

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*
- ✓ *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,



Dellas Alexander

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

**lowen2-Lanaly**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 05, 2014 10:52 PM  
**To:** waltestimony  
**Cc:** arbeit@hawaiiantel.net  
**Subject:** Submitted testimony for HB1866 on Feb 8, 2014 08:30AM

**HB1866**

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's members, now appointed by the governor, represent special interests, not affected residents and businesses, and should be replaced. HB 1866 will involve many arms of government in the appointment process and approval of rules. This, and other stipulations of this measure should result in a more responsive and responsible HCDA. At present HCDA has unbridled authority and discretion to circumvent the intent and directives of the law. HB 1866 will correct that.

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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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!

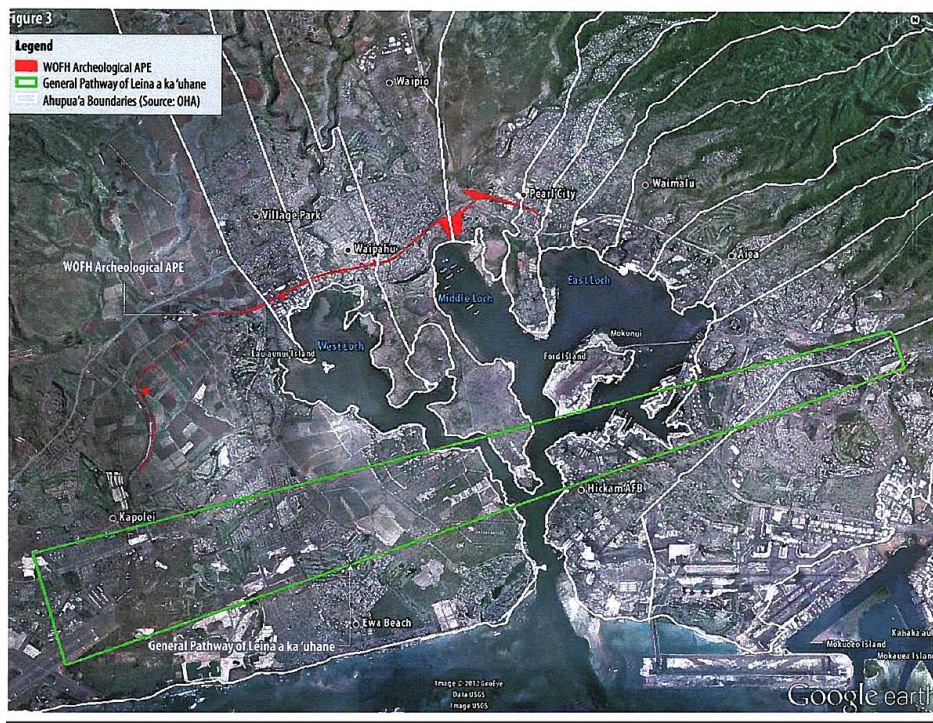
Our Kanehili Cultural Hui was able to photograph the damage many months later when apparently an archaeological contractor (not SHPD which rarely looks at anything in Kalaeloa ) was brought in to begin tagging all the site damage. We assume the contractor who did all the damage paid for the survey, but 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 Kaupē'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!

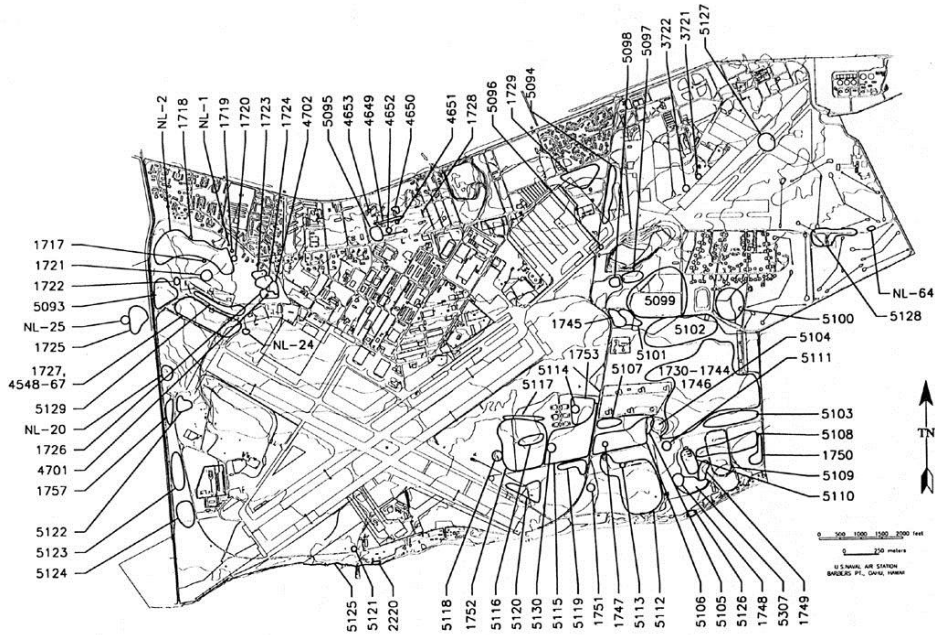
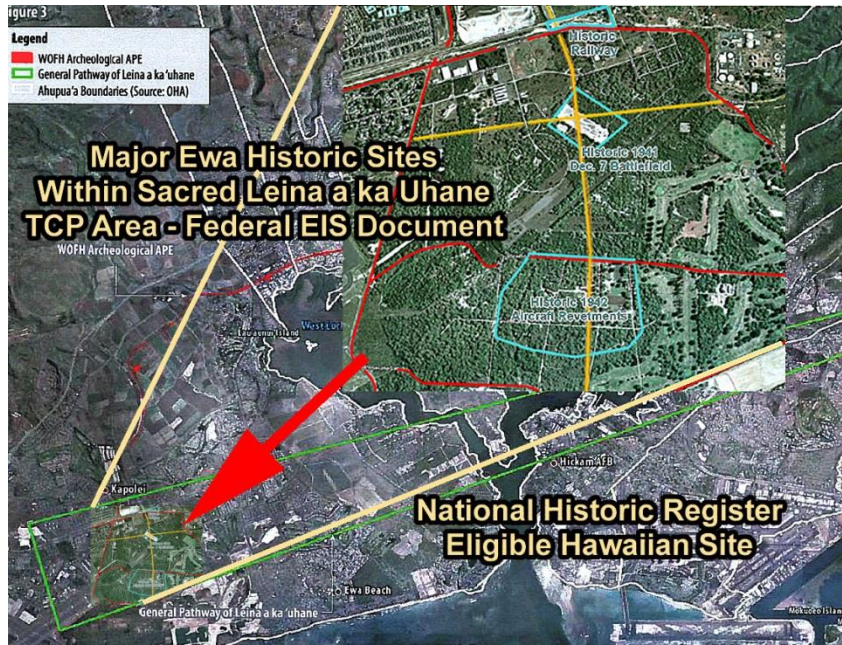
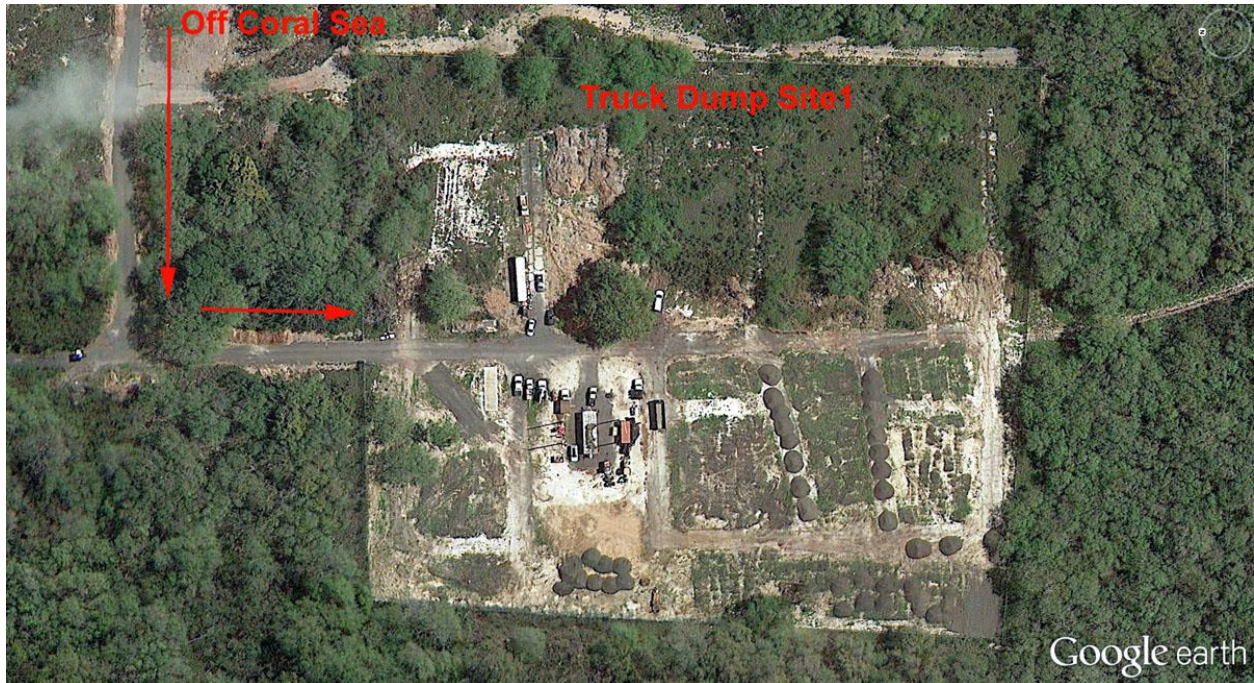


Figure 28. Archaeological and historical sites of NAS Barbers Point.



