

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, January 28, 2014 3:29 PM
To: waltestimony
Cc: lynnehi@aol.com
Subject: Submitted testimony for HB1860 on Feb 8, 2014 08:30AM

HB1860

Submitted on: 1/28/2014

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

Submitted By	Organization	Testifier Position	Present at Hearing
lynne matusow	Individual	Support	No

Comments: This testimony is in strong support of HB 1860. For more than 25 years I have watched the transformation of the HCDA, from an agency that ignored the public to one which started paying attention to one which is now in bed with the developers. In that 25 years the agency has refused to address the need for schools for the population it expects. It now says the income levels for condo purchase for workforce housing are based on married couples, not singles, because "singles don't buy, they rent." They are out of touch with the real world. They do not understand that as an unpopulated area becomes populated it is imperative to listen to the denizens. Please pass this bill as a step toward the needed reforms of the HCDA. I will be out of town, or I would be there in person. Lynne Matusow 60. N. Beretania, #1804 Honolulu, HI 96817 531-4260

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Aloha,

Good Morning, my name is George Outlaw and I am a resident of Kaka'ako residing at 425 South St.

Responsible government would not countenance the professional misconduct and urban planning failures that are a mater of record for the HCDA. Let me walk you through the substantiation of such a alarming claim. On your desks you have the substantiation from which I will read.

The HCDA has been negligent, putting the public safety needlessly at risk. The Noise element excerpt from the City of San Diego outlines responsible and frankly competent City/Urban development. It states "Controlling noise(ambient) at its source to acceptable levels can make a substantial improvement in the quality of life for people living and working in the City". Ambient noise is not considered by the HCDA. Sea water intrusion, leaning towers, and underwater roads, floating sewer pipes, are clearly foreseen but unplanned for by the HCDA. The wind forces(vortex) between 400 plus foot towers, now placed close together as much as only 148 feet are considered not relevant by the HCDA. Again, negligently endangering public safety! Violation of the HCDA own rules such as HRS 206E-33, is blatant and frequent. 801 South Street is a workforce affordability sham if one uses current day accurate figures. Traffic congestion is glossed

over, bike lanes, parks, recreation space and quality of life largely ignored to date although "mandated". Kaka'ako is planned for 30,000 more residents and even more cars. The HCDA has provided new parking decks, the children have insufficient schools, parks, bike lanes, etc.. HCDA allows and supports using Lobby space as valid recreation space for people. Safety compromises, such as almost no effective green space or recreation areas are provided. The keiki I guess can play on South st. and Kapiolai? Lastly, the HCDA is a unfair, unaccountable, rigged kangaroo court, which willfully mistreats the public, shouting down petitioners, rigging the hearings so people paid to be there can attend while keeping Kapuna standing for hours, and with no independent appeals process effectively disenfranchising the people.

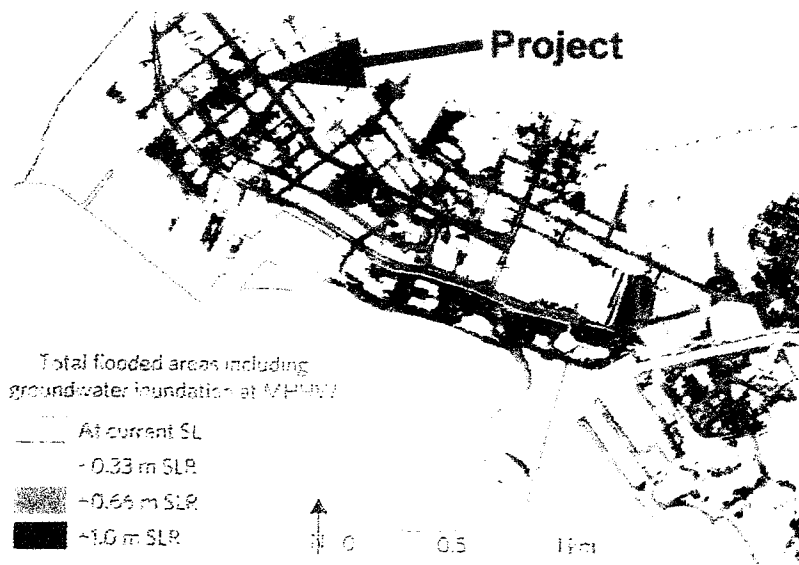
End it.....and lets develop Kaka'ao in a responsible and beautiful manner, cooperatively.

Mahalo,

George Outlaw



Ground water flooding coming to Kakaako – overall 6 HART rail stations and adjacent roads, properties all affected. *Ground water rise will precede sea water rise by decades...*



A single project with an Environmental Assessment done in 2009 shows what the Kakaako problems are now and will be in the future...

Noise Element

Purpose

To protect people living and working in the City of San Diego from excessive noise.

Introduction

Noise at excessive levels can affect our environment and our quality of life. Noise is subjective since it is dependent on the listener's reaction, the time of day, distance between source and receptor, and its tonal characteristics. At excessive levels, people typically perceive noise as being intrusive, annoying, and undesirable.

The most prevalent noise sources in San Diego are from motor vehicle traffic on interstate freeways, state highways, and local major roads generally due to higher traffic volumes and speeds. Aircraft noise is also present in many areas of the City. Rail traffic and industrial and commercial activities contribute to the noise environment.



The City is primarily a developed and urbanized city, and an elevated ambient noise level is a normal part of the urban environment. However, controlling noise at its source to acceptable levels can make a substantial improvement in the quality of life for people living and working in the City. When this is not feasible, the City applies additional measures to limit the effect of noise on future land uses, which include spatial separation, site planning, and building design techniques that address noise exposure and the insulation of buildings to reduce interior noise levels.

The Noise Element provides goals and policies to guide compatible land uses and the incorporation of noise attenuation measures for new uses to protect people living and working in the City from an excessive noise environment. This purpose becomes more relevant as the City continues to grow with infill and mixed-use development consistent with the Land Use Element.

Historic Sites: Advertiser Building

Bullnose a ten story parking garage into the Historic Advertiser, the gateway of Kaka'ako.

HRS 206E-33 Mandates "Historic sites and culturally significant facilities, settings or locations shall be preserved"

Another violation of State law as partial demolition has been approved by HCDA, and preservation has been denied.

www.KakaakoUnited.org

Stanley Chong - Ethics Commission

"There might be an ethics issue, if as you suggested, Mr. Anthony Ching, HCDA's Executive Director, gave unwarranted or preferential treatment to the developer-applicant." Stanley K.W Chong, Staff Attorney

Has Stanley Chong decided that the HCDA's violations of State laws and statutes are ethical?

HRS 206E-5.5 (a)(3) Requires HCDA to post information that the public may find useful so that it may participate in decision making process.

HCDA 206E-33 Mandates "Residential development shall provide necessary community facilities such as open space, parks, community meeting places, childcare services, within and adjacent to residential development....for residents of varying ages, incomes and family groups"

www.KakaakoUnited.org

Introduction

- 801 South Street Tower B is **NOT AFFORDABLE**
- The “workforce” aspect of this development is a **SHAM**
- Our public health, safety, and welfare must not be sacrificed for **PROFIT**

The Workforce Affordability Sham

Why are community members finding serious errors, omissions, and extraordinarily generous assumptions with the developer’s calculations?

Will HCDA accept this fuzzy math from the developer unchallenged?

1. Incorrect income adjustment for household size of 2
2. Household size assumptions are very generous to the developer
3. Mortgage insurance premiums underestimated
4. Real property taxes underestimated
5. Association dues are unbelievably low and indefensible
6. No homeowners insurance
7. No utilities
8. No one buys a 2nd parking stall even though there are 1.93 stalls per unit
9. **An interest rate of 2.9% !? Banks are qualifying 801 South units at 5.5%**

The Workforce Affordability Sham

Requirement: At least 75% of the residential units must be set aside for purchase by families earning between 100% to 140% of the Area Median Income (AMI)

Marketing Pitch: “But what about the police officer with 10 years on the force, the teacher who wants to teach in Hawai'i but is tired of renting, the young single mom with a start-up business? What about them?”

Reality: *Virtually none of the units in Tower B are actually affordable for any of these families*

Do the Math!

The Workforce Affordability Sham

So what about them?

- Police Officer with 10 years on the force, income = \$65,000
 - Maximum Affordable Price 1-bedroom = \$244,000
- Teacher who wants to teach in Hawaii, income = \$55,000
 - Maximum Affordable Price 1-bedroom = \$196,000

Tower B has 92 total 1-bedroom units

- Minimum \$366,200, requiring 135% area median income for family of two (\$91,000) to afford
- How many teachers or police officers make \$91,000?

Who exactly is getting rich here?

The Workforce Affordability Sham

Excel demonstration, correcting the factual errors, omissions, and underestimates with actual and realistic values.

The entire building is virtually unaffordable

The Workforce Affordability Sham Conclusion

Due to not meeting the basic 75% requirement of HAR §15-218-55, the Tower B permit **must** be denied along with the following modification requests:

- ~~Density: 100% FAR bonus for Workforce housing (3.5 x FAR)~~
- ~~Parking Structure: 107 feet (65 feet maximum)~~
- ~~Kapiolani Frontage: 6 feet high fence and plant hedge (3 feet maximum)~~
- ~~Dedication of Public Facilities: 0 (4% residential floor area minimum)~~
- ~~Green Building Standards: None (Qualify for base LEED minimum requirement)~~
- ~~Parking Access: Curb cut 6 feet from Lexus Dealership (22 feet minimum)~~
- ~~Building Placement: 22 feet (5-10 feet specified)~~

Unit	100%	110%	120%	130%	140%	150%	160%	170%	180%	190%	200%
1 Bedroom	\$487,507	\$543,402	\$599,296								
2 Bedroom 1.5 Bath	\$529,128	\$591,233	\$653,338								
2 Bedroom 2 Bath	\$629,128	\$691,233	\$753,338								

HCD and Developer Provided Values with initial unit disqualifications due to exceeding maximum workforce sizes

Scenario	AMR%	MAP
2 Bedroom 2 Bath	110%	\$337,554
	120%	\$421,828
	130%	\$462,101
2 Bedroom 1.5 Bath	110%	\$338,418
	120%	\$374,365
	130%	\$410,611
1 Bedroom	110%	\$301,205
	120%	\$336,423
	130%	\$368,642

Corrected all the verifiable factual errors (Real Property Tax, Mortgage Insurance Premium, Interest Rate, Household income scaling, Homeowners Insurance)

Insufficient Sewer Flow

- Per City Department of Environmental Services (ENV):
 - “Conditional approval” of new development sewer hook-up requests actually means “Not enough information to make a determination.”
 - Most of urban Honolulu’s sewage travels through Kaka`ako to Ala Moana Pumping Station at a rate of 40 million gallons daily. Cause of increasing foul sewer gases/stench odors is unknown.
 - Many of the original old/small sewer lines in central Kaka`ako and near Ward Avenue are in deteriorating conditions. (Per ENV map, there are also old/small sewer lines between King/Kapiolani and Ala Moana Blvd.)
- ← Pending projects should not be approved when “conditional approval” is not really approval, and noxious gases/odors problem is getting worse.
- Who is looking out for the health and welfare of the community?

Insufficient School Capacity

- Insufficient Public School capacity for Kaka`ako development
 - As of the 2013 school year, there is no more room for additional elementary students at Royal or Queen Kaahumanu Elementary Schools
 - DOE has asked HCDA to consider public school capacity for Kaka`ako students and engage in a dialogue to address the overarching issue.
 - Statewide average for Elementary Schools 8.75 acres. Of the 175 elementary schools, Royal is the 4th smallest at 2.89; Kaahumanu is 12th smallest at 4.07 acres. No room for additional portable classrooms.
- Pohukaina property is an egregious example of HCDA’s disregard for public school requirements in Kaka`ako
 - the only state-owned parcel considered as a possible place for school, but...
 - Instead, HCDA permitted a development (690 Pohukaina) on that parcel, increasing demand for schools but eliminating the only viable location for one!
- Kaka`ako residents have the same need for quality public education as residents everywhere

Insufficient Recreation Space

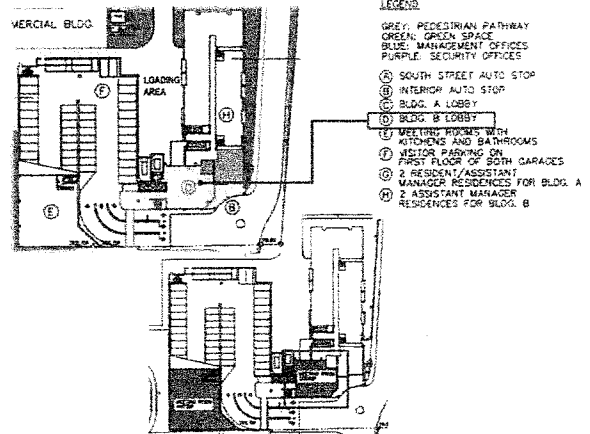
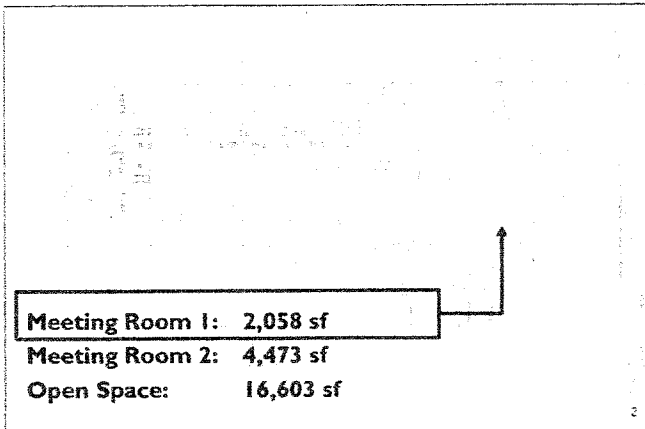
Required: 22,500 SF

