development standards to comply with all City and county laws, ordinances, and rules is arbitrary and capricious and will create problems with administration, interpretation and enforcement.** Again, no explanation is provided to justify this provision; it would be unfair to change applicable laws and rules “in the middle of the game” for projects which already have approved plans; and the changes would cause problems with agency interpretation, approval and enforcement. That being said, one possible revision to the HCDA rules would be to revisit the alternative of developers providing “in lieu fees” to HCDA to allow the development of reserved housing. Under the circumstances, LURF respectfully recommends that this provision be deleted from HB 1863, however, the bill could be **amended to include** a provision to allow HCDA the flexibility to employ “**in lieu**” fees for reserved/affordable/workforce housing.

For the reasons stated above, LURF **must strongly oppose HB 2629**, and respectfully requests that this bill be amended or held in Committee.

Thank you for the opportunity to present testimony regarding this matter.

**Kakaako Completed Projects (in alphabetical order)**

- 133 Waimanu
- 720 Kapiolani
- 909 Kapiolani
- Children's Discovery Center
- Comp USA
- Hawaiki tower
- Hokua
- Honuakaha
- John A Burns School of Medicine
- Kamakee Vista
- Kauhale Kakaako
- Keola Lai
- Koolani
- Moana Pacific
- Na Lei Hulu Kupuna
- Nauru Tower
- One Archer Lane
- One Waterfront Plaza
- Pacific Park Plaza
- Pacifica
- Pohulani
- Royal Capitol Plaza
- The Imperial Plaza
- Ward Entertainment Center
- Word of Life

Testimony of  
Sharon Y. Moriwaki  
Before the  
House Committee on Water & Land  
Saturday, February 8, 2014, 8:30 a.m., Conference Room 325

**In Support of HB 1863,  
Relating to the Hawaii Community Development Authority**

Chairperson Evans and Members of the House Committee on Water and Land

My name is Sharon Moriwaki. I am a resident of Kaka'ako and president of Kak'ako United, an organization of citizens concerned about Kaka'ako's future.

We have entrusted HCDA -- the state agency designated by statute as the steward of Kaka'ako -- to implement plans and rules developed with citizens and approved by the governor. Unfortunately, HCDA has approved projects that violate its own and the county's zoning standards and rules and has failed to adequately address infrastructure problems and the concerns by residents, businesses and users of Kaka'ako.

HB 1863 addresses these problems by eliminating HCDA's budget, requiring HCDA to follow building standards on height and density, providing for citizen suits when the agency fails to perform its duties, and requiring HCDA's community development plans and rules to comply with all other laws and ordinances.

We therefore strongly support HB1863 and urge passage of the bill.

Thank you for the opportunity to testify.



## lowen2-Lanaly

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Saturday, February 08, 2014 3:54 AM  
**To:** waltestimony  
**Cc:** icuryy2c@gmail.com  
**Subject:** Submitted testimony for HB1864 on Feb 8, 2014 08:30AM

### HB1864

Submitted on: 2/8/2014

Testimony for WAL on Feb 8, 2014 08:30AM in Conference Room 325

| Submitted By | Organization | Testifier Position | Present at Hearing |
|--------------|--------------|--------------------|--------------------|
| C. Willson   | Individual   | Support            | No                 |

Comments: As a 25-year Kaka'ako resident, I SUPPORT all legislation to abolish the HCDA. HCDA is a rogue agency. It has been incompetent in supporting and administering compliance with the State plan, conformance with County Standards, producing a traffic plan with adequate solutions, addressing the inadequate ground elevation to keep the area dry under forecast sea level rise, and in addressing community concerns. This agency must be ELMINATED in the name of good government. There is a formal process for development on O'ahu, and we expect compliance with County standards, without the State – or the moneyed interests – subsuming County controls. I have read the EIS for the Mauka Area Plan for Kaka'ako, and current sea level rise information from NOAA, SOEST, and other current authorities has not considered at all, and it appears the agency is intent on forcing its Faustian, high density, “pave paradise” agenda on the County, even where contrary to County standards. This MUST be stopped. The power grab to eliminate County oversight has the appearance of gross impropriety at best, and wholesale corruption at worst. While abolishing HCDA is the proper remedy, I also support HB1860, HB1861, HB1863, HB1865, HB1866, and HB1867 to curb HCDA actions so I also support those bills in case it cannot be completely abolished in this session. I would appreciate it if this testimony could also be included for those bills. Thank you for supporting County oversight over ALL Oahu development.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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Testimony of Glenn Ida  
Representing  
The Plumbers and Fitters United Association, Local 675  
1109 Bethel St. Lower Level  
Honolulu, Hi. 96813

Committee on Water and Land  
Rep. Cindy Evans, Chair  
Rep. Nicole Lowen, Vice-Chair  
Saturday, 2-8-2014  
8:30 AM, Room 325

Re: Opposition of HB1863, Relating to the Hawaii Community Development Authority

Aloha Chair Evans, Vice-Chair Lowen and Members of the Committee,

My name is Glenn Ida representing the 2000 active members and retirees of the Plumbers and Fitters UA, Local 675. Local 675 is an affiliate of the Hawaii Building and Construction Trades Council.

Local 675 opposes HB1863, which eliminates the operating budget for FY 2014-2015. Requires minimum housing separation of 300 feet between each building in the Kakaako community development district that is more than a 100 feet in height. Establishes a maximum floor area ratio of 1.5 for any building in the Kakaako community development district. Authorizes citizen suits against the HCDA for violations of it's required duties. Requires rules established by the HCDA to comply with all laws, ordinances, and rules.

The HCDA does not receive any operating or development funds from the Legislature. Without funding staff positions the HCDA would be unable to enforce zoning rules and regulations or process any permit applications. The HCDA would also be unable to provide any public hearings or community briefings, which would bar the public from giving testimony on all developments. The HCDA would be crippled from any public engagement.

Therefore Local 675 opposes HB1863.

Thank you for this opportunity to testify.

Mahalo,

Glenn Ida  
808-295-1280



# HAWAII LABORERS-EMPLOYERS COOPERATION AND EDUCATION TRUST

1617 Palama Street • Honolulu, HI 96817 • Phone: 808-845-3238 • Fax: 808-845-8300 • URL: hilecet.org

## TESTIMONY OF HAWAII LECET CLYDE T. HAYASHI - DIRECTOR

HOUSE OF REPRESENTATIVES  
THE TWENTY-SEVENTH LEGISLATURE  
REGULAR SESSION OF 2014

### COMMITTEE ON WATER & LAND

Rep. Cindy Evans, Chair  
Rep. Nicole E. Lowen, Vice Chair

|                          |                         |
|--------------------------|-------------------------|
| Rep. Ty J.K. Cullen      | Rep. Calvin K.Y. Say    |
| Rep. Faye P. Hanohano    | Rep. Scott Y. Nishimoto |
| Rep. Derek S.K. Kawakami | Rep. Richard Lee Fale   |
| Rep. Chris Lee           | Rep. Cynthia Thielen    |

### NOTICE OF HEARING

DATE: Saturday, February 08, 2014  
TIME: 8:30am  
PLACE: Conference Room 325  
State Capitol  
415 South Beretania Street

## TESTIMONY ON HOUSE BILL NO. 1863, RELATING TO THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY.

TO THE HONORABLE CINDY EVANS, CHAIR, NICOLE LOWEN, VICE CHAIR, AND MEMBERS OF THE COMMITTEE:

My name is Clyde T. Hayashi, and I am the Director of Hawaii LECET. Hawaii LECET is a labor-management partnership between the Hawaii Laborers Union, Local 368, and its unionized contractors.

Mahalo for the opportunity to testify in **opposition** to House Bill No. 1863, which revokes appropriation for 19 of the 23 agency positions. It also removes the FTE count for the Executive Director and Assistant, and sets minimum horizontal separation between each building that is more than 100 feet high as 300 feet. This measure also sets maximum FAR for any building at 1.5, and establishes citizen suits where any person may commence a civil suit against the authority, and finally it requires that community development rules comply with all other laws and be consistent with good practice and design.

Without funding staff positions, the HCDA would be unable to enforce zoning rules and regulations or process any permit applications. The HCDA would also be unable to provide any public hearings or community briefings, which would bar the public from giving testimony on all developments. In essence, this measure would effectively close this agency down.



## HAWAII LABORERS-EMPLOYERS COOPERATION AND EDUCATION TRUST

1617 Palama Street • Honolulu, HI 96817 • Phone: 808-845-3238 • Fax: 808-845-8300 • URL: [hilecet.org](http://hilecet.org)

In regards to setting the FAR maximum at 1.5, the FAR for comparable C&C zoning categories establishes the range from 3.5 to 7. The State has poured \$200M in infrastructure improvements already, so it would seem shortsighted to limit any future development to a FAR at 1.5.

For these reasons, Hawaii LECET is in **opposition** to House Bill No. 1863.

I support HB 1863 because...

1. I agree with a zero-based budget for HCDA.
2. Buildings in Kakaako should have stricter limits on height and density, similar to the City & County of Honolulu standards to keep the beauty of public vistas of the last remaining shoreline of urban Honolulu. A density limit of 1.5 FAR would be ideal.
3. I strongly agree with a minimum horizontal separation of 300 feet between each building that is more than 100 feet in height.



Testimony before the  
House Committee on Water and Land

IN SUPPORT OF EIGHT HOUSE BILLS TO IMPROVE HCDA

Saturday February 8, 2014 8:30 AM in room 325

Aloha Representative Evans and Members of the House Committee on Water and Land,

The Outdoor Circle supports greater transparency, public oversight, and higher minimum building requirements for decisions made by the HCDA, in order to ensure that the Kaka'ako of the future can support a healthy, diverse community with intact viewplanes, adequate infrastructure, and high-quality public greenspace.

