



*Native Hawaiian Chamber of Commerce*

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TESTIMONY OF THE  
NATIVE HAWAIIAN CHAMBER OF COMMERCE

TO THE  
HOUSE COMMITTEE ON OCEAN, MARINE RESOURCES, HAWAIIAN AFFAIRS

**SENATE BILL NO. 3122, SD2, HD1**  
Relating to the Hawaii Community Development Authority

March 19, 2014

The Native Hawaiian Chamber of Commerce **supports** Senate Bill No. 3122,SD2, HD1. The Native Hawaiian Chamber of Commerce represents nearly 180 members who are dedicated to strengthening Native Hawaiian businesses and professions throughout the state. In addition to strengthening Native Hawaiian businesses and professions, part of our mission is to advocate for improving the conditions of Native Hawaiians as a whole. This measure seeks to allow the Office of Hawaiian Affairs (OHA) the opportunity to develop residential homes on its parcels in Kaka'ako after it conducts a public hearing.

We believe that it is vital for OHA to have a strong revenue stream in order to fulfill its fiduciary duty of bettering the conditions for Native Hawaiians. In order for OHA to do this, the agency needs the ability to fully develop its properties. Residential units are an important component of OHA's mixed use development plan that incorporates both land stewardship and cultural values in its design. From its inception, OHA has supported appropriate safeguards to ensure responsible development, sustainable growth, and the preservation of natural and cultural resources.

The Native Hawaiian Chamber of Commerce supports this bill and urges the committee to pass out this measure. Mahalo for the opportunity to testify.

Marlene Lum  
Board President  
Native Hawaiian Chamber of Commerce



**"E Paepae I Luna Loa I Ka Malamalama"  
"Hold High the Light of Knowledge"**

Pearl Harbor Hawaiian Civic Club  
Chartered: April 16, 1964  
P.O. Box 66, Aiea HI 96701



Testimony of Charles Kapua, President

IN SUPPORT

SB 3122 SD 2 HD 1 – RELATING TO HAWAII COMMUNITY DEVELOPMENT AUTHORITY

HOUSE COMMITTEE ON WATER AND LAND

March 19, 2014

Aloha Chair Hanohano, Vice-Chair Cullen, and members of the Committees,

My name is Charles Kapua, President of the Pearl Harbor Hawaiian Civic Club. I am testifying on behalf of our club's members in strong support of SB 3122 SD 2 HD 1. This bill will ensure that residential development proposed or planned by the Office of Hawaiian Affairs (OHA) at its lands in Kaka'ako Makai will include public meetings prior to decision-making by the Hawaii Community Development Authority.

In general, we support any measure that will facilitate or expedite OHA's development of Kaka'ako Makai. We supported the transfer of these lands to OHA in 2012 as a means for OHA to generate resources for OHA to fulfill its responsibility to improve the conditions of Native Hawaiians. These projects can help OHA to achieve financial self-sufficiency and long-term sustainability for our trust.

We expect this bill will provide for open meetings, consultation and exchange of mana'o to help mitigate concerns of the public on this development. Our club members also look forward to participating in these planning meetings.

For these reasons, we respectfully urge your committees to pass this bill. Mahalo nui loa for your consideration of our testimony.

# *Malama Makaha*

March 17, 2014

TO: Senate Committee on OCEAN, MARINE RESOURCES, & HAWAIIAN AFFAIRS

SUBJECT: Testimony in Opposition to SB 3122

Dear Committee Members,

Malama Makaha strongly opposes SB 3122. There is overwhelming public anger at OHA's effort to skirt existing State Law by acquiring a variance by means of SB 3122 so they can develop condominium projects on the Kaka'ako coastal area. If the State allows this kind of "variance law" to pass, then the original law prohibiting this kind of activity in Kaka'ako and the Kewalo Basin area will become useless to protect Hawaii's future generations from over-development.

The land OHA is trying to develop is precious and needs to be protected from development; there should be no residential development on the makai side of Ala Moana Boulevard nor should there be any buildings over current existing heights for commercial, private or other uses.

We are adamantly opposed to SB 3122; as our representatives who are guardians of Honolulu's future, we hope you feel the same way.

Mahalo Nui Loa,



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



March 8, 2014

Committee Chair & Members of Ocean, Marine Resources and Hawaiian Affairs (OMH)

**RE: Strong Opposition against SB 3122**

**Hearing on Wed., 3/19, State Capitol, Conf. Rm. 325, 10:15am.**

Dear Chair Hanohano, Vice Chair Cullen, and Committee Members,

My name is Stuart Coleman, and I am the Hawaii Coordinator of the Surfrider Foundation. With more than 5000 activists and supporters across the state, Surfrider strongly OPPOSES SB 3122. Eight years ago, our members joined the Save Kakaako Coalition to oppose building high-rise luxury towers in Kakaako Makai on public land. We worked with citizens, officials and legislators like you to pass a law to ban residential development in the area, and I can honestly say it restored my faith in the democratic process and was one of the highlights of my life!

Now, SB 3122 seeks to **exempt** OHA, the new owner of several Kakaako Makai parcels, from the 2006 law and undo the prohibition of residential development in the area. We have met with OHA representatives and are sympathetic to their desires to earn more money for their constituents, but we don't think this is the *pono* way to do that. Besides, OHA knew of the law when they accepted the Kakaako Makai property, and many Hawaiians support those residential restrictions. What good are our laws when legislators and governmental agencies keep making special exemptions?

We ask you to oppose this exemption because Kakaako Waterfront Park is one of the last areas of open space and park with public access to the shoreline along the urban Honolulu coastline. With 30 new high-rise towers proposed for Kakaako Mauka and a projected population increase of 30,000, there will be a need for this open park space. Kakaako Makai offers open access to shoreline fishing, diving and popular body boarding and surf sites, as well as a waterfront promenade and significant panoramic views. If these condo towers are allowed, they will establish a bad precedent, limit access and create a high-rise wall blocking the view plane many others.

In 2006, when legislators prohibited residential development in Kakaako Makai, only one or two lawmakers opposed the restrictions. But when the deal with OHA was made, several legislators promised to make an exemption for them. These lawmakers might have had good intentions, but they had no legal right to make that claim. We are asking you to preserve this last shoreline area and show the people of Hawaii that you will stand by existing laws which they helped to establish. Mahalo for your time and consideration and please feel free to contact me if you have any questions or suggestions.

Sincerely,  
Stuart Coleman  
Stuart H. Coleman  
Hawaii Coordinator



25 Malunui Ave., Suite 102., PMB 282 • Kailua, HI 96734 • Phone/Fax: (808) 262-0682 E-mail: htf@lava.net

March 19, 2014

COMMITTEE ON OCDEAN, MARINE RESOURCES, & HAWAIIAN AFFAIRS

Rep. Faye Hanohano, Chair  
Rep. Ty J. K. Cullen, Vice Chair

SB 3122 SD2 HD1  
RELATING TO HAWAII DEVELOPMENT AUTHORITY

Committee Chair and Members;

Hawaii's Thousand Friends, a statewide nonprofit organization dedicated to reasonable, responsible and appropriate planning and land use, does not support SB 3122 SD2 HD1 that allows residential development in Kaka'ako Makai.

The 2006 the legislature banned residential development in Kaka'ako Makai in response to citizen's protests against A&Bs proposed condo development. The protests, then and now, show that residents *do not* want makai views, ocean access and open spaces covered with residential development.

SB 3122 SD2 HD1 requires a public hearing but that is just a red herring because all government agencies are required to hold public hearings under Chapter 91 – Administrative Procedure.

How telling is it that the wording ...the authority shall **fully consider** all written and oral submissions received at the public hearings held by the applicant and the authority has to be put into law. Isn't the objective of holding a public hearing and soliciting public testimony to *consider* and evaluate public testimony?

While SB 3122 SD2 HD1 limits residential development to OHA property if allowed it is a foot in the door to allow *more* residential development in the future. How can HCDA deny the next applicant?

The answer is - HCDA **can not** deny any applicants request for residential development in Kaka'ako Makai because to do so means that SB 3122 SD2 HD1 is *special legislation*, which benefits just one entity, and is in violation of the State Constitution.

HTF urges you to retain Kaka'ako makai open access to shoreline fishing, diving, body boarding and surf sites by holding SB 3122 SD2 HD1 in committee.



**cullen2**

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**From:** Russell <Russell@legpartners.com>  
**Sent:** Monday, March 17, 2014 11:57 AM  
**To:** omhtestimony  
**Cc:** Russell@legpartners.com  
**Subject:** Testimony in Opposition to SB 3122, SD1,HD1

**Importance:** High

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Dear legislators of the State of Hawaii,

I have viewed some wonderful body surfing video from the Point Panics surf site dedicated to body surfers throughout the past 10 years, and on my next trip to Hawaii plan to frequent several body surfing spots, and in particular, Point Panics.

I recently learned of the potential for this area (Kaka'ako Makai, or Point Panics) to be further developed, which would negatively impact the shoreline and the current surf spot known as Point Panics. I respectfully implore you to stop and not allow this site be developed further and forever changed from its natural beauty.

As a body surfer who reveres what Hawaii has to offer in our sport of surfing, such natural beauty and soul-ful surfing areas should not be further changed by the development desires of others. Hawaii is a paradise, and further development would once again compromise part of "Paradise".

Thank you for your time, and for accepting my concerns. I sincerely hope to visit Point Panics soon and surf its beautiful waves that I've so often seen.

Sincerely,

Russell J. Riopelle  
Chief Operating Officer  
Legacy Partners  
1999 Avenue of the Stars, Suite 2590  
Los Angeles, CA 90067  
W: (424) 777-0776  
Fax #: (424) 777-0778  
Mobile: (310) 926-5950  
Email: [Russell@legpartners.com](mailto:Russell@legpartners.com)

**Name/Title:** Rafael Bergstrom, Surfrider Oahu Chapter Administrator; Junior Researcher, Department of Natural Resources and Environmental Management, UH Manoa

**Committee:** Ocean Marine Resources and Hawaiian Affairs

**Date/Time:** Wednesday March 19 2014, 10:15 AM

**Measure Number:** SB 3122

Aloha OMH Committee members,

I would like to voice my strong opposition to SB 3122. Simply put, there is no such thing as responsible residential development in any makai area from now into the future. The world's climate is changing, the seas are rising, and weather patterns are acting with more force and less predictability. We have to be proactive in our efforts as humanity to stop making the same mistakes of the past and this means learning from events like hurricanes Sandy and Katrina. By building residentially close to our ocean we are being irresponsible, we are putting people in danger. Right now on this very island we are losing homes on the north shore. Sure the circumstances are slightly different and the forces of the ocean vary, but we must stop adding to the problem, we must start acting outside of the highest profits and greatest opportunity to make money. My opposition to this bill is not just about aesthetics, about views of Diamond Head, it is about so much more, it is about acting with foresight and about protecting a future that we constantly disregard for the quick fix.

The name of the developer on the bill should not matter. I sat down with OHA and listened to their arguments and very much believe that their intentions are better than a purely for profit developer, but that is not the issue. This land was protected from development for a reason; this land was protected by law less than 8 years ago. Does the law mean nothing? Are our decisions to protect land for the people that easily swayed? Should it matter who is asking for the exemption to the law? No. That is outside the bounds of this decision. I ask you as a committee of lawmakers to understand that.

When this land was given to OHA, both the State and OHA were well aware of the current building restrictions on the land, yet they agreed to settle this way. To try and force exemptions now is also irresponsible and dishonest on both sides. I highly encourage the state to understand that the intentions of OHA are not necessarily coming from a bad place and to consider a land exchange where they do have the opportunity to build residentially – but not here, not in a place on the water, not in a place that hundreds of concerned citizens of all walks of life, of all backgrounds, stood up to protect not long ago and are still doing now.

Thank you very much for taking the time to read my testimony and please take it into consideration in your decision on the issue.

Aloha,

Rafael Bergstrom



COMMITTEE ON OCEAN, MARINE RESOURCES AND HAWAIIAN AFFAIRS

WEDNESDAY, MARCH 19, 2014

10:15 AM

ROOM 325

PERSONAL TESTIMONY FROM BENTON KEALII PANG, PH.D.  
IN **SUPPORT** FOR  
SB 3122, SD2, HD1 (HSCR936-14)  
RELATING TO HAWAII COMMUNITY DEVELOPMENT AUTHORITY

ALOHA NŌ CHAIR FAYE HANOHANO, VICE CHAIR TY CULLEN, AND  
COMMITTEE MEMBERS

My name is Benton Kealii Pang. I am a biologist with the U.S. Fish and Wildlife Service, current Chair of the Forest Stewardship Committee and Chair of the Clean Water and Natural Lands Commission. Please excuse my absence from being physically present at today's hearing.

I offer my personal testimony in support of Senate Bill 3122. I run in Kaka'ako makai at least three times a week for exercise and enjoy the open green space the area offers. I often see people enjoying Kaka'ako Waterfront Park and ocean users enjoying the seaside shore. We are blessed to have a wonderful piece of reclaimed land for public use.

After reading the Office of Hawaiian Affairs' (OHA) Kaka'ako Makai policy (2012) and recent amendments to this bill, I feel assured that the future development of the parcels OHA owns will be planned with an abundance of public input, will protect Hawaiian cultural traditions, enhance public access, and protect, in perpetuity, vital programs for our native Hawaiian communities.

As a native Hawaiian and recreational user of Ka'akako Makai, I welcome OHA's plans. Mahalo for your time and consideration.

ALOHA 'ĀINA,

BENTON KEALII PANG, PH.D.  
909 KAPIOLANI BLVD, RM 3205  
HONOLULU, HAWAII 96816

**cullen2**

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**From:** J. Matt <surfbathing@gmail.com>  
**Sent:** Monday, March 17, 2014 3:52 AM  
**To:** omhtestimony  
**Cc:** info@kewalo.org  
**Subject:** Testimony in Opposition to SB 3122, SD1,HD1

**Follow Up Flag:** Follow up  
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To whom It May Concern,

Although not living at home now due to work obligations I grew up in Moili'ili and was a regular dawn patrol bodysurfer at Point Panics prior to the park improvements that are present today. Even when it was somewhat of an industrial wasteland it was a magical spot thanks to the wave that breaks there. As a teen I shared the water (often as the youngest one out) with body surfers from all walks of life- many of them professionals including doctors and lawyers getting wet before going to work downtown. Because I was too young to drive and could take fins on The Bus (my skateboard and surfboard weren't allowed) Panics was a great option for me to have a place to go to be in the water and appreciate much of what the ocean has to teach us. To this day I have a crumpled photo from a calendar tacked above my desk depicting someone deeply tubed on a left at Panics. That it has hung above my many desks for nearly 30 years is testament to the importance of this place to me.

It is important that Hawai'i maintain places like Kaka'ako where *all* the people of Hawai'i have the opportunity to experience the ocean and the shoreline if they chose to. It is especially important as more and more of Hawai'i is developed. A place for kids and adults to find themselves in the coastal landscape is intrinsically important to the process of coming of age as a person connected to the aina whether Native Hawaiian or haole and this is especially important in Town where so much of the coast is impacted by development. To have these experiences filtered through prism of being surrounded by luxury condos will change the public's experience for the worse; I am watching as San Francisco becomes increasingly polarized between those who can live in luxury condos and those that can't and I don't want to see that same thing occur in Honolulu, my home no matter where I might find myself living.

Although OHA certainly has the best interests of the Hawaiian people at heart I respectfully disagree regarding development at Kaka'ako, at least as it incorporates luxury high rise residential development and urge you to forbid commercial residential exemptions to the planning codes that protect this land today. This land does not exist as an opportunity for a few to make tremendous amounts of money but for all to enjoy as a living part of *everybody's* experience in Hawai'i.

Thank you,  
J. Matt  
Iolani '87

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# Kaka'ako Ūnited

Testimony of  
Sharon Y. Moriwaki  
Before the  
House Committees on Ocean, Marine Resources & Hawaiian Affairs

Wednesday, March 19, 2014, 10:15 a.m., Conference Room 325

**In Strong Opposition to SB 3122, SD2, HD1  
Relating to the Hawaii Community Development Authority**

Chair Faye Hanohano, Vice Chair Ty Cullen, and Members,

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

SB 3122, SD2, HD1, if passed, will allow building residential developments in Kaka'ako Makai in violation of explicit current law established in 2006.

In 2012, SB 2783 became law (Act 15). It stated that OHA accepted the Kaka'ako makai parcels "as is, where is," after completing all due diligence, to satisfy all claims relating to income and proceeds from the public land trust lands. Act 15 (2012) also stated that the property was to remain under the jurisdiction and authority of the Hawaii Community Development Authority (HCDA), and specifically with respect to zoning and land use conditions.

Under the law governing HCDA, Section 206E-31.5(2), HRS, specifically prohibits it -- the steward of the Kaka'ako Community Development District-- from "approving any plan or proposal for any residential development in that portion of the Kaka'ako community development district makai of Ala Moana Boulevard..."

Based on the foregoing, OHA should abide by the law of the Kaka'ako community development district as well as its agreement with the state pursuant to Act 15. The legislature should not now allow OHA to use the "highest and best use" argument to violate the law and the trust of the community. This would be another broken trust affecting all of Hawaii's people, including Native Hawaiians.

We strongly oppose SB 3122, SD2, HD1, and urge the bill be filed.

Thank you for the opportunity to testify.

**KŪ: Kaka'ako Ūnited**  
415 South Street Main Office • Honolulu, Hawaii 96813  
[www.kakaakounited.org](http://www.kakaakounited.org) • [info@kakaakounited.org](mailto:info@kakaakounited.org)



*Ensuring the quality of life for an integrated Kaka'ako community from mauka to makai.*

**cullen2**

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**From:** Ron Iwami <ronald@kewalo.org>  
**Sent:** Sunday, March 16, 2014 11:05 PM  
**To:** omhtestimony  
**Subject:** Testimony in Opposition to SB 3122, SD2, HD1

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Committee on Ocean, Marine Resources, & Hawaiian Affairs  
Rep. Faye Hanahano, Chair  
Wednesday, March 19, 2014  
10:15 am. room 325

Aloha,

I want to share a bit of Kaka'ako Makai history on how the Residential ban came to be for those of you who may not know. Back in May of 2005, Friends of Kewalos was formed by a group of surfers and other Kewalo Basin park users because we had heard rumors of development coming to the area. On May 5, 2005, a newspaper article reported that four finalists were selected by HCDA to compete for rights to remake 36 acres of public land along the Kaka'ako Waterfront which included Kewalo Basin Park. The article noted that details of the proposals were being kept confidential by the HCDA in its sealed bid process until after it makes its final selections. Many questions came to mind so we decided to write a letter to HCDA requesting more information. Their reply to us was the same, the plans remain confidential until the master developer is selected, then and only then will public hearings be held. In other words, it was a secret.