Proposed

- Meeting room 1: 2,058 SF
- Meeting room 2: 4,473 SF
- Open Space: 16,603 SF

Total: 23,314 SF

Insufficient Recreation Space



Meeting Room 1 is the Lobby

Insufficient Recreation Space

Required: 22,500 SF

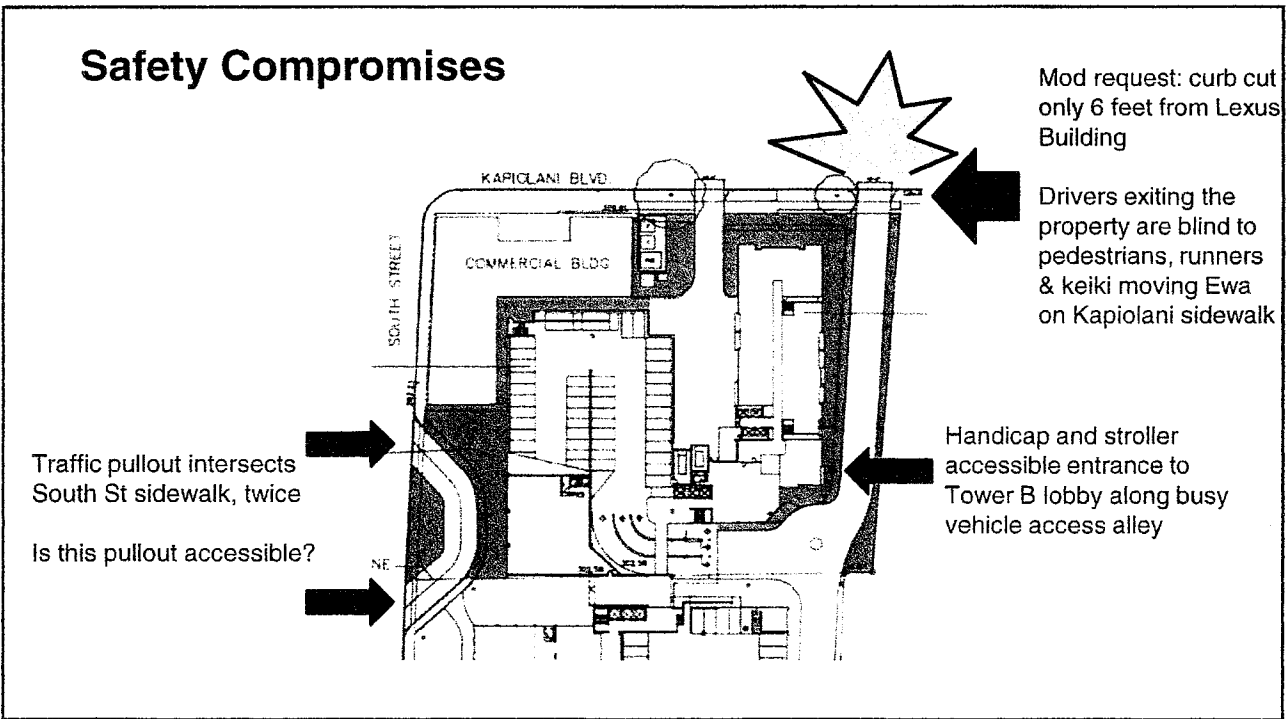
Proposed

- ~~● Meeting room 1: 2,058 SF~~
- Meeting room 2: 4,473 SF
- ~~● Open Space: 16,609 SF~~

Revised Total: 4,473 SF

Kakaako families require the same minimum recreation space as any other family. Less than 20% of the bare minimum is 100% unacceptable.

Safety Compromises



Public Mis-Treatment from the HCDA's Board

HCDA is allowed unlimited speaking time to market the developer's product

Our Kapuna stand for hours waiting to provide three minutes of testimony while paid interests fill seats

Keep the residents away, meet only during the workday

HCDA happy to operate without the Cultural Specialist since May 2013

Many HCDA board members have career interests in large scale development

All HCDA board members are GOVERNOR APPOINTED

Government without representation or meaningful appeal

lowen2-Lanaly

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, February 01, 2014 9:52 AM
To: waltestimony
Cc: hiromiinhawaii@gmail.com
Subject: Submitted testimony for HB1860 on Feb 8, 2014 08:30AM

HB1860

Submitted on: 2/1/2014

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

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

Comments: I support HB 1860 because: * If a person is adversely affected by a decision made by HCDA, he or she should be allowed to request a hearing to contest the decision. * HCDA should be more transparent and responsive to community concerns. *HCDA should be made more accountable, with more oversight by legislators. It should not be allowed to change building rules without legislative authorization. *Developers of condos should be required to perform impact studies (just as developers are required to do everywhere else on Oahu) to evaluate sewers, roads, utilities including water and electricity, schools, parks, and other infrastructure requirements needed for the additional number of residents. Access to emergency services should be evaluated as well. If any infrastructure improvements are needed, the developer should be required to pay the necessary impact fees (as is required for developers everywhere else on Oahu.) * There is a growing wall of concrete in Kakaako that is spoiling beautiful public vistas of the last remaining shoreline of urban Honolulu. Buildings in Kakaako should have stricter limits on height and density, similar to the City's standards. A density limit of 3.5 FAR with height limit of 400 feet is reasonable (although a density limit of 1.5 would be even better, as per my testimony for HB 1863). * I would also recommend a minimum distance of 300 feet between buildings that are more than 100 feet tall (also per my testimony for HB 1863).

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HB 1860

I support HB 1860 because:

- * If a person is adversely affected by a decision made by HCDA, he or she should be allowed to request a hearing to contest the decision.
- * HCDA should be more transparent and responsive to community concerns.
- * HCDA should be made more accountable, with more oversight by legislators. It should not be allowed to change building rules without legislative authorization.
- * Developers of condos should be required to perform impact studies (just as developers are required to do everywhere else on Oahu) to evaluate sewers, roads, utilities including water and electricity, schools, parks, and other infrastructure requirements needed for the additional number of residents. Access to emergency services should be evaluated as well. If any infrastructure improvements are needed, the developer should be required to pay the necessary impact fees (as is required for developers everywhere else on Oahu.)
- * There is a growing wall of concrete in Kakaako that is spoiling beautiful public vistas of the last remaining shoreline of urban Honolulu. Buildings in Kakaako should have stricter limits on height and density, similar to the City's standards. A density limit of 3.5 FAR with height limit of 400 feet is reasonable (although a density limit of 1.5 would be even better, as per my testimony for HB 1863).
- * I would also recommend a minimum distance of 300 feet between buildings that are more than 100 feet tall (also per my testimony for HB 1863).

HB 1860

I support HB 1860 because:

- * If a person is adversely affected by a decision made by HCDA, he or she should be allowed to request a hearing to contest the decision.
- * HCDA should be more transparent and responsive to community concerns.
- * HCDA should be made more accountable, with more oversight by legislators. It should not be allowed to change building rules without legislative authorization.
- * Developers of condos should be required to perform impact studies (just as developers are required to do everywhere else on Oahu) to evaluate sewers, roads, utilities including water and electricity, schools, parks, and other infrastructure requirements needed for the additional number of residents. Access to emergency services should be evaluated as well. If any infrastructure improvements are needed, the developer should be required to pay the necessary impact fees (as is required for developers everywhere else on Oahu.)
- * There is a growing wall of concrete in Kakaako that is spoiling beautiful public vistas of the last remaining shoreline of urban Honolulu. Buildings in Kakaako should have stricter limits on height and density, similar to the City's standards. A density limit of 3.5 FAR with height limit of 400 feet is reasonable (although a density limit of 1.5 would be even better, as per my testimony for HB 1863).
- * I would also recommend a minimum distance of 300 feet between buildings that are more than 100 feet tall (also per my testimony for HB 1863).

Respectfully,

Dr. Gerry Fujii

lowen2-Lanaly

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, February 02, 2014 7:56 PM
To: waltestimony
Cc: rontthi@gmail.com
Subject: *Submitted testimony for HB1860 on Feb 8, 2014 08:30AM*

HB1860

Submitted on: 2/2/2014

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

Submitted By	Organization	Testifier Position	Present at Hearing
Ronald Taniguchi, Pharm.D.	Individual	Support	No

Comments:

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lowen2-Lanaly

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 03, 2014 8:51 AM
To: waltestimony
Cc: ptadaki@hotmail.com
Subject: Submitted testimony for HB1860 on Feb 8, 2014 08:30AM

HB1860

Submitted on: 2/3/2014

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

Submitted By	Organization	Testifier Position	Present at Hearing
Paula B Tadaki	Individual	Support	No

Comments: - HCDA should be more transparent and responsive to community concerns. - There should be a maximum 3.5 FAR and 400 foot height limit.

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lowen2-Lanaly

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 03, 2014 11:12 AM
To: waltestimony
Cc: rkorph@gmail.com
Subject: Submitted testimony for HB1860 on Feb 8, 2014 08:30AM

HB1860

Submitted on: 2/3/2014

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

Submitted By	Organization	Testifier Position	Present at Hearing
Ron Okamura	Individual	Support	Yes

Comments: Support the explicit right to appeal and limiting heights of condominiums and density of projects as well as requiring comprehensive infrastructure review. Please also amend the bill to include schools as a necessity for the community. My recent experience with HCDA has been a negative one. They treated me as if I was not a voting citizen of this State.

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lowen2-Lanaly

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 03, 2014 2:45 PM
To: waltestimony
Cc: grant5301@gmail.com
Subject: Submitted testimony for HB1860 on Feb 8, 2014 08:30AM

HB1860

Submitted on: 2/3/2014

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

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

Comments: I am in support of HB1860 because HCDA should be more transparent and respond to the people. It should NOT be an extension of the government. INFRASTRUCTURE BEFORE DEVELOPMENT. I agree Kaka'ako is prime for development, but it needs to be FIRST supported by schools and utilities. Just think about that first, because hurried development in a short amount of time can cause backfire.

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

To: The Hawaii State Legislature
Regarding: HB1860

February 3, 2014

I support HB 1860 because I believe that:

1. If a person is adversely affected by a decision made by HCDA, he or she should be allowed to request a hearing to contest the decision.
2. The HCDA has been moving swiftly and irresponsibly with the development of the Kakaako neighborhood and by the time the community hears of projects, they are either already approved by the HCDA or they are only given a short time to express concerns or opposition. The HCDA should be more transparent and responsive to community concerns.
3. The HCDA should be made more accountable, with more oversight by legislators. It should not be allowed to change building rules without legislative authorization.
4. Developers of condos should be **REQUIRED** to perform impact studies (just as developers are required to do everywhere else on Oahu) to evaluate sewers, roads, utilities including water and electricity, schools, parks, and other infrastructure requirements needed for the additional number of residents. Access to emergency services should be evaluated as well. If any infrastructure improvements are needed, the developer should be required to pay the necessary impact fees (as is required for developers everywhere else on Oahu.)
5. There is a growing wall of concrete in Kakaako that is spoiling beautiful public vistas of the last remaining shoreline of urban Honolulu. Buildings in Kakaako should have stricter limits on height and density, similar to the City's standards. A density limit of 3.5 FAR with height limit of 400 feet is reasonable (although a density limit of 1.5 would be even better, as per my testimony for HB 1863).
6. I would also recommend a minimum distance of 300 feet between buildings that are more than 100 feet tall (also per my testimony for HB 1863).

I thank you for hearing and considering my concerns.

Regards,
Kareen H. Tanoue

lowen2-Lanaly

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 03, 2014 7:46 PM
To: waltestimony
Cc: rmyamauchi@gmail.com
Subject: Submitted testimony for HB1860 on Feb 8, 2014 08:30AM

HB1860

Submitted on: 2/3/2014

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

Submitted By	Organization	Testifier Position	Present at Hearing
Roy Yamauchi	Individual	Support	No

Comments: I support HB 1860; Developers of condos should be required to perform impact studies (just as developers are required to do everywhere else on Oahu) to evaluate sewers, roads, utilities including water and electricity, schools, parks, and other infrastructure requirements needed for the additional number of residents. Access to emergency services should be evaluated as well. If any infrastructure improvements are needed, the developer should be required to pay the necessary impact fees (as is required for developers everywhere else on Oahu.) If a person is adversely affected by a decision made by HCDA, he or she should be afforded due process to contest the decision causing the adverse event. Respectfully submitted, Roy Yamauchi

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lowen2-Lanaly

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 04, 2014 8:01 AM
To: waltestimony
Cc: douglasvalenta@gmail.com
Subject: *Submitted testimony for HB1860 on Feb 8, 2014 08:30AM*

HB1860

Submitted on: 2/4/2014

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

Submitted By	Organization	Testifier Position	Present at Hearing
douglas valenta	Individual	Support	No

Comments:

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From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 04, 2014 9:18 AM
To: waltestimony
Cc: williamlee244@gmail.com
Subject: Submitted testimony for HB1860 on Feb 8, 2014 08:30AM

HB1860

Submitted on: 2/4/2014

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

Submitted By	Organization	Testifier Position	Present at Hearing
William Lee	Individual	Support	No

Comments: There is a growing mass of concrete in Kakaako that is spoiling our beautiful public vistas of the shoreline. Buildings in Kakaako should have standards similar to the City of Honolulu's code. A full study of the infrastructure should be done before moving forward. Should there be a need for improvements, the impact fee should be paid by the developer.