The Outdoor Circle has watched the HCDA and its rush to build a new Kaka'ako over the past decade. It has become increasingly clear that the agency has abused its duties with regard to development that is sensitive to the community and its needs. HCDA was granted superpowers to circumvent City laws when it is necessary, in order to develop the Kaka'ako area. Today, we see that HCDA has been allowed to go too far. The Outdoor Circle strongly supports greater controls on HCDA decision-making and would like to be included in the evaluation of high rise/ park space decisions in the future.

To this end, The Outdoor Circle supports the passage of:

HB1860  
HB1861  
HB1862  
HB1863  
HB1864  
HB1865  
HB1866  
HB 1867

**Improve Transparency and Accountability**

HCDA has not adequately engaged the community with discussions about their decisions that deviate from accepted planning principles. Longstanding community questions remain unanswered regarding future open space, park developments, traffic mitigation, carrying capacity, and the justifications for variances.

HCDA meetings appear as done deals even before the hearing begins, where Board members

1314 S. King Street #306 • Honolulu, Hawai'i 96814  
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robotically approve projects. Never through 2 HCDA executive directors has the HCDA mitigated issues for the public or appeared to be genuinely concerned. The Board shrugs off very real concerns about adequate open space, where the parks will be, and the need to solve to the sewer odors that plague the area.

To address this, HCDA should be required to respond orally to all concerns raised by the public at the decision-making hearing before the board makes a decision. HCDA must also explain orally and in writing why modifications recommended by residents were not incorporated before approving the project.

### **Uphold minimum building standards, green space and affordable housing**

The Outdoor Circle is especially concerned with the lack of sufficient open space, trees and parks in the Kaka'ako area. The HCDA's mission was to streamline development projects under its jurisdiction. It has approached its mission without adequate vetting of issues like density, height limits and infrastructure thoroughly.

HCDA has granted permission to block viewplanes, change mauka-makai building footprints, increase the density, increase the height of tall buildings, and ignore failing infrastructure. It has not clearly explained to the public about specific areas set aside for shade trees, parks and schools. It rubberstamps dense high rise development and zealously gives variances for setbacks, building configurations and even gives permission to projects above the City's 400 foot height limit. This will forever damage the ocean to mountain views we all treasure greatly.

At the same time, no carrying capacity analysis has been conducted for the Kaka'ako area. We have never received any answers about the number of parks and where green space will be located and what will happen to Mother Waldron Park. HCDA has not demonstrated any concern for sea level rise or presented plans for what Dr. Fletcher calls "intrusion areas," like Kaka'ako where flooding will be prominent.

HCDA's authority to streamline development in Kaka'ako does not include unchecked authority to ignore all basic principles of good planning. We want to ensure a high-quality of life for current and future residents of Kaka'ako. That is why we urge the Legislature to impose the following minimum, common-sense requirements on HCDA project permits:

- A 300 feet minimum distance between buildings that are 100 feet or taller,
- Height limits of 400 feet for Kaka'ako Mauka buildings, and
- Buildings taller than 100 feet must be oriented on a mauka-makai axis.
- Denser buildings must provide more public park space. Little gardens on the top of condominiums and privately owned plazas should not count towards the minimum quota of publicly accessible green space.

### **Balance HCDA Board**

The HCDA Board lacks adequate representation from the communities directly affected by its decisions. HCDA hearings are characterized by indifference to the community speakers, the lack of attempts to mitigate issues that are presented, and an overall lack of empathy and attention to the testimony presented. Something is wrong when project after project holds no discussion, no



rational explanations for variances granted, and continual unanimous votes one minute after the testimony is closed.

HCDA's decisionmaking process would be more improved with a more balanced representation on the Board. HCDA's Board must include representatives from the communities affected by its decision.

### **Empower Citizen Litigation**

To ensure compliance with all requirements imposed on HCDA's evaluation, decisionmaking, and permitting process, The Outdoor Circle supports empower the public to act as a private attorney general. This will enable residents to bring a civil suit against HCDA if HCDA fails to perform any act or duty required under the enabling statute for HCDA, Hawaii Revised Statutes Chapter 206E. At the present time, an individual is completely helpless and has no recourse when the HCDA breaks rules, circumvents laws or does not perform their duty under the law. Adding a citizen suit provision will give the public authority -- at their own expense -- to challenge any wrong actions performed by the HCDA.

### **Zero Base Budgeting**

The Outdoor Circle supports zero-base budgeting for HCDA. This approach to budgeting eliminates HCDA's base operating and investment capital budget, meaning it would receive automatic funding each year. Rather, the agency must justify its annual budget to the Legislature -- and the public. This system imposes direct accountability on the agency for decisions it makes throughout the previous year.

### **One-year Moratorium**

HCDA's approval process should be slowed to enable more transparency and reasoned decision-making. Kaka'ako needs significant improvements in basic municipal services: expanded sewer capacity, watermain infrastructure, and green infrastructure. A one-year moratorium on all HCDA decisions in Kaka'ako may give the time needed to evaluate these needs, implement solutions, balance representation on the HCDA Board, and improve the HCDA hearing and decision-making process.

Thank you for the opportunity offer this testimony in support of a better future for Kaka'ako residents.



## THE OUTDOOR CIRCLE

Regarding the Proposed Re-Development in Kaka'ako  
Public Statement of The Outdoor Circle  
Fall 2013

### **Do Not Pave Over Paradise**

The redevelopment of Kaka'ako sounded like an exciting proposition after the State Legislature created the Hawai'i Community Development Authority in 1976. Although the City protested the takeover, the State argued in favor of a plan to develop an underutilized area of Hawai'i that would provide economic opportunities to the state. Honolulu residents, they said, could look forward to modern urban planning, residential and business opportunities, shops, restaurants and offices, housing for all income levels as well as open space, parks, and recreational areas.

Today, thirty seven years later, proposals for high-rise monoliths that "pave over paradise," disregard significant sites, and block viewplanes have led many residents to reassess the benefits of such large scale development.

While the Circle remains supportive of the concept underlying Community Development Districts, it cautions HCDA board members to keep livability and quality of life factors in mind when redeveloping Kaka'ako and asks the City & County of Honolulu to exercise judicious oversight in areas that would impact the public good.

### **The Outdoor Circle recommends the HCDA do the following:**

1. Conform with City Ordinances: Although the state HCDA has the statutory authority to control the height, density, zoning and other controls irrespective of city ordinances, variances should be granted sparingly, if at all. The City height limit is 400' and several Kaka'ako projects are proposed for 700'. The 40-story Ala Moana Hotel is 400'. A 700' structure would be almost double that height!
2. Use Community Suggestions: The HCDA should not only listen to and record the concerns of civic organizations, citizens and neighbors but be required to demonstrate its use of community suggestions to guide their decisions. This requirement for actual

attention to community concerns would help make HCDA planning more transparent, and thereby strengthen the public's trust in the planning process.

3. Defer to the City for Utility Load Analysis: The City & County's power to issue building permits and determine the adequacy of sewer and water resources should be exercised to assure that heavy commercial development does not undermine the city's infrastructure at taxpayer expense. This is especially critical in development around rail stations. The question of carrying capacity in Kaka'ako must take into consideration the foreseeable rise in sea level and increase in the frequency and severity of storms.

4. Retain Parks, Open Space and View Planes: HCDA must assure these are provided within their development area. Swimming pools and recreational decks solely for a building's residents are not sufficient compensation for the public's loss of open space. Children need parks with basketball courts, baseball and soccer fields and if not provided on site, HCDA should assist the City with resources to provide these amenities. Other improvements include first floor setbacks to provide more open space on the street level. And, finally, with so many high rises on the drawing boards, the HCDA must require and ensure sufficient space between buildings to retain view planes so residents and visitors will know they are still in Hawai'i nei.

**lowen2-Lanaly**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Saturday, February 08, 2014 10:27 AM  
**To:** waltestimony  
**Cc:** management@hawaiishoppingcenter.com  
**Subject:** Submitted testimony for HB1864 on Feb 8, 2014 08:30AM

**HB1864**

Submitted on: 2/8/2014

Testimony for WAL on Feb 8, 2014 08:30AM in Conference Room 325

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Present at Hearing</b> |
|---------------------|---------------------|---------------------------|---------------------------|
| Rachelle Nobriga    | Individual          | Support                   | No                        |

Comments: Very Much in favor/support of the ABOLISHment of the HCDA as soon as possible... and.. all decisions made by HCDA in last five (5) years be reviewed. IN FAVOR/SUPPORT OF: HB-1860 HB-1861 HB-1862 HB-1863 HB-1864 HB-1865 HB-1866 HB-1867 PLEASE DO ALL POSSIBLE TO ABOLISH THE HCDA. Very much in Favor of HB-1864... PLEASE PASS HB-1864... that would solve all problems... start fresh with redevelopment plans.. Thank You, Rachelle Nobriga POBBox 61769 Honolulu, Hawaii 96839 email: management@hawaiishoppingcenter.com

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov



## lowen2-Lanaly

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**From:** GlennShiroma@hawaiiintel.net  
**Sent:** Friday, February 07, 2014 2:52 PM  
**To:** lowen2-Lanaly  
**Subject:** Fwd: Testimony before House Water and Land Committee on 02-08-14 (Hawaii Community Development Authority)  
**Attachments:** 0402 S Memo 12-11 Shiroma re Adequacy of Agenda.PDF

Part II of II

----- Original Message -----

**Subject:** Testimony before House Water and Land Committee on 02-08-14 (Hawaii Community Development Authority)

**Date:** Fri, 07 Feb 2014 14:20:07 -1000

**From:** [GlennShiroma@hawaiiintel.net](mailto:GlennShiroma@hawaiiintel.net)

**To:** House Water & Land Committee Testimony <[WALTestimony@capitol.hawaii.gov](mailto:WALTestimony@capitol.hawaii.gov)>

**CC:** Anthony Ching (Hawaii Community Development Authority, Executive Director) <[Tony@hcdaweb.org](mailto:Tony@hcdaweb.org)>, Lori Tanigawa (HCDA, Deputy AG - 8396) <[lori.n.tanigawa@hawaii.gov](mailto:lori.n.tanigawa@hawaii.gov)>, Randy Grune (DOT Harbors, Deputy Director 12/31/2014) <[Randy.Grune@hawaii.gov](mailto:Randy.Grune@hawaii.gov)>, Luis Salaveria <[luis.p.salaveria@hawaii.gov](mailto:luis.p.salaveria@hawaii.gov)>, Richard Lim (DBEDT Director 12/31/2014) <[richard.lim@dbedt.hawaii.gov](mailto:richard.lim@dbedt.hawaii.gov)>, Bruce Coppa, (Governor's Chief of Staff - 12/31/2014) <[Bruce.Coppa@hawaii.gov](mailto:Bruce.Coppa@hawaii.gov)>

Aloha Rep. Cindy Evans, WAL Chair and Nicole Lowen, WAL Vice Chair and Members of WAL..