*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.*





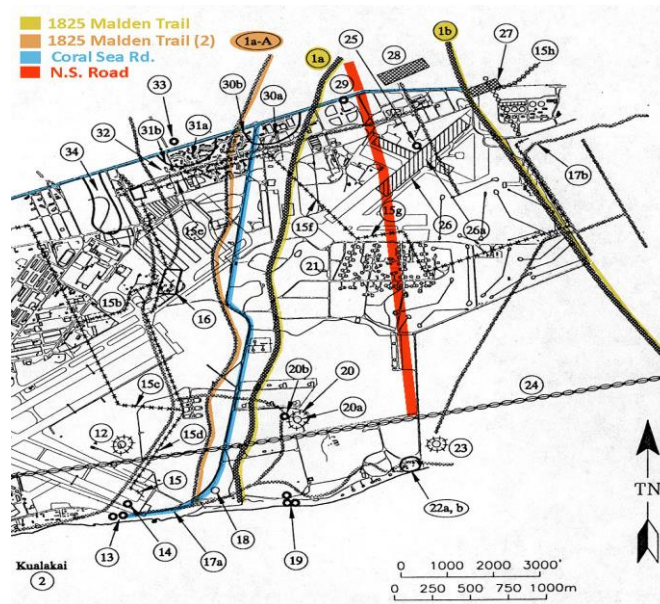
Table 7 presents the Leina a ka 'uhane as a single sacred and storied place, identifying the applicable ahupua'a, theme, National Register criteria, and integrity of relationship and condition.

**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



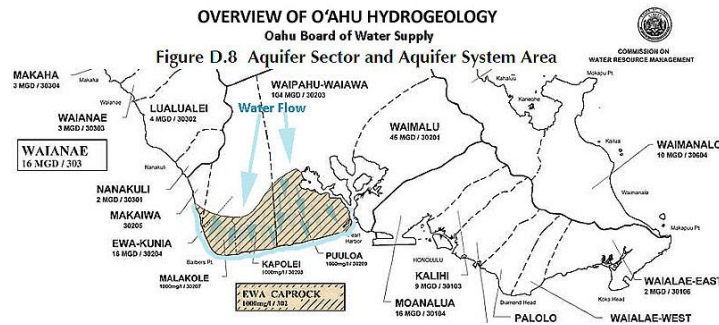
Navy BRAC of NASBP by Tuggles (IARII) shows Kanehili Trails and important sites HCDA wants destroyed.



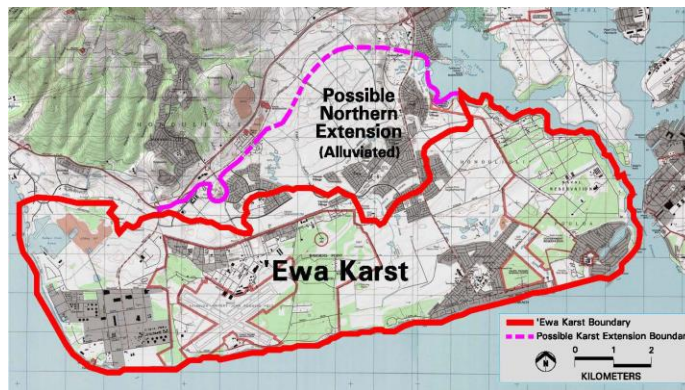
British Royal Navy 1825 Maiden Trails map shows ancient Hawaiian Trails in Kanehili, Honouliuli.



HART lists important sites and Kanehili Leina falls just below the East Kapolei Station site



Hydrogeology map shows mountain to shore water flow through “caprock” (Karst)



Ewa Karst is actually a very porous ancient 100,000 year old reef, and result of past higher sea level.



## 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

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**From:** Shannon Clancey <fanceyclancey@icloud.com>  
**Sent:** Tuesday, February 04, 2014 8:50 AM  
**To:** waltestimony  
**Subject:** In Support of HB 1860, HB 1861, HB 1866, HB 1867

Dont build on Kakaako! ocean front is made for the community to enjoy, NOT THE WEALTHY FEW WHO DONT EVEN LIVE IN hawaii! Include: House Committee on Water & Land February 8, 2014 @ 8:30 am Room 325 Your comments and your name

Sent from my iPhone

**lowen2-Lanaly**

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**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.

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**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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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*
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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

Dear House Water & Land Committee Members,

I support HB 1866 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.

HCDA as currently composed of nine members, all appointed by the governor, and none representing the affected communities they are supposed steward. I agree that the current board does represent the community interest and should be replaced. HB1866 addresses this problem. I would suggest is also require some members who can truly represent residents and businesses from the seven neighborhood zones plus the makai areas.

I agree with the other provisions to rein in HCDA's current unbridled authority and discretion to circumvent the intent and directives of the law.

Mahalo,

AL Frenzel

lowen2-Lanaly

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From: mailinglist@capitol.hawaii.gov  
Sent: Monday, February 03, 2014 2:49 PM  
To: waltestimony  
Cc: grant5301@gmail.com  
Subject: Submitted testimony for HB1866 on Feb 8, 2014 08:30AM

**HB1866**

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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**lowen2-Lanaly**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 05, 2014 8:01 PM  
**To:** waltestimony  
**Cc:** evalaviva@gmail.com  
**Subject:** Submitted testimony for HB1866 on Feb 8, 2014 08:30AM

**HB1866**

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: A new process of selecting HCDA board members is needed.

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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:** Thursday, February 06, 2014 10:50 PM  
**To:** waltestimony  
**Cc:** nancylhedlund@yahoo.com  
**Subject:** Submitted testimony for HB1866 on Feb 8, 2014 08:30AM

### HB1866

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
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

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Testimony of  
Michael Korman  
Before the  
House Committee on Water & Land  
House Bill 1866  
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 1866 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 and how the HCDA makes decisions with very little regard for the current residents. I feel the members of the HCDA simply go through the motions when they collect input at their meetings. They seem more interested in pleasing development corporations and construction companies than the people who live and work in the neighborhoods impacted by their long-term decisions.

As governor-appointed officials, they are not accountable to voting residents since no one elected them. I want my state and city council representatives more involved in the decision process for Kaka'ako development. While thoughtfully redeveloping Kaka'ako makes sense economically and socially, HCDA's current organizational structure does not effectively take into consideration the health and quality of life concerns of the existing Kaka'ako residents.

Kaka'ako neighbors feel helpless with personal wellbeing and quality of life in jeopardy, and little to no say in the present housing approval process. To have more responsive and concerned members on the HCDA, I recommend they be nominated by elected leaders in Hawaii who represent the citizens directly affected by the development decisions.

I firmly support HB1866, and all the House Bills 1860 to 1867 being put forth for review. I respectfully request you pass HB1866 and establish HCDA as an institution of integrity and interested in local community residents, not just high-profit seeking businesses. Thank you for your kind consideration.

*Michael Korman*

*February 1, 2014*

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*
- ✓ *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,

Robert Locquiao  
Rob4x4rl@aol.com

# *Malama Makaha*

February 4, 2014

TO: House Water & Land Committee Members,

SUBJECT: Testimony in Support of HB 1866

Dear Committee Members,

Malama Makaha supports HB 1866 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.

HCDA as currently composed of nine members, all appointed by the governor, and none representing the affected communities they are supposed steward. Malama Makaha agrees that the current board does represent the community interest and should be replaced. HB1866 addresses this problem. We would suggest is also require some members who can truly represent residents and businesses from the seven neighborhood zones plus the makai areas.

Malama Makaha agrees with the other provisions to rein in HCDA's current unbridled authority and discretion to circumvent the intent and directives of the law.

Mahalo Nui Loa,



AL Frenzel  
Malama Makaha  
84-933 Alahele St.  
Waianae, HI 96792  
(808) 343-4916



From: mailinglist@capitol.hawaii.gov  
Sent: Tuesday, January 28, 2014 3:53 PM  
To: waltestimony  
Cc: lynnehi@aol.com  
Subject: Submitted testimony for HB1866 on Feb 8, 2014 08:30AM

**HB1866**

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: I strongly support his bill. It would give power to those who have a direct nexus to the kaka'ako area. It would remove cabinet members from automatic membership. However, I would like to see the bill amended to provide that no member of the governor's cabinet be a member of the HCDA board. lynne matusow 60 n. beretania, #1804 honolulu, hi 96817 531-4260

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 04, 2014 2:32 PM  
**To:** waltestimony  
**Cc:** mendezj@hawaii.edu  
**Subject:** \*Submitted testimony for HB1866 on Feb 8, 2014 08:30AM\*

**HB1866**

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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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 4:29 PM  
**To:** waltestimony  
**Cc:** clamor808@yahoo.com  
**Subject:** Submitted testimony for HB1866 on Feb 8, 2014 08:30AM

### **HB1866**

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 support this bill. We need a new process in selecting its members. We need diversity; there are currently too many governor's appointees. Must establish legislative oversight.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 05, 2014 11:16 PM  
**To:** waltestimony  
**Cc:** morik369@hawaiiantel.net  
**Subject:** \*Submitted testimony for HB1866 on Feb 8, 2014 08:30AM\*

### HB1866

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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To: **House Committee on Water & Land**

Saturday, February 8, 2014, 8:30AM

Chair: Rep. Cindy Evans

Vice-Chair: Rep. Nicole Lowen

**HB1866 RELATING TO THE HAWAII COMMUNITY DEVELOPMENT  
AUTHORITY**

**Testimony in SUPPORT – James Nelson**

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

I am James Nelson, a resident of Kakaako mauka, and I testify in support of the measure.

This measure purports to revise the way in which members of the HCDA board are nominated and selected. I am in favor of the measure to the extent that currently the board is composed to an unfortunate and unbalanced extent by the governor's cabinet officials or their specific designees, and that this measure replaces that scheme with members nominated by the elected legislators and other non-administration persons. That said, as far as I can tell, the measure as drafted statutorily retains nine voting members on page 1, but only seems to propose 7 voting members on page 4. I trust that the committee will revise the measure to rectify the inconsistency. If the consensus is to retain nine voting members, then in addition to the 7 persons specified on page 4, I suggest that the committee entertain the idea of, e.g., allowing two persons resident in the relevant district who have been nominated by their neighborhood board.

Thank you for the opportunity to testify.

James Nelson

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**From:** Web Nolan <webnolan@hawaii.rr.com>  
**Sent:** Thursday, February 06, 2014 9:20 AM  
**To:** waltestimony  
**Subject:** Testimony supporting HB1866

Testimony by Kakaako resident Webster Nolan for Feb 82014 hearing by House Water and Land Committee

As a longtime Kakaako resident and home owner, I strongly support HB1866 because it supplants the current ambiguous appointment process with a more straightforward and more clearly defined process, because it tightens much-needed legislative oversight of the Authority and because it mandates a "clean slate" for the Authority's board membership, thereby offering the governor an opportunity to quickly and effectively change governance of the Authority to better conform with legislative intent in its enabling statute (HRS Chapter 206E).