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lowen2-Lanaly

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

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

Sent from my iPhone

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 04, 2014 12:02 PM
To: waltestimony
Cc: connie.smyth54@gmail.com
Subject: Submitted testimony for HB1860 on Feb 8, 2014 08:30AM

HB1860

Submitted on: 2/4/2014

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

Submitted By	Organization	Testifier Position	Present at Hearing
connie smyth	Individual	Support	No

Comments: HB 1860 I support HB 1860 because: * If a person is adversely affected by a decision made by HCDA, he or she should be allowed to request a hearing to contest the decision. * HCDA should be more transparent and responsive to community concerns. *HCDA should be made more accountable, with more oversight by legislators. It should not be allowed to change building rules without legislative authorization. *Developers of condos should be required to perform impact studies (just as developers are required to do everywhere else on Oahu) to evaluate sewers, roads, utilities including water and electricity, schools, parks, and other infrastructure requirements needed for the additional number of residents. Access to emergency services should be evaluated as well. If any infrastructure improvements are needed, the developer should be required to pay the necessary impact fees (as is required for developers everywhere else on Oahu.) * There is a growing wall of concrete in Kakaako that is spoiling beautiful public vistas of the last remaining shoreline of urban Honolulu. Buildings in Kakaako should have stricter limits on height and density, similar to the City's standards. A density limit of 3.5 FAR with height limit of 400 feet is reasonable (although a density limit of 1.5 would be even better, as per my testimony for HB 1863). * I would also recommend a minimum distance of 300 feet between buildings that are more than 100 feet tall (also per my testimony for HB 1863).

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From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 04, 2014 12:23 PM
To: waltestimony
Cc: ismyth@hawaiiantel.net
Subject: Submitted testimony for HB1860 on Feb 8, 2014 08:30AM

HB1860

Submitted on: 2/4/2014

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

Submitted By	Organization	Testifier Position	Present at Hearing
isaac smyth	Individual	Support	No

Comments: HB 1860 I support HB 1860 because: * If a person is adversely affected by a decision made by HCDA, he or she should be allowed to request a hearing to contest the decision. * HCDA should be more transparent and responsive to community concerns. *HCDA should be made more accountable, with more oversight by legislators. It should not be allowed to change building rules without legislative authorization. *Developers of condos should be required to perform impact studies (just as developers are required to do everywhere else on Oahu) to evaluate sewers, roads, utilities including water and electricity, schools, parks, and other infrastructure requirements needed for the additional number of residents. Access to emergency services should be evaluated as well. If any infrastructure improvements are needed, the developer should be required to pay the necessary impact fees (as is required for developers everywhere else on Oahu.) * There is a growing wall of concrete in Kakaako that is spoiling beautiful public vistas of the last remaining shoreline of urban Honolulu. Buildings in Kakaako should have stricter limits on height and density, similar to the City's standards. A density limit of 3.5 FAR with height limit of 400 feet is reasonable (although a density limit of 1.5 would be even better, as per my testimony for HB 1863). * I would also recommend a minimum distance of 300 feet between buildings that are more than 100 feet tall (also per my testimony for HB 1863).

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

My name is Clara Morikawa, a retiree who has lived at the Imperial Plaza for 20 years. I support HB 1860 and 1861 because HCDA has been inconsistent in applying their rules and have readily granted too many exceptions to developers. I.e., 404 Ward which will be built 120 feet from the adjacent tower when it should have been 300 feet; 801 South where 2 residential and 2 parking towers both well exceeded their height limitations. HCDA is also inconsistent in interpreting their own rules. Central Kakaako with the small individually owned properties supports the operation of service businesses and residential mixed use projects and for these small properties, no off street parking is required. When 3 lots (actually 4) were combined to become the 803 Waimanu project with 153 residential apartments, HCDA contended that no off street parking was required at all, except for the 24 which would satisfy the reserved housing requirement. I still cannot comprehend the logic. The developer voluntarily will install 91 electrical parking stalls. This project is being built adjacent to our townhouses, side by side with no space between. You would think there must be a building code violation or a fire code violation, but not according to HCDA. There is no concern for the safety of the residents of either buildings.

HCDA gives us hearings and opportunities to present our concerns but they appear to be just formalities; they listen but they don't hear. Their support is for the developers, not the residents. Whenever any project is approved, the public must be allowed a hearing to contest and challenge HCDA's decision.

All developers of condos must be required to perform and provide impact studies to evaluate the infrastructures.....roads, sewers, water, electricity, schools, parks, etc.....and where improvements are necessary, the developer must be required to pay the necessary fees. At the Howard Hughes hearing, I inquired about the traffic study done for the 2 condos to be built kitty-corner to each other at Auahi and Kamakee Streets because they showed that the streets could readily handle the increased traffic. The studies were done individually for each project and not collectively for the two condos. Twice the amount of anticipated people and travel in the same area would definitely impact the traffic. These impact studies are made at the present time and they do not take into account the 5 condos already being built in the area that will soon be occupied nor the ones that have already been approved but have not yet broken ground. Consequently, all of the current studies of the infrastructures have produced results very favorable to the developers.

Definitely, there should be a distance of 300 feet between buildings, which are more than 100 feet tall, and there should also be adequate space between any 2 low-rise residential buildings. This would also apply to HB 1863.

Respectfully submitted,

Dear House Water & Land Committee Members,

I support HB 1860 and all efforts to curb or abolish the HCDA. The HCDA does not properly represent the communities for which it serves. Its operations and decisions are not transparent nor reflect testimony it has received over the past year; it continues to ignore the will of the people.

HCDA needs more oversight by legislators. It should not be allowed to change building rules without legislative authorization. Shortsighted decisions and approvals are being made without adequate infrastructure or the assurance that infrastructure will be improved commensurate with the approved and proposed developments in the Kakaako area. Poor HCDA decisions and inadequate oversight of projects in the Barber's Point area have resulted in environmental harm and blight of a previously well-maintained community. HCDA is an irresponsible steward of the lands it oversees and fails to properly care for the aina.

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

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

I recommend a minimum distance of 300 feet between buildings that are more than 100 feet tall.

Mahalo,

AL Frenzel

2/1/14

Committee Clerk
State Capitol
415 S. Beretania St
Honolulu, HI 96813

Dear Sirs:

My name is Aileen Miura
and I have lived in Kakaako
for the past 3 years. I support
House Bill 1860 and all
the bills being heard this
morning to protect the
Kakaako that I have grown
to love.

I urge you to pass
HB 1860. Mahalo.

Aileen Miura

Aileen Miura
876 Curtis St.
Apt. 2603
Honolulu, HI 96813



Testimony of

Eric Gay

Before the

House Committee on Water and Land

Saturday February 8, 2014

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

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

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

Thank You

Testimony of

James Gay

Before the

House Committee on Water and Land

Saturday February 8, 2014

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

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

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

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

Please Kokua

Kindest Aloha

Malama Makaha

February 4, 2014

TO: House Water & Land Committee Members,

SUBJECT: Testimony in Support of HB 1860

Dear Committee Members,

Malama Makaha supports HB 1860 and all efforts to curb or abolish the HCDA. The HCDA does not properly represent the communities for which it serves. Its operations and decisions are not transparent nor reflect testimony it has received over the past year; it continues to ignore the will of the people.

HCDA needs more oversight by legislators. It should not be allowed to change building rules without legislative authorization. Shortsighted decisions and approvals are being made without adequate infrastructure or the assurance that infrastructure will be improved commensurate with the approved and proposed developments in the Kakaako area. Poor HCDA decisions and inadequate oversight of projects in the Barber's Point area have resulted in environmental harm and blight of a previously well-maintained community. HCDA is an irresponsible steward of the lands it oversees and fails to properly care for the aina.

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

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

Malama Makaha recommends a minimum distance of 300 feet between buildings that are more than 100 feet tall.

Mahalo Nui Loa,



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

lowen2-Lanaly

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 04, 2014 7:30 PM
To: waltestimony
Cc: drlspina@gmail.com
Subject: *Submitted testimony for HB1860 on Feb 8, 2014 08:30AM*

HB1860

Submitted on: 2/4/2014

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

Submitted By	Organization	Testifier Position	Present at Hearing
Laila Spina	Individual	Support	No

Comments:

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Testimony of

Jane Gay

Before the House Committee on Water and Land

Saturday February 8, 2014

House Bill 1861: Relating to the Hawaii Community Development Authority

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

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

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

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

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

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 04, 2014 8:20 PM
To: waltestimony
Cc: suzanne@punapono.com
Subject: Submitted testimony for HB1860 on Feb 8, 2014 08:30AM

HB1860

Submitted on: 2/4/2014

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

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

Comments: If you cannot REPEAL the HCDA then please PASS this Bill while keeping the following elements: Ensures that adopted plans and rules are followed by requiring legislative approval by a 2/3 majority vote before Kakaako mauka and makai area plans and rules can be amended Provides for adequate community involvement in HCDA's planning and decision-making by working with residents and landowners within the community in which the project is located to ensure that rules are followed and proposed buildings do not adversely affect the community, its residents and businesses Establishes a process for citizens to contest HCDA decisions so that any person adversely affected by an action or decision may file a petition for a contested case proceeding Establishes development guidance policies to control densities, a 400- foot height limit, comprehensive studies and plans for the infrastructure capacity of sewer, roads, water, electricity, schools, parks

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lowen2-Lanaly

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 05, 2014 8:39 AM
To: waltestimony
Cc: kumemoto@hawaii.edu
Subject: *Submitted testimony for HB1860 on Feb 8, 2014 08:30AM*

HB1860

Submitted on: 2/5/2014

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

Submitted By	Organization	Testifier Position	Present at Hearing
Karen Umemoto	Individual	Support	No

Comments:

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DEPARTMENT OF ENVIRONMENTAL SERVICES
CITY AND COUNTY OF HONOLULU

1000 ULUOHIA STREET, SUITE 308, KAPOLEI, HAWAII 96707
TELEPHONE: (808) 768-3486 • FAX: (808) 768-3487 • WEBSITE: <http://envhonolulu.org>

KIRK CALDWELL
MAYOR



LORI M.K. KAHIKINA, P.E.
DIRECTOR

TIMOTHY A. HOUGHTON
DEPUTY DIRECTOR

ROSS S. TANIMOTO, P.E.
DEPUTY DIRECTOR

IN REPLY REFER TO:
WAS 14-19

February 5, 2014

The Honorable Cindy Evans, Chair
and Members of the Committee on
Water & Land
House of Representatives
State Capitol
Honolulu, Hawaii 96813

Dear Chair Evans and Members:

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

The Department of Environmental Services, City and County of Honolulu has significant concerns regarding and opposes Section 6 of House Bill (HB) 1860, Relating to the Hawaii Community Development Authority, purporting to create a new Hawaii Revised Statutes (HRS) Section 206E-33(10) that requires the following:

"Before approving development projects, the [Hawaii Community Development] Authority shall require comprehensive studies of and plans for the infrastructure capacity of the sewers . . . to ensure that they meet the needs generated by the additional number of anticipated residents and, where improvements are needed, the authority shall accordingly impose the necessary impact fees on the developer."

The City and County of Honolulu is responsible for and provides the wastewater (sewer) service for the Kakaako community development district, as defined by HRS § 206E-32. The City and County approves wastewater connection permits and determines the adequacy of the wastewater system to accommodate such additional development. For additional capacity required for a new development on an existing property, the City and County charges developers a Wastewater System Facility Charge established by City Ordinance to account for their impact on the wastewater system. Such a facility charge may be offset by the developers' construction of necessary wastewater system improvements to support their development.

The Honorable Cindy Evans, Chair
February 5, 2014
Page 2

Neither the State nor the Hawaii Community Development Authority has the responsibility or authority to determine sewer adequacy or to impose and collect "impact" fees related to the City and County's wastewater system and sewer improvements. Consequently, the reference to "sewers" should be removed from HB 1860 and the proposed HRS Section 206-33(10).

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Lori M.K. Kahikina", with a long horizontal flourish extending to the right.

Lori M.K. Kahikina, P.E.
Director

lowen2-Lanaly

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

HB1864

Submitted on: 2/5/2014

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

Submitted By	Organization	Testifier Position	Present at Hearing
Jerry Whitehead	Individual	Support	No

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

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From: Web Nolan <webnolan@hawaii.rr.com>
Sent: Wednesday, February 05, 2014 10:24 AM
To: waltestimony
Subject: Fwd: Testimony for Feb 8 2014 hearing on HB1860

Apologies. This was inadvertently sent to the Senate yesterday instead of the House WAL committee.
Web Nolan

Begin forwarded message:

From: Web Nolan <webnolan@hawaii.rr.com>
Subject: Testimony for Feb 8 2014 hearing on HB1860
Date: February 4, 2014 4:45:36 PM HST
To: WTLtestimony@capitol.hawaii.gov
Bcc: Web Nolan <webnolan@hawaii.rr.com>, "Heidi Meeker (H)" <hmeeker@hawaii.rr.com>, scott saiki <repsaiki@capitol.hawaii.gov>, "j.tungpalan@capitol.hawaii.gov Tungpalan" <j.tungpalan@capitol.hawaii.gov>

Testimony submitted by Kakaako resident and condo owner Webster Nolan in support of HB1860 for February 8, 2014 hearing by House Water and Land committee:

As a retiree who worked in Kakaako at the Advertiser Building from the mid-1960s to the mid-1970s and who has lived for the past 20 years in a Kakaako condominium, I strongly support this bill because it states more clearly than existing rules the right of individuals who are adversely affected by HCDA actions to seek a contested case proceeding and requires a public hearing on the matter.

Currently, Kakaako residents who do not have training in law or significant experience in property issues (which includes most residents) face a bewildering set of statutes and rules governing appellate procedures against HCDA rulings and decisions. This bill is an important, though small, step toward ensuring that HCDA give more focused consideration to community concerns than it has in recent years, especially in the case of the "801 South Street Tower B" project.