**Testimony in STRONG SUPPORT** for the following: **HB1860** RELATING TO THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY; **HB1861** RELATING TO THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY; **HB1863** RELATING TO THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY; **HB1865** RELATING TO HAWAII COMMUNITY DEVELOPMENT AUTHORITY; **HB1866** RELATING TO THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY; **HB1867** RELATING TO THE KAKAAKO COMMUNITY DEVELOPMENT DISTRICT.

**Testimony in VERY STRONG SUPPORT** for **HB1864** RELATING TO THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY (Repeals the Hawaii Community Development Authority).

**Hawaii Community Development Authority has REPEATEDLY VIOLATED Hawaii Revised Statutes, Chapter 92, Public Agency Meetings and Records**, Section §92-7 Notice. (a) The board shall give written public notice of any regular, special, or rescheduled meeting, or any executive meeting when anticipated in advance. The notice shall include an agenda which lists all of the items to be considered at the forthcoming meeting, the date, time, and place of the meeting, and in the case of an executive meeting the purpose shall be stated. The means specified by this section shall be the only means required for giving notice under this part notwithstanding any law to the contrary.

See attached file, HDCA Agendas 08,2013 to 02,2014 where Hawaii Community Development Authority

repeatedly agendas contained the following "Report of the Executive Director."

Any of substantive discussion that is not specific on the HCDA agenda is a violation of Hawaii Sunshine Law. Please review the HCDA minutes by following the link:

<http://dbedt.hawaii.gov/hcda/events/minutes/>

Office of Information Practices in attached file 0402 S Memo 12-11 Shiroma re Adequacy of Agenda issued an Memorandum of Opinion on April 02, 2012 on "'ADMINISTRATIVE OTHER BUSINESS" which did not contain specific agenda item on the DLNR, Commission on Water Resources agenda.

Thank you for this opportunity to testify.

Glenn Shiroma

----- Original Message -----

**Subject:**Hearing Notice HEARING\_WAL\_02-08-14\_ - HI State Legislature

**Date:**Tue, 28 Jan 2014 15:10:05 -1000

**From:**<[mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)>

**To:**<[mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)>

These measures have been added to the hearing notice: HB1860, HB1861, HB1863, HB1864, HB1865, HB1866, HB1867

You may view the hearing notice here:

[http://www.capitol.hawaii.gov/session2014/hearingnotices/HEARING\\_WAL\\_02-08-14\\_.HTM](http://www.capitol.hawaii.gov/session2014/hearingnotices/HEARING_WAL_02-08-14_.HTM)

You are receiving this e-mail because you have subscribed to a hearing notice via e-mail service. To unsubscribe, please sign in to your account with the Legislature and click on the EditAccount link on the upper right corner of the page. You may also call the Senate Clerk's Office (808-586-6720) or the House Sergeant-At-Arm's Office (808-586-6500).

The Adobe (PDF) version of the Hearing Notice may be available, in addition to the usual text version. Please check the website at:

<http://www.capitol.hawaii.gov>

Please use cut and paste if your email reader wraps or breaks the above URLs.



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February 7, 2014

HOUSE OF REPRESENTATIVES  
THE TWENTY-SEVENTH LEGISLATURE  
REGULAR SESSION OF 2014

COMMITTEE ON WATER & LAND  
Rep. Cindy Evans, Chair  
Rep. Nicole E. Lowen, Vice Chair

Testimony re: HB 1860, HB 1861, HB 1862, HB 1863, HB 1864, HB 1865, HB 1866  
& HB 1867-Related to the Hawai'i Community Development  
Authority

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Chair Evans and members of the committee:

I represent the owners and occupants of Royal Captiol Plaza, which has filed a contested case proceeding before the Hawai'i Community Development Authority ("HCDA"), for granting a permit the development of the Tower B, at site of 801 South Street, where the Honolulu Newspaper Association/Advertiser Building is located. My clients strongly support legislation that limits the power of the HCDA to: (1) avoid environmental laws; (2) development ordinances and regulations of the City and County; (3) historic preservation and archeological statutes and regulations; and (4) permit development without strict adherence to objective standards; and (5) that is not subject to due process review or legislative oversight.

The Association of Apartment Owners of The Royal Capitol Plaza ("RCP-AOAO") are owners of a condominium tower located in the Kaka'ako mauka area at 876 Curtis Street, Honolulu, Hawai'i which is immediately Diamond Head of the approved 801 South Street Project, Phase II development. They believe the HCDA statute must be amended or the HCDA dissolved for the following reasons:



### HCDA is Insulated from Voters and State and Local Regulation

HCDA members are appointed, not elected, but exercise more power over Kakaako than State or City and County elected officials. Like the now-defunct Public Land Development Corporation ("PLDC"), the current HCDA operates as law unto itself with no legislative oversight and little if any public recourse through political remedies or other means to affect the process by which massive development is going on in Kakaako. Doing so, HCDA is impacting the resources, environmental quality, density and quality of life of Honolulu residents who can only stand by and watch as one project after another is approved without regard to existing law, regulation or HCDA's own standards.

Kaka'ako cannot be made as dense as San Francisco or New York unless sufficient infrastructure and regulation are in place to handle such density.

Anyone driving down South Street after a storm can smell the sewers that the City and County must maintain subject to an EPA consent decree and which continue to have problems. A recent survey on which HCDA relied could not be completed because one of the sewers was too full.

The 801 South Street project will have 1,700 parking spaces all of which will have to enter and exit on Kapiolani Boulevard or Kawaihao Street, through a sub-standard alley, every day. The area already is congested and density will continue to increase without regard to state or local regulations unless action is taken now.

The 801 South Street project exemplifies a number of concerns set out in detail in the request for contested case hearing attached hereto and summarized as follows:

### HCDA is Insulated and Raises Constitutional Concerns

Isolating decision making from political review will be found to be denial of due process of law where it is the result of improper delegation of legislative authority from the Hawai'i Legislature to an administrative body not subject to political oversight. See, Haw. Const., Article I, Section 5 and Article III, Section 1; *State v. Willburn*, 49 Haw. 651, 426 P.2d 626 (1967); *In re Kauai Elec. Div.*, 60 Haw. 166, 181 (Haw. 1978); see, *Whitman v. Am. Trucking Ass'ns*, 531 U.S. 457, 472 (U.S. 2001).

HCDA routinely leaves to developers the details of various projects. If HCDA delegates authority and responsibility to protect and preserve the public health and safety and character of the Kaka'ako area to a private entity or entities, such a delegation is invalid. *Ka Pa'akai O Ka'Aina v. Land Use Comm'n*, 94 Haw. 31, 51, 7



P.3d 1068, 1088 (Haw. 2000).

HCDA's administrative rules in HAR Title 15, Chapters 217 and 218, & § 15-218-55, including the "workforce housing rules" that contradict and/or conflict with the statute they purport to implement HCDA administrative rules, including without limitation, " *Foytik v. Chandler*, 88 Haw. 307, 319, 966 P.2d 619, 631 (Haw. 1998) (quoting *Hyatt Corp. v. Honolulu Liquor Comm'n*, 69 Haw. 238, 241, 738 P.2d 1205, 1206-07 (1987) (quoting *Agsalud v. Blalack*, 67 Haw. 588, 591, 699 P.2d 17, 19 (1985)).

HCDA's rules, including the "workforce housing rules" are invalid if they HCDA's authority under HRS §§206E-4, -5.5, -7, -31, -31.5 & -33 and improperly insulates HCDA's decision making from judicial review.

HCDA issues permits without revising its of the Mauka Area Plan and/or environmental impact statements which cannot be treated as static.

HCDA issues permits contrary to HRS § 6E, which requires archeological and historic surveys, including the permit for 801 South Street. Then acting Director of Historic Preservation told HCDA the 801 South permit specifically required surveys and other measures. See, Letter of Hon. William Aila, Jr. (October 9, 2013). HRS §6E-2 defines an historic property as "any building, structure, object, district, area or site, including heiau and underwater site, which is over fifty years old." As State Historic Preservation Officer William Aila, Jr., noted in his, letter, the implementing regulations of HAR § 13-284 set forth an historic preservation review process which consists of specific steps. Mr. Aila's letter further explained specific steps and their impact on 801 South Street. HCDA issued the permit without complying with Mr. Aila's demand.