Webster Nolan  
876 Curtis St #1005  
Honolulu HI 96813

Ph: 593-1189

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



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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, January 28, 2014 3:53 PM  
**To:** waltestimony  
**Cc:** lynnehi@aol.com  
**Subject:** Submitted testimony for HB1866 on Feb 8, 2014 08:30AM

**HB1866**

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: I strongly support his bill. It would give power to those who have a direct nexus to the kaka'ako area. It would remove cabinet members from automatic membership. However, I would like to see the bill amended to provide that no member of the governor's cabinet be a member of the HCDA board. lynne matusow 60 n. beretania, #1804 honolulu, hi 96817 531-4260

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Testimony of  
Dexter Okada, President  
U. Okada & Co., Ltd.  
Before the  
**COMMITTEE ON WATER & LAND**  
**Rep. Cindy Evans, Chair**  
**Rep. Nicole E. Lowen, Vice Chair**  
**February 8, 2014, Committee Hearing**  
**Conference Room 325**  
**8:30AM**  
**House Bill 1866**  
**Relating to The Hawaii Community Development Authority**

Chair Evans and Committee Members:

I am in support of House Bill 1866(HB1866).

I am Dexter Okada. I am the president of U. Okada & Co., Ltd., a third generation small family business and property owner that has been located on Queen Street in Kaka'ako for over fifty years. From 2007 to 2011, I served as a board member of the Hawaii Community Development Authority(HCDA).

It is said that HCDA is a semi-autonomous State agency under the purview of the Legislature. But under the current rules HCDA is:

1. Administratively attached to DBEDT.
2. Four out of the nine board members are Governor's cabinet department directors.
3. The four department directors are not confirmed to the authority's board.
4. The fifth member is a cultural specialist selected by the Governor.
5. The sixth member is the Governor's at large pick.

HCDA resembles more of a Governor's cabinet department than a semi-autonomous State agency. HCDA cannot help but follow the direction of the Governor's office. And, every four or eight years that direction may change with the election of a new Governor. At the same time, HCDA would lose four of its board members all at the same time. This will not help in the continuity of the board and would mean a loss of institutional memory. Past mistakes will be repeated.

HB1866 allows for a better vetting process of four of the board members by the Legislature. First is the vetting process when the four leaders of the Legislature select nominees. Then the selected nominees are vetted again during the Senates confirmation process.

Is the reasoning for the Chief Justice's nominees to allow participation of all three parts of the government?

The nominees of OHA and UH should not be employees or officers of OHA or UH otherwise there will be conflict of interest issues. Does line 9-11 of page 6 of HB1866 clearly make this distinction? "...no member appointed under this subsection shall be an officer or employee of the State or its political subdivisions."

HB1866 defines how seven of the nine members of the HCDA board is to be selected. The assumption is that the final two members would be the Governor's at-large picks. Shouldn't this be clearly stated?

Kaka'ako is not an island in the middle of the sea. Kaka'ako is a part of Honolulu. What happens in Kaka'ako affects Honolulu and what happens in Honolulu affects Kaka'ako. So it is good to see that HB1866 allows the counties to have representation on the board.

Kaka'ako is not a vacant lot to be developed. There is an existing community of small businesses, small landowners, and a growing number of residents. This community has the knowledge of where Kaka'ako has come from and where it is today. Without this knowledge, Kaka'ako will be lost in a jungle of concrete. HB1866 should allow representation of the community on HCDA board by requiring that at least two of the nine members be from the community of residents and small businesses and landowners.

Thank you for allowing me to testify.

Dexter Okada

**lowen2-Lanaly**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 05, 2014 3:06 PM  
**To:** waltestimony  
**Cc:** eo50@icloud.com  
**Subject:** Submitted testimony for HB1866 on Feb 8, 2014 08:30AM

**HB1866**

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: The present Board and executive director should be removed and a new process of selecting should be adopted. Persons that actually live and have businesses in Kakaako should be considered.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 03, 2014 11:58 AM  
**To:** waltestimony  
**Cc:** rkorph@gmail.com  
**Subject:** Submitted testimony for HB1866 on Feb 8, 2014 08:30AM

**HB1866**

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: The present Board is not responsive to community concerns. Attended two supplemental hearings conducted by the Board. At one meeting, only a staff person and court reporter were present. No Board members attended. At the other supplemental hearing, the executive director, staff member and court reporter were present. No Board members attended. The concerns brought up by the community were discussed somewhat by the executive director, but only after the court reporter was dismissed. No meaningful engagement with the Board occurred.

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From: mailinglist@capitol.hawaii.gov  
Sent: Thursday, January 30, 2014 8:47 AM  
To: waltestimony  
Cc: georgeandmary@mac.com  
Subject: Submitted testimony for HB1866 on Feb 8, 2014 08:30AM

**HB1866**

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 is a Kangaroo Court answerable to no one, and blatantly snubs the residents of Kaka'ako or public testimony. Above the Law, and disrespectful of the democratic process. A rigged system!

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**lowen2-Lanaly**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 05, 2014 3:23 PM  
**To:** waltestimony  
**Cc:** autumnrose2010@yahoo.com  
**Subject:** Submitted testimony for HB1866 on Feb 8, 2014 08:30AM

**HB1866**

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: HCDA has been out of control. It's ridiculous to allow developer to construct required AFFORDABLE housing in another area. We need to require affordable housing to be constructed WITHIN a community development authority's jurisdiction.

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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*
- ✓ *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,

Harold Slate  
Outside1952@yahoo.com



The Pacific Resource  
**PARTNERSHIP**



Testimony of Cindy McMillan  
The Pacific Resource Partnership

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

HB 1866 – 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 offers the following comment on HB 1866, which amends the manner in which members are appointed to the Hawaii Community Development Authority and enhances legislative oversight of the Authority.

The Authority is charged with planning for the future development of underutilized urban areas of Hawaii. Those who oppose new development will likely find fault with any decision to move forward with projects, no matter how the board members are selected/appointed.

Mahalo for your consideration of our comment on this bill.

**lowen2-Lanaly**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 04, 2014 12:29 PM  
**To:** waltestimony  
**Cc:** ismyth@hawaiiantel.net  
**Subject:** Submitted testimony for HB1866 on Feb 8, 2014 08:30AM

**HB1866**

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 1866: I support HB 1866. I feel all existing HCDA members should be removed, and a new process of selecting its members is needed.

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

House Bill 1866 Relating to the Hawaii Community Development Authority

My name is Paula B Tadaki and I am a resident of Kaka'ako. Thank you for the opportunity to testify on House Bill 1866. I **SUPPORT** HB 1866.

I want to testify in favor of this Bill because I am concerned with the major decisions the HCDA makes with very little regard for the residents of Kaka'ako. It appears that the members of the HCDA Board don't feel any obligation towards me or my neighbors. They don't seem to care what my neighbors or myself have to say. They don't seem to be accountable to the people in the community.

I think the current membership of the HCDA Board is much too involved in the development and construction industry and the Administration (4 are Department heads). I feel we need more responsive Directors nominated by people in leadership positions in Hawaii.

I urge you to pass HB 1866 to protect Kaka'ako.

## lowen2-Lanaly

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Sunday, February 02, 2014 7:58 PM  
**To:** waltestimony  
**Cc:** rontthi@gmail.com  
**Subject:** \*Submitted testimony for HB1866 on Feb 8, 2014 08:30AM\*

### **HB1866**

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, Pharm.D.	Individual	Support	No

#### Comments:

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**lowen2-Lanaly**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 05, 2014 4:18 PM  
**To:** waltestimony  
**Cc:** kareen.tanoue@gmail.com  
**Subject:** Submitted testimony for HB1866 on Feb 8, 2014 08:30AM

**HB1866**

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>
Kareen Tanoue	Individual	Support	No

Comments: I support HB 1866. I feel all existing HCDA members should be removed, and a new process of selecting its members is needed.

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**lowen2-Lanaly**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 05, 2014 8:41 AM  
**To:** waltestimony  
**Cc:** kumemoto@hawaii.edu  
**Subject:** \*Submitted testimony for HB1866 on Feb 8, 2014 08:30AM\*

**HB1866**

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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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

From: mailinglist@capitol.hawaii.gov  
Sent: Tuesday, February 04, 2014 8:26 PM  
To: waltestimony  
Cc: suzanne@punapono.com  
Subject: Submitted testimony for HB1866 on Feb 8, 2014 08:30AM

**HB1866**

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: Land transactions - selling, leasing not to exceed 65 years, buying, and setting aside public lands within a community development district by the authority requires approval by a 2/3 majority vote of legislators Two-thirds majority vote by legislators is needed to construct, reconstruct, improve, alter, sell, exchange, transfer, lease or dispose of any project Deletes ability of developer to construct required affordable housing outside the geographic boundaries of a community development authority's jurisdiction Requires affordable housing to be constructed within a community development authority's jurisdiction.

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**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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## 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 Kawaiahao 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)

**lowen2-Lanaly**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, January 30, 2014 8:47 AM  
**To:** waltestimony  
**Cc:** georgeandmary@mac.com  
**Subject:** Submitted testimony for HB1866 on Feb 8, 2014 08:30AM

**HB1866**

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 is a Kangaroo Court answerable to no one, and blatantly snubs the residents of Kaka'ako or public testimony. Above the Law, and disrespectful of the democratic process. A rigged system!

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**lowen2-Lanaly**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 03, 2014 2:49 PM  
**To:** waltestimony  
**Cc:** grant5301@gmail.com  
**Subject:** Submitted testimony for HB1866 on Feb 8, 2014 08:30AM

**HB1866**

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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## lowen2-Lanaly

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 04, 2014 8:26 PM  
**To:** waltestimony  
**Cc:** suzanne@punapono.com  
**Subject:** Submitted testimony for HB1866 on Feb 8, 2014 08:30AM

### HB1866

Submitted on: 2/4/2014

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

Submitted By	Organization	Testifier Position	Present at Hearing
Suzanne Wakelin	Individual	Support	No

Comments: If you cannot REPEAL the HCDA then please PASS this Bill while keeping the following elements: Land transactions - selling, leasing not to exceed 65 years, buying, and setting aside public lands within a community development district by the authority requires approval by a 2/3 majority vote of legislators Two-thirds majority vote by legislators is needed to construct, reconstruct, improve, alter, sell, exchange, transfer, lease or dispose of any project Deletes ability of developer to construct required affordable housing outside the geographic boundaries of a community development authority's jurisdiction Requires affordable housing to be constructed within a community development authority's jurisdiction.