Then on Wednesday, September 7, 2005 @ 9:00 am, Friends attended a public hearing called by HCDA to change the zoning of KM from commercial use only to mixed use which would allow residential opportunities including high-rises. Also proposed was to raise the height limit of the land east of the Kewalo Channel from 45 ft to 65 ft. We of course opposed the changes but were outnumbered by developers, construction, and other special interest groups that were paid to be there. Immediately after all the testimony was heard, HCDA made the decision to allow residential opportunities on the makai lands. This was an example of HCDA's power. Had we not written our letter, Friends would not have been notified of this public hearing.

Exactly one week later, on September 14, 2005, HCDA announced Alexander and Baldwin was selected as the master developer. To our surprise, the newspapers revealed for the first time the extent of the \$650 million dollar development on 36.5 acres of public land with a rendering of three 200 ft tall 20 story RESIDENTIAL LUXURY HIGHRISES along with a giant 45 foot high pedestrian bridge spanning the

Kewalo Channel. This tells me that A&B had knowledge of the residential zoning and the height changes all along in order for them to include the high-rises in their plan. I learned later that HCDA was so confident of its ability to rezone the land that they issued Request for Proposals that included residential entitlements nine months before the zoning change..

Another important note is that the 36.5 acres of public land was to be sold to A&B for \$50 million dollars with all the infrastructure already put in on the State's dime. In 2004, I witnessed the vast improvements to the sewer, water, wide roads with nice sidewalks, etc. at the site.

Long story short, Friends of Kewalos held our first rally in November 2005 and formed the Save Our Kaka'ako Coalition to fight this development. We printed the original Red shirt that you see today with the Public Land Not For Sale written on the back. We marched to the Capitol in January 2006 on the day that Governor Lingle presented her State of the State Address. One week later SOK met with her where she told us she will not stop the development and suggested we rally the legislators to stop it. A legislator introduced a bill on our behalf and through a massive show of People Power of numerous rallies, a Ho'olaualea, testimonies, editorials, and news stories resulted in all the legislators except one, voting for passage of the bill. Governor Lingle indicating a veto prompted us to do one final rally in front of the HCDA office in the Gold Bond building on Ala Moana Boulevard similar to the SOK rally we had two Saturdays ago. I believe it helped because it ended up becoming law without her signature. A legislator informed me that 25,000 emails, phone calls, etc. was sent to her telling her not to veto. This landmark legislation that prohibits the sale of public land and bans residential development in KM virtually stopped the development. SOK applauds the legislators of 2006 for having the foresight to protect this special land for the People of Hawaii to enjoy.

Our work was not done. For the next five years, the community worked collaboratively with HCDA to create the KM Conceptual Master Plan which includes a Vision (People's Gathering Place) and 14 Guiding Principles that respects the KM law. In May of 2011, HCDA officially adopted this plan to guide future development of this public oceanfront land.

In April of 2012, this public oceanfront land was given by the State to OHA to satisfy the long standing debt. That same legislative session SB 682 was asking for an exception to the residential ban for the land that OHA just got. SOK rallied again and was instrumental in stopping the bill. OHA got the land but not the residential exception.

Fast forward to present day. OHA is again asking for residential entitlements. 9 years has passed since the law was enacted and the People are still fighting to protect this land.

This testimony tells you how hard the People worked to set this public policy for KM. The law stands today, protecting and preserving this last public oceanfront land in Honolulu for public use. Please do not lose sight of this effort. It is my hope that all the legislators of today recognize this history and have the foresight and Will to stand by the People to uphold the law for the sake of our keiki and their keiki.

Mahalo for this opportunity to testify and share my manao.

Ron Iwami  
Friends of Kewalos

Testimony of Jonathan Ching

SB3122 SD2 HD1

Relating to the Hawai'i Community Development Authority  
House Committee on Ocean, Marine Resources & Hawaiian Affairs

Wednesday, March 19, 2014, 10:15 a.m.  
Capitol, Room 325

Aloha Chair Hanohano, Vice-Chair Cullen, and Members of the House Committee on Ocean, Marine Resources & Hawaiian Affairs,

‘O Jonathan Makana Ching ko‘u inoa. I am testifying in a personal capacity in **STRONG SUPPORT** of SB3122 SD2, which authorizes residential development on certain specified parcels owned by the Office of Hawaiian Affairs (OHA) as well as requiring applicants for residential development in Kaka‘ako to hold a public hearing prior to submitting a plan or proposal to the Hawai'i Community Development Authority (HCDA).

I am avid recreational surfer who regularly surfs at the Point to Marineland, all of which are located off of Kewalo Basin Park. Locals love surfing at Kewalo amidst the hustle and bustle of Honolulu and Waikīkī because it does not have the crowds like Waikīkī and other more crowded beaches. As a Native Hawaiian, I believe that if allowed to developed residential properties along Kaka‘ako Makai, OHA will respect the interest of local surfers and fishermen who want access to the beach for their friends and families.

OHA’s 2012 settlement for the Kaka‘ako Makai properties was the result of negotiations between the State of Hawai‘i and OHA over past claims for OHA’s pro-rata share of the public land trust revenue. However, the parcels as currently zoned do not allow OHA’s properties to adequately fulfill their maximum potential. SB3122 SD2 HD1 would allow OHA to fulfill its vision of converting Kaka‘ako into a place for Hawaiians as well as the people of Hawai‘i. I believe OHA understands the needs of Hawaiians and locals alike and will strive to not only maintain, but also increase public access to the ocean and shoreline for those practicing traditional and customary rights as well as for those seeking leisure and recreation.

I support SB3122 SD2 HD1 because allowing OHA to fully maximize the potential of its properties in Kaka‘ako Makai will have a direct impact on OHA’s beneficiaries, especially young Native Hawaiians like myself. I was fortunate enough to receive a scholarship while in college, which was funded primarily by an OHA grant. Had it not been for this scholarship, I would have had to incur more debt and loans. The revenue generated from the development of Kaka‘ako Makai will allow OHA to continue supporting Native Hawaiians dreams of higher education and entrepreneurship.

I support this proposal because I believe that OHA will truly approach development of these lands responsibly. I encourage this committee to please join me in supporting the OHA and SB3122 SD2 HD1.



**cullen2**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Sunday, March 16, 2014 11:07 PM  
**To:** omhtestimony  
**Cc:** mhesketts@mac.com  
**Subject:** Submitted testimony for SB3122 on Mar 19, 2014 10:15AM

**Follow Up Flag:** Follow up  
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**SB3122**

Submitted on: 3/16/2014

Testimony for OMH on Mar 19, 2014 10:15AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Marvin Heskett	Surfrider Foundation Oahu Chapter	Oppose	No

Comments: Aloha, Please oppose SB 3122. I, with a large portion of the voting public, worked very hard to prevent residential towers from being erected on Kakaako Makai back in 2006. A law was created by you or your constituency to uphold the popular and righteous stance protecting public land from falling into the hands of a minority held public interest. As an environmental advocate, I realize the concerns relating to the compromised land in Kakaako Makai. Indeed Brownfields redevelopment would improve the land here. Let's stay on track with redevelopment that keeps the public interest in mind, protecting beach access for the endangered species of body surfer and keeping a very important civic center space located in the heart of our growing community available to all of the public and not just a small segment of mostly foreign investors. Please do the right thing and continue to support the public by killing this bill. Mahalo, Marvin Heskett Surfrider Foundation Oahu Chapter Chairperson

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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House of Representatives  
Committee on Ocean, Marine Resources, and Hawaiian Affairs  
10:15 a.m., Wednesday, March 19, 2014  
Conference Room 325  
State Capitol

**Testimony in Opposition to SB 3122 SD2 HD1**

Aloha Chair Hanohano, Vice Chair Cullen, and Members of the Committee,

My name is Christy Martin, and I am testifying as a private citizen today. I am very much opposed to SB 3122 SD2 HD1, that, if passed, would allow residential building in Kaka`ako Makai. Years ago, a group of us community members worked with legislators to restrict residential building in that area, to protect it from high rise development, and access to the ocean for all of Hawai'i's people.

As was repeated several times in past hearings, OHA accepted these parcels in 2012 knowing that the only way the land would be worth \$211 million that Hawaiians are owed is to develop residential high rises on those lands. Further, OHA and those making the deal knew they would have to change an existing law against such development, a law that was passed expressly for protecting this very small area from high rise development. I am very much in favor of Hawaiians receiving full payment for the many wrongs that they have suffered, and that the state has been unacceptably late in addressing this issue. However, this bill is just one step towards full and over development of these makai lands.

To beg the question, how many other parcels of state land could have been conveyed to OHA in payment for ceded lands rent, at any time since 1978, that already are approved for high rise development?

Please join with us in upholding the restriction on residential building on makai parcels. If we let one, we let them all, and there will be no going back. Please join us in finding another path forward, because there are always multiple choices. Finally, please join us in opposing this bill. Mahalo.

Aloha,  
Christy Martin

**cullen2**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, March 17, 2014 10:27 AM  
**To:** omhstestimony  
**Cc:** sundownertoni@yahoo.com  
**Subject:** Submitted testimony for SB3122 on Mar 19, 2014 10:15AM

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**SB3122**

Submitted on: 3/17/2014

Testimony for OMH on Mar 19, 2014 10:15AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Toni Withington	Individual	Oppose	No

Comments: I strongly oppose this "special legislation" measure to allow OHA to build high rises in Kaka'ako. "Special legislation," meant to accommodate a single entity violates the State Constitution, according to an Attorney General's representative and sets a horrible precedent. If OHA is allowed to develop residential condos in Kakaako Makai then HCDA, which oversees the area, will not be able to legally deny other applications for residential development in Kakaako Makai. They eliminate open space, which will be needed for the anticipated 30,000+ residents in the 30 new high-rise towers proposed for Kakaako mauka of Ala Moana Boulevard Residential development will restrict open access to shoreline fishing, diving and popular body boarding and surf sites as well as a waterfront promenade, picnic areas, and significant panoramic view. OHA knew of the restrictions when it agreed to take over the land. Make them live with their agreements. mahalo, Toni Withington, Hawi

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**SB3122**

Submitted on: 3/17/2014

Testimony for OMH on Mar 19, 2014 10:15AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Victoria Cannon	Individual	Oppose	No

Comments: We oppose this bill. No residential development in Kaka'ako Makai. Victoria and Trudy Cannon

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**SB3122**

Submitted on: 3/16/2014

Testimony for OMH on Mar 19, 2014 10:15AM in Conference Room 325

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

Comments: I am in opposition to SB3122. No residential should be built in Kaka'ako Makai, especially towers which will interfere with the flight zones during certain weather conditions when flights approach from Diamond Head direction. OHA should do what they are suppose to do, "malama aina" for the Hawaiian people and develop the land so that it produces income into perpetuity for OHA. They shouldn't sell out to developers who will develop it for the luxury market which doesn't include the Hawaiians that OHA is suppose to help.

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**SB3122**

Submitted on: 3/16/2014

Testimony for OMH on Mar 19, 2014 10:15AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Louise K. Lucas	Individual	Support	No

Comments:

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**Cc:** ruthlucas808@yahoo.com  
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**SB3122**

Submitted on: 3/16/2014

Testimony for OMH on Mar 19, 2014 10:15AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Ruth Lucas	Individual	Support	No

Comments:

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**SB3122**

Submitted on: 3/16/2014

Testimony for OMH on Mar 19, 2014 10:15AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Kanoa O'Connor	Individual	Support	No

Comments: Lets go Hawaiians again!

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**To:** omhtestimony  
**Cc:** koa\_wahine@yahoo.com  
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**SB3122**

Submitted on: 3/16/2014

Testimony for OMH on Mar 19, 2014 10:15AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Aulii K George	Individual	Support	No

Comments: I support OHA's plan to develop their parcels just makai of alamoana blvd. in Kaka'ako Makai. It is time that Kaka'ako Makai is developed in a responsible manner and OHA is the right developer to do so by providing access to the shoreline and creating a Hawaiian and local sense of place.

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**SB3122**

Submitted on: 3/16/2014

Testimony for OMH on Mar 19, 2014 10:15AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Travis Dudoit	Individual	Support	No

Comments: I support the responsible development that OHA is hoping to achieve in Kaka'ako. It is the state's obligation to make sure that the ceded lands settlement is worth it to support Native Hawaiian programs and services.

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Submitted on: 3/16/2014

Testimony for OMH on Mar 19, 2014 10:15AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Jonah Nainoa Reyes	Individual	Support	No

Comments:

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**Cc:** kko3@hawaii.edu  
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**SB3122**

Submitted on: 3/16/2014

Testimony for OMH on Mar 19, 2014 10:15AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Nalu O'Connor	Individual	Support	No

Comments: I support responsible development in Kaka'ako. I support OHA's preliminary plans to provide more needed access along the waterfront. I feel like there's so much misinformation by the opposition. It is clear that OHA wants to develop residential towers in a responsible way with input by the community. If not OHA, then who?

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**To:** omhtestimony  
**Cc:** katc31999@gmail.com  
**Subject:** Submitted testimony for SB3122 on Mar 19, 2014 10:15AM

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**SB3122**

Submitted on: 3/14/2014

Testimony for OMH on Mar 19, 2014 10:15AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Katarina Culina	Individual	Oppose	No

Comments: Aloha, Please oppose this bill and support community voices by not allow more high-rise development on the HHL of Kaka'ako. Mahalo! Katarina Culina P.O. box 2142 Pahoia, HI 96778

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**To:** omhtestimony  
**Cc:** ralpheburr@aol.com  
**Subject:** Submitted testimony for SB3122 on Mar 19, 2014 10:15AM

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**SB3122**

Submitted on: 3/14/2014

Testimony for OMH on Mar 19, 2014 10:15AM in Conference Room 325

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

Comments: Please vote NO on this bill. I would support an amendment that would offer open green space and shore line for all to enjoy. Please, no residences makai of Ala Moana in Kaka'ako.

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**SB3122**

Submitted on: 3/14/2014

Testimony for OMH on Mar 19, 2014 10:15AM 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: I do not support building residences in this area. However, I would recommend considering an amendment that would invite President Obama to consider building his Presidential Library on the Makai side of Ala Moana BLVD in Kaka'ako. This would make a beautiful area which would be widely visited; it would be something for all Hawaii to be proud of; it would still accommodate an open shore line for all to enjoy, as well as open green spaces. Without such an amendment, please vote NO on this bill. Mahalo!

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**Cc:** lynnehi@aol.com  
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**SB3122**

Submitted on: 3/14/2014

Testimony for OMH on Mar 19, 2014 10:15AM in Conference Room 325

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

Comments: Please accept this testimony in strong opposition to SB3122. This is a travesty. The community fought long and hard to stop residential development in Kaka'ako makai. OHA cut a deal with the state to get the land. It should have known at that time that residential development was not permitted. It should have realized that its income potential would be reduced because of that requirement. If it was not happy with that, it should have worked for a different deal. Now, OHA is crying foul. They are the ones to blame. This land is not for housing, period. And the legislature should not reverse its position of several years ago. And, to let OHA and the HCDA hold hearings before any permission is granted. Who are you kidding? The HCDA should be abolished, it CANNOT BE TRUSTED. It grants whatever applicants want, without listening to the residents and the rest of the community. This bill is a total give away and does not represent proper development plans. I recently watched news reports of a big demonstration of various organizations opposed to development in Kaka'ako makai. While OHA trustee Peter Apo is saying that the first ones to object to bad development are the OHA beneficiaries, he clearly is not listening to the demonstrators, many of them OHA beneficiaries, who were speaking on camera against this travesty. Please kill this bill now. lynne matusow 60 n. beretania, #1804 honolulu 96817

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**SB3122**

Submitted on: 3/14/2014

Testimony for OMH on Mar 19, 2014 10:15AM in Conference Room 325

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

Comments: I strongly oppose this bill. Residential development should not be allowed in Kakaako Makai and allowing OHA to do so will set a dangerous precedent to allow others to ask for that same right. Please vote NO. Thank you for the opportunity to submit testimony.

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**SB3122**

Submitted on: 3/13/2014

Testimony for OMH on Mar 19, 2014 10:15AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Forrest Furman	Individual	Oppose	No

Comments: Hawaii's shoreline frontages and areas cannot be hijacked by high-end high-rises!

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**SB3122**

Submitted on: 3/13/2014  
Testimony for OMH on Mar 19, 2014 10:15AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Bernard Nunies	Individual	Oppose	No

Comments: I strongly OPPOSE SB3122 SD2 HD1! No high-rise residential development in Kakaako Makai should be allowed. In 2006 it was written into law that the Kakaako Makai would be free of residential development. 2 years ago, in a deal with the State, OHA agreed not to develop on the Makai side of Kakaako. Now they want to approve development "just on 3 parcels" of land. What will happen two years from now when they want to develop the entire area? Tell OHA it is not right to renege on their agreement and follow the already established law! The Makai area was meant to remain open space for the 30,000 new residents of Kakaako. If this area is developed, where will people go? NYC has Central Park. What does Honolulu have? As a state agency, OHA SHOULD FOLLOW THE LAW!

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**From:** D Webb <surfchow@me.com>  
**Sent:** Monday, March 17, 2014 8:41 AM  
**To:** omhtestimony  
**Subject:** Testimony in Opposition to SB 3122, SD1,HD1

I would like to add my voice in opposing the development . I frequent Hawaii on a number of times and found the pleasure of access and lack of commerciality very rewarding .