#### Specific Criticisms of the 801 South Street Permit for Tower B

The following issues are raised by the 801 South Street Project Tower B:

The permit was the product of a hearing process in which HCDA predetermined the permit would be granted for Tower B, at the time it granted the permit for Tower A, which was not consistent with its own regulations and did not provide proper public notice, participation and hearing in violation of the Hawai'i Open Meetings Law, Haw. Rev. Stat., Chapter 92. HAR §15-217-85(f): Multiple permit approvals. "When a proposed project requires more than one permit approval, the applicant shall apply for all such permit approvals concurrently." The regulation requires concurrent filing of all projects in a multi-project development. Here, the filings were consecutive. If they had been disclosed as part of the same project as HCDA must have known they were, the public



would have been able to appreciate the true density of the project and responded accordingly.

In the opinion of the AOA the HAR §15-218-55(a)-(b) the Workforce Housing regulations are malleable and allow the HCDA to engage in speculation and, undermine their standards.

HAR § 15-217-2(c), Historic Preservation is part of HCDA's own regulations does not comply with HRS § 6E's requirements for specific detailed archeological and historic surveys. HCDA should not be allowed to ignore state law.

HAR § 15-217-2(c)(1)(A) addressees pedestrian orientation, but the 801 South Street towers add 1,700 parking spaces in an already congested area where ingress and egress will occur through one alley running between already over-crowded Kapiolani Boulevard and tiny Kawaihoa Street. With this many parking spaces being added, it is silly to argue that this is a pedestrian development for urban workers who will walk to work.

HAR § 15-217-56(d): Recreational and Open Spaces permits HCDA to require open space, which is very important in dense urban development. In the case of 801 South Street Tower B, HCDA counted the elevator lobby as "open space" and a hedge row by the alley as "recreational space."

More than anything else, HCDA and its "flexible" rules, subject to "interpretation" demonstrate that there are limits beyond which flexibility becomes arbitrary. Voters have no say in limiting the HCDA's authority to interpret its rules in a manner that makes them nothing more than words on paper. The Legislature must limit HCDA's authority before Kaka'ko becomes an unmanageable urban mess without infrastructure to support it, despoiling the aina and wreaking havoc for generations.

Governor, then-Congressman, Abercrombie, who opposed the HCDA for decades, expressed criticism of the HCDA's power and lack of political oversight most succinctly in 2005, stating, "This plan does not take into account our ordinary hard-working people of Hawaii," he said. "The best solution is for the Legislature to repeal the act that brought the HCDA into existence and put the authority back with the city."

"I think there is plenty of time to stand back and take a deep breath and decide whether we want the HCDA to continue to exist," he said.

(<http://archives.starbulletin.com/2005/11/15/news/story02.html>, accessed 2/7/14)





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January 2, 2014

**HAND DELIVERED**

Anthony J. H. Ching  
Executive Director  
Hawai'i Community Development Authority  
461 Cooke Street  
Honolulu, Hawai'i 96813

**SUBJECT:** First Revised Petition for relief from approval of Development Permit for Downtown Capital LLC 801 South Street Project, Phase II (Tax Map Key: 2-1-47:004) Issued by the Hawai'i Community Development Authority on December 4, 2013: Planned Development Permit No.: KAK 13-057

**FROM:** Petitioners  
Association of Apartment Owners of The Royal Capitol Plaza  
876 Curtis Street  
Honolulu, HI 96813

Dear Director Ching and Members of the Authority:

Petitioners bring this petition against the Hawai'i Community Development Authority ("HCDA") requesting contested case relief from its December 4, 2013, decision to approve the Development Permit for Downtown Capital LLC 801 South Street Project (Tax Map Key: 2-1-47:004) Development Permit Number KAK 13-057 ("Permit") pursuant to HRS §§91-1, -8 to -9, HRS §§206E1-E35 and HAR Title 15, Chapters 217, 218 & §§15-219-34 & -45 to -56, the United States and Hawai'i Constitutions and all applicable statutes, rules, regulations and legal and equitable principles, including, without limitation, those cited in Exhibit 1, attached.

**LEGAL AUTHORITY**

Petitioners believe that the permit was issued without legal authority and, in their opinion, that:

1. The permit is invalid because it results from a denial of due process of law and is the result of improper delegation of legislative authority from the Hawai'i Legislature to the HCDA. *See*, Haw. Const., Article I, Section 5 and Article III,



Section 1; *State v. Willburn*, 49 Haw. 651, 426 P.2d 626 (1967); *In re Kauai Elec. Div.*, 60 Haw. 166, 181 (Haw. 1978); *see, Whitman v. Am. Trucking Ass'ns*, 531 U.S. 457, 472 (U.S. 2001).

2. The permit is invalid because it results from an improper delegation of the HCDA's authority and responsibility to protect and preserve the public health and safety and character of the Kaka'ako area to a private entity or entities. *Ka Pa'akai O Ka'Aina v. Land Use Comm'n*, 94 Haw. 31, 51, 7 P.3d 1068, 1088 (Haw. 2000).
3. The permit is invalid because it results from HCDA rules that violate constitutional and/or statutory provisions, and/or exceed the statutory authority of the agency, including without limitation, Haw. Const. Article IX, Sections 6 and 8 and Article XI Section 9; HRS §§206E-5.5, -5.6 and §206E-33. *Foytik v. Chandler*, 88 Haw. 307, 319, 966 P.2d 619, 631 (Haw. 1998); *Puana v. Sunn*, 69 Haw. 187, 189, 737 P.2d 867, 870 (1987).
4. The permit is invalid because it results from HCDA administrative rules, including without limitation, HAR Title 15, Chapters 217 and 218, & § 15-218-55, that contradict and/or conflict with the statute they purport to implement. *Foytik v. Chandler*, 88 Haw. 307, 319, 966 P.2d 619, 631 (Haw. 1998) (*quoting Hyatt Corp. v. Honolulu Liquor Comm'n*, 69 Haw. 238, 241, 738 P.2d 1205, 1206-07 (1987) (*quoting Aagsalud v. Blalack*, 67 Haw. 588, 591, 699 P.2d 17, 19 (1985))).
5. The permit is invalid because it results from HCDA rules, including without limitation, HAR Title 15, Chapters 217 and 218, & § 15-218-55, which exceeds HCDA's authority under HRS §§206E-4, -5.5, -7, -31, -31.5 & -33 and improperly insulates HCDA's decision making from judicial review.
6. The permit is invalid because, without limitation HCDA's approval violated HAR §§15- 217-2 , -4 to -6, -8, -21 to -22, -24 to -27, -39, -53 to -59, -62 to -63, -90, and § 15-218-55 ; and provisions of the Mauka Area Plan Final Environmental Impact Statement ("FEIS") and/or Final Supplemental Environmental Impact Statement ("FSEIS"). The actions of HCDA in approving the permit were clearly erroneous, arbitrary and capricious, and result from improper delegation, abuse of discretion and a clearly unwarranted exercise of discretion. Furthermore, the permit is invalid because the proposal does not meet the criteria of HAR § 15-218-55. By granting the permit HCDA acted *ultra vires*.



By issuing the permit, HCDA: (a) failed to fulfill its public trust obligations in considering the development proposal and permit request; (b) failed to comply with the objectives, policies, and guidelines of its organic statute, implementing regulations, Mauka Development Regulations and Plan and, without limitation, issued a permit after the time allowed by rule; (c) failed to submit or require a supplemental FEIS and/or FSEIS for the proposed development; (d) created a public nuisance with 788 parking stalls approved in Phase II for a total of more than 1,700 vehicles added to the area when Phase I and Phase II are considered in total, without any significant traffic management plan; (e) ignored needed infrastructure improvements that are required by the City and County of Honolulu in order for the City and County to accept and maintain any such improvements; and (f) failed to preserve or otherwise avoid degradation of public, historical and environmental conditions at and adjacent to the site.

7. The permit was the product of a hearing process in which HCDA predetermined the permit would be granted, without proper public notice, participation and hearing in violation of the Hawai'i Open Meetings Law, Haw. Rev. Stat., Chapter 92.
8. A request for contested case hearing under HAR §15-219-46, on the HCDA's grant of Planned Development Permit No. KAK 13-057, is timely, and Petitioners have standing to bring the contested case. *Blake v. County of Kaua'i Planning Comm'n.*, SCWC-11-0000342 (Haw. Sup. Ct. Dec. 19, 2013); *Kilakila 'O Haleakala v. Board of Land & Nat. Res.*, SCWC-11-0000353 (Haw. Sup. Ct. Dec. 13, 2013); *Kaleikini v. Thielen*, 124 Hawai'i 1, 26, 237 P.3d 1067, 1092 (2010); *Pub. Access Shoreline Haw. v. Haw. Cnty. Planning Comm'n*, 79 Hawai'i 425, 431, 903 P.2d 1246, 1252 (1995).

### **PETITIONERS' INTEREST**

Petitioners Association of Apartment Owners of The Royal Capitol Plaza ("RCP-AOAO") are owners of a condominium tower located in the Kaka'ako mauka area at 876 Curtis Street, Honolulu, Hawai'i which is immediately Diamond Head of the approved 801 South Street Project, Phase II development. This Petition is brought on by and on behalf of the RCP-AOAO and others similarly affected by Planned Development Permit No. KAK 13-057. The injuries that the members of RCP-AOAO, other Kaka'ako residents and businesses located or utilizing the area adjacent to the land governed by Planned Development Permit No. KAK 13-057 by this development are detailed in this petition. The injuries of the RCP-AOAO from the project are





irreparable, involving their constitutional and civil rights and interests in real property, for which there is no adequate remedy at law.