There is a fundamental need for an inexpensive process of appeal to an impartial authority by Kakaako residents who are adversely affected by HCDA actions. Developers and HCDA possess substantially greater financial, legal and staff resources than individual members of the community. It's clearly a David-and-Goliath situation. This amendment, though modest, seeks to help affected individuals pursue their cases in a more balanced and open climate.

I also support HB1860 because it would increase legislative oversight of the Authority by requiring two-thirds votes of approval by each house of the legislature for any proposed changes to HCDA area plans and rules. Although potentially burdensome to the legislature, it can serve as the basis for further refinement of the legislature's HCDA oversight process. Until then, this measure would provide an assurance to the Kakaako community that the legislature is keeping a much-needed

closer eye on the Authority. In the “801 South Street” project, HCDA often seems to act as an advocate for the developer rather than a protector of the public interest.

Furthermore, the bill specifies additional measures for HCDA to fulfill its statutory obligation to engage “effectively” with the community by mailing information about upcoming hearings and details of proposed projects to property owners and residents in the affected community, if they request it; to answer specific questions asked by the public; and to provide in its required reports to State and County legislators a detailed account of the public’s comments and the Authority’s response to concerns about the project under consideration.

Despite its constant claims of responsiveness to public concerns, the Authority has failed repeatedly in the case of “801 South” to provide clear and complete answers to concerns expressed about affordability, infrastructure, traffic, social impact, noise, privacy, scarcity of recreational space, justification for double density, crowded living conditions and other issues. The Authority’s responses have in large part been evasive, incomplete, adversarial or misleading.

In addition, the Authority has imposed tight restrictions on community witnesses at public hearings, by limiting their testimony to three minutes each and by prohibiting them from asking questions of Authority board members. HB1860 requires the Authority to provide the appropriate members of the state and county legislatures with detailed reports about these public concerns raised during public hearings and the Authority’s response. These reports will give our legislators significantly more information that they currently receive.

Finally, in requiring the Authority to provide “comprehensive studies” of the infrastructure capacity and “other requirements” to meet the needs of the additional number of residents anticipated for a project, HB1860 requires HCDA to study in detail the environmental and social impact of each project, rather than using its area-wide impact studies as a basis for permit decisions, as is the current practice. This is a serious worry for the community affected by “801 South,” because the area-wide impact study was done four years before the development became public knowledge and because the area-wide study did not address specific concerns about the infrastructure and other critical elements in the “801 South” proposal.

HB1860 would substantially improve community input in the decision-making process of the Authority, while strengthening legislative oversight of the agency and requiring a more detailed flow of information to state and county legislators. I urge the House to pass this bill.

Webster Nolan
876 Curtis St. #1005
Honolulu, HI 96813
Ph: 593-1189

lowen2-Lanaly

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 05, 2014 12:19 PM
To: waltestimony
Cc: vsc@hawaiiantel.net
Subject: Submitted testimony for HB1860 on Feb 8, 2014 08:30AM

HB1860

Submitted on: 2/5/2014

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

Submitted By	Organization	Testifier Position	Present at Hearing
Victoria Cannon	Individual	Support	No

Comments: Because HCDA has done a turnabout and is neglecting their original purpose, we support this measure to address community concerns of lack of affordable housing, insufficient commercial and residential rental facilities, and more public facilities such as parks and open spaces. Trudy and Victoria Cannon

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lowen2-Lanaly

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 05, 2014 12:19 PM
To: waltestimony
Cc: helen.y.rauer@courts.hawaii.gov
Subject: *Submitted testimony for HB1860 on Feb 8, 2014 08:30AM*

HB1860

Submitted on: 2/5/2014

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

Submitted By	Organization	Testifier Position	Present at Hearing
helen y. rauer	Kakaako United	Support	No

Comments:

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From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 05, 2014 2:10 PM
To: waltestimony
Cc: arbeit@hawaiiantel.net
Subject: Submitted testimony for HB1860 on Feb 8, 2014 08:30AM

HB1860

Submitted on: 2/5/2014

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

Submitted By	Organization	Testifier Position	Present at Hearing
Wendy Arbeit	Individual	Support	No

Comments: HCDA has routinely allowed changes to codes and rules established for a livable and healthy Honolulu and even ignored its own guidelines. That's why I think it should be abolished (HB1864). Short of that I strongly support legislation insuring fair and clear ways to contest decisions and mandating responsiveness to community concerns. The additional steps of oversight by legislators should slow down the rush to irresponsibly overbuild. Regarding this I support a 350' height limitation, consistent with C&C guidelines and a density limit of 1.5 as proposed in HB 1863.

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lowen2-Lanaly

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 05, 2014 2:41 PM
To: waltestimony
Cc: eo50@icloud.com
Subject: Submitted testimony for HB1860 on Feb 8, 2014 08:30AM

HB1860

Submitted on: 2/5/2014

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

Submitted By	Organization	Testifier Position	Present at Hearing
Eric Okamura	Individual	Support	No

Comments: HCDA should be more accountable. Agree with the oversight by the legislature.

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Testimony of

Cara Kimura

Before the House Committee on Water and Land

Saturday, February 8, 2014

House Bill 1860: Relating to the Hawaii Community Development Authority

My name is Cara Kimura and I am in support of HB1860 and the other bills before you today. I have lived in Kakaako for the past 15 years. In my 20-year career as an architect, I've had the somewhat unenviable experience of working with various state agencies, schools, city agencies and the public. It is through my career that I have truly come to understand the term "public service" and its importance in keeping the State of Hawaii functioning. The common ground I've found in every state or city agency is the strive to be accountable to the public and as transparent as possible. That is, until I encountered HCDA as a Kakaako resident. If every state agency behaved as HCDA did, I cannot imagine – nor do I want to – what living in Hawaii would be like. My remarks herein are made from my own individual experience:

As a state agency, HCDA is tasked with public engagement and input with regards to proposed developments under consideration for approval. Aside from the myriad of problems with HCDA's lack of notification to area residents and businesses about proposed developments that will affect them, it also insists on conducting its public hearings with the full board during workday hours, when most working residents cannot attend and have their voices heard. Despite legislative requests for additional hearings with the full board during the evening or weekend, HCDA has refused to make this accommodation, instead insisting that supplemental public input hearings – attended only by the executive director and a court reporter – are sufficient. Let me briefly rephrase that, despite legislative requests, HCDA has refused. In my experience, when the legislature requests that a state agency act on something, it does not REFUSE.

HCDA continues to insist that it respectfully considers all public input and questions. However, to date, Kakaako residents still have not received meaningful answers to questions regarding

sewer functionality in the area, traffic impact, and the lack of schools or adequate park space in the area. Furthermore, when we are able to attend a hearing, our comments and questions are treated with disdain and dismissed. We are often subject to interrogation by the executive director, yet our questions are either unanswered or explained away with sometimes misleading arguments. In instances, residents have even been ridiculed. For example, at the final hearing for 801 South Street Tower B, held on Dec. 4, 2013, when area resident Ariel Salinas attempted to explain in great detail how the units were not priced affordably when using real-world mortgage rates and related costs, Board President Brian Lee yelled (emphasis added):

*"I'm also discouraged by the act of throwing up all kinds of things against the wall, all kinds of opposition, whether it's **valid or not**, simply to oppose and slow down the Project."*

(To hear a recording of this exchange, go to:

<http://hpr2.org/post/hcda-approves-second-801-south-street-tower>)

In my opinion, that outburst spoke volumes. Yes, dealing with the public can be trying at times – it is understandable that once in a while, a civil servant will lose his or her temper. However it is also what Mr. Lee said that troubles me – it implies that the decision to approve the project was already made before any hearings even began and whatever problems we residents saw with the project – ranging from public safety to erroneous calculations of affordability – were inconsequential. This is NOT effective and meaningful public engagement.

In conclusion, state agencies help to make Hawaii a better place for everyone, by serving the public. By their recent actions and behaviors, it seems that the HCDA Board and Executive Director Tony Ching have forgotten that this is also their inherent duty. It is up to this legislature to enact laws that remind them of this duty to the people of Hawaii; failing to do so sets a dangerous precedent and invites other state agencies to follow HCDA's example.

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

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

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

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

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

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

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

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

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

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

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

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

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

Michael Korman

February 4, 2014

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 05, 2014 3:10 PM
To: waltestimony
Cc: autumnrose2010@yahoo.com
Subject: Submitted testimony for HB1860 on Feb 8, 2014 08:30AM

HB1860

Submitted on: 2/5/2014

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

Submitted By	Organization	Testifier Position	Present at Hearing
Autumn Rose	Individual	Support	No

Comments: We need to ensure that HCDA meets the following UNMET community development needs: - a lack of suitable affordable housing, **ESPECIALLY AFFORDABLE RENTALS** - insufficient commercial and industrial rental facilities - residential areas that do not have adequate public facilities such as parks and open space. Fix HCDA to meet its purpose OR abolish it!

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

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Aloha Chair Evans, and Representatives

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

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

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

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

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

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

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

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

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

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

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

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

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

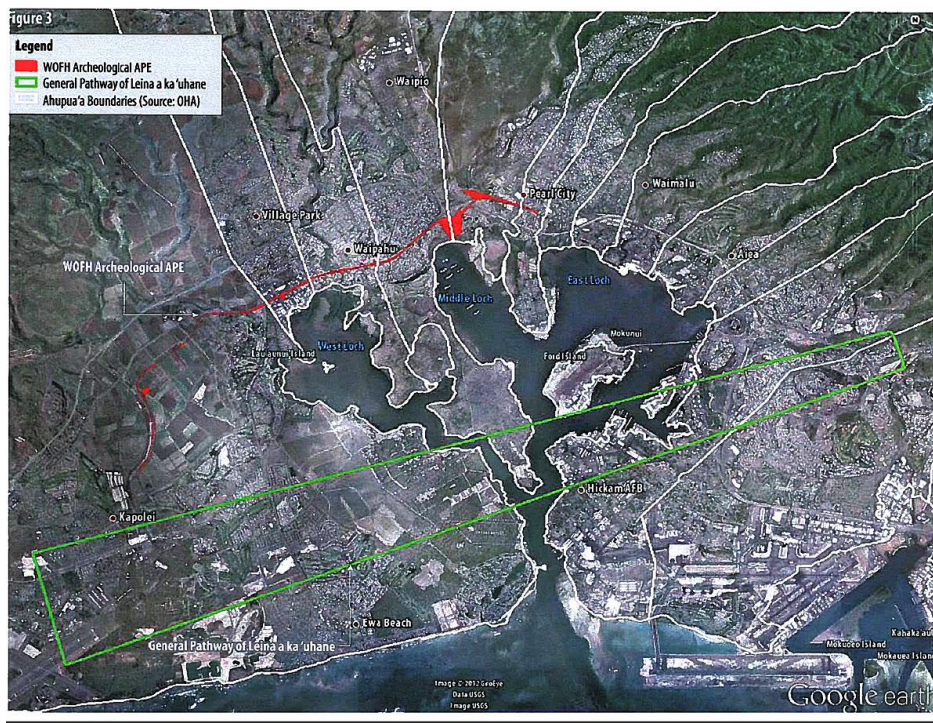
Our Kanehili Cultural Hui was able to photograph the damage many months later when apparently an archaeological contractor (not SHPD which rarely looks at anything in Kalaeloa) was brought in to begin tagging all the site damage. We assume the contractor who did all the damage paid for the survey, but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

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

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

John Bond, President, Kanehili Cultural Hui

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



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

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

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

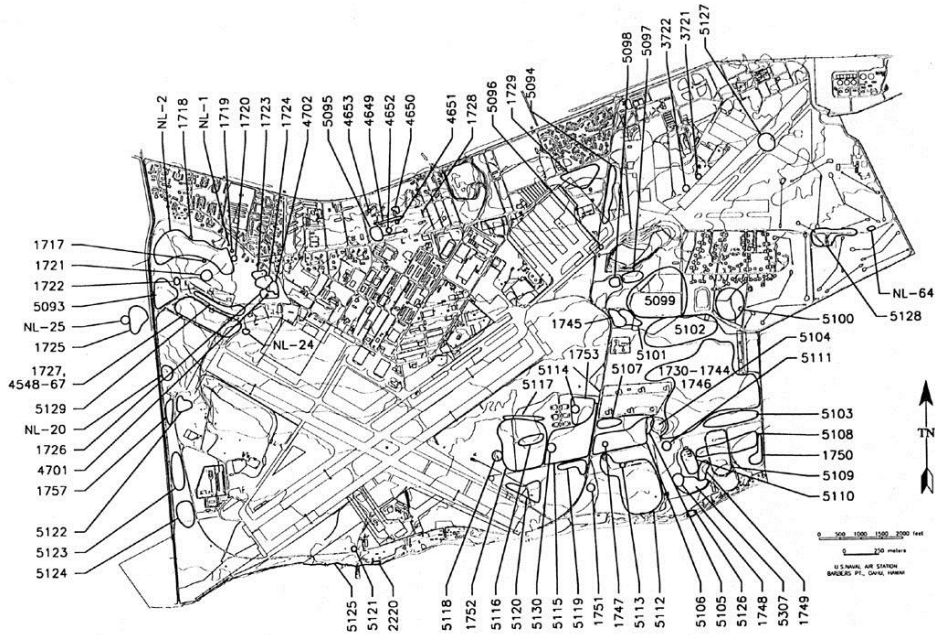


Figure 28. Archaeological and historical sites of NAS Barbers Point.