Danny Webb

53 hornead Rd

London

W93nq

UK

Sent from my iPhone

**cullen2**

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**From:** Durdam Rocherolle <durdam.rocherolle@gmail.com>  
**Sent:** Monday, March 17, 2014 2:43 AM  
**To:** omhtestimony  
**Subject:** Testimony in Opposition to SB 3122, SD1,HD1

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To whom it may concern,

Please set aside and preserve "land for everyone"! If Hawaii does not preserve the public land, there will soon be no "Hawaii" left. This is not just for the people of Ha waii. If there is not "land for everyone", there will be no pure Hawaii for tourists to come and experience, so in every way this affects Hawaii. There are long term financial effects as well. Please preserve pure Hawaii and it will benefit the islands in every way. As public servants working for the good of the people and the State of Hawaii, please think of the big picture and the long term. Set aside and protect,"land for everyone" in Hawaii.

Sincerely and with respect and Aloha,

Durdam Rocherolle

**cullen2**

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**From:** Steve Short <tubeshooter2000@hotmail.com>  
**Sent:** Sunday, March 16, 2014 10:29 PM  
**To:** omhtestimony  
**Cc:** lajola.nekton@gmail.com  
**Subject:** Pt. Panic bodysurfing area should be conserved  
**Attachments:** PICT0808.JPG; PICT0810.JPG

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Please do not do anything with the land around the world famous Pt. Panic bodysurfing area, that would ruin that area. We try to visit Hawaii every year and the highlight of those visits for me is bodysurfing at Pt. Panic.

The first picture shows me riding one of those perfect waves and the 2nd picture shows me (on the right) just after that session next to local bodysurfing expert Ken.

Thanks,

Steve Short  
18952 Smiley Drive  
Orange, CA 92869

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**Sent:** Monday, March 17, 2014 11:33 AM  
**To:** omhtestimony  
**Cc:** noalanio@ymail.com  
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**SB3122**

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Testimony for OMH on Mar 19, 2014 10:15AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Noalani Nakasone	Individual	Support	No

Comments:

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**From:** Gary Akiona <gakiona@hawaii.rr.com>  
**Sent:** Sunday, March 16, 2014 8:18 AM  
**To:** omhtestimony; Sen. Donna Mercado Kim; Rep. Takashi Ohno  
**Subject:** Testimony in Opposition to SB 3122, SD1,HD1

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SEN Kim and REP. Ohno, I am opposed to residential building in Kaka'ako Makai . We already are exceeding the height limitations in Kaka'ako (Mauka), If this over development keeps up, I won't be able to see the ocean from my home located in Alewa Heights. But if you must approve this new developments, then I suggest you approve it only for low income development such as Kuhio Prk Terrace and Mayor Wright (for the poor and homeless people) and they can help in balancing the population amongst the rich. Have the developers pay for the sewer upgrades as our water bills (sewer fee) begins exceeding our electric bills. I'm getting tired in supporting these developer and realtors, as my property taxes keep rising. Stop over developing our Island.

Gary Akiona  
1815 Kualono St.  
Honolulu, Hi 96817



**cullen2**

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**From:** manoashaka@yahoo.com  
**Sent:** Saturday, March 15, 2014 5:44 PM  
**To:** omhtestimony  
**Subject:** Testimony in Opposition to SB 3122, SD1,HD1

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My name is Braden Iwami and I I oppose bill SB 3122 SD1. I believe that the kakaako shoreline and makai areas should be left alone for public use such as parks and open space. We can always build inland and leave the beauty of the makai part of kakaako free for people to enjoy without the presence of unsightly high rises. Please take my statement into consideration when reviewing to pass this bill and vote NO to residential in makai!!!!

Sent from my iPhone

**cullen2**

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**From:** J Edward Tipre <jedwardtipre@yahoo.com>  
**Sent:** Monday, March 17, 2014 11:36 AM  
**To:** omhtestimony  
**Subject:** Testimony in Opposition to SB 3122, SD1,HD1

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To State of Hawaii legislators; I write you as a main-lander from Santa Monica, California. While I've only been to the Islands once in lovely Maui for the wedding of a niece, I have, as a 69 year old body surfer, always wished to make at least one visit to the esteemed "holy ground and water" of Point Panics which the Gods placed in the Kaka'ako Makai shoreline area, a hallowed location a few see only as a property to be "developed." I and many others would respond: Kaka'ako Makai (Point Panics) is ALREADY developed. It does not require any help.

Those who wish to build structures would surely be depriving the many in the Public of a valuable natural resource. I ask you to consider Ireland's basic shoreline policy: The shoreline belongs to the public--no obscured views, no separating the financially privileged public from the innocent prospect who merely wishes to spent a few precious moments of his or her life absorbing the beauty of a very special environment.

Too late to save other spots, but not too late to act on a growing, contemporary ethic of preserving nature by limiting construction in fragile, pristine areas. Yours sincerely, John Edward Tipre

*Assez vaut (un) festin*  
"Enough is as good as a feast"

**cullen2**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, March 17, 2014 11:42 AM  
**To:** omhtestimony  
**Cc:** mgumapac@palamasettlement.org  
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**SB3122**

Submitted on: 3/17/2014

Testimony for OMH on Mar 19, 2014 10:15AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Matthew Gumapac	Individual	Comments Only	No

Comments: I am submitting testimony in support of SB3122 to generate revenue in support of the Hawaiian Culture and Heritage for all Hawaiians. This bill will give hope to perpetuate the continuance of the Aloha Spirit and culture. There are many Hawaiians who are in need of shelter, even food, but more importantly the continuance of the Culture. Spiritually, we need balance to continue to foster the land and grow in health and mind. Without this bill, the spirit of Hawaiians will surely diminish. Mahalo Ke Akua, Matthew Gumapac

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**cullen2**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, March 17, 2014 12:02 PM  
**To:** omhtestimony  
**Cc:** rkorph@gmail.com  
**Subject:** Submitted testimony for SB3122 on Mar 19, 2014 10:15AM

**Follow Up Flag:** Follow up  
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**SB3122**

Submitted on: 3/17/2014

Testimony for OMH on Mar 19, 2014 10:15AM in Conference Room 325

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

Comments: Save Kaka'ako Makai. Uphold the present law that prohibits residential development in Kaka'ako Makai. There may be better alternatives to consider such as HCR 164. The State and OHA should re-negotiate the settlement. If OHA aspires to be in the development business, than do a land swap for lands that are developable. Do not take away lands that are now protected in Kaka'ako Makai.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, March 17, 2014 12:54 PM  
**To:** omhtestimony  
**Cc:** erwayd001@hawaii.rr.com  
**Subject:** Submitted testimony for SB3122 on Mar 19, 2014 10:15AM

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**SB3122**

Submitted on: 3/17/2014  
Testimony for OMH on Mar 19, 2014 10:15AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Marjorie &/or Duane Erway	Individual	Oppose	No

Comments: OHA cannot change the law to develop residential high-rise condos, just because they want to. They knew the restrictions when they accepted the property. They need to be treated like any development organization.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, March 17, 2014 12:56 PM  
**To:** omhtestimony  
**Cc:** suzanne@punapono.com  
**Subject:** \*Submitted testimony for SB3122 on Mar 19, 2014 10:15AM\*

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**SB3122**

Submitted on: 3/17/2014

Testimony for OMH on Mar 19, 2014 10:15AM in Conference Room 325

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

Comments:

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, March 17, 2014 1:20 PM  
**To:** omhtestimony  
**Cc:** barb@kanekiki.com  
**Subject:** Submitted testimony for SB3122 on Mar 19, 2014 10:15AM

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**SB3122**

Submitted on: 3/17/2014

Testimony for OMH on Mar 19, 2014 10:15AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Barb Cuttance	Individual	Oppose	No

Comments: Thank you for the opportunity to strongly oppose SB3122. Please do not pass SB3122.

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**SB 3122 SD2, HD1**  
**RELATING TO HAWAII COMMUNITY DEVELOPMENT AUTHORITY**  
**House Committee on Ocean, Marine Resources & Hawaiian Affairs**

March 19, 2014  
10:15 a.m.  
Conference Room 325

Aloha Kakahiaka Chair Faye Hanohano, Vice Chair Cullen and the members of the Committee on Ocean, Marine Resources & Hawaiian Affairs.

My name is Bruce Keaulani, and I am a Native Hawaiian and registered lineal descendant of Kaka`ako.

I am respectfully writing in **support** of SB3122 SD2, HD1, which authorizes limited residential development in certain specified parcels of land owned by the Office of Hawaiian Affairs in Kaka`ako, as a result of the State's ceded lands settlement with the Native Hawaiian people.

I greatly appreciate OHA's effort to protect the area's beauty and ocean resources, while improving our `aina to ensure the best outcome for our people, in balance with the needs of the community, nature and the environment.

I am grateful to OHA for not advocating for residential development on all of the parcels it owns, but, only three of them, and that it has no intention of developing residential uses along the Kewalo waterfront. In making this decision, OHA has given meaningful consideration to the voices of Kaka`ako residents, as well as to the calls of its beneficiaries, whose expectations are that OHA develop these lands with due consideration to economic and cultural values.

Thriving development on the Kaka`ako lands will generate resources to better address OHA's statutory responsibility to improve the conditions of Native Hawaiians. Unlike most developers, whose profits are for their personal benefit, OHA's income is to be used for the well-being of the Native Hawaiian community. At the same time, others in the community are positively impacted by the residual impact of OHA's programs and services.

The need for residential housing on O`ahu is dire. To see the truth with open eyes is to recognize that the area has, in fact, already returned to its residential roots, as men, women, and children without homes are being housed in an oceanfront warehouse, in buses provided for by loving community members, or on sidewalks, under their own tents.

It is my deep hope that OHA's work here will allow Native Hawaiians to be able to remain in our homeland and not be forced to become economic exiles.

Mahalo for this opportunity to testify. Please support this bill.



**SB 3122 SD2, HD1**  
**RELATING TO HAWAII COMMUNITY DEVELOPMENT AUTHORITY**  
**House Committee on Ocean, Marine Resources & Hawaiian Affairs**

March 19, 2014  
10:15 a.m.  
Conference Room 325

Aloha Kakahiaka Chair Faye Hanohano, Vice Chair Cullen and the members of the Committee on Ocean, Marine Resources & Hawaiian Affairs.

My name is Kehaulani Lum, and I am a Native Hawaiian and descendant of 19<sup>th</sup> Century Kaka`ako residents, including, 1911 Legislator, John Kamanoulu, and his sister, Jennie K. Wilson.

I am respectfully writing in **support** of SB3122 SD2, HD1, which authorizes limited residential development in certain specified parcels of land owned by the Office of Hawaiian Affairs in Kaka`ako, as a result of the State's ceded lands settlement with the Native Hawaiian people.

I greatly appreciate OHA's effort to balance the needs of the community, nature and the environment, while improving our resources to ensure the best potential for our people.

I am grateful to OHA for not advocating for residential development on all of the parcels it owns, but, only three of them, and that it has no intention of developing residential uses along the Kewalo waterfront. In making this decision, OHA has given meaningful consideration to the voices of Kaka`ako residents, as well as to the calls of its beneficiaries, whose expectations are that OHA develop these lands with due consideration to economic and cultural values.

Thriving and prudent development on the Kaka`ako lands will generate resources to better address OHA's statutory responsibility to improve the conditions of Native Hawaiians. Unlike most developers, whose profits are for their personal benefit, OHA's income is to be used for the well-being of the Native Hawaiian community. At the same time, others in the community including the State and City, in terms of taxes and other fees, are positively impacted by the residual impact of OHA's programs and services.

It is my deep hope that OHA's work here will provide the agency with resources necessary to help our people heal and flourish, while serving as loving stewards of Kaka`ako. We have waited for decades for this settlement. Please help us fulfill its potential and the will of the State by supporting this measure.

Mahalo nui loa for this opportunity to testify.

Kehaulani Lum

**cullen2**

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**From:** Michelle Koholua <mkoholua@gmail.com>  
**Sent:** Monday, March 17, 2014 4:09 PM  
**To:** omhtestimony  
**Subject:** SB3122

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I will support SB3122

**cullen2**

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**From:** Morris <daupuni@hawaii.rr.com>  
**Sent:** Monday, March 17, 2014 6:04 PM  
**To:** omhtestimony  
**Subject:** SB 3122, HD1, Relating to Hawaii Community Development Authority: SUPPORT

Aloha,

My name is Monica Morris, born and raised in Keaukaha Hawaiian Homestead community. I am writing my SUPPORT of SB3122, HD1.

Mahalo, Monica Morris

**cullen2**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, March 17, 2014 5:27 PM  
**To:** omhtestimony  
**Cc:** autumnrose2010@yahoo.com  
**Subject:** Submitted testimony for SB3122 on Mar 19, 2014 10:15AM

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**SB3122**

Submitted on: 3/17/2014

Testimony for OMH on Mar 19, 2014 10:15AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Wynnie Hee	Individual	Oppose	No

Comments: Senators GALUTERIA, DELA CRUZ, HEE, KAHELE, KIDANI, SOLOMON, Baker, Espero, Kouchi, Nishihara, Shimabukuro, Wakai: Did you know that sea levels around the world are rising due to man-made global warming melting sea ice and glaciers are ever increasing rates? Did you know that some island nations in South Pacific and Atlantic Oceans are already suffering the effects of sea level rise, either submerging their land or causing the salt water level to rise so that they cannot grow crops on salty land? PLUS, did you know that the master plan for Kakaako Makai PROHIBITS RESIDENTIAL DEVELOPMENT there? It is TOO BAD that OHA accepted the Kakaaka Makai land settlement -- and NOW they realize that they need to make more money off the aina? Too bad, too late. PLEASE DON'T CHANGE THE LAW NOW to accommodate OHA's foolishness.

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**From:** Scotty Luiz-Kim <s.luizkim@gmail.com>  
**Sent:** Monday, March 17, 2014 10:56 PM  
**To:** omhtestimony  
**Subject:** Please SUPPORT SB3122

**Follow Up Flag:** Follow up  
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My name is Scotty Luiz Kim and I am Native Hawaiian. My family and I, who live in Kapalama, support SB3122. Over 120 years after the overthrow of our Kingdom and more than 30 years of lawsuits, legislation, and negotiation with the state over public land trust revenue, which is generated on lands that were stolen from the Hawaiian Kingdom after the illegal-United States aided-overthrow of our Queen Liliu'okalani, OHA finally received these Kaka'ako parcels as part of a \$200 million settlement. This is money that has been owed to Hawaiians for a long, long time. But we can't even get the \$200 million of worth out of the parcels without being able to develop residential on some of them. OHA needs to maximize the value and revenue production of this property because that is what the office was created to do for Native Hawaiians, and that's what it agreed to do on behalf of Native Hawaiians when it accepted this settlement from the state.

Please SUPPORT SB3122.

Mahalo.

**cullen2**

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**From:** Ashley Kapoi <ashleykapoi@yahoo.com>  
**Sent:** Monday, March 17, 2014 11:01 PM  
**To:** omhtestimony  
**Subject:** SUPPORT SB3122

Aloha Mai, my name is Ashley Kapoi. I am Native Hawaiian and I am writing in support of SB3122 & HB2544. OHA received this land as a part of a settlement for past-due revenue that the state owed Native Hawaiians for lands stolen from our Kingdom over 120 years ago. These, and other such lands, have benefited the state for the past 120 years. Now it is time for them to benefit the Hawaiian people. These lands, and the revenue they must bring to the Hawaiian community, represent the state's commitment to reconciling the historical injustices committed against the Native Hawaiian people. Mahalo, Native Hawaiian and resident of Kapalama.

**cullen2**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 18, 2014 1:56 AM  
**To:** omhtestimony  
**Cc:** clamor808@yahoo.com  
**Subject:** Submitted testimony for SB3122 on Mar 19, 2014 10:15AM

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**SB3122**

Submitted on: 3/18/2014

Testimony for OMH on Mar 19, 2014 10:15AM in Conference Room 325

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

Comments: The law says no residences will be built in Kakaako Makai and THERE MUST BE NO EXCEPTIONS. OHA was fully aware of this law at the time of the transaction. The park and land are for the people of Hawaii....30,000 residents are anticipated in Kakaako by 2030. Ua mau ke ea o ka aina ika pono. The life of the land is perpetuated by righteousness.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 18, 2014 7:30 AM  
**To:** omhtestimony  
**Cc:** everett.ohta@gmail.com  
**Subject:** Submitted testimony for SB3122 on Mar 19, 2014 10:15AM

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**SB3122**

Submitted on: 3/18/2014

Testimony for OMH on Mar 19, 2014 10:15AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Everett Ohta	Individual	Support	No

Comments: Aloha, my name is Everett Ohta, I live in Makiki, and I SUPPORT SB3122 and HB 2554. In 2012, several parcels within Kaka`ako Makai were transferred to the Office of Hawaiian Affairs to settle past-due revenues from the State's use of public lands. These lands, in the middle of the urban corridor of Honolulu and bounded on all three sides by current, under-construction, or planned high-rise buildings, are key to revenue generation that will help realize the mission of OHA--to improve the conditions of Native Hawaiians.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 18, 2014 8:19 AM  
**To:** omhtestimony  
**Cc:** wctanaka@gmail.com  
**Subject:** Submitted testimony for SB3122 on Mar 19, 2014 10:15AM

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**SB3122**

Submitted on: 3/18/2014  
Testimony for OMH on Mar 19, 2014 10:15AM in Conference Room 325

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

Comments: Please pass this measure and reaffirm the state's commitment to justice and reconciliation for the Native Hawaiian people

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**cullen2**

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**From:** Vai Auva'a <pauvaa@gmail.com>  
**Sent:** Tuesday, March 18, 2014 8:34 AM  
**To:** omhtestimony; HWNTestimony  
**Subject:** HB2554/SB3122 - Support

**Follow Up Flag:** Follow up  
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As a native son of Samoa, I have been surprised to see the reaction by non-Hawaiians to OHA's efforts to seek revenue generating options on Hawaiian lands in Kakaako (as I understand the lands were originally alii lands that were eventually sold or traded to the Territory or State). I do not know of any organization that spent more resources—time and money—fighting for appropriate access. Thus to suggest that OHA will develop projects that block off access to the ocean ignores OHA's 30 plus year fight for appropriate access to the shoreline. In my professional career I work with young challenged juveniles, the majority of which are Native Hawaiian that come from challenged families (drug abuse, poverty, health, parents in jail, etc.). I hope OHA seeks responsible revenue generating opportunities to address many of the challenges facing kanaka maoli, the first people of this 'aina.