#### **STANDARDS OF REVIEW**

1. On December 4, 2013, the HCDA approved the Planned Development Permit No.: KAK 13-057 for Downtown Capital LLC 801 South Street Project ("801 South Street"). Petitioners oppose HCDA's grant of this permit.
2. The development rules HAR, Title 15, Chapter 217 & 218 adopted September 14, 2011, are applicable to the development being contested in this case.
3. The 2011 Mauka Area Plan and the Mauka Area Rules ("MAR") are applicable and will be cited.
4. The contested case rules, HAR Title 15, Chapter 219, adopted February 1, 2012, are applicable and will be cited.

#### **PETITIONERS' OPPOSITION--LEGAL AND FACTUAL BASES**

1. Applying the following principles, which cannot be adjudicated and are outside the scope of HCDA's jurisdiction, it is Petitioners' opinion the permit cannot be and was not lawful:
  - a. The permit is invalid because it is the result of improper delegation of legislative authority from the Hawai'i Legislature to the HCDA. *See*, Haw. Const., Article III, section 1; *Alaka'i Na Keiki, Inc. v. Matayoshi*, 127 Haw. 263, 275, 277 P.3d 988, 1000 (Haw. 2012); *State v. Willburn*, 49 Haw. 651, 426 P.2d 626 (1967); *In re Kauai Elec. Div.*, 60 Haw. 166, 181 (Haw. 1978); *see, Whitman v. Am. Trucking Ass'ns*, 531 U.S. 457, 472 (U.S. 2001).
  - b. The permit is invalid because it results from an improper delegation of the HCDA's authority and responsibility to protect and preserve the public health, safety and character of the Kaka'ako area to a private entity or entities. *Ka Pa'akai O Ka'Aina v. Land Use Comm'n*, 94 Haw. 31, 51, 7 P.3d 1068, 1088 (Haw. 2000).
  - c. The permit is invalid because it results from HCDA rules that violate constitutional and/or statutory provisions, and/or exceed the statutory



- authority of the agency, including without limitation, Haw. Const. Article IX, Sections 6 and 8 and Article XI Section 9; HRS §§206E-5.5, -5.6 and §206E-33. *Foytik v. Chandler*, 88 Haw. 307, 319, 966 P.2d 619, 631 (Haw. 1998); *Puana v. Sunn*, 69 Haw. 187, 189, 737 P.2d 867, 870 (1987).
- d. The permit is invalid because it results from HCDA administrative rules, including without limitation, HAR Title 15, Chapters 217 and 218, & § 15-218-55, that contradict and/or conflict with the statute they purport to implement. *Foytik v. Chandler*, 88 Haw. 307, 319, 966 P.2d 619, 631 (Haw. 1998) (quoting *Hyatt Corp. v. Honolulu Liquor Comm'n*, 69 Haw. 238, 241, 738 P.2d 1205, 1206-07 (1987) (quoting *Agsalud v. Blalack*, 67 Haw. 588, 591, 699 P.2d 17, 19 (1985))).
  - e. The permit is invalid because it results from HCDA rules, including without limitation, HAR § 15-218-55, which improperly insulate HCDA's decision-making from judicial review.
  - f. The permit is invalid because the proposal does not meet the criteria of HAR § 15-218-55. By granting the permit HCDA acted *ultra vires*.
  - g. The permit was the product of a hearing process in which HCDA predetermined the permit would be granted, without proper public notice, participation and hearing in violation of the Hawai'i Open Meetings Law, Haw. Rev. Stat., Chapter 92.

The foregoing principles of law are beyond the scope of the HCDA's jurisdiction in any contested case. They are raised to document the bases for Petitioners' objections and to avoid any argument that they are waived by omission.

**SUMMARY:** It is Petitioners' opinion that the actions of HCDA in approving the Phase II permit were clearly erroneous, arbitrary and capricious, and characterized by both an abuse of discretion and a clearly unwarranted exercise of discretion. In issuing the permit, HCDA failed: (a) to fulfill its public trust obligations in considering the development proposal and permit request; (b) failed to comply with the objectives, policies, purpose and guidelines of its organic statute, Mauka Development Regulations and Plan and, without limitation, issued a permit after the time allowed by rule; (c) failed to submit or require a supplemental FEIS and/or FSEIS for the proposed development; (d) created a public nuisance by adding more than 1,700 vehicles to the area without any significant traffic management plan; (e) ignored



needed infrastructure improvements that are required by the City and County of Honolulu in order for the City and County to accept and maintain any such improvements; and (f) failed to preserve or otherwise avoid degradation of public, historical and environmental conditions at and adjacent to the site. Petitioners' specific points follow.

2. It is Petitioners' opinion that, without limitation, the permit violates the following principles:

- a. HAR §15-217-85(f): Multiple permit approvals. "When a proposed project requires more than one permit approval, the applicant shall apply for all such permit approvals concurrently."

Petitioners' Position: The regulation requires concurrent filing of all projects in a multi-project development. Notwithstanding HCDA's own rules, HCDA permitted the developer to file separate applications for building permits on Phases I and II eleven months apart. The 801 South Street project received sewer connection approvals for Phases I and II from the City and County of Honolulu on May 17, 2012. HCDA knew that two residential towers and two garages were planned for Phases I and II, collectively, but this fact was not disclosed until after Phase I was approved. HCDA thereby misled the public at the time Phase I was approved, by not disclosing the full scope of the project as a whole, which blunted public opposition by keeping the public uninformed. HCDA was required by its own regulations to review Phase I and II of this unified project concurrently. By issuing Development Permit Number KAK 13-057 HCDA denied Petitioners and the public an opportunity to effectively present their concerns to HCDA regarding Phases I and II of the project as a unified whole. As early as May 17, 2012, the City issued sewer connection approvals for Phases I and II of the project (confirmed by City and County). However, artificially breaking a single project into parts for piecemeal consideration seriously impacted "meaningful" community engagement required by HRS §206E-5.5. Doing so allowed HCDA to limit review by Petitioners and the community, as well as input received and considered by the HCDA. The Petitioners and public were unaware of the 801 South Street Phase II, at a time when HCDA clearly was aware it was planned for the project. Petitioners and the public were not fully and fairly informed of the magnitude and, specifically, Phase II of the project, until late August 2013, after Phase I had already been permitted.



- b. HAR §15-218-55(a)-(b) Workforce Housing: "New residential project(s) where at least seventy-five per cent of the residential units are set aside for purchase by families earning between one hundred to one hundred forty per cent of the AMI, which does not require financial assistance for construction from Federal, State, or County governmental bodies, and which meets the following unit size requirements shall qualify as a workforce housing project" and are exempt from the requirements of HAR §§ 15-218-35, 15-218-36, and 15-218-41.

Petitioners' Position: HAR § 15-218-55 exceeds HCDA's authority under HRS §§206E-4, -5.5, -7, -31, -31.5 & -33 and improperly insulates HCDA's decision-making from judicial review. The permit is invalid because the proposal does not meet the criteria of HAR § 15-218-55, and, therefore, even if the "workforce" exception is lawful, by granting the permit HCDA acted *ultra vires*, arbitrarily and contrary to the law and facts.

As described in submittals made to HCDA during its consideration of Phase II, and incorporated herein by reference,<sup>1</sup> 801 South Street Tower B is supposed to offer affordably priced units that comply with the Hawai'i workforce housing rules. To satisfy these rules, at least 75% of the residential units must be set aside for purchase by families earning between 100% to 140% of the Area Median Income (AMI). The developer requested exemption from HCDA rules and critical concessions from the HCDA because of the assertion that Tower B satisfies the workforce housing requirements. The proposed development does not and is based on unfounded assumptions, errors and omissions in their analysis, which concludes that 2 bedroom units costing as much as \$715,213 for a family of four satisfies the affordability requirements of HAR § 15-218-55.

If the permit request is evaluated in a manner that excludes the unfounded assumptions, errors and omissions in the applicant's analysis, it is apparent that the affordability requirements of HAR § 15-218-55 are not met.

Analyzed without the unfounded assumptions, errors and omissions, it is apparent that none of the 273 2-bedroom units in the proposed building are priced in accordance with HCDA's own workforce housing affordability and maximum size requirements. Also, none of the 45 3-bedroom units meet workforce housing maximum size requirements (as already acknowledged by

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<sup>1</sup> All prior submissions in opposition to Phase II of the 801 South Street permit application also are so incorporated.





the developer). A total of 318 units should therefore be disqualified from HCDA's analysis of whether the proposal meets the workforce housing requirements. Once these units are excluded, the HCDA must reject the proposed development for not meeting the letter and purpose of HAR §15-218-55. The current proposal for 801 South Street Tower B would provide hundreds of market priced units; it does not provide units that are claimed to provide workforce housing as defined by HAR §15-218-55.

- c. HAR § 15-217-55(l)(3) - View Preservation: "The tower floor plate shall not exceed a horizontal plan projection dimension of 150 feet on one direction and a maximum length of 210 feet between two farthest points of the tower floor plate. The plan projection dimension measured perpendicular to the horizontal projection may exceed 150 feet provided that the maximum dimension between two farthest points on the tower footprint do not exceed 210 feet in length." HRS §206E-33, governing developments in the Kaka'ako Community Development District, also includes the following requirements:

- (4) Major view planes, view corridors, and other environmental elements such as natural light and prevailing winds, shall be preserved through necessary regulation and design review.

HAR § 15-217-55(l)(4) - "A proposed tower shall be located a minimum of 300 feet from an existing tower, when any portion of the proposed tower falls within the existing tower's mauka-makai zone . . ."

Mauka Area Rules Figure BT.10.G incorporates the view preservation and building massing limits contained in HAR § 15-217-55(l).

- The "Midrise Elements" described in Section 5.2 of the Mauka Area Plan reiterate this intent, stating:

The intent is to encourage projects that maintain Mauka-Makai view planes and to provide additional development scale choices.