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

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





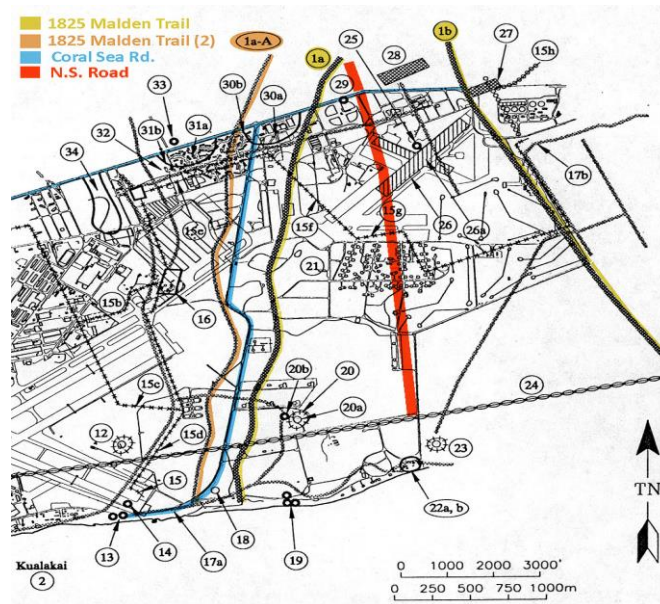
Table 7 presents the Leina a ka 'uhane as a single sacred and storied place, identifying the applicable ahupua'a, theme, National Register criteria, and integrity of relationship and condition.

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

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

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

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



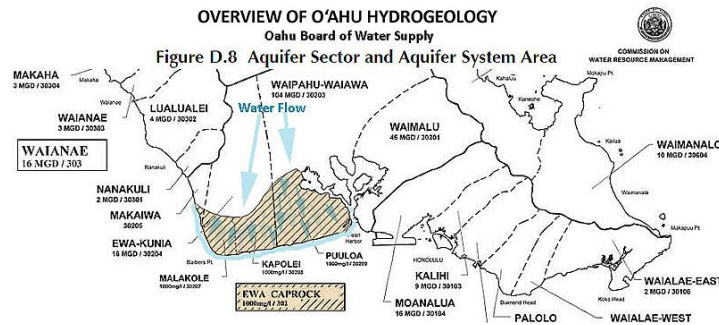
Navy BRAC of NASBP by Tuggles (IARII) shows Kanehili Trails and important sites HCDA wants destroyed.



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



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



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



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



lowen2-Lanaly

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 05, 2014 7:53 PM
To: waltestimony
Cc: evalaviva@gmail.com
Subject: *Submitted testimony for HB1860 on Feb 8, 2014 08:30AM*

HB1860

Submitted on: 2/5/2014

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

Submitted By	Organization	Testifier Position	Present at Hearing
Eva Gallegos	Individual	Support	No

Comments:

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From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 05, 2014 11:12 PM
To: waltestimony
Cc: morik369@hawaiiantel.net
Subject: *Submitted testimony for HB1860 on Feb 8, 2014 08:30AM*

HB1860

Submitted on: 2/5/2014

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

Submitted By	Organization	Testifier Position	Present at Hearing
Keith Morikawa	Individual	Support	No

Comments:

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

HB1864

Submitted on: 2/6/2014

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

Submitted By	Organization	Testifier Position	Present at Hearing
Richard Dulcich	Individual	Support	No

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

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

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

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

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

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

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

and traffic is a disaster ... now.

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

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

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

Thank you for the opportunity to testify.

Ann L. Miller

Mphalm1@hawaiiantel.net

808-591-1780

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

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

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

My name is Martha P. Hernandez and I am a resident and work in Kakaako. I'm writing today to support HB 1865 and all the other bills being heard by your committee today (HBI860, HB1861, HB1863, HB1864, HB1865, HB1866 and HB1867).

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

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

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

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

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

Aloha
Martha P. Hernandez
Mphalm1@me.com
808 372-4459

February 6, 2014

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

Chair Evans and Members of the Water and Land Committee,

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

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

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

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

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

Best Regards,

Bernard K. Nunies
725 Kapiolani Blvd
Honolulu, HI 96813

Email: bknunies@gmail.com
Phone: 808-215-9016

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 06, 2014 11:18 AM
To: waltestimony
Cc: paul@punapono.com
Subject: Submitted testimony for HB1860 on Feb 8, 2014 08:30AM

HB1860

Submitted on: 2/6/2014

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

Submitted By	Organization	Testifier Position	Present at Hearing
Paul Kuykendall	Individual	Support	No

Comments: I support this bill. · HCDA acts adversely to and independently from established state and county planning and zoning laws and policies. · HCDA ignores public testimony and community needs. · HCDA avoids infrastructure carrying capacity concerns relating to needed schools, public park open space, sewer improvements, water supply and road capacity required to support their favored ultra-high-density skysrise developments. · HCDA engages in “exclusive negotiations” with offshore corporations to reserve public waterfront and shoreline park open space for private enterprises. · HCDA is rapidly chiseling away our treasured parks, historic sites, significant view planes and traditional fishing harbor uses by not adhering to their governing law that mandates: Ø Historic sites and cultural ly significant facilities, settings, or locations shall be preserved; Ø Major view planes, view corridors, and other environmental elements such as natural light and prevailing winds, shall be preserved. HCDA has demonstrated that they have failed to act in the public interest and have betrayed the public trust, and that this will never change. Mahalo for your consideration.

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Testimony of Cindy McMillan
The Pacific Resource Partnership

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

HB 1860 – Relating to the Hawaii Community Development Authority
Saturday, February 08, 2014
8:30 AM
Conference Room 325

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

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

PRP offers the following comments on HB 1860, Relating to Hawaii Community Development Authority (HCDA), which establishes a contested case proceeding process; requires that no amendment to the Kakaako Community Development Plan and rules shall take effect without prior approval of the legislature by concurrent resolution of 2/3 majority of each chamber; and establishes new community engagement and public notice requirements.

Community: A geographic location. A sense of shared values with ones neighbors. A place where good job opportunities offer a way to move up. A place friends hangout. A place where families grow.

This bill addresses the way in which the Kakaako community will grow. PRP recognizes that Hawaii residents have been very clear about the need to find a balance between permitted growth and the preservation of the natural environment, culture, local identity and quality of life.

We are advocates for building integrated communities that allow residents of the community to live, work and play in their neighborhood. We are advocates for housing that people can afford close to good-paying jobs, local parks, restaurants and other services. We are advocates for housing that is near public transit (bus or rail) in communities designed for walking, biking and transit to reduce automobile use and traffic. This development pattern will consume less land overall, lead to fewer vehicle miles traveled, and produce environmental benefits to the community as a whole. This is the kind of community Kakaako can be.

February 8, 2014

Comments Regarding HB 1860 Relating to Hawaii Community Development Authority

Page 2

There are tradeoffs. Buildings will be higher than they are in rural areas, and they will be closer together. More people will live in less space. These factors are balanced by the preservation of our natural resources, less time spent commuting, and money saved on fuel, parking and household energy costs. And this community will be lively and engaging, filled with vibrant experiences that draw people of all ages. While not everyone will want to live in this type of urban community, many will, especially when they begin to realize the benefits in a tangible way.

In the process of creating the new Kakaako, there are very real, practical considerations and tensions that must be resolved. We offer these comments regarding specific provisions of the bill:

- If there is to be a contested case process, consider requiring any person wishing to intervene to file a petition before the hearings are conducted. This will ensure that the perspectives of all parties are appropriately considered prior to decision making.
- By requiring a 2/3 majority in both House and Senate to approve area plans and rules, the Authority is effectively prohibited from carrying out its mission when the Legislature is not in session. This is not in the public's best interest.
- Posting project information on the HCDA website, as is the current practice, gives community members who are unable to attend meetings a good way to be involved in the process.
- Height and density are factors that contribute directly to cost per unit.
- We caution against adding requirements for duplicative studies that will not add substantive information to the decision-making process.
- Unnecessarily prolonging the process and delaying projects adds to the cost and will make housing even more expensive.

Thank you for the opportunity to provide our comments on this bill.

Testimony for Public Hearing
Hawaii State Legislature
Committee on Water and Land
February 8, 2014

Roy Bumgarner
725 Kapiolani Blvd, #1802
Honolulu, HI 96813

Testimony in support of HB1860

My name is Roy Bumgarner and I am a registered voter who resides in the Kakaako District. I am testifying in support of HB 1860.

I have attended a number of public hearings held by the Hawaii Community Development Authority (HCDA) since 2013 and find that there is a lack of public awareness and public participation in the decision making process. When the public is given an opportunity to participate in the process, the measures are unable to be amended. Finally, there is no clear appeal process for concerned citizens to challenge HCDA decisions. Since the members of the HCDA are appointed, there is no direct link to hold them accountable.

This bill addresses my concerns regarding the HCDA and their process and I encourage to Legislature to pass it with no amendments.

lowen2-Lanaly

From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 07, 2014 5:15 PM
To: waltestimony
Cc: heather.nishimura@gmail.com
Subject: *Submitted testimony for HB1860 on Feb 8, 2014 08:30AM*

HB1860

Submitted on: 2/7/2014

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

Submitted By	Organization	Testifier Position	Present at Hearing
Heather Nishimura	Individual	Support	No

Comments:

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Chamber of Commerce HAWAII

The Voice of Business

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

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

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

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

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

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

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

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

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



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

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

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

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

lowen2-Lanaly

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

Testimony of Pamela Wood

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

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

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

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

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

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

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

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

**HB 1860
RELATING TO THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY**

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

FEBRUARY 8, 2014

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

I am Paul Oshiro, testifying on behalf of Alexander & Baldwin, Inc. (A&B) on HB 1860, “A BILL FOR AN ACT RELATING TO THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY.”

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

One of the provisions in this bill proposes to require the prior approval of the Legislature by concurrent resolution adopted with 2/3 majority vote for any amendments to the Kaka’ako Community Development District Mauka and Makai Area Plans and their attendant rules. While we acknowledge that HCDA is the creation of the Legislature, and that the Legislature has oversight over HCDA, we caution that this

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

We also note that in Section 4, the bill proposes an amendment to require that HCDA adopt community engagement procedures to ensure that the development of proposed buildings do not adversely affect the community or its residents and businesses. We believe that this provision may be overly broad, and would provide the opportunity for the recitation of a wide range of perceived adverse impacts, regardless of how small or insignificant, that may be used to deny the approval of a project. We respectfully request continued discussion and close scrutiny of this, as well as other community engagement amendments proposed in other bills, to ensure that, in the end, there is balanced, reasonable, and meaningful community participation incorporated into the HCDA process that serves to further the vision of Kaka'ako as a revitalized urban community.

Thank you for the opportunity to testify.

lowen2-Lanaly

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 06, 2014 9:34 PM
To: waltestimony
Cc: eddiejohnson@yahoo.com
Subject: Submitted testimony for HB1860 on Feb 8, 2014 08:30AM

HB1860

Submitted on: 2/6/2014

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

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

Comments: I support HB 1860 because: * If a person is adversely affected by a decision made by HCDA, he or she should be allowed to request a hearing to contest the decision. * HCDA should be more transparent and responsive to community concerns. *HCDA should be made more accountable, with more oversight by legislators. It should not be allowed to change building rules without legislative authorization. *Developers of condos should be required to perform impact studies (just as developers are required to do everywhere else on Oahu) to evaluate sewers, roads, utilities including water and electricity, schools, parks, and other infrastructure requirements needed for the additional number of residents. Access to emergency services should be evaluated as well. If any infrastructure improvements are needed, the developer should be required to pay the necessary impact fees (as is required for developers everywhere else on Oahu.) * There is a growing wall of concrete in Kakaako that is spoiling beautiful public vistas of the last remaining shoreline of urban Honolulu. Buildings in Kakaako should have stricter limits on height and density, similar to the City's standards. A density limit of 3.5 FAR with height limit of 400 feet is reasonable (although a density limit of 1.5 would be even better, as per my testimony for HB 1863). * I would also recommend a minimum distance of 300 feet between buildings that are more than 100 feet tall (also per my testimony for HB 1863).

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From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 06, 2014 9:57 PM
To: waltestimony
Cc: amybugala@yahoo.com
Subject: Submitted testimony for HB1860 on Feb 8, 2014 08:30AM

HB1860

Submitted on: 2/6/2014

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

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

Comments: I support HB 1860 because: * If a person is adversely affected by a decision made by HCDA, he or she should be allowed to request a hearing to contest the decision. * HCDA should be more transparent and responsive to community concerns. *HCDA should be made more accountable, with more oversight by legislators. It should not be allowed to change building rules without legislative authorization. *Developers of condos should be required to perform impact studies (just as developers are required to do everywhere else on Oahu) to evaluate sewers, roads, utilities including water and electricity, schools, parks, and other infrastructure requirements needed for the additional number of residents. Access to emergency services should be evaluated as well. If any infrastructure improvements are needed, the developer should be required to pay the necessary impact fees (as is required for developers everywhere else on Oahu.) * There is a growing wall of concrete in Kakaako that is spoiling beautiful public vistas of the last remaining shoreline of urban Honolulu. Buildings in Kakaako should have stricter limits on height and density, similar to the City's standards. A density limit of 3.5 FAR with height limit of 400 feet is reasonable (although a density limit of 1.5 would be even better, as per my testimony for HB 1863). * I would also recommend a minimum distance of 300 feet between buildings that are more than 100 feet tall (also per my testimony for HB 1863).

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Subject: HB 1860 Relating to the HCDA

Aloha Members of the Committee on Water and Land,

As lifetime resident of this island, whose family has resided here for generations, we have a deep interest in how our community is developed. Anyone who lives in Hawaii has the responsibility to ensure our decisions are the best for the future of this island.