--

**"O le upega tautau, 'ae fagota."**

If at first you don't succeed try, try and try again.

--

**"O le upega tautau, 'ae fagota."**

If at first you don't succeed try, try and try again.

**cullen2**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 18, 2014 8:41 AM  
**To:** omhtestimony  
**Cc:** mattdunl@gmail.com  
**Subject:** Submitted testimony for SB3122 on Mar 19, 2014 10:15AM

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**SB3122**

Submitted on: 3/18/2014

Testimony for OMH on Mar 19, 2014 10:15AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Matthew Dunlap	Individual	Oppose	No

Comments: I strongly oppose SB3122. Hawaii can be more creative than just building more empty condominium towers on the last remaining undeveloped oceanfront land on the south shore of Oahu. I strongly feel that public land in Kakaako Makai should be developed for the maximum benefit to all citizens of Hawaii. For that, I support beach parks and open spaces like Kapiolani Park and Ala Moana Beach Park, or public gathering places like the Blaisdell Arena, or even a UH medical school like JABSOM that brings in \$57 million dollars/year to research things like cures for cancer. If condominiums sold for maximum profit to investors who do not live in Hawaii were the answer, we would already be sitting pretty. We are not. I encourage lawmakers to preserve the existing law - no residential construction in Kakaako Makai.

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**From:** Pua Doane <pdoane@hawaii.edu>  
**Sent:** Tuesday, March 18, 2014 8:49 AM  
**To:** omhtestimony; HWNTestimony  
**Subject:** HB2554/SB3122 - Strongly Support

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I support OHA's efforts to generate more income on its Kakaako Makai lands and therefore HB2554 and SB3122. I understand that many folks have concerns—but in light of the issues facing our people (they are literally dying from drug abuse or health issues, living in poverty, currently incarcerated)—I think OHA should be able to explore opportunities to provide more funding to address these issues. Mahalo Nui,  
Pua Moana, UH West Oahu Student, Native Hawaiian, Mililani Resident

**cullen2**

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**From:** Kamaile Maldonado <kamaile.maldonado@gmail.com>  
**Sent:** Tuesday, March 18, 2014 8:58 AM  
**To:** omhtestimony  
**Subject:** SUPPORT SB3122

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Aloha mai,

My name is Kamaile Maldonado. I am Native Hawaiian, I currently reside in Kapalama, and I write in support of SB3122.

OHA seeks to help build a new community in Kaka'ako. It's not just a place owned by Hawaiians. It will be a place for Hawaiians. The metropolitan center of Honolulu has been vastly and rapidly developed over the past few decades with highrises and luxury hotels and shopping centers that make Hawai'i look like the high end of any other big city to attract people from elsewhere. Native Hawaiians walk around in our own land and don't recognize ourselves in anything. OHA wants to make a space where Native Hawaiian culture and stewardship values drive the design and use. Even if some of the residences may be purchased by non-locals, generating revenue on some of their parcels will allow them to create a place for Native Hawaiians where our culture and lifestyles can be nurtured. Native Hawaiians need more places like this so we can continue calling and recognizing Hawai'i as home.

Aloha,  
Kamaile Maldonado

**cullen2**

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**From:** Tricia Arneson <arneson.tricia@gmail.com>  
**Sent:** Tuesday, March 18, 2014 9:07 AM  
**To:** omhtestimony  
**Subject:** SUPPORT SB3122/HB2554

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Aloha mai,

My name is Tricia Arneson. I'm Native Hawaiian and my family is from Pearl City. I write in SUPPORT of SB3122/HB2554.

I am currently employed by WorleyParsons managing a large scale upstream oil project, so I am intimately familiar with the kinds of things developers consider as they plan, design, and construct major projects and the profitability assessments that motivate it all.

OHA is not your typical developer. OHA is the constitutionally established state agency responsible for protecting and promoting the rights of Native Hawaiians. OHA does this by providing resources and advocating for Native Hawaiians. They are not putting money in the bank accounts of corporate shareholders. They are contributing to the health and prosperity of Hawaii. This distinguishes OHA from other developers who only have their personal profits in mind. The state should support this type of development.

I support SB3122/HB2554 and humbly request you to do the same.

Mahalo nui.

Tricia Arneson

**cullen2**

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**From:** Kalsie Holt <kalsieh@gmail.com>  
**Sent:** Tuesday, March 18, 2014 9:13 AM  
**To:** omhtestimony  
**Subject:** Please SUPPORT SB3122

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Aloha,  
My name is Kalsie Holt. My family is from and still resides in 'Ewa Beach and I currently reside in Makiki. I am Native Hawaiian and I strongly support SB3122.

As part of the Kakaako settlement OHA received the lands to gain money that was owed to Hawaiians for decades. OHA needs to maximize the value and revenue production of this property because that's why it was given the lands in the first place. The legislature knew that at the time of the original settlement, the entitlements were being considered. To generate the money it should have gotten instead of the land, OHA needs to be able to consider residential development.

Please SUPPORT SB3122.

Mahalo,  
Kalsie Holt  
Native Hawaiian, resident of Makiki

**cullen2**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 18, 2014 9:33 AM  
**To:** omhtestimony  
**Cc:** fdudoit@waikikihealth.org  
**Subject:** \*Submitted testimony for SB3122 on Mar 19, 2014 10:15AM\*

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**SB3122**

Submitted on: 3/18/2014

Testimony for OMH on Mar 19, 2014 10:15AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Francine Dudoit Tagupa	Individual	Support	No

Comments:

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 18, 2014 9:40 AM  
**To:** omhtestimony  
**Cc:** kaliko08@gmail.com  
**Subject:** \*Submitted testimony for SB3122 on Mar 19, 2014 10:15AM\*

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**SB3122**

Submitted on: 3/18/2014

Testimony for OMH on Mar 19, 2014 10:15AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Donna K Santos	Individual	Support	No

Comments:

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 18, 2014 9:43 AM  
**To:** omhtestimony  
**Cc:** paulakomarajr@yahoo.com  
**Subject:** Submitted testimony for SB3122 on Mar 19, 2014 10:15AM

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**SB3122**

Submitted on: 3/18/2014

Testimony for OMH on Mar 19, 2014 10:15AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Paul A. komara, Jr.	Individual	Oppose	No

Comments: I oppose SB 3122 and any an all development by the OHA. I believe this organization does not represent the people of Hawaii. Aloha, Paul

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**cullen2**

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**From:** Chelsea Iwami <iwamic88@gmail.com>  
**Sent:** Tuesday, March 18, 2014 9:55 AM  
**To:** omhtestimony  
**Subject:** Testimony in Opposition to SB 3122, SD1,HD1

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Aloha! Please vote NO to residential in Kaka'ako Makai.

Kaka'ako Makai does not need anymore residential high-rises. Hawaii is a precious and fragile state, unlike any other. We, as residents, have the power to enhance or destroy our state.

Sweet and short....adding more residential high-rises to Kaka'ako Makai is destroying our state. Some say the high-rises are for the kama'aina. But the prices are way too high for us to afford.

I'm sure you already know.

Hawaii is a different culture than the mainland....whether you are Hawaiian or not. It is a living island culture. Adding residential high-rises further destroys this island life culture.

Instead of plopping high-rises along the coastline, lets work towards innovation and use of the land in beneficial ways for both the kama'aina and visitors.

Land can be used in ways other than high-rises. In Hawaii land is sparse and precious. So lets make smart decisions about the use of our land.

Thank you for your time and please make a responsible decision for both the kama'aina and visitors.

Chelsea Iwami

**cullen2**

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**From:** Shereen Goto <hiconnect@hawaiiantel.net>  
**Sent:** Tuesday, March 18, 2014 12:18 AM  
**To:** omhtestimony  
**Subject:** Testimony in Opposition to SB 3122, SD1, HD1

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Committee on Ocean, Marine Resources & Hawaiian Affairs  
Representative Faye P. Hanohano, Chair  
Representative Ty J.K. Cullen, Vice Chair  
Wednesday, March 19, 2014  
10:15 a.m.  
Room 325

Dear Chair Hanohano, Vice Chair Cullen and Members of the Committee on Ocean, Marine Resources and Hawaiian Affairs,

I write in strong opposition to SB 3122, SD1, HD1. Please vote no to residential development in Kaka`ako Makai. Please do not allow an exception to current state law which protects Kaka`ako Makai from residential development. This law exists to protect urban Honolulu's last oceanfront land for the greater good, benefiting *all* of Hawaii's people.

Sincerely,

Shereen Goto  
Honolulu

**cullen2**

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**From:** Larry Asakawa <larryasakawa@gmail.com>  
**Sent:** Monday, March 17, 2014 5:40 PM  
**To:** omhtestimony  
**Subject:** Opposition to SB 3122 SD1 HD1

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

COMMITTEE ON OCEAN, MARINE RESOURCES, & HAWAIIAN AFFAIRS,

I am an Emmy Award-winning documentary filmmaker and I live and work both in La Jolla, California and here in Honolulu. I first starting coming to Oahu to bodysurf with friends I met in San Diego and who came from Point Panics.

Point Panics is home of one of the world's most perfect bodysurfing waves and is located in the middle of the Kaka'ako Makai shoreline (off the point immediately west of the Kewalo boat basin). Over the last 15 years years I've come to understand how important the Kaka'ako Makai area is to residents of Honolulu for all types of surfing, picnics, lunches, walks, bike rides, fishing and dozens of other everyday recreational activities. For many families here the history and connections with Kaka'ako Makai go back for generations.

As you probably already know, virtually every community stakeholder group was involved in developing the Kaka'ako Makai master plan before it was formally adopted by the legislature. The clear and fair 14-Point Guidelines deserve respect--exemptions to allow the sale of public lands for private highrise residential developments should not be allowed.

Thank you in advance for respecting the voices, efforts and wisdom of the many community groups that put so much effort into the Kaka'ako Makai master plan. Please vote NO on SB 3122 SD1 HD1 .

Larry Asakawa  
La Jolla, California

**House Committee on Ocean, Marine Resources & Hawaiian Affairs**  
**Wednesday, March 19, 2014**  
**10:15 AM Hearing**  
**Conference Room 325**

**Strong Opposition to Senate Bill 3122, SD2, HD1**

Senate Bill 3122 is clearly a clandestine maneuver to undermine HRS 206E-31.5, the statutory protection of Kaka'ako Makai's public shoreline lands in the public interest.

This measure makes a mockery out of the Legislature's intent to protect Kaka'ako Makai, Honolulu's last open shoreline area available for public use.

Between 2007 and 2010, on the advice of HCR 30, 2006, and following the intent of HRS 206E-31.5, a significant community-based planning process was undertaken for the Kaka'ako Makai area as a community gathering place with public cultural, recreational and educational benefits.

In 2012, OHA accepted the Kaka'ako Makai land settlement clearly aware of the public-interest prohibition against residential development within this shoreline area. There is nothing in the OHA settlement, Act 15, 2012, that rescinds this protection.

Given the Attorney General's "special legislation" concerns, if the statute is altered for one special interest, others will surely follow:

Three towers planned for the 7-acre so-called "piano lot" in 2006 were discouraged by the State Legislature via HCR 30 and further denied by the statutory prohibition protecting the public interest. By allowing residential tower development on this lot and others in Kaka'ako Makai, the floodgates will open to massive high-density development of this shoreline area.

Predictably, multiple high-density residential towers 400 feet tall would then line both sides of Ala Moana Boulevard from Kewalo Basin to South Street, and the result of this massive development initiative by the HCDA and OHA public agencies, who should clearly be acting in the public interest, will be a concrete canyon abutting both sides of Ala Moana Boulevard with a wall of towers up to 400 feet in height blocking the *documented significant public views and traditional cultural orientation of the shoreline to the mountains from Kaka'ako Makai's public shoreline.*

Should Kaka'ako Makai become devoured by such shoreline residential high-rise development as is currently contemplated and proposed by this measure, the expected population of 30,000 to 45,000 residents in Kaka'ako Mauka compared to today's 12,000 will not have the needed public benefits that this last remaining Honolulu public shoreline area is presently available to provide.

The national planning standard is 2 to 2 1/2 acres of urban recreational open space per 1000 capita. With high-density residential development choking out needed public open spaces, community facilities, and cherished significant views from the shoreline to the mountains, Kaka'ako Makai will fall far short of what is required to benefit the health and welfare of Kaka'ako's expected population.

I agree with the sound alternatives provided by Senator Chun-Oakland, Representative Hanohano, and akamai members of the Hawaiian Community during previous discussions of such a misguided direction:

**Specifically that other land should be found and remuneration provided to satisfy OHA's needs as a public agency benefitting Hawaiians - not as a private residential developer of public shoreline land.**

**Please HOLD this misguided measure.**

Michelle S. Matson, Founding Member  
Kaka'ako Makai Community Planning Advisory Council



**SB3122 SD2 HD1**  
**RELATING TO HAWAII COMMUNITY DEVELOPMENT AUTHORITY**  
House Committee on Ocean, Marine Resources & Hawaiian Affairs

March 19, 2014

10:15 a.m.

Room 325

The Office of Hawaiian Affairs (OHA) **SUPPORTS WITH AMENDMENTS** SB3122 SD2 HD1, which would afford OHA the flexibility to seek limited residential development to explore revenue generating opportunities on certain of its Kaka‘ako lands transferred pursuant to Act 15 (2012). In line with the purpose of Act 15, the revenue would be used to further OHA’s kuleana as articulated in article XII, section 6 of the state constitution and chapter 10, HRS, to advocate for and better the conditions of Native Hawaiians.

SB3122 SD2 HD1 includes provisions to ensure opportunities for input by and provides benefits for the Kaka‘ako community. Foremost, in order to ensure more transparency and increased opportunities for community input, SB3122 SD2 HD1 would impose more public-hearing requirements for OHA residential plans or proposals than any other HCDA plan or proposal. Additionally, SB3122 SD2 HD1 would require establishment of a Kaka‘ako Makai association fee to fund various services and projects for the public benefit including maintenance, improvements, free public parking for park users, public beach access, security, parks and open spaces in the Kaka‘ako Makai area.

Act 15, Session Laws of Hawai‘i 2012, which emerged from SB2783, conveyed several parcels of land in Kaka‘ako Makai to OHA in order to resolve disputes and controversies relating to OHA’s constitutional and statutory portion of income and proceeds from the public trust lands for the period November 7, 1978 through June 30, 2012.

During that same 2012 Session, legislators proposed amendments to SB682 in order to give OHA enhanced entitlements on two of the parcels that would be conveyed, specifically the right to develop them for residential use, thus adding to their value. At the time, OHA testified that while we appreciated the effort to give us the enhanced entitlements, OHA did not want the amended SB682 to impair the passage of SB2783. The amended SB682 did not pass. However, in its 2012 testimony, OHA also assured that once OHA became the landowner and did its appropriate due diligence, OHA would be in a position to request entitlements in subsequent legislative sessions.

Based on OHA’s diligent planning for Kaka‘ako Makai to date, the time is now ripe for entitlement legislation. We have been exploring all options for our Kaka‘ako Makai properties to maximize our revenue-generating opportunities to best serve our beneficiaries. Thriving development on our Kaka‘ako lands, and the income generated to OHA, will allow us to better address our statutory responsibility to improve the conditions of Native Hawaiians. The



significantly enhanced revenue stream will help us achieve our strategic priorities in culture, land and water, economic self-sufficiency, education, health, and Hawaiian self-governance.

Our Kaka‘ako Makai lands are valued at an estimated \$200 million. We are seeking the ability to develop the land in a manner that is consistent with a \$200 million settlement. Our initial planning clarifies that we cannot achieve that goal with the current land use restrictions. As such, OHA is asking the Legislature to remove the residential-development restriction on certain parcels that are a subset of the parcels currently owned by OHA, so that we can reasonably balance the interests of Native Hawaiians and the general public to do something that will make us all proud.

Both stewardship and cultural values will drive our design and use decisions. Our policy is to ensure that our activities in Kaka‘ako Makai will balance pono and commerce and prioritize creating a Hawaiian sense of place. We will include beneficiary and community input in our master planning process; we have already included such input through initial stakeholder meetings (before and during the trust-revenue settlement discussions) and two subsequent charrette sessions held as part of our Framework Plan development.

OHA has been fighting from its inception to support appropriate safeguards to ensure responsible development. We are on record as advocates of sustainable growth, the preservation of natural and cultural resources, and the perpetuation of traditional and customary practices.

We understand better than any other developer the impacts of irresponsible development. Native Hawaiians have been victims of, and suffered most from, the consequences of reckless development. We seek to find the highest point at which the culturally rich use of our Kaka‘ako Makai lands intersects with revenue-generating use of the parcels. We are not seeking to do anything along the Kewalo waterfront that is not currently allowed. We do not intend to develop residential uses along that waterfront.

While OHA supports SB3122 SD1 HD1 as the vehicle for the entitlements, we recommend certain amendments to clarify the bill and identify the parcels to which OHA may consider residential. Attached is our proposed HD2. It would revise the HD1 as follows:

- Amend the section 1 preamble consistent with recommendations by the State Attorney General’s office;
- Identify the parcels of land subject to this measure to include as tax map keys 2-1-15-61 and Lots 1 and 9 of File Plan 2471 filed at the bureau of conveyances on February 23, 2010;
- Identify the building height increase to four hundred feet for parcels identified by tax map keys 2-1-15-61 and Lot 1 of File Plan 2471 filed at the bureau of conveyances on February 23, 2010; and
- Change the effective date from July 1, 2050, to “upon its approval.”

In light of the above, OHA urges the Committees to **PASS** SB3122 SD2 HD1 with the amendment proposed above. Mahalo for the opportunity to testify on this important matter.

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# A BILL FOR AN ACT

RELATING TO HAWAII COMMUNITY DEVELOPMENT AUTHORITY.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1 SECTION 1. The purpose of this Act is to enhance the revenue  
2 generating capacity of three parcels of land that were  
3 transferred to the office of Hawaiian affairs by Act 15, Session  
4 Laws of Hawaii 2012. To accomplish this, the bill lifts the  
5 current restriction against residential development in Kakaako  
6 Makai to which the parcels are subject and raises the building  
7 height limit for two of the three parcels to four hundred feet.