Range of Height: 100 feet - 250 feet.

Footprint: The setback along View Corridor streets is 50 feet from the build-to line. The setback along all other Streets is 20 from the build-to line.



Petitioners' Position: The garage has a floor plate of 118' x 211'. Therefore the distance between its two farthest points exceeds 210' - as described by the rule cited above. The garage structure has the same effect as if it were a tower; it will still obstruct view planes that were meant to be preserved under the Mauka Area Rules and as stated in the Mauka Area Plan. Additionally, occupants residing below the tenth floor will have a direct view of the parking structure and not much else.

The purpose and intent for view preservation will be violated by allowing a 107 foot 10 story garage structure within Tower A's 300 foot Mauka-Makai zone. The garage tower's massing is a physical presence that creates a visual wall when combined with its proximity to Tower A and as such interferes with preserving the view planes, which is stipulated in the Mauka Area Plan at page 28:

*"The Mauka Area Plan proposes to preserve the views and visual assets and integrate new development into the existing urban skylines in a consistent and harmonious way to enhance the community."*

- d. HAR § 15-217-2(c), Historic Preservation: "The rules are adopted to protect and promote the public health, safety and general welfare of the community and to protect and preserve places and areas of historical cultural, architectural, or environmental importance and significance, as set forth in the mauka area plan and chapter 206E, HRS."

HAR § 15-217-2(c)(3)(H) - "That the preservation and renewal of historic buildings be facilitated to affirm the continuity and evolution of society."

HRS §6E-2 defines an historic property as "any building, structure, object, district, area or site, including heiau and underwater site, which is over fifty years old." As State Historic Preservation Officer William Aila, Jr., noted in his October 9, 2013, letter to HCDA, the implementing regulations of HAR § 13-284 set forth an historic preservation review process which consists of specific steps. Mr. Aila's letter further explained those steps and their impact in the instant case:

(1) Identification and Inventory: The former Honolulu Advertiser building has been assessed by Mason Architects (June 2005). A list of character defining features which still existed at the time of the report is provided. An additional list of missing elements that could be restored or recreated is also included. Finally, non-contributing features that might



be altered or removed are also listed. In addition, potential exists for archaeological historic properties to be located within the project area, in the area of Tower 2, and **SHPD would like an archaeological inventory survey completed for the parcel.**

(2) Evaluation and Significance: Based on the above referenced report the Honolulu Advertiser Building has been determined to be eligible for the National Register under Criterion A. for its association with the Honolulu Advertiser, Hawaii's first English language non-governmental newspaper. It is also eligible under Criterion B for its association with Lorrin Thurston, who was instrumental in the overthrow of the Hawaiian Kingdom and the subsequent American rule over Hawaii, and finally, and not least, it is eligible under Criterion C, for its distinctive Beaux Arts style and because it represents the "work of a master": the Honolulu architecture firm of Emory and Webb. **Significance evaluations for potential archaeological historic properties will be completed as part of the archaeological inventory survey process.**

(3) Effect determination: HCDA has not provided, nor has SHPD been formally asked for an effect determination. However, **there seems to be agreement that the project will have an adverse effect on the Advertiser building.** An effect determination has not yet been made regarding archaeological historic properties.

(4) Mitigation commitments-these remain to be negotiated. We note that you propose to retain the "Office Building," which we agree is a good idea. However, so far, the plans submitted do not provide any detail on what retaining the "Office Building" means in terms of any proposed demolition to accommodate the proposed garage, or any rehabilitation or maintenance of the Advertiser building. **Agreement on these mitigation commitments is required before the project can proceed.**

(5) Detailed mitigation plans--these are developed after mitigation commitments are agreed to.

(6) Verification of the detailed mitigation plans. Not complete.

We note on page 2 of your letter that you request "that HCDA approve the plan for the News Building described in the Permit Application and coordinate with SHPD to confirm that although the Project will have an effect, the mitigation provided in this letter and the Permit Application



is adequate and nothing further is required by SHPD." As stated above, **additional information is required by SHPD regarding details of the proposed mitigation. HCDA needs to take SHPD's comments and request for information into account before it can approve the Project.**

We further note that on the last page of your letter, you state that you have had a meeting with Ms. Westfall, of SHPD, and Ms. Faulkner, of the Historic Hawaii Foundation, and as such, "Downtown Capital has consulted with SHPD on the Project." As outlined above, while you may have met on this project, **you have not met the requirements of HAR 13-284 for historic preservation review of your project.** While the process does not require a meeting, it is usually helpful for project proponents to discuss their project with SHPD at each step of the process.

Petitioners' Position. The development proposes to demolish a significant portion of what remains of the *Advertiser* Building, which has been deemed eligible for both the State and National Historic Registers. Furthermore, the imposition of a 10-story parking garage abutting the building degrades a beautiful example of the Beaux Arts Revival architectural style. The Historic Hawai'i Foundation opposes the proposed development. Most importantly, HCDA has not addressed the concerns raised by the SHPD and as stated in Mr. Aila's letter. Therefore, the permit was improperly issued because the historic preservation statute, regulations and purposes have not been fulfilled.

- e. HAR § 15-217-2(c)(1)(A) Pedestrian Orientation - Purpose: "For the community: That neighborhoods and transit-oriented development is compact, pedestrian-oriented and mixed use;"

HAR § 15-217-8 - Definition of terms: "'Smart growth' means an urban planning theory that concentrates growth in the center of a city to avoid urban sprawl and advocates compact, transit-oriented, walkable, bicycle-friendly land use, including complete streets, and mixed-use development with a range of housing choices."

Petitioners' Position: The development is not pedestrian-oriented and creates pedestrian-hostile environments. Furthermore, the development packet does not seem to address the requirement of pedestrian zone treatment along Kapiolani Boulevard, as defined in the Mauka Area Rules (Fig. PZ-2) and Mauka Area Plan, Section 7.3.5 (p.40). With the addition of 788 parking stalls





approved in Phase II, the project will include a total of more than 1,700 vehicles added to the area when Phase I and Phase II are considered in total. Furthermore, only one sub-standard means of ingress and egress is being provided to divert these vehicles from or onto Kawaiahao Street and Kapiolani Boulevard.

- f. HAR § 15-217-2(c)(1)(E) Range of Housing: "For the community: That within neighborhoods, a range of housing types and price levels be provided to accommodate diverse ages and incomes;"

HAR § 15-217-8 - Definition of terms: "'Smart growth' means an urban planning theory that concentrates growth in the center of a city to avoid urban sprawl and advocates compact, transit-oriented, walkable, bicycle-friendly land use, including complete streets, and mixed-use development with a range of housing choices."

Petitioners' Position: Only one range of housing type is being proposed for both Phase I and Phase II of 801 South Street - Workforce Housing. Although there is a recognized need for this housing type, it should also be noted that the block bounded by Kapiolani Boulevard, Curtis Street, Kawaiahao Street and South Street will contain all of the same type of housing.

- g. HAR § 15-217-53(a) & -63 - Building Form/Height of Parking Structure: "Facades shall be built parallel to a build to line with a minimum frontage occupancy as per Figure 1.3 - C (building placements and encroachments)..."

- Figure 1.3 C: 75% minimum frontage occupancy at build to line for Kapiolani neighborhood zone.
- HAR § 15-217-54(f) - "All new principal buildings shall be designed with a street front element conforming to Figure 1.3 D...."
- Figure 1.3 D: Building Form: In the Kapiolani Neighborhood Zone requires street front element height of 30' - 65'.

HAR § 15-217-63 - Commercial, clinics, administrative and all other uses: 1 per 450 square feet of floor area.

Petitioners' Position: The Mauka Area Plan and Rules call for 75% frontage occupancy as a means of engaging the pedestrian with street front buildings, as opposed to isolating the pedestrian before reaching the primary entrance of



any building. The parking tower is one example of how the proposed development of Tower B does not engage pedestrians.

Under the Mauka Area rules, new buildings are required to have a 30' - 65' height limit to engage pedestrians. The garage structure has a street front element of 107' on South Street and Tower B presents a street front element of 410' on Kapiolani Boulevard. Thus, neither building complies with HCDA rules regarding street front elements. This requirement is necessary in order to provide a relatable, human-scaled environment at the street front.

On page 3 of the 801 South Street Conformance Matrix to Mauka Area Plan and Rules, the developer notes that the project conforms to the rules and states that "100% of tower will be flush with South Street facade" and "On Kapiolani Blvd., the street front would be podium, in lieu of podium the tower is consistent with and establishes street front elements." Petitioners dispute this statement, as, in Petitioners' opinion, the tower is not flush with the South Street facade as it is setback from South Street by approximately 220 feet.

The garage structure also is not flush with the South Street facade since it is set back from South Street by 58 feet, as required by the Mauka Area Rules (HAR § 15-217-55(l)(5)).

The tower frontage along Kapiolani Boulevard is not consistent with the street front elements required by the rules as it is 400 feet tall, considerably higher than the permitted 30 to 65 feet.

Petitioners believe the developer miscalculated the number of total stalls required - only 591 are required under current HCDA rules. There is an excess of 197 stalls in the current garage. Furthermore, Petitioners believe the Tower A development provides 280 extra stalls which could be used either for the commercial space or for the developer's anticipated demand for extra parking stalls by two-car residents.

h. HAR § 15-217-53, -54 & -55 - Frontage Types/Pedestrian Environment: HAR § 15-217-53(b) - "Wherever a build to line is equal to or greater than fifteen feet, a terrace front frontage type...shall be used."

- HAR § 15-217-54(f) - "All new principal buildings shall be designed with a street front element conforming to Figure 1.3 - D...."