I support HB 1860 because it calls for improved language and expectations that are not clearly or specifically outlined in the current plans and rules guiding HCDA. This bill will support and assist HCDA and its staff by requiring more clarity to their guiding documents, support meaningful consideration of community input, and dissuade ill-intentioned individuals and groups from using loopholes found in the currently vague language to implement projects that negatively impact this community and makes a mockery of the island for the next generation to manage.

Development on Oahu is severely finite. Every district works to strike a balance between growth and the health of its community. The land under HCDA is no different, except that it is exempt from the standard due diligence practices, regulations, and requirements that all other land on this island is required to follow. In a time when education, health and safety, infrastructure capacity, and Hawaii's natural beauty is at a tipping point, the differing, and looser regulations and oversight given to HCDA no longer makes sense and should be reviewed for its significance, value, and contributions to serve the community interest - today and for the long-term.

Thank you for your time,

Tricia Dang

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 06, 2014 10:41 PM
To: waltestimony
Cc: bsuzui@msn.com
Subject: Submitted testimony for HB1860 on Feb 8, 2014 08:30AM

HB1860

Submitted on: 2/6/2014

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

Submitted By	Organization	Testifier Position	Present at Hearing
Bryan Suzui	Individual	Support	No

Comments: In Support of HB 1860 Chairperson Evans and members of the House Committee on Water and Land, I support HB 1860. In my opinion, if a person is adversely affected by an agency's decision, that person should be entitled to a fair hearing to contest the decision. In addition, it would benefit Hawaii's public to establish a higher level of transparency and accountability with this agency. I also support including having Kakaako building height limits and density limits in State law. Passing this bill would accomplish that. I would recommend amending this bill to apply the height limit to ANY building (not just residential). Please pass HB 1860. Thank you for your attention.

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lowen2-Lanaly

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 06, 2014 10:47 PM
To: waltestimony
Cc: nancylhedlund@yahoo.com
Subject: Submitted testimony for HB1860 on Feb 8, 2014 08:30AM

HB1860

Submitted on: 2/6/2014

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

Submitted By	Organization	Testifier Position	Present at Hearing
Nancy Hedlund	Individual	Support	No

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

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

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lowen2-Lanaly

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 06, 2014 11:29 PM
To: waltestimony
Cc: candychoi68@gmail.com
Subject: Submitted testimony for HB1860 on Feb 8, 2014 08:30AM

HB1860

Submitted on: 2/6/2014

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

Submitted By	Organization	Testifier Position	Present at Hearing
Candy Choi	Individual	Support	No

Comments: I don't live in Kakaako area but very concern about the density of population of Ala Moana. It will be so crowded and with lots of traffic. All the high rise will be like walls of the ocean front, and blocks all the trade wind! No ocean view anymore!

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lowen2-Lanaly

From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 07, 2014 12:23 AM
To: waltestimony
Cc: kkbtr@earthlink.net
Subject: *Submitted testimony for HB1860 on Feb 8, 2014 08:30AM*

HB1860

Submitted on: 2/7/2014

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

Submitted By	Organization	Testifier Position	Present at Hearing
Vivien Tham	Individual	Support	No

Comments:

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Thomas Lee Travis

RR 2 Box 3317

Pahoa, Hi 96778

email: ttravis12@mac.com

mobile: (757) 639-7364

Members of the Water And Land Committee:

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

Although justification for economic reasons might be made, it is wrong headed for State government to bypass local desires, direction, and planning. Communities should be given full voice and control of their cultural, social, environmental, visions for the future. The State of Hawaii should not preempt the local decision making, but instead should champion it. Emphasis on reestablishing local initiative serves several very important purposes:

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

Although passage of HB 1860 will not restore the needed local influence, it is a step in the right direction. I strongly urge you to support this bill.



HAWAII COMMUNITY
DEVELOPMENT AUTHORITY



KAKAOKO
KALAELOA

Neil Abercrombie
Governor

Brian Lee
Chairperson

Anthony J. H. Ching
Executive Director

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96813

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STATEMENT OF
ANTHONY J. H. CHING, EXECUTIVE DIRECTOR
HAWAII COMMUNITY DEVELOPMENT AUTHORITY

BEFORE THE
SENATE COMMITTEE ON WATER & LAND

ON

Saturday, February 8, 2014

8:30 A.M.

State Capitol, Conference Room 325

in consideration of

**H. B. 1860 – RELATING TO THE HAWAII COMMUNITY
DEVELOPMENT AUTHORITY.**

Purpose: Establishes a contested case proceeding process; Requires that no amendment to the Kakaako Community Development Plan and Rules shall take effect without prior approval of the Legislature by concurrent resolution of 2/3 majority of each chamber; and establishes new community engagement and public notice requirements.

Position: I am obliged to oppose the proposed findings in Section 1 of the proposal and provide comments relative to the major elements that are proposed. These comments represent my own position and not that of the Authority as I have not had the opportunity to elicit their thoughts and collective response.

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

Have Not Met the Standards for Creating a Mixed Use, Mixed Income

Community. Since its creation, HCDA rules have guided the development of:

- When the current cycle of construction is completed, there will be 6,159 market and 4,295 low/moderate income units in Kakaako. These qualified income low/moderate income units would make up 41% of the total number of units in the entire Kakaako Community Development District.
- Commercial, light industrial, civic and residential units abound in the district, prominently in the Central Kakaako neighborhood.

Has Not Followed the Plan Adopted by the Community and Has Instead Liberally Interpreted the Rules without Transparency. The 2011 Administrative Rules were initiated in 2003, adopted in 2011 and featured the preparation of an Environmental Impact Statement, infrastructure studies, numerous stakeholder/community meetings, public hearings and 3 appearances before the Small Business Regulatory Review Board. These rules are administered strictly by the Authority and require the adoption of specific findings detailing the conformance of each development application with the criteria available in the rules.

Proposed Contested Case Proceeding. The Authority currently administers its development permit process in accordance with the requirements specified by the Legislature in section 5.6 HRS. The proposed process would appear to serve as a venue for an aggrieved party to appeal or seek reconsideration. It is my opinion that any appeal might more logically be directed to the circuit court (per section 91-14 HRS) as this court would represent an objective body to determine the merits of the process conducted by the HCDA and whether the appeal had standing or merit.

Prior Approval of Plan and Rule by 2/3 Majority of Each Chamber. Should the Legislature desire to enact specific restrictions on the ability of the Authority to plan and administer rules, it can more effectively enact statutory restrictions at its pleasure. Given the ability of the HCDA to operate as a corporate instrumentality of the state without requiring continuing legislative appropriations, introducing

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

legislative oversight to shackle its public process is a step back that is not indicated at this time.

New Community Engagement and Public Notice Requirements. The process and notice requirements outlined in the proposal mirror that which is already in place and conducted by the agency. I note that the proposed amendment to section 206E-5.5(1) [Page 4 lines 11-16] establishes a subjective standard in that “it requires any proposed buildings do not **adversely** affect the community or its residents and businesses.” This is not an objective standard that can be achieved.

I note that the proposed section 206E-5.5(2) requires that if requested, a copy of the notices shall be **mailed** to property owners and residents in the affected community. A listing of residents and property owners is not readily available and the cost of mailing such notice may result in over \$10,000 in costs per application for which no appropriation of funds has been made and will not necessarily improve the current system of public notice.

Limit FAR Rather Than Require a Mix of Uses. The Page 8 line 20 change from “may” to “shall” might have unintended consequences as it would require a mix in densities. As I believe that the intention was to limit FAR, this amendment needs to be reworded.

Infrastructure Study. Further clarification is needed as to what constitutes “comprehensive study” and “necessary impact fees”. Is the EIS that has been conducted a comprehensive study and if not, what qualifies? Does the first developer pay for all impact fees and let each successive developer off the hook? As the City & County is typically in charge of setting impact fee levels, placing this mandate with the HCDA might disrupt what the City & County might need from any developer.

Without further clarification, I would ask that the proposal be held. Thank you for the opportunity to provide comment.

lowen2-Lanaly

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 04, 2014 12:23 PM
To: waltestimony
Cc: ismyth@hawaiiantel.net
Subject: Submitted testimony for HB1860 on Feb 8, 2014 08:30AM

HB1860

Submitted on: 2/4/2014

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

Submitted By	Organization	Testifier Position	Present at Hearing
isaac smyth	Individual	Support	No

Comments: HB 1860 I support HB 1860 because: * If a person is adversely affected by a decision made by HCDA, he or she should be allowed to request a hearing to contest the decision. * HCDA should be more transparent and responsive to community concerns. *HCDA should be made more accountable, with more oversight by legislators. It should not be allowed to change building rules without legislative authorization. *Developers of condos should be required to perform impact studies (just as developers are required to do everywhere else on Oahu) to evaluate sewers, roads, utilities including water and electricity, schools, parks, and other infrastructure requirements needed for the additional number of residents. Access to emergency services should be evaluated as well. If any infrastructure improvements are needed, the developer should be required to pay the necessary impact fees (as is required for developers everywhere else on Oahu.) * There is a growing wall of concrete in Kakaako that is spoiling beautiful public vistas of the last remaining shoreline of urban Honolulu. Buildings in Kakaako should have stricter limits on height and density, similar to the City's standards. A density limit of 3.5 FAR with height limit of 400 feet is reasonable (although a density limit of 1.5 would be even better, as per my testimony for HB 1863). * I would also recommend a minimum distance of 300 feet between buildings that are more than 100 feet tall (also per my testimony for HB 1863).

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

My name is Clara Morikawa, a retiree who has lived at the Imperial Plaza for 20 years. I support HB 1860 and 1861 because HCDA has been inconsistent in applying their rules and have readily granted too many exceptions to developers. I.e., 404 Ward which will be built 120 feet from the adjacent tower when it should have been 300 feet; 801 South where 2 residential and 2 parking towers both well exceeded their height limitations. HCDA is also inconsistent in interpreting their own rules. Central Kakaako with the small individually owned properties supports the operation of service businesses and residential mixed use projects and for these small properties, no off street parking is required. When 3 lots (actually 4) were combined to become the 803 Waimanu project with 153 residential apartments, HCDA contended that no off street parking was required at all, except for the 24 which would satisfy the reserved housing requirement. I still cannot comprehend the logic. The developer voluntarily will install 91 electrical parking stalls. This project is being built adjacent to our townhouses, side by side with no space between. You would think there must be a building code violation or a fire code violation, but not according to HCDA. There is no concern for the safety of the residents of either buildings.

HCDA gives us hearings and opportunities to present our concerns but they appear to be just formalities; they listen but they don't hear. Their support is for the developers, not the residents. Whenever any project is approved, the public must be allowed a hearing to contest and challenge HCDA's decision.

All developers of condos must be required to perform and provide impact studies to evaluate the infrastructures.....roads, sewers, water, electricity , schools, parks, etc.....and where improvements are necessary, the developer must be required to pay the necessary fees. At the Howard Hughes hearing, I inquired about the traffic study done for the 2 condos to be built kitty-corner to each other at Auahi and Kamakee Streets because they showed that the streets could readily handle the increased traffic. The studies were done individually for each project and not collectively for the two condos. Twice the amount of anticipated people and travel in the same area would definitely impact the traffic. These impact studies are made at the present time and they do not take into account the 5 condos already being built in the area that will soon be occupied nor the ones that have already been approved but have not yet broken ground. Consequently, all of the current studies of the infrastructures have produced results very favorable to the developers.

Definitely, there should be a distance of 300 feet between buildings, which are more than 100 feet tall, and there should also be adequate space between any 2 low-rise residential buildings. This would also apply to HB 1863.

Respectfully submitted,

Dear House Water & Land Committee Members,

I support HB 1860 and all efforts to curb or abolish the HCDA. The HCDA does not properly represent the communities for which it serves. Its operations and decisions are not transparent nor reflect testimony it has received over the past year; it continues to ignore the will of the people.

HCDA needs more oversight by legislators. It should not be allowed to change building rules without legislative authorization. Shortsighted decisions and approvals are being made without adequate infrastructure or the assurance that infrastructure will be improved commensurate with the approved and proposed developments in the Kakaako area. Poor HCDA decisions and inadequate oversight of projects in the Barber's Point area have resulted in environmental harm and blight of a previously well-maintained community. HCDA is an irresponsible steward of the lands it oversees and fails to properly care for the aina.

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

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

I recommend a minimum distance of 300 feet between buildings that are more than 100 feet tall.

Mahalo,

AL Frenzel

2/1/14

Committee Clerk
State Capitol
415 S. Beretania St
Honolulu, HI 96813

Dear Sirs:

My name is Aileen Miura and I have lived in Kakaako for the past 3 years. I support House Bill 1860 and all the bills being heard this morning to protect the Kakaako that I have grown to love.

I urge you to pass
HB 1860. Mahalo.

Aileen Miura

Aileen Miura
876 Curtis St.
Apt. 2603
Honolulu, HI 96813



From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 05, 2014 2:10 PM
To: waltestimony
Cc: arbeit@hawaiiantel.net
Subject: Submitted testimony for HB1860 on Feb 8, 2014 08:30AM

HB1860

Submitted on: 2/5/2014

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

Submitted By	Organization	Testifier Position	Present at Hearing
Wendy Arbeit	Individual	Support	No

Comments: HCDA has routinely allowed changes to codes and rules established for a livable and healthy Honolulu and even ignored its own guidelines. That's why I think it should be abolished (HB1864). Short of that I strongly support legislation insuring fair and clear ways to contest decisions and mandating responsiveness to community concerns. The additional steps of oversight by legislators should slow down the rush to irresponsibly overbuild. Regarding this I support a 350' height limitation, consistent with C&C guidelines and a density limit of 1.5 as proposed in HB 1863.