8 The office of Hawaiian affairs was established under  
9 article XII, section 5 of the Hawaii State Constitution to "hold  
10 title to all the real and personal property now or hereafter set  
11 aside or conveyed to it which shall be held in trust for native  
12 Hawaiians and Hawaiians." Its board of trustees is authorized  
13 by article XII, section 6 of the State Constitution "to manage  
14 and administer the proceeds from the sale or other disposition  
15 of the lands, ... and income derived from whatever sources for  
16 native Hawaiians and Hawaiians, including all income and

1 proceeds from that pro rata portion of the trust referred to in  
2 section 4 of this article [i.e., the public land trust] for  
3 native Hawaiians." That section also authorized the board "to  
4 exercise control over real . . . property. . . transferred to  
5 the board for native Hawaiians and Hawaiians."

6 The legislature recognizes that the public land trust,  
7 created by the Admissions Act of 1959, comprises former Hawaiian  
8 Kingdom crown and government lands, and is held in trust for the  
9 general public and native Hawaiians and Hawaiians. The  
10 legislature recognizes that despite constitutional and statutory  
11 mandates, it was only after over thirty years of litigation and  
12 advocacy, including multiple Hawaii supreme court decisions,  
13 that the legislature, office of Hawaiian affairs, and governor  
14 agreed upon a transfer of lands to discharge claims relating to  
15 nonpayment of public land trust revenues via Act 15.

16 In Section 1 of Act 15, the legislature found that one of  
17 that Act's purposes was to

18 effectively and responsibly fulfill the constitutional  
19 obligation to native Hawaiians under article XII,  
20 sections 4 and 6, of the State constitution between  
21 November 7, 1978, up to and including June 30, 2012,

1 by . . . providing additional resources to the  
2 office [of Hawaiian affairs] in the form of fee simple  
3 title to certain parcels of land . . . .

4 In the same section of that Act, the legislature declared that  
5 the" [c]onveyance of the fee simple interest to the lands . . .  
6 . will allow the State to effectively and responsibly meet  
7 [those] constitutional obligations to native Hawaiians."

8 "[T]he fee simple interest to [nine] parcels of land  
9 [including Lots 1 and 9 of File Plan 2471 and the parcel  
10 identified by TMK (1) 2-1-15-61, was] conveyed to the office  
11 of Hawaiian affairs as grantee, as of July 1, 2012, as is, where  
12 is" in Section 2 of Act 15.

13 Particularly pertinent to the purpose of this Act, the  
14 legislature further declared that "[t]he Properties conveyed by  
15 this Act shall be deemed income and proceeds from the public  
16 land trust, as if the Properties had been paid out of the income  
17 and proceeds from the public land trust pursuant to article XII,  
18 section 6 of the State Constitution," see Section 6 of Act 15,  
19 and" [t]he office of Hawaiian affairs shall administer the  
20 Properties in accordance with its duties under the Hawaii  
21 Constitution and as provided by law," see Section 2 of Act 15.

1 Relying on its board of trustees' authority to "exercise  
2 control" over lands which the office holds in trust for its  
3 beneficiaries, and to "manage and administer" the income and  
4 proceeds from the public land trust lands it receives, the  
5 office of Hawaiian affairs has asked the legislature to enact  
6 this bill to allow the office to consider and apply for  
7 residential development on its Kakaako parcels, which were  
8 conveyed by Act 15, in order to maximize its revenue generating  
9 opportunities and further its purpose to better the conditions  
10 of native Hawaiians and Hawaiians.

11 The legislature finds that the on-going transformation of  
12 Kakaako into a place where the people of Honolulu can live, work  
13 and play, should increase the revenue generating potential of  
14 the land conveyed to the office of Hawaiian affairs by Act 15,  
15 and concomitantly increase the number of programs and kinds of  
16 services that the office was created to provide for native  
17 Hawaiians. The legislature also finds that allowing the office  
18 to consider and apply for residential development on a specified  
19 subset of the parcels it received under Act 15 will provide the  
20 office with the ability to obtain the meaningful revenue  
21 intended by Act 15. The legislature finds that increased

1 revenue generation will allow the office to continue to carry  
2 out the state's moral and legal responsibilities to address the  
3 ongoing historical injustices suffered by the Hawaiian people as  
4 well as the ongoing disparities relating to the health,  
5 economic, housing, food security, educational, and environmental  
6 conditions of Hawaiians and their communities.

7 The legislature agrees that the residential development  
8 restriction should be lifted to allow the office to realize the  
9 most income or proceeds that Lots 1 and 9 of File Plan 2471, and  
10 the parcel identified by TMK (1)2-1-15-61 could generate, if  
11 they were developed for residential use.

12 Accordingly, the purpose of this Act is to allow the office  
13 of Hawaiian affairs to seek residential development on a  
14 specified subset of land parcels transferred to the office of  
15 Hawaiian affairs pursuant to Act 15, subject to the public  
16 hearing and input requirements to hear and expressly consider  
17 the concerns of the public relating to the use and development  
18 of those parcels.

19 SECTION 2. Chapter 206E, Hawaii Revised Statutes, is  
20 amended by adding three new sections to part II to be  
21 appropriately designated and to read as follows:

1           "§206E-A Limited residential development in Kakaako;  
2 public hearing prerequisite; height limit; association fee. (a)

3 The authority may approve any plan or proposal for any  
4 residential development in Kakaako on any parcels identified as  
5 tax map key 2-1-15-61 and Lots 1 and 9 of File Plan 2471 filed  
6 at the Bureau of Conveyances, State of Hawai'i, on February 23,  
7 2010; provided that the authorization for residential  
8 development pursuant to this section shall apply to each of  
9 these land areas even in the event that a parcel's official tax  
10 map key or Lot number changes; provided further that approval  
11 may be granted only after the applicant seeking approval  
12 conducts a public hearing held in accordance with subsection  
13 (b), notwithstanding hearing procedures under chapter 91.

14           (b) Prior to submission to the authority of any plan or  
15 proposal for any residential development pursuant to this  
16 section, the applicant seeking approval shall hold a public  
17 hearing after notice is published, in accordance with section  
18 1-28.5, at least thirty days prior to the hearing. The notice  
19 shall include:

- 20           (1) The date, time, and place of the hearing;  
21           (2) A statement of the topic of the hearing; and

1       (3) A description of where, when, and how the residential  
2           development proposal may be viewed by the public.

3 All interested persons may submit data or opinions, orally or in  
4 writing, in conjunction with the hearing.

5       (c) Prior to submitting to the authority for approval any  
6 plan or proposal for residential development pursuant to this  
7 section, the applicant for approval shall fully consider all  
8 written and oral submissions allowed pursuant to subsection (b)  
9 with regard to the proposed residential development.

10       (d) Prior to approving any plan or proposal for  
11 residential development pursuant to this section, the authority  
12 shall hold a public hearing in accordance with subparagraph (b).

13       (e) Prior to approving any plan or proposal for  
14 residential development, pursuant to this section, the authority  
15 shall fully consider all written and oral submissions received  
16 at the public hearings held by the applicant and the authority.

17       (f) Any other law to the contrary notwithstanding, the  
18 building height limit shall be four hundred feet for residential  
19 development pursuant to this section on the parcels identified  
20 by tax map key 2-1-15-61 and Lot 1 of File Plan 2471 filed at  
21 the bureau of conveyances on February 23, 2010.



1        **§206E-B Kakaako makai association fee.** The authority  
2 shall determine a Kakaako makai association fee to be collected  
3 from all residential developments in Kakaako on lands identified  
4 in section 206E-A(a); provided that the fee shall be collected  
5 from residential owners.

6        **§206E-C Kakaako makai special account.** Kakaako makai  
7 association fees collected pursuant to section 206E-B shall be  
8 deposited into a special account in the Hawaii community  
9 development revolving fund established in section 206E-16.  
10 Moneys from the special account shall be used to fund various  
11 services and projects, including but not limited to maintenance,  
12 improvements, free public parking for park users, public beach  
13 access, security, and parks and open spaces, for the Kakaako  
14 community development district makai of Ala Moana boulevard and  
15 between Kewalo basin and the foreign trade zone. Disbursements  
16 from the account shall be made in accordance with procedures  
17 adopted by the authority and approved by the director of  
18 finance."

19        SECTION 3. Section 206E-12, Hawaii Revised Statutes, is  
20 amended to read as follows:

1           "**§206E-12 Dedication for public facilities as condition to**  
2 **development.** The authority shall establish rules requiring  
3 dedication for public facilities of land or facilities, or cash  
4 payments in lieu thereof, by developers as a condition of  
5 developing real property pursuant to the community development  
6 plan. Where state and county public facilities dedication laws,  
7 ordinances, or rules differ, the provision for greater  
8 dedication shall prevail.

9           This section shall not apply to lands identified in section  
10 206E-A(a)."

11           SECTION 4. Section 206E-31.5, Hawaii Revised Statutes, is  
12 amended to read as follows:

13           "~~§~~**206E-31.5**~~§~~ **Prohibitions.** Anything contained in  
14 this chapter to the contrary notwithstanding~~§~~ and except as  
15 provided in section 206E-A, the authority is prohibited from:

- 16           (1) Selling or otherwise assigning the fee simple interest  
17           in any lands in the Kakaako community development  
18           district to which the authority in its corporate  
19           capacity holds title, except with respect to:
- 20           (A) Utility easements;
- 21           (B) Remnants as defined in section 171-52;

1 (C) Grants to any state or county department or  
2 agency; or

3 (D) Private entities for purposes of any easement,  
4 roadway, or infrastructure improvements; or

5 (2) Approving any plan or proposal for any residential  
6 development in that portion of the Kakaako community  
7 development district makai of Ala Moana boulevard and  
8 between Kewalo [~~Basin~~] basin and the foreign trade  
9 zone."

10 SECTION 5. In codifying the new sections added by section  
11 1 of this Act, the revisor of statutes shall substitute  
12 appropriate section numbers for the letters used in designating  
13 the new sections in this Act.

14 SECTION 6. Statutory material to be repealed is bracketed  
15 and stricken. New statutory material is underscored.

16 SECTION 7. This Act shall take effect upon its approval.

**Report Title:**

Hawaii Community Development Authority; Residential Development

**Description:**

Authorizes residential development on certain specified parcels of land owned by the Office of Hawaiian Affairs in Kakaako. Requires applicants for residential development to hold a public hearing regarding a plan or proposal for residential development in Kakaako and consider all written and oral submissions from the hearing prior to submitting the plan or proposal to HCDA for approval. Requires HCDA to hold a public hearing and fully consider all written and oral submissions received at the hearings held by the applicant and the HCDA prior to approving any plan or proposal for residential development. Establishes a Kakaako makai association fee and Kakaako makai special account to fund various public services and projects in Kakaako. Exempts the Office of Hawaiian Affairs from section 206E-12, regarding the dedication of public facilities by developers as a condition of development in Kakaako. (HD2)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*



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

**LATE**

**ON THE FOLLOWING MEASURE:**

**S.B. NO. 3122, S.D. 2, H.D. 1, RELATING TO HAWAII COMMUNITY DEVELOPMENT  
AUTHORITY.**

**BEFORE THE:**

**HOUSE COMMITTEE ON OCEAN, MARINE RESOURCES, AND HAWAIIAN AFFAIRS**

**DATE:** Wednesday, March 19, 2014                      **TIME:** 10:15 a.m.

**LOCATION:** State Capitol, Room 325

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

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Chair Hanohano and Members of the Committee:

The Department of the Attorney General offers the following comments because the Department has concerns that this bill could be challenged as special legislation and violative of article XI, section 5, of the State Constitution.

The purpose of this bill is to increase the revenue generation potential of some of the nine parcels of land at Kakaako Makai that were transferred to the Office of Hawaiian Affairs (OHA) by Act 15, Session Laws of Hawaii 2012. It permits three of the parcels to be developed for residential use, and by doing so enhances OHA's ability to satisfy the State's and its responsibility under article XII, sections 4 and 6, of the State Constitution to better the conditions of native Hawaiians.

The bill proposes to amend the laws relating to the management of Kakaako Makai in four ways: (1) to except the yet to be identified parcels of OHA-owned land from the prohibition against residential development makai of Ala Moana Boulevard, and authorize the Hawaii Community Development Authority (HCDA) to consider applications for residential development of a yet to be specified height; (2) to exempt the developers of the yet to be specified parcels of land from HCDA's rules requiring developers to dedicate land, facilities, or cash for public facilities as a condition to development; (3) to require HCDA to collect a Kakaako Makai Association fee from the owners of residential units developed on the yet to be specified parcels; and (4) to establish a special account in the HCDA revolving fund into which

the association fees HCDA collects are to be deposited and used to fund various public services and projects in the Kakaako Makai area.

Article XI, section 5, of the Constitution of the State of Hawaii provides:

The legislative power over the lands owned by or under the control of the State and its political subdivisions shall be exercised only by general laws, except in respect to transfers to or for the use of the State, or a political subdivision, or any department or agency thereof.

(Emphasis added.) To minimize against a challenge that this bill is special legislation and is thus violative of this provision of the State Constitution because it excepts certain yet to be identified parcels of land that the Legislature transferred to OHA from Kakaako Makai's residential development zoning restriction, a purpose section has been added to the bill to make clear that the bill's purpose is to increase OHA's ability to use some of the lands conveyed to it in 2012, to fulfill the State's and OHA's constitutional responsibility to better the conditions of native Hawaiians. Wording to state this purpose more completely and clearly in section 1 of the bill is attached for the Committee's use. See Attachment 1.

Finally, to ensure against misperceptions about what values OHA and the Governor attributed to the nine parcels of land OHA received fee simple title to under Act 15, a copy of Act 15 is attached as Attachment 2, and a copy of the last valuation report OHA's expert prepared is attached as Attachment 3. OHA's expert's valuation report includes the values for the nine parcels the State's appraiser determined. OHA's and the State's valuations were the basis for OHA's and the Governor's agreement to jointly submit the bill that became Act 15 in the Twenty-Sixth Legislature for passage in the 2012 regular session. Subsequent valuations were prepared for some, but not all of the parcels to inform the independent due diligence OHA conducted to determine whether it wished to continue to ask the Legislature to pass the bill that had been introduced. During that time, Lots 1 and 9 of File Plan 2471, were valued for residential use with a 400 foot height limit for the first time. Leased fee values for the several parcels that were under leases earlier let by HCDA were also established by the State's appraiser. Both the residential and lease fee values can be provided if the Committees so request.

SECTION 1. The purpose of this Act is to enhance the revenue generating capacity of three parcels of land that were transferred to the office of Hawaiian affairs by Act 15, Session Laws of Hawaii 2012. To accomplish this, this Act raises the building height limit for two of the three parcels to four hundred feet, and lifts the current restriction against residential development in Kakaako Makai to which the parcels are subject, to allow residential development by the office of Hawaiian affairs itself, or by third parties to which the office of Hawaiian affairs conveys the parcels.

The office of Hawaiian affairs was established under article XII, section 5, of the Hawaii State Constitution to "hold title to all the real and personal property now or hereafter set aside or conveyed to it which shall be held in trust for native Hawaiians and Hawaiians." Its board of trustees is authorized by article XII, section 6, of the State Constitution "to manage and administer the proceeds from the sale or other disposition of the lands, . . . and income derived from whatever sources for native Hawaiians and Hawaiians, including all income and proceeds from that pro rata portion of the trust referred to in section 4 of this article [i.e., the public land trust] for native Hawaiians." That section also authorized the board "to exercise control over real . . . property . . . transferred to the board for native Hawaiians . . . ."

In section 1 of Act 15, the legislature found that one of that Act's purposes was to

effectively and responsibly fulfill the constitutional obligation to native Hawaiians under article XII, sections 4 and 6, of the State Constitution between November 7, 1978, up to and including June 30, 2012, by . . . providing additional resources to the office [of Hawaiian affairs] in the form of fee simple title to certain parcels of land . . . .

In the same section of that Act, the legislature declared that the "[c]onveyance of the fee simple interest to the lands . . . will allow the State to effectively and responsibly meet [those] constitutional obligations to native Hawaiians."

"[T]he fee simple interest to [nine] parcels of land [including Lots 1 and 9 of File Plan 2471 and the parcel identified by TMK (1) 2-1-15-61, was] conveyed to the office of Hawaiian affairs as grantee, as of July 1, 2012, as is, where is" in section 2 of Act 15. In that same section of the Act, however, the legislature specifically directed that "[t]he [nine parcels] are and shall remain (even after conveyance to the office) under the jurisdiction and authority of the Hawaii Community Development Authority with respect to zoning, land use conditions and all other matters over which the Hawaii Community Development Authority has jurisdiction and authority to act," and "shall be subject to all laws, except sections 206E-8, 206E-



10, 206E-34, Hawaii Revised Statutes, and as otherwise provided in this Act . . . ."

Particularly pertinent to the purpose of this Act, the legislature further declared that "[t]he Properties conveyed by this Act shall be deemed income and proceeds from the public land trust, as if the Properties had been paid out of the income and proceeds from the public land trust pursuant to article XII, section 6 of the State Constitution," see section 6 of Act 15, and "[t]he office of Hawaiian affairs shall administer the Properties in accordance with its duties under the Hawaii Constitution and as provided by law," see section 2 of Act 15.

Relying on its board of trustees' authority to "exercise control" over lands that the office holds in trust for native Hawaiians, and to "manage and administer" the income and proceeds from the public land trust lands it receives, the office of Hawaiian affairs has asked the legislature to enact this Act to allow the office to maximize the income or proceeds that three of the parcels of land conveyed by Act 15 could generate for purposes of bettering the conditions of native Hawaiians, by allowing the parcels to be developed for residential use.

The legislature finds that the on-going transformation of Kakaako into a place where the people of Honolulu can live, work and play, should increase the revenue generating potential of

the land conveyed to the office of Hawaiian affairs by Act 15, and concomitantly increase the number of programs and kinds of services that the office was created and is able to provide for native Hawaiians. The legislature also finds that even more revenue could be generated to provide programs and services to better the conditions of native Hawaiians, if the office were permitted to develop some or all of the parcels it received under Act 15 for residential use.