- Figure 1.3 - D - Kapiolani Neighborhood Zone Building Form: Maximum Height - 400', Street Front Element Height - 30' - 65', Maximum Density (FAR) - 3.5
- HAR § 15-217-55(e)(3) - "Fences, walls, and hedges: Fences shall be constructed out of ornamental iron, steel, wood pickets and/or a synthetic wood product..."
- Figure 1.3-C - 75% minimum frontage occupancy at build-to line for Kapiolani neighborhood zone
- Figure BT-10, C.3 - "For above-ground garages, parking shall be concealed from view at street frontages through a liner of habitable space on at least three sides of the building; service streets and alleys excluded. Where exposed to the street, above-ground garages shall be screened from view at the street frontage by landscaping, green screens or cladding; service streets and alleys excluded."
- Figure FT.8, B.4 - Terrace Front, Frontage Elements: "Fences or walls defining and/or retaining the terrace shall not exceed three feet in height from the adjacent sidewalk."

Petitioners' Position: The build-to line along South Street is fifteen feet, which requires a terrace front type frontage. The developer has instead planned to provide a vehicular drop-off area on the South Street frontage. HCDA requested this be modified to a "pedestrian plaza" but did not explain what this was--it is not a defined term in HAR § 15-217-8--or describe how it would be determined that the requested modification had been met by the developer. On both South Street and Kapiolani Boulevard, Tower B and its corresponding garage structure do not provide street front elements within the required height range of 30 to 65 feet. This requirement is necessary in order to provide a relatable, human-scaled environment at the street front. By ignoring this requirement, the development is not consistent with the Mauka Area Rules and creates a less pedestrian-friendly environment, which does not comply with the Mauka Area Plan, including, the following:

- Mauka Area Plan 5.0 - Urban Design: "While not every street needs to have wide sidewalks designed to attract large numbers of pedestrians, all should provide safe, pleasant, human-scaled walking conditions...;"
- and, "Appropriate design of the pedestrian realm includes not just the sidewalks and crosswalks, but also the design of buildings along the



street. Low-rise building elements are sited next to the sidewalk to enclose the street space, with pedestrian entries, windows and other opening at grade level...”

- Figure BT.10, C.3: Although the parking structure will be screened with a facade of aluminum louvers, the structure is not concealed by habitable space on any side, except for the side facing the alley. Habitable spaces surrounding a parking structure can add human-scaled elements and “soften” the visual impact of a parking structure - particularly one of the size proposed by the developer. By choosing not to provide a liner of habitable spaces, the developer is creating a hard, massive visual element that lacks any human-scaled elements. The visual impact of the garage can be illustrated by the facade of the storage facility on the Ewa side of South Street. There is no shade from the elements and no pedestrian facilities.

By neglecting to provide pedestrian elements, the developer is not complying with the improvement to the pedestrian realm as envisioned in the Mauka Area Plan at 40:

- “Improving the pedestrian realm entails the following elements:
- Developing a fine-grained network of walkable (Pedestrian Tolerant or Supportive) streets and pathways.
- Buffering pedestrians from traffic by placing a furnishing area next to the curb and by providing on-street parking.
- Creating consistent street walls of low-rise building elements to frame the public street space at a human scale and to provide visual interest.”

The developer requested a modification for the fence height requirement from 3 feet to 6 feet in order to provide privacy to ground floor occupants. HCDA denied this one request for modification.

- i. HAR § 15-217-58(d)(7): Driveway Rules: Requires that “[f]or large lots<sup>2</sup> that abut other parcels not subject to a permit application, an alley of at least twenty-six feet in width must be provided at the edge of the lot that is adjacent to the other parcels to ensure access by vehicles and access to light and air of the

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<sup>2</sup> The total square footage for the project (Phases I & II) exceeds 140,000 square feet and, therefore, should meet the requirements of the Large Lots as defined in HAR §15-217-58(b).





other parcels. An alternative proposal may be considered as long as it meets the intent of providing light, room, and air to neighboring parcels."

Mauka Area Rules provide:

- Fig. 1.3 - up to 15' front build to line in Kapiolani neighborhood zone.
- Fig. NZ-2: 5' - 10' build to line required along Kapiolani Blvd.
- Fig. PZ.2 - Pedestrian Zone Treatment, Kapiolani Zone

Petitioners' Position: The alley provided to provide ingress and egress for the more than 1,700 total vehicles is less than twenty-six feet wide and does not provide equivalent "light, room, and air to neighboring parcels." The permit application proposed to increase setback along Kapiolani Blvd. to 22 feet to "enhance the pedestrian experience and provide more visibility by pedestrians of the vehicle entrance along Kapiolani Boulevard." The development packet did not identify any pedestrian elements or fixtures intended specifically to comply with the required Pedestrian Zone Treatment along Kapiolani Boulevard.

- j. HAR § 15-217-59(c)(1) to (7): Building Green Standards: Provides for "standards intended to result in a responsible development pattern that conserves natural resources and provides a healthy environment for inhabitants of the mauka area."

Petitioners' Position: The permit included a request for exemption from the Leadership in Energy and Environmental Design (LEED) Green Building Rating Systems. LEED is a third-party certification program and the nationally accepted benchmark for the design, construction and operation of high performance green buildings. The intent of the rule dovetails with the state's "Clean Energy Initiative," with the stated goal of relieving dependence on foreign oil. By foregoing this requirement, the project is contrary to Hawaii's stated goal of energy independence.

- k. HAR § 15-217-63(c)(3): Parking Access/Kapiolani Driveway: Requires that "Curb cuts shall be setback a minimum of twenty-two feet from adjacent properties. Lots with less than 100 linear feet of frontage are exempt from this provision."

Petitioners' Position: The modification granted by HCDA permits the developer to place the curb cut to the alley six feet and three inches away from the adjacent property. This presents an imminent pedestrian hazard. The property



abutting the development site is occupied by the pre-owned Lexus dealership. The building for the dealership abuts the existing sidewalk, creating a “blind” corner for a vehicular access lane (or alley) only six feet away. Kaka’ako residents have noted that even at the existing driveway to the *Advertiser* parking lot, there have been dangerous pedestrian-vehicle encounters because of obstructed views. The developer’s plan to add more than 1,700 vehicles access through the sub-standard alley substantially increases this hazard. The development again runs counter to the Mauka Area Plan, 5.0 Urban Design.

- L. HAR § 15-217-56(d): Recreational and Open Spaces: Requires “Residential projects requiring a development permit shall provide 55 square feet of recreation space per dwelling unit. The required on-site recreation space, if provided outdoors, may be used to satisfy the open space requirements.”

Mauka Area Plan Fig. BT-10.D.1- "At least 15% of the lot area shall be provided as open space and shall be open to the sky."

Mauka Area Plan Fig. BT-10, D.3 - “Open space shall have a minimum dimension of 40 feet on any one side.” See, Figure 1.11 - Civic Space. Open space may be and is apparently counted as "recreational space" for purposes of the permit. Therefore, the dimensional requirements apply.

- Mauka Area Plan, 6.1.2: "The amount of land committed to public park space falls far short of the City and County of Honolulu’s Park Planning Standards...60 acres of park space.... It is unrealistic to expect that such a large amount of land can be acquired for public parks in a built-up urban area like Kakaako....Therefore, a combination of strategies is needed to meet the demand for parks and outdoor recreation....”
- and Mauka Area Plan 6.2.4: “Due to Kakaako’s limited public park space is limited (sic), new housing development should incorporate recreational facilities for the use of residents. Developer should provide on-site recreational facilities for project residents.”

Petitioners’ Position: The proposed 410 units require 22,550 square feet of recreation space. The Mauka Area Plan recognized the lack of available land for public parks and open spaces in the Kaka’ako district, and it emphasized that private development must provide residents with sufficient space for recreational activities. The project does not fulfill this purpose or the express recreational space set-aside criteria.

The developer proposed to provide recreational space in the following manner:



- Meeting Room 1: 2,058 square feet
- Meeting Room 2: 4,473 square feet
- Open space = 16,603 square feet

It appears that "Meeting Room 1" is actually the ground floor elevator lobby for Tower B through which ground floor and other occupants must access their units. This is not a meeting room and does not meet the definition of "recreational space" contained in HAR § 15-217-8, "an outdoors or indoors open space within a development that can be located at any level and is available for recreational use." Thus, recreational space would not include an elevator lobby. Similarly, the narrow strips abutting the Diamond Head side of the alley are being counted as "recreational space" when it is apparent that no recreation could occur there, especially given the more than 1,700 vehicles using that alley for ingress and egress.

The open space provided, as shown on Sheets 1A and B of the plans, is divided up into small strips that range in width from about six to twenty feet; the forty foot dimensional requirement is met on one dimension of any strip - no strip meets the forty foot minimum in both dimensions. As noted, most of these open areas are situated adjacent to vehicular lanes or driveways. It would be unsafe to hold any kind of recreational activity in these areas, particularly for children, the elderly or disabled.

The only actual recreational area that Tower B provides is Meeting Room 2. The 4,473 square foot room falls short of the 22,250 square feet mandated for recreation.

The open space shown on Sheets 1A and B of the developer's submitted plans also do not appear to correspond with any of the typologies exemplified in Mauka Area Plan Figure 1.11.

- m. HAR § 15-217-2(c)(3)-General Public Welfare: "For the block and the building: (A) That buildings and landscaping contribute to the physical definition of thoroughfares as civic places; (B) That development adequately accommodates automobiles while respecting the pedestrian and the spatial form of public areas; (C) That the design of streets and buildings reinforce safe environments; but not at the expense of accessibility;"



HAR § 15-217-4 - Minimum Requirements: “The provisions of the rules are minimum requirements for the protection and promotion of public health, safety, and welfare.”