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lowen2-Lanaly

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 06, 2014 9:57 PM
To: waltestimony
Cc: amybugala@yahoo.com
Subject: Submitted testimony for HB1860 on Feb 8, 2014 08:30AM

HB1860

Submitted on: 2/6/2014

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

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

Comments: I support HB 1860 because: * If a person is adversely affected by a decision made by HCDA, he or she should be allowed to request a hearing to contest the decision. * HCDA should be more transparent and responsive to community concerns. *HCDA should be made more accountable, with more oversight by legislators. It should not be allowed to change building rules without legislative authorization. *Developers of condos should be required to perform impact studies (just as developers are required to do everywhere else on Oahu) to evaluate sewers, roads, utilities including water and electricity, schools, parks, and other infrastructure requirements needed for the additional number of residents. Access to emergency services should be evaluated as well. If any infrastructure improvements are needed, the developer should be required to pay the necessary impact fees (as is required for developers everywhere else on Oahu.) * There is a growing wall of concrete in Kakaako that is spoiling beautiful public vistas of the last remaining shoreline of urban Honolulu. Buildings in Kakaako should have stricter limits on height and density, similar to the City's standards. A density limit of 3.5 FAR with height limit of 400 feet is reasonable (although a density limit of 1.5 would be even better, as per my testimony for HB 1863). * I would also recommend a minimum distance of 300 feet between buildings that are more than 100 feet tall (also per my testimony for HB 1863).

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Subject: HB 1860 Relating to the HCDA

Aloha Members of the Committee on Water and Land,

As lifetime resident of this island, whose family has resided here for generations, we have a deep interest in how our community is developed. Anyone who lives in Hawaii has the responsibility to ensure our decisions are the best for the future of this island.

I support HB 1860 because it calls for improved language and expectations that are not clearly or specifically outlined in the current plans and rules guiding HCDA. This bill will support and assist HCDA and its staff by requiring more clarity to their guiding documents, support meaningful consideration of community input, and dissuade ill-intentioned individuals and groups from using loopholes found in the currently vague language to implement projects that negatively impact this community and makes a mockery of the island for the next generation to manage.

Development on Oahu is severely finite. Every district works to strike a balance between growth and the health of its community. The land under HCDA is no different, except that it is exempt from the standard due diligence practices, regulations, and requirements that all other land on this island is required to follow. In a time when education, health and safety, infrastructure capacity, and Hawaii's natural beauty is at a tipping point, the differing, and looser regulations and oversight given to HCDA no longer makes sense and should be reviewed for its significance, value, and contributions to serve the community interest - today and for the long-term.

Thank you for your time,

Tricia Dang

lowen2-Lanaly

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 06, 2014 10:41 PM
To: waltestimony
Cc: bsuzui@msn.com
Subject: Submitted testimony for HB1860 on Feb 8, 2014 08:30AM

HB1860

Submitted on: 2/6/2014

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

Submitted By	Organization	Testifier Position	Present at Hearing
Bryan Suzui	Individual	Support	No

Comments: In Support of HB 1860 Chairperson Evans and members of the House Committee on Water and Land, I support HB 1860. In my opinion, if a person is adversely affected by an agency's decision, that person should be entitled to a fair hearing to contest the decision. In addition, it would benefit Hawaii's public to establish a higher level of transparency and accountability with this agency. I also support including having Kakaako building height limits and density limits in State law. Passing this bill would accomplish that. I would recommend amending this bill to apply the height limit to ANY building (not just residential). Please pass HB 1860. Thank you for your attention.

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From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 07, 2014 12:23 AM
To: waltestimony
Cc: kkbtr@earthlink.net
Subject: *Submitted testimony for HB1860 on Feb 8, 2014 08:30AM*

HB1860

Submitted on: 2/7/2014

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

Submitted By	Organization	Testifier Position	Present at Hearing
Vivien Tham	Individual	Support	No

Comments:

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lowen2-Lanaly

From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 07, 2014 8:14 AM
To: waltestimony
Cc: barb@punapono.com
Subject: Submitted testimony for HB1860 on Feb 8, 2014 08:30AM

HB1860

Submitted on: 2/7/2014

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

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

Comments: Thank you for hearing this bill. I strongly support HB1860. The purpose of this bill is to ensure that HCDA meets the following unmet community development needs: - a lack of suitable affordable housing - insufficient commercial and industrial rental facilities - residential areas that do not have adequate public facilities such as parks and open space. Important elements that should NOT be removed Ensures that adopted plans and rules are followed by requiring legislative approval by a 2/3 majority vote before Kakaako mauka and makai area plans and rules can be amended Provides for adequate community involvement in HCDA's planning and decision-making by working with residents and landowners within the community in which the project is located to ensure that rules are followed and proposed buildings do not adversely affect the community, its residents and businesses Establishes a process for citizens to contest HCDA decisions so that any person adversely affected by an action or decision may file a petition for a contested case proceeding Establishes development guidance policies to control densities, a 400-foot height limit, comprehensive studies and plans for the infrastructure capacity of sewer, roads, water, electricity, schools, parks Thank you for passing this bill. Barbara Cuttance 14/266 Papaya Farms Road Pahoa Hawaii 96778

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

February 8, 2014

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

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

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

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

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

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

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

Thank you for allowing me to share my views.

| Sincerely,

Matt Vossen



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

HAWAII BUILDING AND CONSTRUCTION TRADES COUNCIL, AFL-CIO

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

KIKA G. BUKOSKI
Executive Director

February 7, 2014

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Local 204

RONAN KOZUMA
Hawaii Teamsters & Allied
Workers Local 996

VAUGHN CHONG
Roofers, Waterproofers & Allied
Workers United Union of Roofer
Local 221

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

RE: **IN OPPOSITION** TO HB1860 RELATING TO HCDA
Hearing: Saturday, February 8, 2014, 8:30 a.m. Conference Room 325

Honorable Chair, Vice Chair and Committee Members;

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

The Council respectfully OPPOSES HB1860, which proposes to amend HCDA public notice requirements and requirements for project approval and creates an administrative appeal process with judicial review for HCDA decisions or actions.

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

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

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

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

The provisions in HB1860 contravene the stated intent and purpose of HCDA as envisioned in 1976. It took great vision and courage to adopt such forward thinking legislation over three decades ago.

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

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

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

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

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

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

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

Thank you for the opportunity to provide comments in opposition to HB1860.

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

February 8, 2014

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

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

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

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

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

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

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

Thank you for allowing me to share my views.

Sincerely,

Robert Locquiao
Rob4x4rl@aol.com

lowen2-Lanaly

From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 07, 2014 9:19 AM
To: waltestimony
Cc: aycockburr@aol.com
Subject: Submitted testimony for HB1860 on Feb 8, 2014 08:30AM

HB1860

Submitted on: 2/7/2014

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

Submitted By	Organization	Testifier Position	Present at Hearing
Virginia Aycock	Individual	Support	No

Comments: I support HB1860 because it makes practical improvements to the helter-skelter way HCDA has been operating requiring; -- a contested case proceeding -- legislative approval for amendments to mauka and makai plans and rules -- Increases community engagement in HCDA process through direct interaction and notice -- Imposes a maximum 3.5 FAR and 400 foot height limit -- Requires comprehensive infrastructure studies prior to approval of development projects Thank you for passing this important bill as quickly as possible.

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

ON THE FOLLOWING MEASURE:

H.B. NO. 1860, RELATING TO THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY.

BEFORE THE:

HOUSE COMMITTEE ON WATER AND LAND

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

LOCATION: State Capitol, Room 325

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

Chair Evans and Members of the Committee:

The Department of the Attorney General provides the following comments.

The purpose of the bill is to establish an appeal process for persons adversely affected by an action or decision of the Hawaii Community Development Authority (HCDA) and require additional public notice, public input, and studies prior to HCDA approval of development projects.

On page 3, lines 4-8, the bill provides for a new section that provides:

§206E-__ Contested case proceeding; judicial review. Any person adversely affected by an action or decision of the authority may file a petition for a contested case proceeding on the authority's action or decision. A public hearing shall be conducted in accordance with chapter 91.

We note that to the extent that section 2 of the bill seeks to give persons the opportunity to voice their opposition to the agency's approval of a proposed development, the agency already conducts two separate public hearings as required by section 206E-5.6, Hawaii Revised Statutes.

We also have several concerns regarding this new section. First, it is unclear what constitutes an "action" that may give rise to a person being able to petition for a contested case hearing. This is problematic because the term "action" is very broad. A broad interpretation would likely lead to frivolous petitions. Thus, if the Committee is inclined to pass this bill, we recommend that the term "action" be narrowly defined.

Second, the new section does not provide for a time within which a petition must be filed following the challenged action or decision. The absence of a specific deadline to petition for a

contested case hearing will create confusion and uncertainty. We recommend that a filing deadline of 30 days be imposed, so that finality of the agency's actions can at some point be established.

Third, the title of this new section suggests that it involves both a contested case proceeding and judicial review. As written, however, the bill simply provides that a petition for a contested case proceeding may be filed and a public hearing shall be conducted. Generally, a contested case hearing differs from a public hearing.

Lastly, if the petition is to be filed with HCDA, we believe the more appropriate procedure for such relief would be reconsideration as opposed to instituting a new contested case proceeding. This way, HCDA will clearly have jurisdiction to affirm, modify, or rescind the challenged action or decision. In addition, the party who initiated the proceeding that gave rise to the challenged action or decision will necessarily be a party to the reconsideration hearing – which is important to ensure that the party is accorded the requisite due process before HCDA takes any action on the petition for reconsideration. In addition, if the intent is to ultimately provide for judicial review, this can occur after HCDA has acted upon the petition for reconsideration. Accordingly, if the Committee is inclined to pass this bill, we recommend that the new section on page 3, lines 4-8 be amended as follows:

§206E-__ [~~Contested case proceeding~~Reconsideration; judicial review. Any person adversely affected by an action or decision of the authority may file a petition for [a contested case proceeding on] reconsideration within thirty days of the authority's action or decision. [A public hearing shall be conducted in accordance with chapter 91.] Proceedings for judicial review of the authority's final decision on the petition for reconsideration shall be in the same manner as provided for in section 91-14.

We respectfully ask the Committee to consider our comments and recommended amendments.



House Water and Land Committee
Chair Cindy Evans, Vice Chair Nicole Lowen

Saturday 02/08/14 at 08:30AM in Room 325
HB1860– Relating to Hawaii Community Development Authority

Testimony of Support
Carmille Lim, Executive Director, Common Cause Hawaii

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

Common Cause Hawaii supports HB1860, which amends the Hawaii Community Development Authority (HCDA) public notice requirements and requirements for project approval, and creates an administrative appeal process with available judicial review for HCDA decisions or actions.

Common Cause Hawaii has long advocated for the need for public agencies to remain transparent, accessible, and responsive to the public. The Hawaii Community Development Authority is a public entity that determines community development programs. While the law explicitly requires community engagement in the community development plans and development projects, HCDA has instead liberally interpreted the requirements and amended the rules without transparency or accountability. Additionally, the HCDA is operating without accountability or transparency in failing to meet one of the authority's major objectives: to create housing for low- or moderate-income residents.

Therefore, the ultimate purpose of HB1860 is to ensure that:

- 1) adopted plans and rules are followed, particularly in regard to density, height, infrastructure, and low- and moderate-income housing;
- 2) provide for adequate community engagement in the authority's planning and decision-making on development projects; and
- 3) establish a process for contesting the authority's decisions.

Thank you for the opportunity to testify in support of HB1860.

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

In Support of HB 1860 and HB1861, Relating to the Hawaii Community Development Authority

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

My name is Sharon Moriwaki, a resident of Kaka'ako and president of Kaka'ako United, a group of concerned citizens who have been frustrated with the state agency that is supposed to be the steward of Kaka'ako –600 acres in the City and County of Honolulu. We strongly support HB1860 and 1861, along with other bills your committee is hearing.

The Hawaii Community Development Agency (HCDA) is governed by a very broad statute – chapter 206E, HRS—passed 38 years ago to create a well-planned, mixed density, mixed income, mixed use community in downtown Honolulu.

In 2011, after years of community meetings and input, HCDA approved its Mauka Area Plan and Rules and its Vision and Guiding Principles for the Makai Area. But then, those of us who live, work and play in Kaka'ako began, too slowly, to realize HCDA was using the broad discretion of its governing statute to break the trust we had it would “serve the highest needs and aspirations of Hawaii’s people.”

In 2013, HCDA approved 11 projects, almost entirely in line with developers’ interests, giving zoning variances without meeting the city’s stringent “hardship test” standard for changes in height, density, and closeness between buildings. HCDA violated mauka-makai corridor view planes –assisting developers and shutting out concerns by the public.

HB 1860 and HB1861 will correct these violations of public trust, curbing HCDA’s discretion so that it (1) follows the law on public notice and community engagement in working with projects to achieve the plans and rules currently in place; (2) provides clear procedures for citizens to contest HCDA decisions; and (3) implements explicit guidance on buildings, including maximum limits on height (400 feet), density (3.5 floor area ratio), requires necessary schools, a comprehensive study of infrastructure, and imposing impact fees on developers for the additional loads they bring to Kaka'ako.

The two bills are similar but each has preferable passages I suggest be incorporated into one bill. Should your committee combine the two, I attach suggested language for your consideration.

We strongly support HB 1860 and HB1861 and recommend passage.

Thank you for the opportunity to testify.

Suggested revisions to HB1860 to incorporate language from HB1861:

(1) Section 3. Section 206E-5 on community development plan adoption and amendment:

Add language from HB 1861, Section 3, specifically from HB1961 Section 3 at page 3 after “as follows” and before “(f) The authority may amend...”

(f) The authority shall adopt and amend the community development plan ...only as authorized by the legislature. The authority may amend....