The legislature agrees that the residential development restriction to which all of the parcels transferred to the office of Hawaiian affairs by Act 15 were, and continue to be subject should be lifted to allow the office to realize the most income or proceeds that Lots 1 and 9 of File Plan 2471, and the parcel identified by TMK (1)2-1-15-61 could generate, if they were developed for residential use.

Finally, the legislature finds that inasmuch as this bill furthers one of the principle purposes for which the office of Hawaiian affairs was established as a state agency, its provisions should be deemed consistent, and not violative of article XI, section 5, of the State Constitution.

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SECTION 7. Section 372-6, Hawaii Revised Statutes, is amended to read as follows:

~~“§372-6 Related instruction [and coordination of instruction]. Related instruction for apprentices [coordination of instruction with job experiences, and the selection] and training of teachers and coordinators for the instruction shall be the responsibility of the community [college division] colleges of the University of Hawaii[-] system.”~~

SECTION 8. Section 372-7, Hawaii Revised Statutes, is amended to read as follows:

~~“§372-7 [Joint apprenticeship committees.] Apprenticeship committee. [Local joint apprenticeship committees may be approved by the director of labor and industrial relations in any trade, group of trades, or in trade areas, whenever the apprentice training needs of the trade or group of trades justifies the establishment of the committees. The joint apprenticeship committees shall be composed of an equal number of persons known to represent the interest of the employers and employees, respectively.] Subject to the review of the director and in accordance with the standards established by this chapter and rules adopted by the director, [the] apprenticeship committees shall [devise standards for apprenticeship agreements and] give assistance to the operation and further development of apprenticeship in their respective [trade] occupation and localities.”~~

SECTION 9. Section 372-8, Hawaii Revised Statutes, is amended to read as follows:

~~“§372-8 State-federal cooperation. The department [of labor and industrial relations] may promote the administration of this chapter by accepting and utilizing information, services, and facilities made available to it by the federal [committee on apprenticeship:] Advisory Committee on Apprenticeship; and the department shall cooperate with the federal [committee on apprenticeship] Advisory Committee on Apprenticeship to the fullest extent consistent with this chapter.”~~

SECTION 10. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 11. This Act shall take effect upon its approval.  
(Approved April 10, 2012.)

Notes

1. Prior to amendment "into" appeared here.
2. So in original.

ACT 15

S.B. NO. 2783

A Bill for an Act Relating to the Public Trust Lands.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. In 1978, the Constitution of the State of Hawaii was amended to include article XII, sections 4, 5, and 6, which established the office of Hawaiian affairs and its board of trustees.

Sections 4, 5, and 6 of the State Constitution provide:

SECTION 4. The lands granted to the State of Hawaii by Section 5(b) of the Admission Act and pursuant to Article XVI, Section 7. of the State Constitution, excluding therefrom lands defined as "available lands" by Section 203 of the Hawaiian Homes Commission Act, 1920. as amended, shall be held by the State as a public trust for native Hawaiians and the general public.

SECTION 5. There is hereby established an Office of Hawaiian Affairs. The Office of Hawaiian Affairs shall hold title to all the real and personal property now or hereafter set aside or conveyed to it which shall be held in trust for native Hawaiians and Hawaiians. There shall be a board of trustees for the Office of Hawaiian Affairs elected by qualified voters who are Hawaiians, as provided by law. The board members shall be Hawaiians. There shall be not less than nine members of the board of trustees; provided that each of the following Islands have one representative: Oahu, Kauai, Maui, Molokai and Hawaii. The board shall select a chairperson from its members.

SECTION 6. The board of trustees of the Office of Hawaiian Affairs shall exercise power as provided by law: to manage and administer the proceeds from the sale or other disposition of the lands, natural resources, minerals and income derived from whatever sources for native Hawaiians and Hawaiians, including all income and proceeds from that pro rata portion of the trust referred to in section 4 of this article for native Hawaiians; to formulate policy relating to affairs of native Hawaiians and Hawaiians; and to exercise control over real and personal property set aside by state, federal or private sources and transferred to the board for native Hawaiians and Hawaiians. The board shall have the power to exercise control over the Office of Hawaiian Affairs through its executive officer, the administrator of the Office of Hawaiian Affairs, who shall be appointed by the board.

In Trustees of the Office of Hawaiian Affairs v. Yamasaki, 69 Haw. 154, 737 P.2d 446 (1987), the Hawaii Supreme Court concluded that the issue of what constitutes the portion of the income and proceeds derived from the public land trust for the office of Hawaiian affairs pursuant to article XII, section 6 of the Hawaii Constitution, is a political question for the legislature to determine.

In response to the Yamasaki decision, the legislature enacted Act 304, Session Laws of Hawaii 1990, to clarify the extent and scope of the State's obligation to provide a portion of the funds derived from the public land trust to the office of Hawaiian affairs.

On September 12, 2001, the Hawaii Supreme Court ruled in Office of Hawaiian Affairs v. State of Hawaii, 96 Haw. 388, 31 P.3d 901 (2001), that Act 304 was effectively repealed by its own terms, so that it was necessary for the legislature to specify what portion of which funds, from which lands the office of Hawaiian affairs was to receive under the State Constitution.

In its decision, the Supreme Court affirmed Yamasaki, observing:  
 [T]he State's obligation to native Hawaiians is firmly established in our constitution. How the State satisfies that constitutional obligation requires policy decisions that are primarily within the authority and expertise of the legislative branch. As such, it is incumbent upon the legislature to enact legislation that gives effect to the right of native Hawaiians to benefit from the ceded lands trust. See Haw. Const. art. XVI, §7. . . .  
 . . . we trust that the legislature will re-examine the State's constitutional obligation to native Hawaiians and the purpose of HRS § 10-13.5 and enact legislation that most effectively and responsibly meets those obligations.

ACT 15

Office of Hawaiian Affairs v. State of Hawaii, 96 Haw. at 401, 31 P.3d at 914 (citations omitted)

One of the purposes of this Act is to resolve and extinguish, finally and completely, any and all claims, disputes and controversies the office of Hawaiian affairs, or any other person or entity claiming by, through, or under the office, has asserted or raised, or could otherwise assert or raise, relating to the portion of the income and proceeds from the public land trust lands under sections 4 and 6 of article XII of the State Constitution or any related statute or act, the office of Hawaiian affairs received between November 7, 1978, up to and including June 30, 2012.

Another purpose of this Act is to effectively and responsibly fulfill the constitutional obligation to native Hawaiians under article XII, sections 4 and 6, of the State Constitution between November 7, 1978, up to and including June 30, 2012, by re-examining the amount of money the office of Hawaiian affairs received under article XII, section 6 of the Constitution, determining whether the office received what it should have received as its share of the income and proceeds from public land trust lands between 1978 and 2012, and providing additional resources to the office in the form of fee simple title to certain parcels of land to completely and finally fulfill the State's constitutional obligations relating to the office of Hawaiian affairs' portion of the income and proceeds from the public land trust lands under article XII, sections 4 and 6, of the State Constitution or any related statute or act, between November 7, 1978, up to and including June 30, 2012.

The legislature recognizes that the governor and the office of Hawaiian affairs have reached an agreement with respect to conveyances of land and all issues relating to the office of Hawaiian affairs' portion of the income and proceeds from the public land trust lands under sections 4 and 6 of article XII of the Constitution, between November 7, 1978, up to and including June 30, 2012.

The legislature finds that the agreement between the State and the office of Hawaiian affairs represents a joint recommendation as to the policy the legislature should adopt, to satisfy the State's constitutional obligations to native Hawaiians under article XII, sections 4 and 6 of the Constitution for the period between November 7, 1978, up to and including June 30, 2012, relating to the office of Hawaiian affairs' portion of the income and proceeds from the public land trust lands. Conveyance of the fee simple interest to the lands the governor and the trustees of the office of Hawaiian affairs identified for conveyance will allow the State to effectively and responsibly meet said constitutional obligations to native Hawaiians.

This Act, therefore, is an expression of legislative policy, not a settlement or a contract. This legislation is a legislative act without distinction from any other legislative act. As it is neither a settlement nor a contract, it can give rise to no lawsuits or claims other than an action to compel compliance with this Act's terms, nor to any claim that any future legislation is barred in any way, or leads to liability in any way, because it somehow conflicts with a settlement, settlement agreement, contract, or the provisions of this Act.

SECTION 2. Notwithstanding any other law to the contrary, the fee simple interest to the following parcels of land with the existing improvements thereon (hereinafter "the Properties") (but not including submerged land, accreted land, or any land makai of the shoreline), is conveyed to the office of Hawaiian affairs as grantee, as of July 1, 2012, as is, where is:

- (1) Lots 1, 2, 3, 4, 5, 6 (portion), and 9 of File Plan 2471 filed at the Bureau of Conveyances, State of Hawaii, on February 23, 2010;
- (2) TMK (1) 2-1-15-61; and

## (3) TMK (1) 2-1-15-51.

As directed by the attorney general, the appropriate boards, agencies, officers, and employees of the State shall (1) prepare and execute deeds warranting title only, and such other instruments appropriate and necessary to convey fee title and interest to the above-listed parcels with all existing improvements, to the office of Hawaiian affairs, as grantee, and (2) record the deeds and such other instruments within a reasonable period of time after the effective date of this Act, in the land court or bureau of conveyances, as appropriate. The aforesaid executed deeds and other instruments shall be delivered to the office by the State no later than \_\_\_\_\_ days after they are recorded. As these are conveyances in which the State and its agencies are the only parties, the tax imposed by section 247-1, Hawaii Revised Statutes, shall not apply to them.

For purposes of this section and this Act, "as is, where is" means that the office of Hawaiian affairs is accepting the Properties in their existing condition as of March 1, 2012, the close of the office's period for due diligence, without representations or warranties of any kind or nature. Except as set forth in the aforesaid deeds, the State makes no warranty or representation of any kind or nature, either express or implied, or arising by operation of law, including, but not limited to, any warranty of quantity, quality, condition, habitability, reliability, merchantability, workmanlike construction, suitability or fitness for a particular purpose, about the parcels of real property described in this section, any building or other improvement located on those parcels of land, any environmental contamination or conditions of those parcels of land, and the soil conditions related to those parcels of land.

The office of Hawaiian affairs has completed all due diligence investigations of the parcels necessary to satisfy itself as to the physical, environmental, economic and legal conditions relating to the parcels of land, and has indicated that it relied solely on the information it secured from its due diligence, and not on any information provided by or on behalf of the State to determine whether it wished to accept and acquire title to those parcels of land. All claims and liabilities against the State, if any, which the office of Hawaiian affairs has, may have had, or may have in the future, regarding any injury, loss, cost, damage or liability, including reasonable attorney's fees, concerning the physical, environmental, soil, economic and legal conditions of the Properties, are released, waived and extinguished.

The Properties are and shall remain (even after conveyance to the office) under the jurisdiction and authority of the Hawaii community development authority, with respect to zoning, land use conditions and all other matters over which the authority has jurisdiction and authority to act. If in the future, the jurisdiction and authority over zoning and land use conditions over the Properties is transferred to, changed to, or vested in another department or agency of the State, then the Properties shall be under the jurisdiction and authority of such other department or agency.

The conveyances required to be made by this section shall not and do not include the rights of native tenants, or any of the State's rights to minerals and metallic mines, including all geothermal rights, submerged lands, surface or ground water, or the State's regulatory and ownership rights (if any) over, or to historic properties, aviation artifacts, burial sites, and prehistoric and historic remains under chapter 6E, Hawaii Revised Statutes.

The Properties conveyed shall be and remain subject to all encumbrances (whether or not of record), the rights of native tenants, leases, contracts, agreements, permits, easements, profits, licenses, rights-of-way or other instruments applicable to any of the Properties effective or on-going on the effective date of this Act unless they expire or are terminated pursuant to their respective terms.

ACT 15

These rights and encumbrances shall be set forth in the deeds conveying the Properties to the office or set forth in a license or similar agreement, a memorandum of which may be recorded concurrently with the deeds conveying the Properties to the office. Effective July 1, 2012, every reference to the present title-holder or the head of the department or agency in each such instrument, if the title-holder is a department or an agency, shall be construed as a reference to the office of Hawaiian affairs or its board of trustees.

The Properties shall be subject to all laws, except sections 206E-8, 206E-10, 206E-34, Hawaii Revised Statutes, and as otherwise provided in this Act, provided that the Hawaii community development authority may acquire by condemnation, pursuant to chapter 101, Hawaii Revised Statutes, easements, rights-of-way, rights of entry, or other rights of access in favor of lands adjoining the Properties conveyed that are under the control and management of public agencies, provided the office of Hawaiian affairs is paid just compensation for the same. The office of Hawaiian affairs shall administer the Properties in accordance with its duties under the Hawaii Constitution and as provided by law.

The instruments of conveyance executed and recorded pursuant to this Act shall specify that the office of Hawaiian affairs and any successor owner of any of the Properties shall cooperate with the State and its agencies to designate and grant such access rights and easements to the State or its agencies as may be reasonably necessary for the benefit and use of properties owned by the State or its agencies and which are adjacent to one or more of the Properties. Each of the instruments creating such access rights or granting such easements shall provide that the office, or any successor owner of the servient property, shall have the right to reasonably relocate any such access areas or easements so granted. The cost of initially identifying such access areas or designating and granting any such easements shall be paid by the State. The cost of relocating any such access areas or easements shall be paid by the office or any such successor owner, as the case may be. Each of the instruments creating such access rights or granting such easements also shall provide that the State and its agencies shall be responsible for only a reasonable share of the cost of maintaining any such access areas and easement areas, as the case may be, and that the office, its tenants, licensees, concessionaires, successors, and assigns shall not be liable for injuries or damages arising from the use of such access areas or easement areas and caused by the acts or omissions of the State, its agencies or employees, or their invitees.

SECTION 3. The passage of this Act is in full satisfaction, resolution, and discharge of any and all claims, disputes, controversies, actions, causes of action, demands, claims for relief, liability, liabilities, costs, compensations, injuries, losses, damages or expenses of any kind or nature, whether known or unknown, contingent or uncertain, patent or latent, whether at law or in equity, now existing or hereafter arising, established or inchoate, including any claim or action under chapter 661, Hawaii Revised Statutes, or for breach of trust under chapter 673, Hawaii Revised Statutes, that have been asserted or could have been asserted, or could be asserted in the future against the State by the office of Hawaiian affairs or any other person or entity claiming by, through, or under the office, in any manner arising out of, growing out of, connected with or traceable either directly or indirectly to, concerning or in any way related to any right the office of Hawaiian affairs or any other person or entity claiming by, through, or under the office may have or may have had to the portion of income and proceeds, or any other tangible right, item, or benefit related to said income and proceeds, from the public land trust lands under sections 4 and 6 of article XII of the Constitution or any related statute or act, between November 7, 1978, up to and including June 30, 2012.

All claims, disputes, controversies, actions, causes of action, demands, claims for relief, liabilities, costs, compensations, injuries, losses, damages or expenses of any kind or nature, whether known or unknown, contingent or uncertain, patent or latent, whether at law or in equity, now existing or hereafter arising, established, or inchoate, including any claim or action under chapter 661, Hawaii Revised Statutes, or for breach of trust under chapter 673, Hawaii Revised Statutes, that have been asserted or could have been asserted, or could be asserted in the future against the State by the office or any other person or entity claiming by, through, or under the office, in any manner arising out of, growing out of, connected with or traceable either directly or indirectly to, concerning or in any way related to, any right the office of Hawaiian affairs or any other person or entity claiming by, through, or under the office may have or may have had to the portion of income and proceeds, or any other tangible right, item, or benefit related to said income and proceeds, from the public land trust lands under sections 4 and 6 of article XII of the Constitution or any related statute or act, between November 7, 1978, up to and including June 30, 2012, are released, waived, and forever discharged and extinguished.

Each and every claim or suit that is predicated in any way upon an act or omission that arises out of or is in any way related to any right the office of Hawaiian affairs, or any other person or entity claiming by, through or under the office may have or may have had to the income and proceeds, or any other tangible right, item, benefit or claim or action under chapter 661, Hawaii Revised Statutes, or for breach of trust under chapter 673, Hawaii Revised Statutes, related to said income and proceeds, from the public land trust lands under sections 4 and 6 of article XII of the Constitution or any related statute or act, between November 7, 1978, up to and including June 30, 2012, is forever extinguished and barred and may not be brought by the office, or by any other person or entity claiming by, through, or under the office.

The passage of this Act shall have the effect of *res judicata*, collateral estoppel, and claim and issue preclusion as to the office of Hawaiian affairs and all persons and entities claiming by, through, or under the office, and all claims, issues and defenses which have been at issue, or which could have been, or could in the future be, at issue, including any claim or action under chapter 661, Hawaii Revised Statutes, or for breach of trust under chapter 673, Hawaii Revised Statutes, whether brought against the State or its departments, agencies, officials, or employees, directly or indirectly, by subrogation, derivative or third party action, tender, federal action, or by any other means whatsoever, arising out of or in any way related to any right the office of Hawaiian affairs, or any other person or entity claiming by, through, or under the office, to the portion of income and proceeds, and/or any other tangible right, item, or benefit related to said income and proceeds, from the public land trust lands under sections 4 and 6 of article XII of the Constitution or any related statute or act between November 7, 1978, up to and including June 30, 2012.

The office of Hawaiian affairs shall not, cannot, and is forever prohibited and barred, now and in the future, from (1) asserting, arguing, or claiming that the office was entitled to more receipts than it received pursuant to Act 178, Session Laws of Hawaii 2006, or any other duly enacted law establishing the portion of the income and proceeds from the public land trust lands the office of Hawaiian affairs is to receive under sections 4 and 6 of article XII of the Constitution, between November 7, 1978, up to and including June 30, 2012, (2) bringing an action for breach of trust under chapter 673, Hawaii Revised Statutes, to contest or claim a larger portion of the income and proceeds, and/or any other tangible right, item, or benefit related to said income and proceeds, from the public land trust lands under sections 4 and 6 of article XII of the Constitution for itself or



ACT 15

its beneficiaries, or (3) asserting, arguing, or claiming that section 673-9, Hawaii Revised Statutes, does not bar a suit to contest or make a claim relating to the portion of the income and proceeds from the public land trust lands the office of Hawaiian affairs receives or is to receive under sections 4 and 6 of article XII of the Constitution. The prohibition and bar imposed by the immediately preceding sentence shall be applicable to any and all money transferred, or in the future to be transferred, to the office of Hawaiian affairs pursuant to Act 178, Session Laws of Hawaii 2006, or any other law enacted to give effect to the provisions of article XII, sections 4 and 6 of the Constitution relating to the office's portion of the income and proceeds from the public land trust lands under sections 4 and 6 of article XII of the Constitution, including, but not limited to, receipts from general leases, revocable permits, and licenses for the use of improved and unimproved parcels of public land trust lands, rents and fees for agricultural uses, rents and fees for retail, office, warehouse, medical and other uses of space in state-owned buildings and facilities, receipts from the sale of wood, rock, and other natural resources on public land trust lands, landing, docking and parking fees, rents and fees from the State's in-bond duty free, park, and other concessions, rents, fees, and reimbursements collected at state-operated hospitals and medical facilities, and fees and rents from the State's affordable housing development and rental public housing projects.