Petitioners' Position: The Mauka Area Rules are meant to provide the minimum requirements for health, safety and welfare. Modifications that permit development at standards less than specified by the rules are unlawful and would result in detriment to public health and safety *per se*.

- n. HAR §15-217-58 Large Lots: Requires that “[e]ach building within a large lot project shall comply with the applicable requirements in the development standards by zone and all other relevant standards in the rules.” Large Lots rules also require: (1) dividing the large lot into pedestrian-oriented blocks; and (2) mid-block pedestrian passageways and courtyards at least every 300 feet.

Petitioners' Position: None of these features are included in the development plans for Phase I & II. The total square footage of the parcels for Phase I & II exceed 140,000 square feet, therefore the requirements of Large Lot developments should apply to the development.

The combination of Phase I and II essentially walls off the neighboring capitol district. The buildings include massing and articulation that do not reflect a human scale; rather they impose large, monolithic, and repetitive building fabric.

- o. HAR § 15-217-80(d): Consistency with Rules/Plan: - “Approval of an improvement or development permit shall require all the following findings of fact:”
- (1) Mauka Area Plan consistency. That the proposal complies with and advances the goals, policies and objectives of the Mauka Area Plan;
  - (2) Mauka Area Rules consistency. That the proposal will protect, preserve, or enhance desirable neighborhood characteristics through compliance with the standards and guidelines of the Mauka Area Rules; and
  - (3) Compatibility. That the proposal will not have a substantial adverse effect on surrounding land uses and will be compatible with the existing and planned land use.”





Petitioners' Position: Because of the lack of adherence to the Mauka Area Rules and Plan, and the impacts of these deviations, Petitioners believe the development permit does not satisfy any of the above listed requirements:

- It does not comply with nor advance the goals, policies and objectives of the Mauka Area Rules as shown in the discussions above.
  - It does not comply with nor advance the goals, policies and objectives of the Mauka Area Plan as shown in the discussions above.
  - The development plan, as proposed, does not create a pedestrian-friendly neighborhood and actually intends to create a pedestrian hazard on Kapiolani Boulevard and therefore does not protect, preserve or enhance the neighborhood characteristics as set forth in the Mauka Area Rules. Although the packet specifically describes six modifications, in reality numerous additional Mauka Area Rules would require modification in order to support this development.
  - As proposed, the design of Tower B and its parking garage seem to provide a substantial adverse effect on neighboring properties and residents and will isolate Kaka'ako visually and physically from the Honolulu Civic Center.
- p. The Mauka Area Plan FEIS and FSEIS are outdated and do not properly contemplate the impact of the proposed project.

Petitioners' Position: Before the Phase II begins, the existing FEIS and FSEIS must be updated and amended to reflect changes in circumstances since their adoption. *Unite Here! Local 5 v. City & County of Honolulu*, 123 Haw. 150, 231 P.3d 423 (Haw. 2010); and/or acted in excess of its statutory authority.

### **RELIEF REQUESTED**

Petitioners respectfully request that:

1. The HCDA rescind approval of the Development Permit for Phase II of the Downtown Capital LLC 801 South Street Project Planned Development Permit Number KAK 13-057.
2. HCDA conduct and complete another supplement Environmental Impact Statement that addresses, evaluates and mitigates all the changes that have been granted to ensure there is adequate sewer, public parks, public schools, health care facilities and road infrastructure.

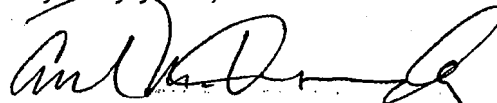


3. Reevaluate any reapplication for a Permit for Phase II of the Downtown Capital LLC 801 South Street Project Planned Development according to the principles and concerns expressed in this Petition.

4. Either: (1) Grant the request for a public contested case hearing pursuant to HAR § 15-219-46 for a determination of the issues that can properly be determined by the HCDA; or (2) deny the request for contested case hearing pursuant to HAR § 15-219-46; and, (3) regardless of whether granting or denying the request, state, with particularity, whether HCDA asserts that any of the issues raised herein are not ripe for adjudication under standards established in *Office of Hawaiian Affairs v. Hous. and Cmty. Dev. Corp. of Hawai'i*, 121 Hawai'i 324, 336, 219 P.3d 1111, 1123 (2009); *Pele Defense Fund v. Puna Geothermal Venture*, 8 Haw. App. 203, 204, 797 P.2d 69, 71-72 (1990); *Leone v. County of Maui*, 128 Hawai'i 183, 284 P.3d 956 (2012).

Petitioners request the HCDA schedule this matter for a contested case hearing as soon as practicable.

Very truly yours,



Carl M. Varady  
Attorney for Petitioners

c: William Aila, Jr., State Historic Preservation Officer  
Hon. Carol Fukunaga  
George I. Atta, FAICP, LEED AP, CEI, Director, Planning and Permitting  
Michael D. Formby, Director, Transportation Services



**EXHIBIT 1: Royal Capitol Plaza AOA – Petition**

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| <b>HAWAII ADMINISTRATIVE RULES</b> |               |
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| HAR § 15-217-90                     | 2             |
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NEIL ABERCROMBIE  
GOVERNOR OF HAWAII



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

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KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

October 9, 2013

Ryan Harada  
Downtown Capital LLC  
215 N. King Street, Ste 1000  
Honolulu, HI 96817

Log No. 2013.5697  
Doc No. 1310PA01

Dear Mr. Harada:

RE: 801 South Street, Building B project and the former Honolulu Advertiser Building (News Building)  
Honolulu, Kona Moku, Island of O'ahu  
TMK: (1) 2-1-047:004 (por)

We are in receipt of your September 19, 2013 letter to Mr. Anthony Ching, the Executive Director of the Hawaii Community Development Authority (HCDA). Thank you for copying the letter to us. We wanted to take the opportunity to clarify some items of your letter.

You state that applicable federal and Hawaii laws allow for the demolition of the entire News Building. While this is true, the intent of 6E also states:

The legislature declares that the historic and cultural heritage of the State is among its important assets and that the rapid social and economic developments of contemporary society threaten to destroy the remaining vestiges of this heritage.

While SHPD understands your intent to create workforce housing, and acknowledges the importance of workforce housing in our state, we do not believe that our choices should be either workforce housing or historic preservation. With proper planning, the people of our state, no matter their income, should be able to afford and benefit from both, as the legislature intended.

It is for this purpose that HRS 6-E and its associated Administrative Rules were created. HRS §6E-42 requires that SHPD be allowed to comment on any project affecting a historic property. HRS §6E-2 defines a historic property as "any building, structure, object, district, area or site, including heiau and underwater site, which is over fifty years old." SHPD's comments, as defined in HAR 13-284 are in the form of a historic preservation review process which consists of the following steps:



## 1. Identification and Inventory

The former Honolulu Advertiser building has been assessed by Mason Architects (June 2005). A list of character defining features which still existed at the time of the report is provided. An additional list of missing elements that could be restored or recreated is also included. Finally, non-contributing features that might be altered or removed are also listed.

In addition, potential exists for archaeological historic properties to be located within the project area, in the area of Tower 2, and SHPD would like an archaeological inventory survey completed for the parcel.

## 2. Evaluation and Significance

Based on the above referenced report the Honolulu Advertiser Building has been determined to be eligible for the National Register under Criterion A, for its association with the Honolulu Advertiser, Hawaii's first English language non-governmental newspaper. It is also eligible under Criterion B for its association with Lorrin Thurston, who was instrumental in the overthrow of the Hawaiian Kingdom and the subsequent American rule over Hawaii, and finally, and not least, it is eligible under Criterion C, for its distinctive Beaux Arts style and because it represents the "work of a master": the Honolulu architecture firm of Emory and Webb.

Significance evaluations for potential archaeological historic properties will be completed as part of the archaeological inventory survey process.

## 3. Effect determination

HCDA has not provided, nor has SHPD been formally asked for an effect determination. However, there seems to be agreement that the project will have an adverse effect on the Advertiser building. An effect determination has not yet been made regarding archaeological historic properties.

## 4. Mitigation commitments –these remain to be negotiated.

We note that you propose to retain the "Office Building," which we agree is a good idea. However, so far, the plans submitted do not provide any detail on what retaining the "Office Building" means in terms of any proposed demolition to accommodate the proposed garage, or any rehabilitation or maintenance of the Advertiser building. Agreement on these mitigation commitments is required before the project can proceed.

## 5. Detailed mitigation plans—these are developed after mitigation commitments are agreed to.

## 6. Verification of the detailed mitigation plans. Not complete.

We note on page 2 of your letter that you request "that HCDA approve the plan for the News Building described in the Permit Application and coordinate with SHPD to confirm that although the Project will have an effect, the mitigation provided in this letter and the Permit Application is adequate and nothing further is required by SHPD. As stated  
Exh. 1.25 to Testimony of Carl M. Varady



above, additional information is required by SHPD regarding details of the proposed mitigation. HCDA needs to take SHPDs comments and request for information into account before it can approve the Project.

We further note that on the last page of your letter, you state that you have had a meeting with Ms. Westfall, of SHPD, and Ms. Faulkner, of the Historic Hawaii Foundation, and as such, "Downtown Capital has consulted with SHPD on the Project." As outlined above, while you may have met on this project, you have not met the requirements of HAR 13-284 for historic preservation review of your project. While the process does not require a meeting, it is usually helpful for project proponents to discuss their project with SHPD at each step of the process.

We look forward to working with you to complete the historic preservation review and ensuring that Hawaii retains its important historic and cultural heritage.

Sincerely,



William Aila, Jr  
State Historic Preservation Officer

cc: Anthony Ching, Executive Director, HCDA  
Nicki Thompson, Acting Administrator, SHPD  
Angie Westfall, SHPD  
Susan Lebo, SHPD