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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!

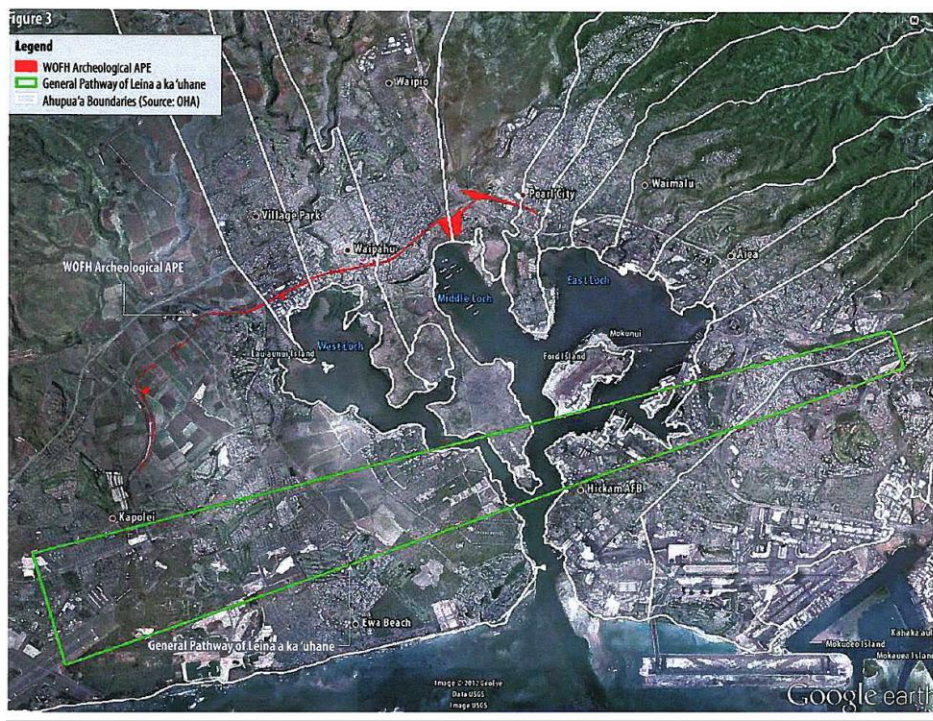
Our Kanehili Cultural Hui was able to photograph the damage many months later when apparently an archaeological contractor (not SHPD which rarely looks at anything in Kalaeloa ) was brought in to begin tagging all the site damage. We assume the contractor who did all the damage paid for the survey, but 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 Kaupē'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!

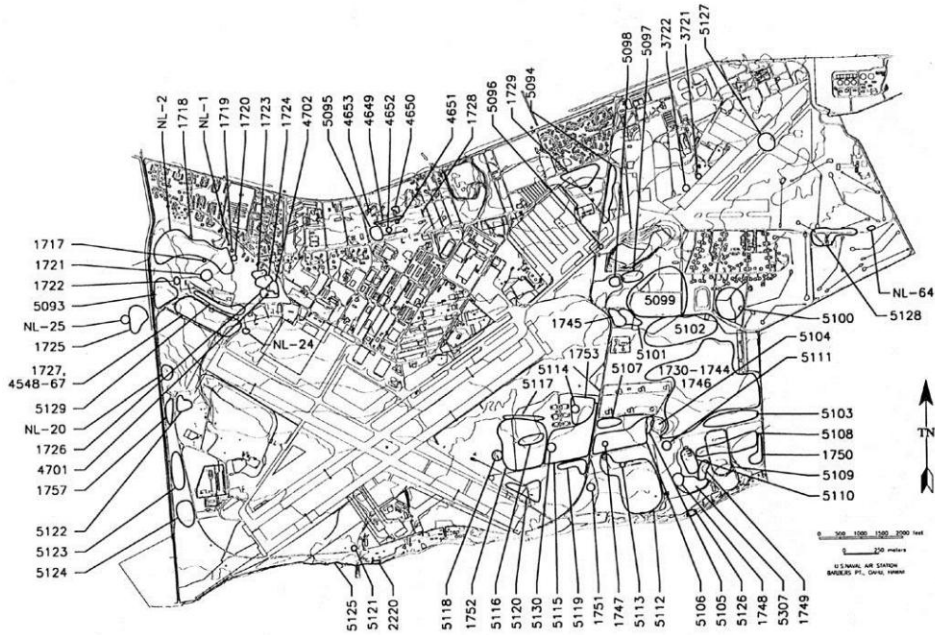
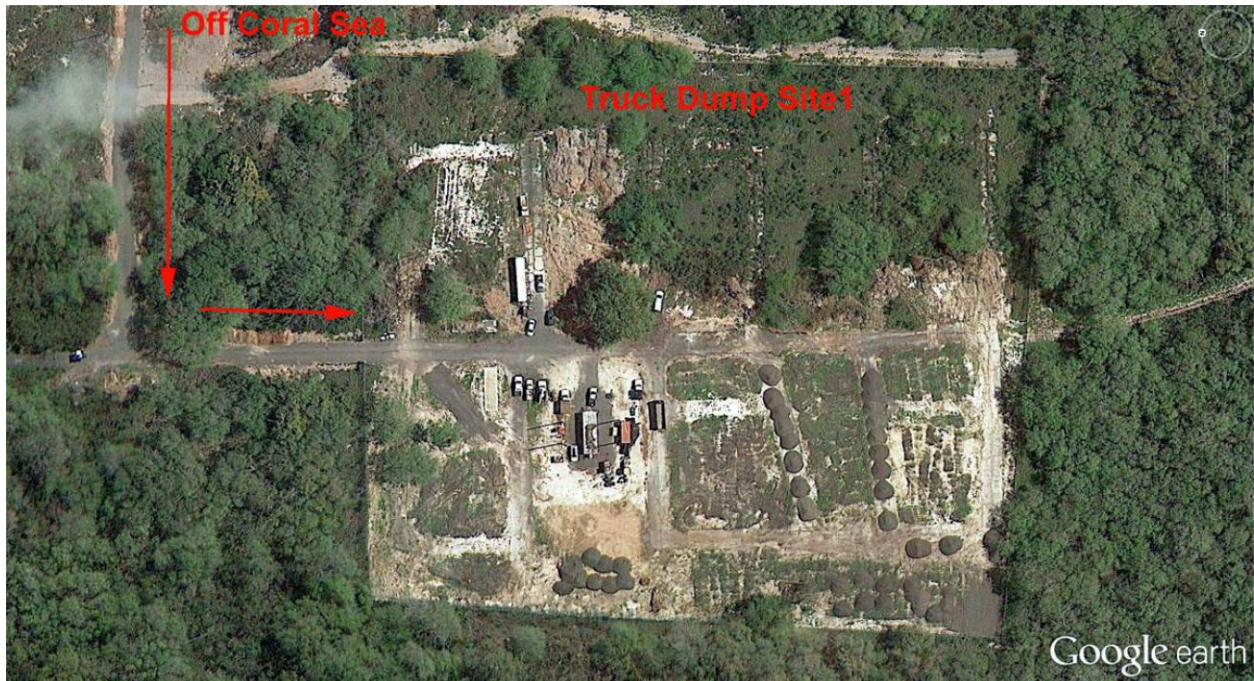


Figure 28. Archaeological and historical sites of NAS Barbers Point.



*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.*





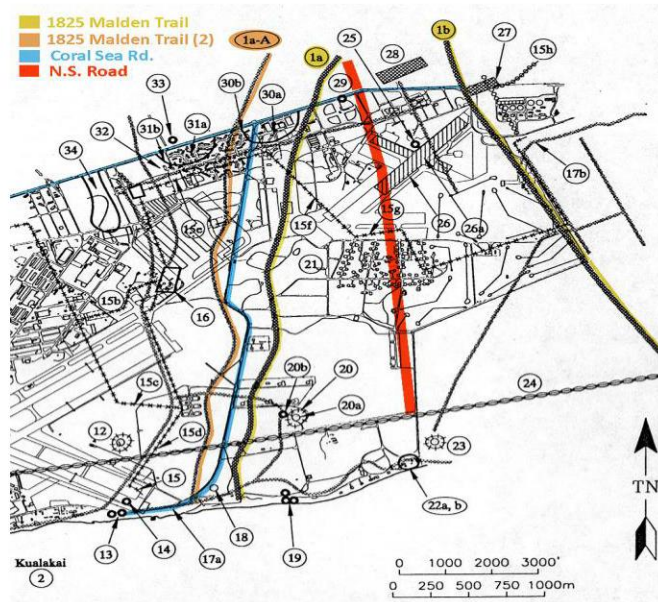
Table 7 presents the Leina a ka 'uhane as a single sacred and storied place, identifying the applicable ahupua'a, theme, National Register criteria, and integrity of relationship and condition.

**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	Hālawā 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.

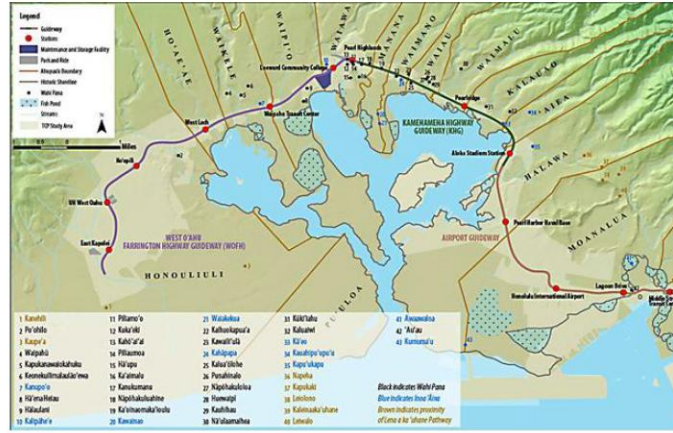
HART EIS 2012 study by Kumupono LLC and SRI, Inc. shows National Register Eligibility for Kanehili Leina



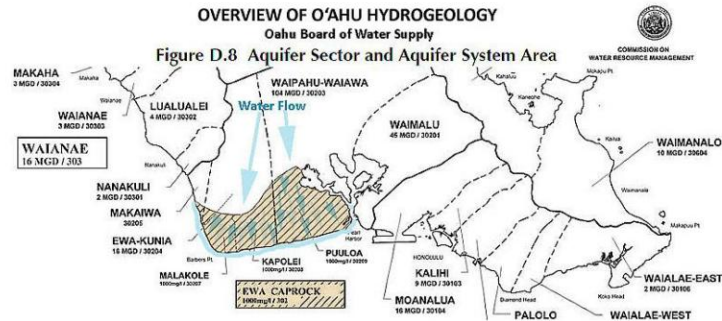
Navy BRAC of NASBP by Tuggles (IARII) shows Kanehili Trails and important sites HCDA wants destroyed.