SECTION 4. To the extent that the State has made any waiver of sovereign immunity for a suit, claim, cause of action, or right of action regarding the amount of the income and proceeds the office of Hawaiian affairs is to receive from the public land trust lands pursuant to article XII, sections 4 and 6 of the Hawaii Constitution, that waiver is withdrawn.

SECTION 5. The State, while not admitting the validity of any claims, hereby resolves and satisfies all controversies and claims described in section 3 of this Act by the conveyance of the Properties described in section 2 of this Act.

SECTION 6. The Properties conveyed by this Act shall be deemed income and proceeds from the public land trust, as if the Properties had been paid out of the income and proceeds from the public land trust pursuant to article XII, section 6 of the State Constitution.

SECTION 7. Notwithstanding any other law to the contrary, the State, and the state officials who may have participated in the preparation of the provisions or the enactment of this Act, including the office of Hawaiian affairs, each of the members of its board of trustees, and its staff, shall not be subject to suit because of their participation, except if an action is brought to compel compliance with a provision of this Act, in which case the action shall be brought only against the State or the office of Hawaiian affairs, or any official necessary to compel compliance with a provision of this Act.

SECTION 8. If any provision of chapter 673, Hawaii Revised Statutes, is inconsistent with any provision of this Act, then the provisions of this Act shall prevail.

SECTION 9. (a) The provisions of this Act are not severable to the extent that if any provision of either section 2 or section 3 of this Act is held invalid or unenforceable by a final judgment of the Hawaii Supreme Court or the United States Supreme Court that resolves all issues, this Act in its entirety shall be invalid, all interests in the Properties conveyed pursuant to the provisions of

section 2 of this Act, shall be conveyed back to their respective grantors by the office of Hawaiian affairs.

(b) There is no waiver of sovereign immunity to bring any suit, claim, cause of action, or right of action to invalidate section 2 or 3 of this Act, or to enjoin their implementation or application, and to the extent any waiver of sovereign immunity for such a suit, claim, cause of action, or right of action exists, that waiver is withdrawn.

(c) Nothing in this Act limits the legislature's exclusive authority to enact laws.

SECTION 10. This Act shall take effect on July 1, 2012.

(Approved April 11, 2012.)

ACT 16

H.B. NO. 1858

A Bill for an Act Relating to Workforce Information.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 76, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**"§76- Executive branch workforce demographic profile.** (a) The director of human resources development shall compile a profile on the workforce of the executive branch of the State that shall include:

- (1) Demographic data on the entire executive branch workforce covering both civil service employees hired through recruitment procedures based on merit and employees exempt from such procedures;
- (2) Breakouts of the data required by paragraph (1) for the systems administered by the department of human resources development, the board of education, the University of Hawaii board of regents, and the Hawaii health systems corporation, respectively; and
- (3) Information on the number of employees who are currently eligible for retirement and projected retirements for the succeeding five years.

(b) The director of human resources development shall submit an annual profile report to the legislature no later than twenty days prior to the convening of each regular session."

SECTION 2. New statutory material is underscored.<sup>1</sup>

SECTION 3. This Act shall take effect on July 1, 2012.

(Approved April 12, 2012.)

Note

1. Edited pursuant to HRS §23G-16.5.

# Medusky & Co., Inc.

REAL ESTATE CONSULTANTS

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Jan R. Medusky, MAI, CRE

December 29, 2011

William Meheula, Esq.  
Meheula & Devens, LLP  
707 Richards Street, Penthouse I  
Honolulu, Hawaii 96813

Dear Mr. Meheula:

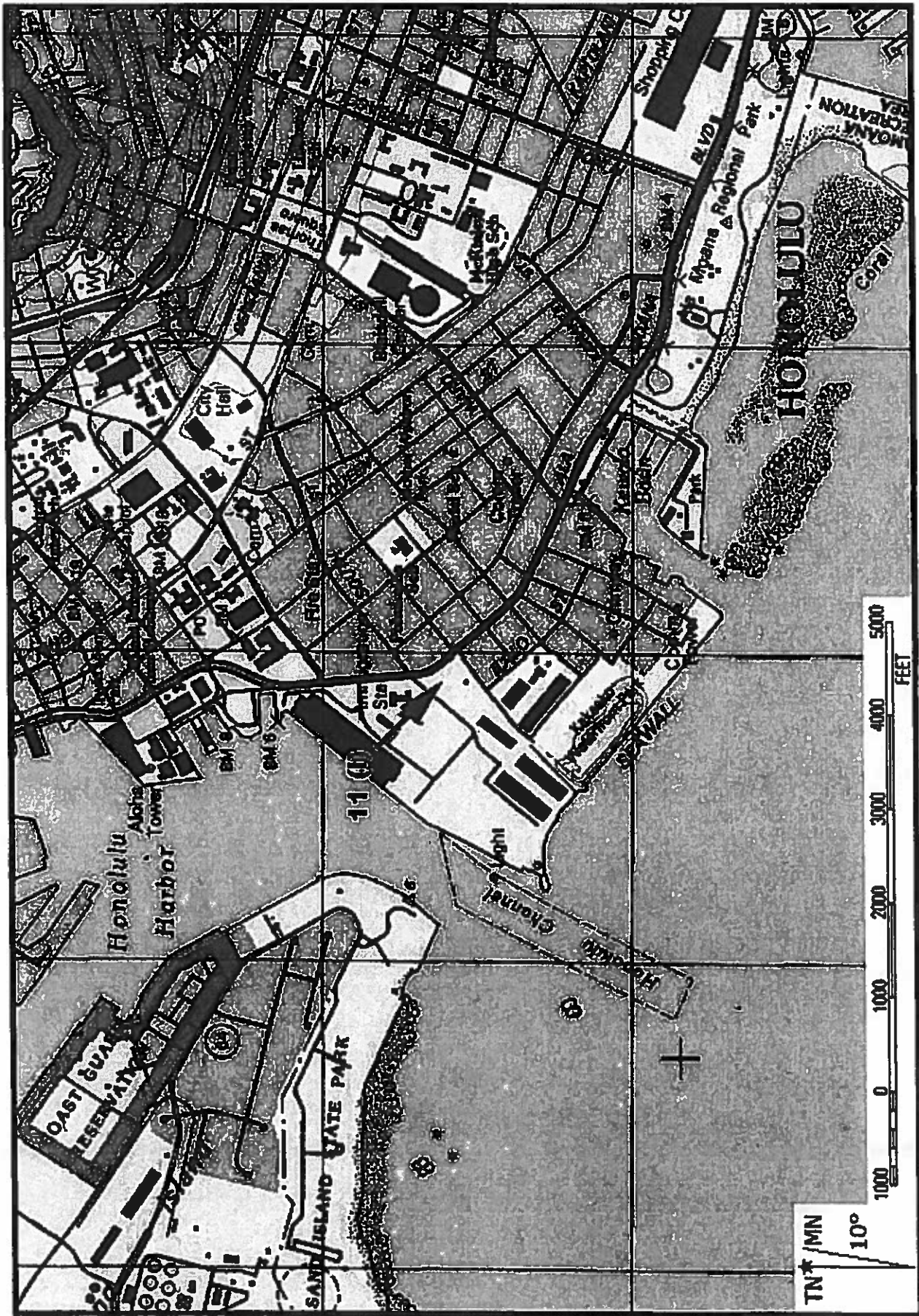
**Subject: Supplement to Summary Appraisal Report Regarding Ten Properties, Kakaako, Honolulu, Hawaii, TMK 2-1-58-95, et al., First Division**

By document dated November 30, 2011, Medusky & Co., Inc. prepared for you a Summary Appraisal Report regarding the above referenced properties.

The State of Hawaii, Hawaii Community Development Authority owns the fee simple interest in the ten properties at Kakaako, Honolulu, Hawaii that were involved in a pending Settlement Agreement between the State of Hawaii and the Office of Hawaiian Affairs (OHA). The ten properties contain from 0.9 to 5.5 acres. Some of the land parcels include older improvements and/or are encumbered by leases or other agreements. Per your instructions, the subject properties were appraised as if vacant, unencumbered, and available for development to their highest and best use. Therefore, the leases/other agreements and building improvements involved with the subject properties were not taken into consideration in the valuation of the properties.

The pending Settlement Agreement pertains to the long-standing ceded lands claims between the parties. As part of the pending Settlement Agreement, fee simple ownership of the subject properties would be transferred from the State of Hawaii, Hawaii Community Development Authority to OHA. You represent OHA in this matter and, in this regard, retained Medusky & Co., Inc. to prepare the Summary Appraisal Report.

Subsequently, you have informed us that Property No. 8 is no longer involved in the Settlement Agreement and that a new property (identified herein as Property No. 11) may be included in the Settlement Agreement. Property No. 11 contains 3.3 acres of vacant land, is located adjacent to Property No. 8 and is zoned Mixed Use Zone. You have requested that we prepare this Supplement to the original Summary Appraisal Report estimating the market value of the unencumbered, fee simple interest in Property No. 11.



ENVIRONS MAP

William Meheula, Esq.  
December 29, 2011

## **ASSIGNMENT**

Our assignment has been to prepare a Supplement to the November 30, 2011 Summary Appraisal Report estimating the Market Value of the fee simple interest in Property No. 11. The assignment has also included comparison of our market value conclusion with that of the appraisal firm (The Hallstrom Group, Inc.) retained by the State of Hawaii.

The intended use of this Supplement is to provide an estimate of market value for Property No. 11 upon which decisions regarding the pending Settlement Agreement may be based.

The intended users of this report are the client (William Meheula, Esq., attorney for OHA) and others involved in the pending Settlement Agreement.

This report is subject to the Limiting Conditions and Assumptions contained in Exhibit 1 in the Addenda of this report. The reader's attention is particularly directed to the Special Limiting Conditions and Assumptions regarding Supplement to Summary Appraisal Report and Encumbrances/Building Improvements.

**Supplement to Summary Appraisal Report** – This report is written as a Supplement to the Summary Appraisal Report prepared by Medusky & Co., Inc. dated November 30, 2011. As such, all of the original Summary Appraisal Report is included herein by reference. The reader of this Supplement should also read the Summary Appraisal Report.

**Encumbrances/Building Improvements** – Some of the subject properties are encumbered by leases or other agreements and/or include building improvements. Per instructions from the client, the subject properties have been appraised as if unencumbered by any leases/other agreements and as if vacant and available for development to their highest and best use. Therefore, the leases/other agreements and building improvements involved with the properties have not been taken into consideration by the appraisers in the valuation of the subject properties herein. If the properties were appraised subject to the existing leases/other agreements and building improvements, the value conclusions herein may change.

The effective date of value for this Supplement report is November 30, 2011, the same effective value date as the original Summary Appraisal Report.

## **SCOPE OF WORK**

**Scope of Work** included the following.

- Reviewed the November 30, 2011 Summary Appraisal Report.
- Researched and analyzed subject Property No. 11 data, including history, ownership, zoning, etc.
- Inspected the subject property.
- Researched and analyzed transactions involving land having characteristics similar to the subject property.
- Completed valuation analyses as described herein.

William Meheula, Esq.  
December 29, 2011

- Prepared this Appraisal Report in a Summary format as a Supplement to the original Summary Appraisal Report.

### **SUBJECT PROPERTY NO. 11 DATA/DESCRIPTION**

**Property Summary** – A Property Summary Table is included on a following page with an accompanying aerial photograph. The table and aerial photograph are the same as that included in the original Summary Appraisal Report except that Property No. 11 has been added.

**Property No. 11** contains 3.3 acres in a near quadrangular shape fronting Ala Moana Boulevard, South Street and Ilalo Street. The land is vacant and unimproved. It is currently leased to five tenants. A sewer easement bisects the property.

Further details pertaining to Property No. 11 are contained in Tab 11 in a following section of this report.

### **RIGHTS APPRAISED**

The Rights Appraised involve the unencumbered fee simple interest in the subject land. For purposes of this appraisal, the existing encumbrances, including the five leases, have not been considered. Easements encumbering the property have been considered.

### **HIGHEST AND BEST USE**

Property No. 11 has legal and physical characteristics similar to the other non-oceanfront subject properties. For reasons discussed in the original Summary Appraisal Report, the Highest and Best Use of Property No. 11 is for commercial use, the same as that of the other subject properties.

### **APPRAISAL METHODOLOGY**

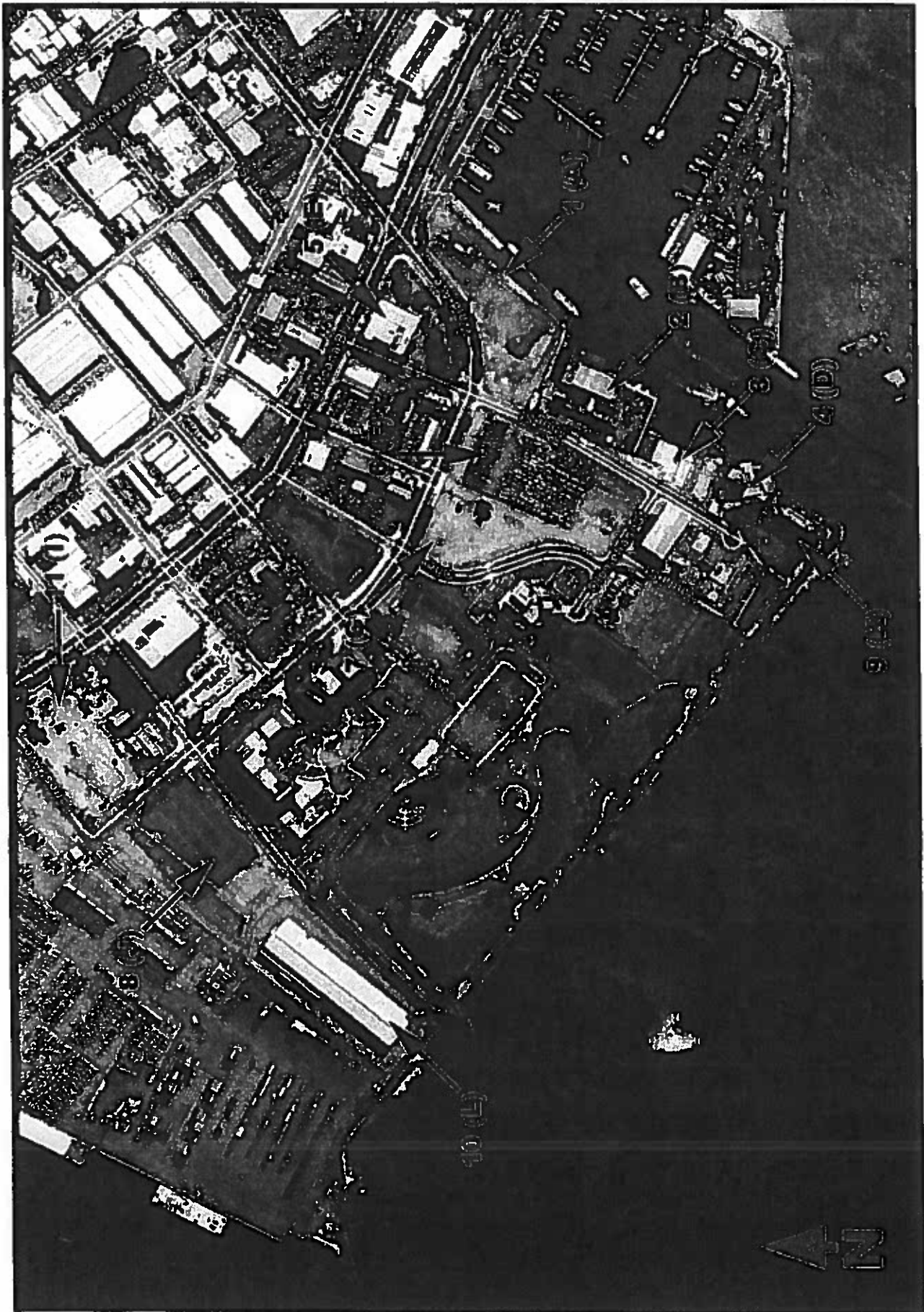
The direct market comparison approach was employed to estimate land value.

### **MARKET DATA**

The same land value comparables used in the original Summary Appraisal Report were employed to value Property No. 11.

### **DIRECT MARKET COMPARISON ANALYSIS**

Direct Market Comparison Analysis for Property No. 11 is included in Tab 11 in a following section of the report. Adjustments made are similar in nature to that for the other subject properties, not requiring further discussion herein.