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



HART lists important sites and Kanehili Leina falls just below the East Kapolei Station site



Hydrogeology map shows mountain to shore water flow through "caprock" (Karst)



Ewa Karst is actually a very porous ancient 100,000 year old reef, and result of past higher sea level.



Testimony of  
Dexter Okada, President  
U. Okada & Co., Ltd.  
Before the  
**COMMITTEE ON WATER & LAND**  
**Rep. Cindy Evans, Chair**  
**Rep. Nicole E. Lowen, Vice Chair**  
**February 8, 2014, Committee Hearing**  
**Conference Room 325**  
**8:30AM**  
**House Bill 1866**  
**Relating to The Hawaii Community Development Authority**

Chair Evans and Committee Members:

I am in support of House Bill 1866(HB1866).

I am Dexter Okada. I am the president of U. Okada & Co., Ltd., a third generation small family business and property owner that has been located on Queen Street in Kaka'ako for over fifty years. From 2007 to 2011, I served as a board member of the Hawaii Community Development Authority(HCDA).

It is said that HCDA is a semi-autonomous State agency under the purview of the Legislature. But under the current rules HCDA is:

1. Administratively attached to DBEDT.
2. Four out of the nine board members are Governor's cabinet department directors.
3. The four department directors are not confirmed to the authority's board.
4. The fifth member is a cultural specialist selected by the Governor.
5. The sixth member is the Governor's at large pick.

HCDA resembles more of a Governor's cabinet department than a semi-autonomous State agency. HCDA cannot help but follow the direction of the Governor's office. And, every four or eight years that direction may change with the election of a new Governor. At the same time, HCDA would lose four of its board members all at the same time. This will not help in the continuity of the board and would mean a loss of institutional memory. Past mistakes will be repeated.

HB1866 allows for a better vetting process of four of the board members by the Legislature. First is the vetting process when the four leaders of the Legislature select nominees. Then the selected nominees are vetted again during the Senates confirmation process.

Is the reasoning for the Chief Justice's nominees to allow participation of all three parts of the government?

The nominees of OHA and UH should not be employees or officers of OHA or UH otherwise there will be conflict of interest issues. Does line 9-11 of page 6 of HB1866 clearly make this distinction? "...no member appointed under this subsection shall be an officer or employee of the State or its political subdivisions."

HB1866 defines how seven of the nine members of the HCDA board is to be selected. The assumption is that the final two members would be the Governor's at-large picks. Shouldn't this be clearly stated?

Kaka'ako is not an island in the middle of the sea. Kaka'ako is a part of Honolulu. What happens in Kaka'ako affects Honolulu and what happens in Honolulu affects Kaka'ako. So it is good to see that HB1866 allows the counties to have representation on the board.

Kaka'ako is not a vacant lot to be developed. There is an existing community of small businesses, small landowners, and a growing number of residents. This community has the knowledge of where Kaka'ako has come from and where it is today. Without this knowledge, Kaka'ako will be lost in a jungle of concrete. HB1866 should allow representation of the community on HCDA board by requiring that at least two of the nine members be from the community of residents and small businesses and landowners.

Thank you for allowing me to testify.

Dexter Okada





# 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



# Chamber of Commerce HAWAII

*The Voice of Business*

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.

The Pacific Resource  
**PARTNERSHIP**



Testimony of Cindy McMillan  
The Pacific Resource Partnership

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

HB 1866 – 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 offers the following comment on HB 1866, which amends the manner in which members are appointed to the Hawaii Community Development Authority and enhances legislative oversight of the Authority.

The Authority is charged with planning for the future development of underutilized urban areas of Hawaii. Those who oppose new development will likely find fault with any decision to move forward with projects, no matter how the board members are selected/appointed.

Mahalo for your consideration of our comment on this bill.



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

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**ON THE FOLLOWING MEASURE:**

H.B. NO. 1866, 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 provides the following comments.

The purpose of the bill is to change the composition of the Hawaii Community Development Authority (HCDA) Board from nine voting members for each community development district to nine voting members total and to enhance legislative oversight of HCDA.

On page 6, lines 3-7, the bill requires a two-thirds' majority of all members to constitute quorum to do business and the concurrence of a majority of all members to make any action of the Board valid. Because the bill provides for an ex officio, nonvoting member from each of the respective counties, it is unclear whether the majority is to be determined based on the nine voting members or taking into account the nonvoting county members. If the Committee is inclined to retain county members as nonvoting members we suggest that the nonvoting county members not be counted towards the number required for quorum. Counting nonvoting county members toward quorum would make it challenging for HCDA to obtain a two-thirds' majority quorum. Further, even with quorum, there may not be the requisite two-thirds' majority to take action. Accordingly, if the Committee is inclined to pass this bill, we recommend that the bill be amended as follows:

Notwithstanding section 91-15, a two-thirds' majority of all voting members shall constitute a quorum to do business, and the concurrence of a two-thirds' majority of all voting members shall be necessary to make any action of the authority valid; except as provided in this subsection.

On page 24, lines 14-17, the bill immediately removes all existing Board members as of the effective date of the bill. This is problematic because there could be a substantial period of time where the Authority may be without a sufficient number of voting members to achieve quorum and act on pending Board business. This may be especially problematic where the Board must act on certain items within a given time period. Thus, if the Committee is inclined to pass this bill, we recommend that there be a deadline imposed for the submission of nominee lists to the Governor, as provided on page 4, lines 12-22, and that the bill provide for a transition Board upon the effective date of the this bill until such time that their successors can be appointed. We therefore recommend that the bill be amended as follows:

(b) The authority shall consist of nine voting members to be appointed by the governor, by and with the advice and consent of the senate; provided that one member each shall be appointed by the governor from a list of three nominees submitted by each of the following:

- (1) The president of the senate;
- (2) The speaker of the house of representatives;
- (3) The minority leader of the senate;
- (4) The minority leader of the house of representatives;
- (5) The chief justice of the Hawaii supreme court;
- (6) The board of trustees of the office of Hawaiian affairs; and
- (7) The president of the University of Hawaii.

In the event of a vacancy, the list of nominees to fill the vacancy shall be submitted to the governor within thirty days of the vacancy in accordance with the foregoing, and the governor shall appoint a member to fill the vacancy within thirty days of the vacancy or within thirty days of the submission of the list of nominees to the governor, as applicable.

We also recommend that the bill be amended to include a new section that provides:

The five ex officio members, or their respective designated representatives, and the one at-large member serving on the authority on the effective date of this Act shall continue to serve as voting members for the authority until their successors are appointed as follows: (1) the director of finance, or his respective designated representative, shall continue to serve as an ex officio, voting member until the governor appoints a member from a list of three nominees submitted by the president of the senate; (2) the director of business, economic development, and tourism, or his respective designated representative, shall continue to serve as an ex officio, voting member until the governor appoints a member from a list of three nominees submitted by the speaker of the house of representatives; (3) the comptroller, or his respective designated representative, shall continue to serve as an ex officio, voting member until the governor appoints a member from a list of three nominees submitted by the minority leader of the senate; and (4) the director

of transportation, or his respective designated representative, shall continue to serve as an ex officio, voting member until the governor appoints a member from a list of three nominees submitted by the minority leader of the house of representatives; (5) the chairperson of the Hawaiian homes commission or the chairperson's designee, shall continue to serve as an ex officio, voting member until the governor appoints a member from a list of three nominees submitted by the chief justice of the Hawaii supreme court; and (6) the at-large voting member shall continue to serve as a voting member until the governor appoints a member from a list of three nominees submitted by the board of trustees of the office of Hawaiian affairs.

Allowing the five current ex officio members and one at-large to continue serving on the Board will ensure that the Board will have the requisite number of voting members to achieve quorum upon the effective date of this bill until such time that their successors can be appointed and qualified.

We respectfully ask that, if the Committee is inclined to pass this bill, it do so with appropriate amendments.

**HB 1866  
RELATING TO THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY**

**PAUL T. OSHIRO  
MANAGER – GOVERNMENT RELATIONS  
ALEXANDER & BALDWIN, INC.**

**FEBRUARY 8, 2014**

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

I am Paul Oshiro, testifying on behalf of Alexander & Baldwin, Inc. (A&B) on HB 1866, “A BILL FOR AN ACT RELATING TO THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY.”

In 1976, the Legislature found that Kaka’ako was significantly under-utilized relative to its central location in urban Honolulu and recognized its potential for growth and development and its inherent importance to Honolulu as well as to the State of Hawaii. The Hawaii Community Development Authority (HCDA) was therefore established to promote and coordinate planned public facility development and private sector investment and construction in Kaka’ako. By having a regulatory body completely focused on the planning and zoning for Kaka’ako, it was envisioned that this would result in the effective development of this key economic driver.

One of the provisions in this bill proposes to require the prior approval of the Legislature by concurrent resolution adopted with 2/3 majority vote for various actions undertaken by the HCDA. These actions include the use of certain public lands, the sale or lease of a certain projects, the adoption of rules, and other authority actions. While we acknowledge that HCDA is the creation of the Legislature, and that the

Legislature has oversight over HCDA, we caution that this proposed provision could hamper the overall improvement of Kaka'ako by significantly lengthening the overall HCDA review and approval process. Economic activity in Kaka'ako is inherently tied to economic and market cycles—the duration of which is unknown and unpredictable. With the Legislature only in Session during a portion of each year, with a significant number of pressing issues to address each Session, land use or area plan approvals for projects may be unduly delayed, potentially missing the economic cycles and therefore effectively 'shelved' until the next upturn in the market occurs. These projects may provide various community benefits to Kaka'ako and to the greater community at large, all of which may be delayed or lost as well, as a result of a delayed land use or area plan approval.

Thank you for the opportunity to testify.



**HB 1866  
RELATING TO THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY**

**PAUL T. OSHIRO  
MANAGER – GOVERNMENT RELATIONS  
ALEXANDER & BALDWIN, INC.**

**FEBRUARY 8, 2014**

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

I am Paul Oshiro, testifying on behalf of Alexander & Baldwin, Inc. (A&B) on HB 1866, “A BILL FOR AN ACT RELATING TO THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY.”

In 1976, the Legislature found that Kaka’ako was significantly under-utilized relative to its central location in urban Honolulu and recognized its potential for growth and development and its inherent importance to Honolulu as well as to the State of Hawaii. The Hawaii Community Development Authority (HCDA) was therefore established to promote and coordinate planned public facility development and private sector investment and construction in Kaka’ako. By having a regulatory body completely focused on the planning and zoning for Kaka’ako, it was envisioned that this would result in the effective development of this key economic driver.

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Legislature has oversight over HCDA, we caution that this proposed provision could hamper the overall improvement of Kaka'ako by significantly lengthening the overall HCDA review and approval process. Economic activity in Kaka'ako is inherently tied to economic and market cycles—the duration of which is unknown and unpredictable. With the Legislature only in Session during a portion of each year, with a significant number of pressing issues to address each Session, land use or area plan approvals for projects may be unduly delayed, potentially missing the economic cycles and therefore effectively 'shelved' until the next upturn in the market occurs. These projects may provide various community benefits to Kaka'ako and to the greater community at large, all of which may be delayed or lost as well, as a result of a delayed land use or area plan approval.

Thank you for the opportunity to testify.

**lowen2-Lanaly**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 06, 2014 9:41 PM  
**To:** waltestimony  
**Cc:** eddiejohnson@yahoo.com  
**Subject:** Submitted testimony for HB1866 on Feb 8, 2014 08:30AM

**HB1866**

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>
Eddie Johnson	Individual	Support	Yes

Comments: I support HB 1866. I feel all existing HCDA members should be removed, and a new process of selecting its members is needed.

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:** Thursday, February 06, 2014 9:51 PM  
**To:** waltestimony  
**Cc:** amybugala@yahoo.com  
**Subject:** Submitted testimony for HB1866 on Feb 8, 2014 08:30AM

**HB1866**

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>
Amy Bugala	Individual	Support	No

Comments: I support HB 1866. I feel all existing HCDA members should be removed, and a new process of selecting its members is needed.

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:** Thursday, February 06, 2014 11:34 PM  
**To:** waltestimony  
**Cc:** candychoi68@gmail.com  
**Subject:** \*Submitted testimony for HB1866 on Feb 8, 2014 08:30AM\*

**HB1866**

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:

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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*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 1866 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



KAKAKO  
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  
contact@hcdaweb.org

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. 1866 – RELATING TO THE HAWAII COMMUNITY  
DEVELOPMENT AUTHORITY.**

**Purpose:** Amends the manner in which the members of the Authority are appointed. Establishes new legislative oversight of the HCDA.

**Position:** I offer comments in opposition to this proposal. I note that this testimony reflects my opinion and not that of the Authority, as I have not yet had time to vet this matter with them and receive their input and collective response.

There is currently established a nine member Authority for each of the community development districts (i.e., Kakaako, Kalaeloa and Heeia). The measure would appear to abolish these three Authorities in favor of one nine member board. Issues raised by the proposal include but are not limited to:

- The measure authorizes nine members, but only provides specification for seven. While I believe that the author might have intended to have the Governor appoint the remaining two members, the proposal does not specifically make that provision abundantly clear.

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

- The measure eliminates the members who are obliged to specifically represent the communities of Kakaako, Kalaeloa and Heeia. How will the interests of these communities and community development districts be represented?
- The DHHL has very significant interests in the Kalaeloa District, but has lost its opportunity to participate on matters of great importance.
- The previous composition of the Authority provided that a native Hawaiian cultural specialist would serve as a voice for the host culture. The proposal does not make this position available to the Authority.
- Given the need to coordinate state program delivery and financing, ex-officio members representing the DAGS, DB&F, DOT and DBEDT were previously seated on the Authority. How will the interests and initiatives of those state agencies be served if they do not have a seat on the Authority?

***Legislative Oversight.*** See previous comments relative to HB 1860.

The HCDA was established as a corporate instrumentality of the State. This structure was intended to allow the state and the marketplace to partner in the development of community. This structure has produced many projects that have been borne by area developers without requiring the State government to write a big check. There is no correlation offered by the proposal between the results already produced by the HCDA and any added benefits or accountability that might be realized with more legislative oversight.

Thank you for the opportunity to provide my testimony in opposition to further consideration of this proposal.





*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

**EXECUTIVE BOARD**

REGINALD CASTANARES  
*President*  
Plumbers & Fitters Local 675

DAMIEN T.K. KIM  
*Vice President*  
International Brotherhood of  
Electrical Workers Local 1186

MARC YAMANE  
*Secretary Treasurer*  
Elevator Constructors Local 126

RYDEN VALMOJA  
*Sergeant At Arms*  
District Council 50  
Painters & Allied Trades Local 1791  
Carpet, Linoleum, & Soft Tile  
Local 1926  
Drywall, Tapers & Finishers  
Local 1944  
Glaziers, Architectural Metal &  
Glassworkers Local 1889

DOUGLAS FULP  
*Trustee*  
International Assoc. of Heat & Frost  
Insulators & Allied Workers Local 132

JOSEPH O'DONNELL  
*Trustee*  
Iron Workers Local 625

GARY AYCOCK  
Boilermakers, Ironship Builders  
Local 204

RONAN KOZUMA  
Hawaii Teamsters & Allied  
Workers Local 996

VAUGHN CHONG  
Roofers, Waterproofers & Allied  
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 HB1866 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 HB1866, which amends the manner in which members are appointed to the HCDA and increases legislative oversight of the Authority.

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 HB1866 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 HB1866.

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

## lowen2-Lanaly

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, February 07, 2014 9:42 AM  
**To:** waltestimony  
**Cc:** aycockburr@aol.com  
**Subject:** Submitted testimony for HB1866 on Feb 8, 2014 08:30AM

### **HB1866**

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	Oppose	No

Comments: Dear Representatives, I hope that you will not give the Governor more powers regarding the development of Kakaako or any of Hawaii. I ask that this bill be soundly defeated. Thank you.

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 9:52 AM  
**To:** waltestimony  
**Cc:** CLSKWOCK@GMAIL.COM  
**Subject:** \*Submitted testimony for HB1866 on Feb 8, 2014 08:30AM\*

**HB1866**

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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**Sent:** Friday, February 07, 2014 10:29 AM  
**To:** waltestimony  
**Cc:** kkbtr@earthlink.net  
**Subject:** \*Submitted testimony for HB1866 on Feb 8, 2014 08:30AM\*

**HB1866**

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:

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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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, February 07, 2014 11:12 AM  
**To:** waltestimony  
**Cc:** vsc@hawaiiantel.net  
**Subject:** Submitted testimony for HB1866 on Feb 8, 2014 08:30AM

**HB1866**

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>
Victoria Cannon	Individual	Support	No

Comments: we support this bill but changing the makeup of the Board will not eliminate the flawed decision making process. Retain the elements of land transactions of selling and leasing not to exceed 65 years and set aside public lands with a 2/3 majority vote of legislators. Delete the ability of developers to provide affordable housing outside of the community development jurisdiction and require it to be within the community development authority jurisdiction, Victoria and Trudy Cannon

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Testimony for the  
House Committee on Water & Land  
Saturday, 0830 hrs, February 8, 2014  
House Bill 1866  
Relating to the Hawaii Community Development Authority (HCDA)

Chairperson Evans and Members of the Committee on Water and Land

My name is Grace Ishihara and I am a resident of Kakaako. Thank you giving me this opportunity to submit a testimony.

I strongly support HB 1866 to amend the manner in which members are appointed to the HCDA. I also think that HCDA requires stricter legislative oversight.

The current members of the board are not capable of working with the community. There is no "Community" in the Hawaii Community Development Authority. It should be renamed as the Hawaii Development Authority.

All of the members should not be appointed by the Governor because the ideas of the group tend to be biased. I also think all decisions should be approved by all the members of the board – approvals should not be made unless all members are present.

I urge the committee members to pass this bill so that a new process of selecting board members can be implemented.

Grace Ishihara  
[ue-wale0903@hotmail.com](mailto:ue-wale0903@hotmail.com)

Testimony of

Anna Filler

Before the House Committee on Water and Land

Saturday February 8, 2014

**House Bill 1866:** 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 1866**. I support HB 1863 and I support all the House Bills 1860, 1861, 1863 to 1865 and 1867 being heard today.

I strongly support HB 1866 because the existing HCDA members should be removed and a new process of selecting its members is needed. Some or most of the appointed members make decisions that have no regard to the concerns of the residents of Kaka'ako. The HCDA members are too much involved in the development and construction industry. We need elected honorable representatives nominated by the people to make decisions in the major development of Kaka'ako.

I agree that the Legislature approve all HCDA rules for the new development of buildings.

I urge you to pass HB 1866 to protect Kaka'ako. Thank you for your time and attention to present my testimony.





**DEPARTMENT OF BUSINESS,  
ECONOMIC DEVELOPMENT & TOURISM**

**NEIL ABERCROMBIE**  
GOVERNOR

**RICHARD C. LIM**  
DIRECTOR

**MARY ALICE EVANS**  
DEPUTY DIRECTOR

No. 1 Capitol District Building, 250 South Hotel Street, 5th Floor, Honolulu, Hawaii 96813  
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804  
Web site: [www.hawaii.gov/dbedt](http://www.hawaii.gov/dbedt)

Telephone: (808) 586-2355  
Fax: (808) 586-2377

Statement of  
**RICHARD C. LIM**  
**Director**

Department of Business, Economic Development, and Tourism  
before the

**SENATE COMMITTEE ON WATER & LAND**

Saturday, February 8, 2014

8:30 a.m.

State Capitol, Conference Room 325

in consideration of

**HB 1866**

**RELATING TO THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY.**

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

The Department of Business, Economic Development and Tourism (DBEDT) offers comments on HB1866, which amends the manner in which the members of the Authority are appointed, and establishes new legislative oversight over the Hawaii Community Development Authority (HCDA). HCDA is administratively attached to DBEDT.