AERIAL PHOTOGRAPH

**PROPERTY SUMMARY**  
 Kakaako Maikai Properties  
 Kakaako, Honolulu, Oahu, Hawaii

Property No.	Identification (TMK)	Land Area acres	Land Area sq. ft.	Zoning (IU/FAR)	Improvements	Land Highest & Best Use	Interest Analyzed [1]	Tenant/Occupant/Use	Comments
1 (A)	1009 Ala Moana Boulevard (2-1-58-95 & 125)	5.082	221,372	WC (65/1.50)	7,441 sq Restaurant (vacant)	Commercial	FS	Kewalo Wharf LLC (Parcel 125)	Waterfront land at Kewalo Basin.
2 (B)	113 & 123 Ahui Street (2-1-58-02 & 35)	3.150	137,213	WC (65/1.50)	Warehouse (9,870 sq)	Commercial	FS	Honolulu Marine, Inc.	Waterfront land and submerged land at Kewalo Basin.
3 (C)	59 Ahui Street (2-1-58-124 & 126)	2.043	88,996	WC (65/1.50)	Vacant	Commercial	FS	Kewalo Keiki Fishing Conservancy (Parcel 124)	Irregularly shaped waterfront land parcel at Kewalo Basin.
4 (D)	45 & 53 Ahui Street (2-1-58-48)	0.083	3,600	WC (65/1.50)	Radio transmitter tower & utility building	Commercial	FS	Salern Media of Hawaii, Inc.	Leased for radio tower use.
	(2-1-60-13)	0.855	37,241	WC (65/1.50)	Vacant (under construction with a wedding chapel)	Commercial	FS	Ocean Investments, LLC	Waterfront land at Kewalo Basin. Leased for wedding chapel development.
	Total	0.938	40,841						
5 (E)	919 Ala Moana Boulevard (2-1-58-06)	2.200	95,832	MUZ (200/2.50)	5 story masonry office building (103,336 sq GBA)	Commercial	FS	State of Hawaii	Non-waterfront property.
6 (F)	160 Ahui Street (2-1-60-05)	4.613	200,942	MUZ (200/2.00)	Vacant (paved parking lot)	Commercial	FS	Parking	Non-waterfront land bisected by sewer easement.
7 (G)	160 Koula Street (2-1-60-06)	2.546	110,904	MUZ (200/2.00)	Vacant (paved parking lot & portion of Ohe Street)	Commercial	FS	Parking/Roadway	Non-waterfront land.
9 (K)	40 Ahui Street (2-1-60-por. 01)	1.584	69,000	WC (65/1.50)	3 story Office building	Commercial	FS	University of Hawaii	Waterfront property at Kewalo Basin.
10 (L)	Keawe Street (2-1-15-51)	5.226	227,645	MUZ (45/0.60)	Warehouse (70,000+ sq)	Commercial	FS	Re-use Hawaii	Waterfront property.
11 (I)	Ala Moana Boulevard (2-1-15-53)	3.336	145,316	MUZ (200/3.5)	Vacant	Commercial	FS	Quality Assurance Engineering Inc. et al.	Non-waterfront land bisected by sewer easement.
<b>TOTALS</b>		<b>30.718</b>	<b>1,338,061</b>						

[1] Some of the properties may be encumbered by leases, licenses or other agreements which have not been provided to the appraisers. Based on instructions from the client, the properties have been valued as though vacant, unencumbered and available for development to their highest and best uses.



William Meheula, Esq.  
December 29, 2011

## **MARKET VALUE CONCLUSIONS**

The market value estimate for Property No. 11 is \$23,900,000 reflecting \$164 per sq. ft.

A Summary of Conclusions for all subject properties is included on a following page.

The aggregate retail market value of the ten subject properties (excluding Property No. 8 and including Property No. 11) estimated herein totals \$194,200,000 as of November 30, 2011.

**Comparison with The Hallstrom Group, Inc. Value Conclusions** – The client has provided the appraisers with market value estimates prepared by The Hallstrom Group, Inc. (Honolulu, Hawaii) for the subject properties which are also included on the Summary of Conclusions on a following page.

The Hallstrom estimated market values for each subject property differ somewhat from that of the appraisers herein. Appraised market values represent opinions of individual appraisers. As one would expect, it is unlikely that two appraisers would have the same appraised value for the ten subject properties. However, review of the Hallstrom conclusions indicates an aggregate value of \$199,130,000, similar to the aggregate value conclusion estimated herein. Differences in individual market values are relatively minor. As such, from the perspective of the undersigned appraisers, the Hallstrom conclusions, in general, appear reasonable.

## **CERTIFICATION**

I certify that, to the best of my knowledge and belief:

- The statements of fact contained in this report are true and correct.
- The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.
- I have no present or prospective interest in the property that is the subject of this report and no personal interest with respect to the parties involved.
- I have no bias with respect to the property that is the subject of this report or to the parties involved in this assignment.
- My engagement in this assignment was not contingent upon developing or reporting predetermined results.
- My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
- The reported analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the requirements of the Code of Professional Ethics and Standards of Professional Appraisal Practice of the Appraisal Institute.

SUMMARY OF CONCLUSIONS  
Kakaako Makai Properties  
Kakaako, Honolulu, Oahu, Hawaii

Property No.	Identification (TMK)	Land Area acres	Land Area sq. ft.	Zoning (H/FAR)	Land Highest & Best Use	Rights Appraised	Hallstrom Conclusions		Appraisers' Conclusions		Exposure/ Marketing Time (mos)
							\$	/sq. ft.	\$	/sq. ft.	
1 (A)	1009 Ala Moana Boulevard (2-1-58-95 & 125)	5.082	221,372	WC (65/1.50)	Commercial	FS	\$34,980,000	\$158	\$36,000,000	\$163	12
2 (B)	113 & 123 Ahui Street (2-1-58-02 & 35)	3.150	137,213	WC (65/1.50)	Commercial	FS	\$17,750,000	\$129	\$18,500,000	\$135	12
3 (C)	59 Ahui Street (2-1-58-124 & 126)	2.043	88,996	WC (65/1.50)	Commercial	FS	\$13,820,000	\$155	\$13,600,000	\$153	12
4 (D)	45 & 53 Ahui Street (2-1-58-48 & 2-1-60-13)	0.938	40,841	WC (65/1.50)	Commercial	FS	\$7,400,000	\$181	\$7,300,000	\$179	12
5 (E)	919 Ala Moana Boulevard (2-1-58-06)	2.200	95,832	MUZ (200/2.50)	Commercial	FS	\$17,160,000 [1]	\$179	\$16,100,000	\$168	12
6 (F)	160 Ahui Street (2-1-60-05)	4.613	200,942	MUZ (200/2.00)	Commercial	FS	\$30,660,000	\$153	\$27,200,000	\$135	12
7 (G)	160 Koula Street (2-1-60-06)	2.546	110,904	MUZ (200/2.00)	Commercial	FS	\$18,470,000	\$167	\$16,300,000	\$147	12
9 (K)	40 Ahui Street (2-1-60-por. 01)	1.584	69,000	WC (65/1.50)	Commercial	FS	\$11,420,000	\$166	\$12,400,000	\$180	12
10 (L)	Keawe Street (2-1-15-51)	5.226	227,645	MUZ (45/0.60)	Commercial	FS	\$21,930,000	\$96	\$22,900,000	\$101	12
11 (I)	Ala Moana Boulevard (2-1-15-53)	3.336	145,316	MUZ (200/2.5)	Commercial	FS	\$25,540,000 [1]	\$176	\$23,900,000	\$164	12
<b>TOTALS</b>							<b>30.718</b>	<b>1,338,061</b>	<b>\$199,130,000</b>	<b>\$194,200,000</b>	

[1] Hallstrom value conclusion based on assumed height limit of 400 ft.

William Meheula, Esq.  
December 29, 2011

- The reported analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Uniform Standards of Professional Appraisal Practice.
- The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.
- The undersigned made a personal inspection of the property that is the subject of this report.
- No one provided significant real property appraisal assistance to the persons signing this certification.
- As of the date of this report, Jan R. Medusky, MAI has completed the continuing education program of the Appraisal Institute.

We appreciate the opportunity of completing this assignment for you.

Sincerely,

MEDUSKY & CO., INC.



**Jan R. Medusky, MAI, CRE  
President**

Hawaii State Certified General Appraiser  
CGA-17  
Certificate Expires 12/31/13



**Edward W. Becker, CGA  
Real Estate Appraiser**

Hawaii State Certified General Appraiser  
CGA-581  
Certificate Expires 12/31/11

**LATE**

**Testimony of Leimana DaMate  
Aha Moku Advisory Committee**

Before the House Committee on  
Ocean, Marine Resources & Hawaiian Affairs

Wednesday, March 19, 2014  
10:15 A.M.  
State Capitol, Conference Room 016

**In Support of  
S.B. 3122 SD2 HD1**

**RELATING TO HAWAII COMMUNITY DEVELOPMENT AUTHORITY**

Senate Bill 3122 S 2 HD1 authorizes residential development by OHA on specified parcels in Kakaako Makai subject to public hearing, Hawaii Community Development Authority (HCDA) approval, and association fees to fund services and projects exempts' development from public facilities dedication requirement.

The Aha Moku Advisory Committee (AMAC) is a strong supporter of the Office of Hawaiian Affairs. We firmly believe that they have the best interests of the Hawaiian people as their priority and have worked diligently to fulfill their mandate for protecting and promoting the rights of Native Hawaiians.

Finally, after years of striving, OHA is now in the position of having property where they can house beneficiaries. Their ability to fully develop their property would also provide a strong revenue stream to fund community-based programs that would improve the conditions of Hawaiians now and in the future.

As a strong Hawaiian landowner, OHA has committed to develop Kakaako Makai lands with an emphasis on its cultural priorities.

We urge you to pass S.B. 3122 SD2 HD1. Thank you for the opportunity to testify on this important measure.

Respectfully yours,

Leimana DaMate, Executive Director  
Aha Moku Advisory Committee  
Phone: 808-372-9638

**Testimony in Strong Opposition of SB3122**  
Allows Residential Planning and Development in Kaka'ako Makai  
*Mōhala i ka wai ka maka o ka pua*

**LATE**

*“Unfolded by the water are the faces of the flowers”*

COMMITTEE ON OCEAN, MARINE RESOURCES, & HAWAIIAN AFFAIRS

Rep. Faye P. Hanohano, Chair; Rep. Ty J.K. Cullen, Vice Chair

Rep. Cindy Evans                      Rep. Calvin K.Y. Say  
Rep. Derek S.K. Kawakami        Rep. Scott Y. Nishimoto  
Rep. Chris Lee                         Rep. Richard Lee Fale  
Rep. Nicole E. Lowen

**Testimony in Strong Opposition to SB3122 that would allow residential development in Kaka'ako Makai.**

My name is Wayne Takamine and I participated in the creation and approval of the Kaka'ako Makai Master Plan as the Chair of the Kaka'ako Makai Community Planning Advisory Council (CPAC). My background in Kaka'ako Makai goes back to 2005 when the HCDA presented its condominium development RFP. Public outcry strongly opposed residential development and in 2006, the legislature approved the prohibition of residential planning and implementation in Kaka'ako Makai and the sale of state land in Kaka'ako.

During the Kaka'ako Makai planning process, surveys were taken with various concepts for Kaka'ako Makai and residential development was consistently near the bottom of the list. A recent poll in the Honolulu advertiser showed 67% voted against allowing OHA to build residential.

**Should the Office of Hawaiian Affairs be allowed to develop condominiums on its Kakaako Makai sites?**

- **B. No (67%, 1,826 Votes)**
- A. Yes (33%, 887 Votes)

Total Voters: **2,711**

[Poll Archives](#)

**Start Date:** January 31, 2014 @ 12:00 am

**End Date:** January 31, 2014 @ 4:00 pm

During the 2012 legislative approval process for the OHA Ceded Land Settlement (SB2783 2012), OHA and the HCDA acknowledged in public testimony that the value “as is” of the Kaka'ako Makai land exchange was equal to the \$200 million without any changes to the law prohibiting the sale of state land in Kaka'ako and the prohibition of the planning and development or residential in Kaka'ako Makai (HRS 206E 31.5). The two bills that would allow residential development by OHA in Kaka'ako Makai (SB 2819 and HB 682) did not survive in 2012 due to strong public opposition.

On February 8, 2014, the companion bill HB2554 was heard by the House Committee on Ocean Marine Resources & Hawaiian Affairs and Committee on Water and Land. The State Attorney General voiced in testimony strong concerns that this bill is not in accordance with the state constitution. They stated that this bill will place a cloud over Kaka'ako Makai residential development projects that will open the door for lawsuits.

At the SB 3122 hearing by the Senate Hawaiian Affairs and Economic Development and Government Operations and Housing Committees, a prominent Hawaiian Affairs Committee senator (SCO) suggested, “If the issue is housing for Hawaiians, land outside of Kaka'ako Makai could and may still be considered.” The senator also emphasized in 2012 when considering the OHA Ceded Land Settlement bill SB2783, residential development in Kaka'ako Makai was not on the table.

Recently the House Ocean, Marine and Hawaiian Committee Chair along with other House members introduced ~ HR 171/HCR 219; requesting the OHA to conduct itself in an open and transparent manner by providing documentation of its actions regarding lands received pursuant to Act 15, Session Laws of Hawaii 2012, and ~ HR 124/HCR 164; requesting OHA to consider renegotiating the state's transfer of land to the OHA for disputed claims. These resolutions would appear to be viable alternatives that may further augment the current OHA settlement.

I participated in the July 30, 2013 OHA Kaka'ako Makai charette that was facilitated by a local consultants and I felt the primary goal for the workshop from the onset was to create a strategy for residential development entitlements. The charette for the most part did not revisit the Kaka'ako Makai Master Plan including the Vision and Guiding Principles approved by the HCDA in 2011 or consider a Hawaiian Community Cultural Center.

OHA and its communities can gain by implementing concepts included in the HCDA approved Kaka'ako Makai Conceptual Master Plan that was created by the community planning process beginning in 2006 and approved by the HCDA Board in 2011. As landowners OHA's should strongly consider the concepts provided for use by its Hawaiian Communities. The Master plan includes projects like the Museum for Hawaiian Music and Dance (\$35MM), Community Center (\$10MM), Performing Arts Venue (\$55MM). If these 3 projects were implemented by OHA they could have an "at cost" value of \$100 million according to the master plan. OHA could seek federal and state subsidies and grant money to plan and develop projects related to a Hawaiian Community Cultural Center to augment any fundraising activities.

If OHA were to move forward in developing these master plan concepts for the benefit of the Hawaiian Communities, these projects could help strengthen its communities by presenting project goals that will generate synergies within their communities to overcome challenges in the creation of these facilities and programs. OHA could then seek commercial partnerships with businesses that can manage the facilities to make them financially sustainable. The Hawaiian communities would benefit by perpetually owning these facilities and having access to surrounding areas for cultural practices and community gathering during non-business hours. The public will also benefit by being able to rent the facilities for special occasions or attend special events and productions.

Another concern would be unit prices that will be out of touch for most of the middle class in Hawaii and the fact that OHA may lose ownership of the land to developers or tenants. For the failed 2005 HCDA Condominium RFP, the state would have sold Kaka'ako Makai land for the condos in partial exchange for the development. It would appear the revenue OHA would gain from residential development would not be sustainable over the years and even in a rent/lease arrangement may eventually result in a lease to fee simple conversion

As the spokesman for CPAC we strongly urge that SB3122 and any bill with residential development in Kaka'ako Makai be denied approval. I believe a good business plan will allow OHA will make sustainable revenue from the lands in Kaka'ako Makai for its future generations. Development related toward a Hawaiian Community Center for the preservation of its cultural heritage would bring the highest returns for the Hawaiian community. Planning and Negotiations by OHA suggested by HR 171/HCR 219, and HR 124/HCR 164 may prove to create better value its Hawaiian Community.

Respectfully,

Wayne Takamine M.B.A.  
Kaka'ako Makai CPAC Chair

**LATE**

cullen2

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**From:** Giselle <giselle.anne.santana@gmail.com>  
**Sent:** Tuesday, March 18, 2014 2:18 PM  
**To:** omhtestimony  
**Subject:** Testimony in SUPPORT of SB3122/HB2554

**Follow Up Flag:** Follow up  
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Aloha kakou,

My name is Giselle-Anne Kawaileleli'ili'ikukunaokala Santana. I am Native Hawaiian, and on behalf of me and my family who reside in Kamehameha Heights, I write in **support** of SB3122/HB2554.

The Hawaiian community has many issues facing them (drug abuse, poor health, poverty, houselessness, etc) and OHA should be able to generate the funds needed to address these issues. OHA's development of Kaka'ako will provide the funding to expand and continue its community grants which helps the big issues facing Native Hawaiians.

Please support Hawaiian self-sufficiency. **Support SB3122/HB2554.**

Mahalo,  
Giselle-Anne K. Santana

Sent from my iPhone

**LATE**

**cullen2**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 18, 2014 4:24 PM  
**To:** omhtestimony  
**Cc:** rob@surfbeyond.com  
**Subject:** \*Submitted testimony for SB3122 on Mar 19, 2014 10:15AM\*

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**SB3122**

Submitted on: 3/18/2014

Testimony for OMH on Mar 19, 2014 10:15AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Robert Barreca	Individual	Oppose	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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**To:** omhtestimony  
**Cc:** jmccay@hotmail.com  
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**SB3122**

Submitted on: 3/18/2014

Testimony for OMH on Mar 19, 2014 10:15AM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
James McCay	Individual	Oppose	No

Comments: The law currently restricts development for good reasons. There must come a time where development isn't allowed to happen. Is it possible we're at that point already (even past)? Malama Pono & Mahalo, James McCay 2957 Kalakaua Ave Honolulu HI 96815

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Cc: dejamarie@gmail.com  
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**SB3122**

Submitted on: 3/18/2014

Testimony for OMH on Mar 19, 2014 10:15AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Deja	Individual	Support	No

Comments: This is is native Hawaiian land, and native Hawaiians know how to develop and manage land to best balance protecting access to public trust resources while generating revenue.

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**To:** omhtestimony  
**Cc:** dejamarie@gmail.com  
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**SB3122**

Submitted on: 3/18/2014

Testimony for OMH on Mar 19, 2014 10:15AM in Conference Room 325

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

Comments: This is is native Hawaiian land, and native Hawaiians know how to develop and manage land to best balance protecting access to public trust resources while generating revenue.

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**cullen2**

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**Sent:** Tuesday, March 18, 2014 8:33 PM  
**To:** omhtestimony  
**Cc:** deanandsue@gmail.com  
**Subject:** Submitted testimony for SB3122 on Mar 19, 2014 10:15AM

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**SB3122**

Submitted on: 3/18/2014  
Testimony for OMH on Mar 19, 2014 10:15AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Susan	Individual	Support	No

Comments: We are a professional couple looking for affordable housing close to Honolulu and it is impossible to find. The development that OHA is proposing will turn vacant buildings into a thriving residential community and provide housing closer to the workplace. This will also help minimize the traffic congestion on the H-1 from so many people having to commute from the West side.

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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