We oppose the portion of the proposal that eliminates the seat currently reserved for the Director of DBEDT. The DBEDT Director currently serves as one of four ex-officio members of the Kakaako, Kalaeloa and Heeia Authority. The other ex-officio members include the Directors of Transportation, Budget & Finance, and Accounting & General Services. Given the importance of its holdings in Kalaeloa, the Chairperson of the Department of Hawaiian Home Lands sits on the Kalaeloa Authority. Participation of those State agencies named is critical to ensuring that the interests, priorities, and coordination of these departments are represented in the governance of the HCDA.

We would respectfully ask that the composition of a state agency such as the HCDA continue to have the benefits of our participation.

We defer to HCDA with respect to other provisions of this proposal.

Thank you for the opportunity to offer my comments on this legislative proposal.

**lowen2-Lanaly**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, February 07, 2014 2:48 PM  
**To:** waltestimony  
**Cc:** henry.lifeoftheland@gmail.com  
**Subject:** \*Submitted testimony for HB1866 on Feb 8, 2014 08:30AM\*

**HB1866**

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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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, February 07, 2014 2:50 PM  
**To:** waltestimony  
**Cc:** daneknish@yahoo.com  
**Subject:** Submitted testimony for HB1866 on Feb 8, 2014 08:30AM

**HB1866**

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: A better process of selecting HCDA members is needed.

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**Sent:** Friday, February 07, 2014 3:24 PM  
**To:** waltestimony  
**Cc:** surfandsea05@yahoo.com  
**Subject:** \*Submitted testimony for HB1866 on Feb 8, 2014 08:30AM\*

**HB1866**

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>
Lillian Nishimura	Individual	Support	No

Comments:

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, February 07, 2014 5:21 PM  
**To:** waltestimony  
**Cc:** heather.nishimura@gmail.com  
**Subject:** \*Submitted testimony for HB1866 on Feb 8, 2014 08:30AM\*

**HB1866**

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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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, February 07, 2014 5:37 PM  
**To:** waltestimony  
**Cc:** mango968@earthlink.net  
**Subject:** Submitted testimony for HB1866 on Feb 8, 2014 08:30AM

**HB1866**

Submitted on: 2/7/2014

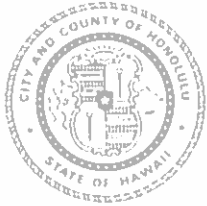
Testimony for WAL on Feb 8, 2014 08:30AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Pam Metthe	Individual	Support	No

Comments: I support HB1866 because I believe that the members of the HCDA need to be selected in a different manner to provide broader vetting of candidates and a greater diversity in viewpoint. I agree that a two-thirds majority should be required for a quorum to conduct HCDA business. I also support the increased legislative oversight outlined in this bill.

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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".

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". The signature is written in a cursive 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 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, appearing to read "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 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.

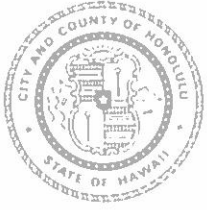
The initial mission of HCDA was to plan and facilitate the redevelopment of the Kakaako area of urban Honolulu. As all areas surrounding Kakaako are under the planning and development jurisdiction of the City & County of Honolulu, HCDA's efforts are essentially duplicative and grossly infringe on County 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". The signature is written in a cursive 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 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, appearing to read "Breene Harimoto", is written over a light gray horizontal line.

Breene Harimoto  
Councilmember, District VII

**Testimony Supporting HB 1864**  
(also HB 1860, HB 1861, HB 1863, HB 1865, HB 1866, HB 1867)  
Galen Fox, Kaka'ako United

Chair Evans, Representatives:

I'm Galen Fox and support HB 1864. I identify strongly with the Neil Abercrombie who as state senator, supplied the sole vote against state seizure of 600 of Honolulu's downtown acreage. I also identify strongly with the Neil Abercrombie who as a U.S. congressman said in 2005 that "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."

The city has managed urban development in Honolulu with increasing skill over the decades. It has a planning commission, a building full of civil servants who manage planning, zoning, traffic, sewers, parks, transit operating districts, build bike paths and press for alternatives to vehicle travel, regulate parking, protect trees, insure developers build truly affordable housing, limit building heights, limit building densities, insure view corridors are maintained, and exact impact fees from developers to pay for schools, parks, roads, sewers, beautification, bike paths, and affordable housing, all according to strictly enforced ordinances and rules. HCDA does none of this.

HCDA--and the state--isn't equipped to run effectively an urban core neighborhood. HCDA is in over its head, and that, unfortunately, has been the truth for most of its existence.

We residents suffer. HCDA pays no attention to Kaka'ako businesses or residents, and we in turn have zero leverage over HCDA, which seems to answer to the Governor (a majority of board voting members are hired by the Governor). We would love to have the City Council govern us instead of HCDA, with a representative from our area holding one of nine Council votes.

The "Broken Trust" Bishop Estate board all eventually lost their jobs. It's time for the HCDA "broken trust" to end, and for Kaka'ako to return to the city. Pass HB 1864, unamended. I also support passage of HB 1860, HB 1861, HB 1863, HB 1865, HB 1866, and HB 1867. Mahalo.

Honorable Representative Cindy Evans, Chair  
Honorable Representative Nicole E. Lowen, Vice Chair  
Honorable Members of the Committee on Water & Land

Re: HB 1866 – **In Support** relating to selecting the 9 Voting Board Members of the Hawaii  
Community Development Authority (HCDA)

Good Morning Chair Evans, Vice Chair Lowen and Members of the Committee on Water & Land:

My name is Daisy Murai, a resident of Kapahulu and I support HB 1866 in selecting 9 voting members of the HCDA Board with 1 person being a Cultural and or a Historic expert and 1 resident of Kakaako, who has no connection or influences with the Developer, the Property Owner or Business such as an Investor or Realtor. The non-voting members will be comprised from both City & State Agencies that handle Infrastructural, Planning, Permitting, Board of Water Supply, Business & EcomicDevelopment & Tourism, Transportation and other important resources needed for Careful Growth in Kakaako.

I remain hopeful that the Governor of the State of Hawaii will wisely select and appoint from the names submitted by the 7 authorized members for the HCDA Board as listed on HB 1866.

Thank you for the opportunity to speak.

Daisy Murai, member of the General Public  
3039 Kaunaoa Street  
Dated: February 7, 2014

Date of Hearing: February 8, 2014, Saturday  
Time of Hearing: 8:30 am  
Place of Hearing: Conference Room 325



**lowen2-Lanaly**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Saturday, February 08, 2014 4:19 PM  
**To:** waltestimony  
**Cc:** mat676@aol.com  
**Subject:** \*Submitted testimony for HB1865 on Feb 8, 2014 08:30AM\*

**HB1865**

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>
Mary Romero	Individual	Support	No

Comments:

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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

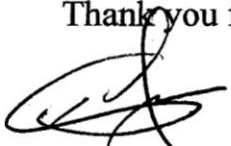
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Thank you for the opportunity to offer these comments.



Sergio 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.*

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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

**Downtown Capital LLC**  
215 N. King Street, Suite 1000  
Honolulu, Hawaii 96817  
Phone (808) 526-2027 Fax (808) 526-2066

Testimony of Ryan Harada  
Downtown Capital LLC

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

HB 1860, 1861, 1863, 1864, 1865, 1866, & 1867 Relating to the Hawaii Community  
Development Authority  
Saturday, February 8, 2014, 8:30 a.m., Conference Room 325

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

My name is Ryan Harada. I represent Downtown Capital LLC, the Developer of the 801 South St condominium project located on Kapiolani Blvd. & South Street. Our Project:

- Provides housing for middle-income Hawaii residents;
- Generates local jobs – 350 construction workers and business for 50 companies that design, supply, and manufacturer materials
- Creates a workforce community because 801 South St will be occupied by full-time, Hawaii residents

To be clear, if similar Bills were passed two years ago, there would be no 801 South St, and 1,000+ families would not have the opportunity to live in a new condominium in Kakaako. Accordingly, we oppose any Bill that:

- Creates excessive legislative oversight of HCDA, thereby defeating its purpose as a Redevelopment Authority;
- Limits density to 3.5 – without a density bonus, Developers will only build higher-margin luxury projects, or ones subsidized by the Government and taxpayers;
- Repeals HCDA, eliminates its operating budget, or imposes a 1-year moratorium on any approval – this would effectively stop all construction in Kakaako

The last 100% for-sale affordable project built in Kakaako was 1133 Waimanu in 1996. After years of public input, HCDA amended its Rules in 2011 that facilitates construction of workforce housing. After overwhelming Buyer interest, Phase 1 of 801 South St commenced construction in 2013. I urge this Committee not to undermine HCDA's efforts to increase housing for middle-income Hawaii residents.



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  
Phone: 808-593-0300 • Fax: 808-593-0525 • Email: [mail@outdoorcircle.org](mailto:mail@outdoorcircle.org) • [www.outdoorcircle.org](http://www.outdoorcircle.org)

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

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## **lowen2-Lanaly**

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**From:** Ron Iwami <ronald@kewalo.org>  
**Sent:** Friday, February 07, 2014 3:55 PM  
**To:** waltestimony  
**Subject:** \*\*\*\*\*SPAM\*\*\*\*\* Testimony in support of HB 1860, HB1861, HB1866, HB 1867



House Committee on Water and Land, Rep. Cindy Evans, Chair

February 8, 2014 @8:30 am

Conference room 325, State Capitol

### **Testimony in support of HB 1860, HB1861, HB1866, HB1867**

Aloha,

Friends of Kewalos is a non-profit community group dedicated to Protect, Preserve, and Malama Kewalo Basin Park and the surrounding Kaka‘ako shoreline area to ensure continued ocean access and the ability to enjoy the area for future generations to come.

We are deeply concerned about the irresponsible and unprecedented development that is occurring in Kaka‘ako today.

We must take the first steps to help HCDA improve the way they do business. First and foremost, they need to really listen to the People and really incorporate their input in their decision making and not just go “through the motions”. We need more community stakeholders as members of HCDA to create a better mix of representation instead of all business and government. HCDA needs to follow the rules and not exceed the 400 foot height limitation by allowing buildings 650 ft in height. They should keep the Mauka- Makai axis orientation to preserve our last remaining view planes. HCDA should make sure all the infrastructure needs are resolved to sustain the increased population such as increased traffic, schools, water and sewer needs. Case in point, the sewer stench is a reality in Kaka‘ako, yet HCDA continues to approve tower after tower. It would be disastrous if we had a similar sewage spill like the one that occurred in Waikiki. Imagine millions of gallons of raw sewage flowing into Kewalo Basin.

Friends of Kewalos feel these bills are a good first step in improving HCDA for the better which will result in a Kaka'ako that is developed Smart and Responsibly for all the people of Hawaii.

Mahalo for this opportunity to testify and share our manao.

Ron Iwami  
President, Friends of Kewalos



# LABORERS' INTERNATIONAL UNION OF NORTH AMERICA LOCAL 368



**PETER A. GANABAN**  
*Business Manager/  
Secretary-Treasurer*

**ALFONSO OLIVER**  
*President*

**JOBY NORTH II**  
*Vice President*

**TONI FIGUEROA**  
*Recording Secretary*

**THOMAS CATHCART**  
*Executive Board*

**JAMES DRUMGOLD JR.**  
*Executive Board*

**LEIMOMI JOHNSON**  
*Executive Board*

**MARK MAGUSARA**  
*Auditor*

**MARK TRAVALINO**  
*Auditor*

**JOSEPH YAW**  
*Auditor*

**LEUMA L. LEATUMAUGA**  
*Sergeant-At-Arms*

February 7, 2014

Honorable Cindy Evans, Chair  
Honorable Nicole Lowen, Vice Chair  
Members of the Water & Land Committee

RE: HB1866 Relating to the Hawaii Community Development Authority

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

The Hawaii Laborers' Union strongly opposes HB1866 for the following reasons:

1. The current Authority has nine members each for the development district (Kakaako, Kalaeloa, and Heeia). HB1866 will abolish these three boards.
2. The bill calls for nine members but only seven have been identified. Where are the other two?
3. The interests of the three districts will not have representation.
4. The Department of Hawaiian Homes and Lands (DHHL) will lose the opportunity to participate.
5. The coordination, of state programs. and financing could be difficult without ex-officio members from the DAGS, DB&F, DOT, DBEDT in the new Authority.

Thank your for the opportunity to submit this testimony.

Sincerely,

Al Lardizabal

**lowen2-Lanaly**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Saturday, February 08, 2014 2:06 AM  
**To:** waltestimony  
**Cc:** michelematsuo@yahoo.com  
**Subject:** Submitted testimony for HB1866 on Feb 8, 2014 08:30AM

**HB1866**

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 hb1866, however would like to add that the Dean of the UHM-SOEST be made an Ex-Officio member of the HCDA, who shall be given the opportunity to speak and state a position on every application which comes before the HCDA.

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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 1866,  
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 seen the problems with a state agency that has been given broad discretion without oversight. HB1866 provides the strong oversight required to ensure that HCDA follows the legislative intent and the law.

HB1866 also identifies the source of the problems in the districts run by the HCDA as the composition and appointment process for board members. While we believe the best solution is to abolish the state agency and return its functions to the city, as provided in HB1864, we agree that changing the composition and appointment process may be a short-term solution; in particular, changing the Authority membership to include broader interests and perspectives.

While we support the intent of Section 1 to fix the current appointment process, it does not address the current failure of the Authority to represent interests of the community(ies) it is supposed to serve. We therefore suggest that criteria for membership include at a minimum one member who has professional background in planning, architecture, engineering or allied fields; one member who is a resident of the district; and one member who owns a small business in the district.

Additionally, we agree with the City Council's recommendation in its hearing on Resolution 14-29, supporting the repeal of the HCDA, that the Authority include county member(s) appointed by the local governing body and the county director of planning and permitting as an ex-officio voting member. The inclusion of the appropriate county representatives will bring the necessary expertise and the consistent application of standards and practices in community planning and building, and, will provide for the comprehensive and systematic upgrading of the infrastructure to adequately meet the additional load created by development projects.

We support HB1866 with the recommended changes to the membership composition of the Authority.

Thank you for the opportunity to testify.

## lowen2-Lanaly

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Friday, February 07, 2014 8:50 PM  
**To:** waltestimony  
**Cc:** daigoro@hawaii.rr.com  
**Subject:** Submitted testimony for HB1866 on Feb 8, 2014 08:30AM

### HB1866

Submitted on: 2/7/2014

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

Submitted By	Organization	Testifier Position	Present at Hearing
Darryl	Individual	Comments Only	No

Comments: Mahalo for your time. I live in Kakaako and have been directly impacted by the development process and HCDA. One of my biggest concerns is that the entire process for the development of Kakaako is so skewed in favor of the developers and BIG money. When projects are announced by HCDA, we citizens living in Kakaako are usually blind-sided by the projects and are given about a month or so to provide feedback. We find out about new developments in the newspaper the day HCDA decides to post it. We have no notice from neighborhood boards or any other government agency of upcoming projects. Almost all of us know nothing about the development process, rules, regulations, laws, what is required and not required for projects to be built. The developers have years of planning and strategizing, decades of experience and us citizens have a month to learn all the rules, regulations, laws to become experts on the development process. This is completely unfair and makes me feel like we citizens are not able to be heard. Seems clear to me that this is the developers and HCDA's? strategy to make it easier to push projects through. Announce the project with no prior notice, give the public very little time to respond, overwhelm the public with the amount of time and effort required to adequately respond, and most times people won't make a big fuss because they feel they don't have the time and effort required to fight back. Lucky for us we had a resident that had the time and drive to get the word out about 803 Waimanu project, which help people to get together to see what could be done to oppose the original project. This required so much time and effort by many people to do research about the development process. None of us knew where to start. I'm sure this happens more often than people realize where residents and communities are left to "figure things out" on their own, when the experienced developers know all the rules. What I would like to see is a more transparent and accountable process that allows adequate notification to the community, what our rights are, what the benefits and drawbacks for each new project are, what can we do to help make the project work, etc. Also it is very difficult to attend HCDA hearing when it is during the weekday during working hours. This is another barrier for adequate public input. I can't keep taking days off from work to attend the hearings. All this and more makes it very apparent that HCDA gives preferential treatment to developers and this process needs to change. How can we citizens give adequate input when we don't have the knowledge and time?

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## 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.

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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 HB1866, 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 HB1866, which amends the manner in which members are appointed to the HCDA. Enhances legislative oversight of the authority.

The HCDA was established as a corporate instrument of the state. This structure was intended to allow the state and marketplace to partner in the development of this community. This structure has produced many projects that have been borne by area developers without requiring state monies. There is no correlation offered by the proposal between the results produced by the HCDA and any added benefits or accountability that might be realized with more legislative oversight.

Therefore Local 675 opposes HB1866.

Thank you for this opportunity to testify.

Mahalo,  
Glenn Ida  
808-295-1280

## lowen2-Lanaly

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**From:** GlennShiroma@hawaiiantel.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@hawaiiantel.net](mailto:GlennShiroma@hawaiiantel.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)

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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.



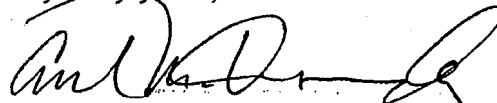


3. Reevaluate any reapplication for a Permit for Phase II of the Downtown Capital LLC 801 South Street Project Planned Development according to the principles and concerns expressed in this Petition.

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**

Statute/Rule/Regulation	Page No.
<b>HAWAII ADMINISTRATIVE RULES</b>	
HAR § 13-284	9, 10
HAR Title 15, Chapter 217	2, 4
HAR § 15-217-2	2
HAR § 15-217-2(c)	9
HAR § 15-217-2(c)(1)(A)	11
HAR § 15-217-2(c)(1)(E)	11
HAR § 15-217-2(c)(3)	18
HAR § 15-217-2(c)(3)(H)	9
HAR § 15-217-4	2, 18
HAR § 15-217-5	2
HAR § 15-217-6	2
HAR § 15-217-8	2, 11, 14, 17
HAR § 15-217-21	2
HAR § 15-217-22	2
HAR § 15-217-24	2
HAR § 15-217-25	2
HAR § 15-217-26	2
HAR § 15-217-27	2
HAR § 15-217-39	2
§HAR § 15-217-53	2, 13
HAR § 15-217-53(a)	12
HAR § 15-217-53(b)	13
HAR § 15-217-54	2, 13
HAR § 15-217-54(f)	12, 13
HAR § 15-217-55	2, 13
HAR § 15-217-55(e)(3)	13
HAR § 15-217-55(l)	8
HAR § 15-217-55(l)(3)	7
HAR § 15-217-55(l)(4)	8
HAR § 15-217-55(l)(5)	12
HAR § 15-217-56	2
HAR § 15-217-56(d)	16
HAR § 15-217-57	2
HAR § 15-217-58	2, 18
HAR § 15-217-58(d)(7)	15
HAR § 15-217-59	2
HAR § 15-217-59(c)(1) to (7)	15
HAR § 15-217-62	2
HAR § 15-217-63	2, 12
HAR § 15-217-63(c)(3)	16
HAR § 15-217-80(d)	18
HAR § 15-217-85(f)	6



HAR § 15-217-90	2
HAR Title 15, Chapter 218	2, 4
HAR § 15-218-35	6
HAR § 15-218-36	6
HAR § 15-218-41	6
HAR § 15-218-55	2, 4, 5, 6, 7
HAR Title 15, Chapter 219	4
HAR § 15-219-46	3, 20
<b>HAWAII CONSTITUTION</b>	
Haw. Const., Article I, Section 5	1
Haw. Const., Article III, Section 1	2, 4
Haw. Const. Article IX, Section 6	2, 4
Haw. Const. Article IX, Section 8	2, 4
Haw. Const. Article XI, Section 9	2, 4
<b>HAWAII REVISED STATUTES</b>	
HRS § 6E-2	9
Haw. Rev. Stat., Chapter 92	3, 5
HRS chapter 206E	9
HRS § 206E-4	2, 6
HRS § 206E-5.5	2, 4, 6
HRS § 206E-5.6	2, 4
HRS § 206E-7	2, 6
HRS § 206E-31	2, 6
HRS § 206E-31.5	2, 6
HRS § 206E-33	2, 4, 6, 8



NEIL ABERCROMBIE  
GOVERNOR OF HAWAII



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

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BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

ESTHER KIA'AINA  
FIRST DEPUTY

WILLIAM M. TAM  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
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