(2) Section 5. Section 206E-5.6 on community engagement:

Replace this section with the language from HB 1861 in Section 5 at pp. 5-6 which provides more specific directives on community notice, engagement, and notice to legislators and area councilmembers

(3) Section 6. Section 206E-33 on community development guidance policies:

Replace Section 206E-33 (8) with HB1861 provision in Section 6 at p. 7:

Residential development shall provide necessary and adequate community facilities and services, such as schools....

If you have any questions or need further information please feel free to call Sharon Moriwaki at 428-1348 or email sharonymoriwaki@gmail.com

lowen2-Lanaly

From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 07, 2014 11:15 AM
To: waltestimony
Cc: lindalegrande2243@gmail.com
Subject: *Submitted testimony for HB1860 on Feb 8, 2014 08:30AM*

HB1860

Submitted on: 2/7/2014

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

Submitted By	Organization	Testifier Position	Present at Hearing
Linda Legrande	Individual	Support	No

Comments:

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Sent: Friday, February 07, 2014 11:18 AM
To: waltestimony
Cc: ralpheburr@aol.com
Subject: Submitted testimony for HB1860 on Feb 8, 2014 08:30AM

HB1860

Submitted on: 2/7/2014

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

Submitted By	Organization	Testifier Position	Present at Hearing
Ralph E. Burr	Individual	Support	No

Comments: I support HB 1860 because: * If a person is adversely affected by a decision made by HCDA, he or she should be allowed to request a hearing to contest the decision. * HCDA should be more transparent and responsive to community concerns. *HCDA should be made more accountable, with more oversight by legislators. It should not be allowed to change building rules without legislative authorization. *Developers of condos should be required to perform impact studies (just as developers are required to do everywhere else on Oahu) to evaluate sewers, roads, utilities including water and electricity, schools, parks, and other infrastructure requirements needed for the additional number of residents. Access to emergency services should be evaluated as well. If any infrastructure improvements are needed, the developer should be required to pay the necessary impact fees (as is required for developers everywhere else on Oahu.) * There is a growing wall of concrete in Kakaako that is spoiling beautiful public vistas of the last remaining shoreline of urban Honolulu. Buildings in Kakaako should have stricter limits on height and density, similar to the City's standards. A density limit of 3.5 FAR with height limit of 400 feet is reasonable (although a density limit of 1.5 would be even better. * I would also recommend a minimum distance of 300 feet between buildings that are more than 100 feet tall

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KAMEHAMEHA SCHOOLS

February 7, 2014

WRITTEN TESTIMONY TO THE HOUSE COMMITTEE ON WATER AND LAND

By

Walter F. Thoemmes
Kamehameha Schools

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

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

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

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

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

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

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

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

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

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

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

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

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

Antonio Espiritu
109 Karsten Drive
Wahiawa, HI 96786

February 8, 2014

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

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

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

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

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

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

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

Thank you for allowing me to share my views.

Sincerely,

Antonio Espiritu

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

February 8, 2014

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

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

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

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

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

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

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

Thank you for allowing me to share my views.

Sincerely,

Harold Slate
Outside1952@yahoo.com

lowen2-Lanaly

From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 07, 2014 1:44 PM
To: waltestimony
Cc: leiotaloha@yahoo.com
Subject: Submitted testimony for HB1860 on Feb 8, 2014 08:30AM

HB1860

Submitted on: 2/7/2014

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

Submitted By	Organization	Testifier Position	Present at Hearing
Julie Nishimura	Individual	Support	Yes

Comments: Testimony before the House Committee on Water and Land Saturday, Feb. 8, 2014. 8:30am Dear Chairwoman Evans and Members of the House Committee on Water and Land, My name is Julie Nishimura, and I support HB 1860. I agree that there should be effective engagement of the community during development planning. This bill establishes ways of keeping the community and the legislature better-informed about plans for Kakaako. This bill would also require infrastructure studies prior to development approvals (studies of sewers, roads, water, electricity, schools, parks), to make sure that the community's needs are properly met. (I would recommend adding "access to emergency services" to the list of infrastructure elements, as worded in HB 1861.) The bill also allows citizens a process for contesting a decision, if they are adversely affected by the decision. Due to the large amount of buildings planned for Kakaako, I agree with this bill about establishing limits on building height and density. I am concerned about the possible plans for a 650-foot tower, which would block public views of Diamond Head from anywhere Ewa of the tower. We should not underestimate the importance of public access to views in Hawaii. It is one of the major factors that drives the health of our tourism industry. And tourism affects all of us, directly or indirectly, through its impact on the economy and provision of jobs. Also, for local Hawaii residents, being able to enjoy the islands' natural beauty is one of the best things about living in this state. People from all over Oahu travel through areas inland of Kakaako, (such as Makiki), as well as through Kakaako itself. Right now, facing the ocean from Makiki, the public can enjoy open stretches of Hawaii's brilliant blue skies. It would be very sad to see this blocked off by a wall of concrete. Considering the large number of condos planned for Kakaako, a density limit of 1.5 FAR might be better than what is stated in this bill (as worded in HB 1863). A height limit should also be established (the bill should be amended to apply to all buildings, not just residential). I would also like to see a minimum distance of 300 feet between buildings that are more than 100 feet tall (as worded in HB 1863), and a mauka-makai axis restriction as worded in HB 1867. I urge you to pass HB 1860. Thank you for the opportunity to submit testimony.

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

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

Dellas Alexander
dellas96819@gmail.com

February 8, 2014

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

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

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

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

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

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

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

Thank you for allowing me to share my views.

Sincerely,



Dellas Alexander

lowen2-Lanaly

From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 07, 2014 2:00 PM
To: waltestimony
Cc: surfandsea05@yahoo.com
Subject: Submitted testimony for HB1860 on Feb 8, 2014 08:30AM

HB1860

Submitted on: 2/7/2014

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

Submitted By	Organization	Testifier Position	Present at Hearing
Lillian Nishimura	Individual	Support	Yes

Comments: I support this bill, HB 1860.

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

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lowen2-Lanaly

From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 07, 2014 2:07 PM
To: waltestimony
Cc: annafiller@juno.com
Subject: *Submitted testimony for HB1860 on Feb 8, 2014 08:30AM*

HB1860

Submitted on: 2/7/2014

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

Submitted By	Organization	Testifier Position	Present at Hearing
Anna Filler	Individual	Support	No

Comments:

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

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lowen2-Lanaly

From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 07, 2014 2:09 PM
To: waltestimony
Cc: daneknish@yahoo.com
Subject: Submitted testimony for HB1860 on Feb 8, 2014 08:30AM

HB1860

Submitted on: 2/7/2014

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

Submitted By	Organization	Testifier Position	Present at Hearing
Daniel Nishimura	Individual	Support	No

Comments: • Any person adversely affected by HCDA's decisions should have the right to file for a contested case proceeding. • There needs to be a higher level of transparency and accountability with HCDA, to both the community and to state legislators • There needs to be better limits on building height and building density in Kakaako. This bill addresses this problem, and suggests certain limits. A density limit of 1.5 FAR would be even better than what is stated in this bill, to help to preserve open spaces in this area (as worded in HB 1863). • There should also be more space between buildings. I would add to this bill a minimum distance of 300 feet between buildings (as worded in HB 1863)

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

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lowen2-Lanaly

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

HB1864

Submitted on: 2/7/2014

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

Submitted By	Organization	Testifier Position	Present at Hearing
Stuart Coleman	Individual	Support	No

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

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

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Support Bills in Legislature re HCDA

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Thank you for the opportunity to comment on proposed legislation.

Mary Caywood, geckoyard@hotmail.com

lowen2-Lanaly

From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 07, 2014 2:46 PM
To: waltestimony
Cc: henry.lifeoftheland@gmail.com
Subject: *Submitted testimony for HB1860 on Feb 8, 2014 08:30AM*

HB1860

Submitted on: 2/7/2014

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

Submitted By	Organization	Testifier Position	Present at Hearing
Henry Curtis	Life of the Land	Support	Yes

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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February 8, 2014

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

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

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

I am Archie Awaya, a member of the Hawaii Regional Council of Carpenters.

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

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

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

Thank you for allowing me to share my views.

Sincerely,

Archie Awaya
Aaway001@hawaii.rr.com



Chamber of Commerce HAWAII

The Voice of Business

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

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

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

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

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

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

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

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

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



Chamber of Commerce HAWAII

The Voice of Business

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

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

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

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



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

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

February 8, 2014

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

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

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

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

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

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

I encourage your support of this measure.

Sincerely,

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

Breene Harimoto
Councilmember, District VII



CITY COUNCIL

CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII 96813-3065

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

February 8, 2014

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

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

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

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

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

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

I encourage your support of this measure.

Sincerely,

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

Breene Harimoto
Councilmember, District VII



CITY COUNCIL

CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII 96813-3065

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

February 8, 2014

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

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

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

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

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

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

I encourage your support of this measure.

Sincerely,

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

Breene Harimoto
Councilmember, District VII



CITY COUNCIL

CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII 96813-3065

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

February 8, 2014

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

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

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

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

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

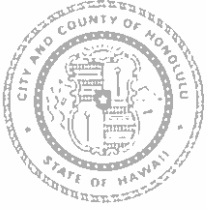
The initial mission of HCDA was to plan and facilitate the redevelopment of the Kakaako area of urban Honolulu. As all areas surrounding Kakaako are under the planning and development jurisdiction of the City & County of Honolulu, HCDA's efforts are essentially duplicative and grossly infringe on County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

I encourage your favorable consideration of this measure.

Sincerely,

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

Breene Harimoto
Councilmember, District VII



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

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

February 8, 2014

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

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

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

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

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

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

I encourage your favorable consideration of this measure.

Sincerely,

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

Breene Harimoto
Councilmember, District VII



CITY COUNCIL

CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII 96813-3065

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

February 8, 2014

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

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

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

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

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

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

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

The Honorable Cindy Evans
February 8, 2014
Page 2

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

Sincerely,

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

Breene Harimoto
Councilmember, District VIII



CITY COUNCIL

CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII 96813-3065

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

February 8, 2014

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

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

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

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

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

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

I encourage your support of this measure.

Sincerely,

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

Breene Harimoto
Councilmember, District VII

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

Chair Evans, Representatives:

I'm Galen Fox and support HB 1864. I identify strongly with the Neil Abercrombie who as state senator, supplied the sole vote against state seizure of 600 of Honolulu's downtown acreage. I also identify strongly with the Neil Abercrombie who as a U.S. congressman said in 2005 that "the best solution is for the Legislature to repeal the act that brought the HCDA into existence and put the authority back with the city."

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

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

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

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

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

Re: HB 1860 – **Strongly Support** relating to HCDA amending public notice requirements and requirements for project approval. It also creates an administrative appeal process with available judiciary review for HCDA decisions and actions

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

My name is Daisy Murai, a resident of Kapahulu and I **strongly support** HB 1860 relating to public notices, requirements for project approval and an appeal process for judiciary review of decisions and actions by HCDA. The Community residents and business establishments should have ample time to review the project's Comprehensive Development studies and plans to include Infrastructure capacity of sewers, roads, utilities of water and electricity, schools, parks and other necessary components, since the major impact will greatly and adversely affect the residents, businesses and visitors into Kakaako. In otherwords a Carrying Capacity Study.

About 10 years ago, Safeway bought the former Love's Bakery property and adjacent shopping center fronting Kapahulu Avenue, near Winam Avenue in Kapahulu. The representatives from Safeway held several meetings and worked with members of the Kapahulu Community for a compromise to build their new Safeway Supermarket and a small shopping complex. The Kapahulu Community is an older neighborhood with 2 lanes on Kapahulu Avenue heading towards the H1 Freeway and 2 lanes coming into Kapahulu and Waikiki Communities. Safeway wanted 8 fuel pump stations closest to Kapahulu Avenue, but the General Public had Major Concerns of Kapahulu Avenue being a total Gridlock nightmare, so Safeway listened to the Community and decided not to open any fuel pump stations. They also made Olu Street safer by installing traffic lights and making Right Turn only into and out of Olu Street, to prevent speeding motorists and vendors from using Olu Street as the throughfare to get across to Safeway Shopping Complex.

This is an excellent example of how HCDA should address their many Development projects to the Kakaako Community members, since these very projects will have major impacts to the residents, businesses and visitors into the Kakaako District. After all, the Kakaako Community will be the most adversely affected should HCDA approve projects without address the Community's concerns and problems in the future years. There are problem areas that the Kakaako Community members would know better than the Developers, who are instructed by the Property Owners for projects who do not live and work in Kakaako.

These are my reason why I **strongly support** HB1860.

Thank you for the opportunity to speak.

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

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



LABORERS' INTERNATIONAL UNION OF NORTH AMERICA LOCAL 368

LATE



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

ALFONSO OLIVER
President

JOBY NORTH II
Vice President

TONI FIGUEROA
Recording Secretary

THOMAS CATHCART
Executive Board

JAMES DRUMGOLD JR.
Executive Board

LEIMOMI JOHNSON
Executive Board

MARK MAGUSARA
Auditor

MARK TRAVALINO
Auditor

JOSEPH YAW
Auditor

LEUMA L. LEATUMAUGA
Sergeant-At-Arms

February 7, 2014

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

Re: HB1860 Relating to Hawaii Community Development Authority

Dear Chair Evans and members of the Committee:

The Hawaii Laborers' Union opposes bill HB 1860 which establishes a contested case hearing process; requires the prior approval of 2/3 of the Legislature by concurrent resolution and requires new community engagement and public notices.

The HCDA has been successful in guiding the development of 4,331 market and 1,059 reserved housing units since 1984. These were built by private developers at their cost. Today, there are 1,828 market and 2,158 low/moderate units under construction or have been permitted by the HCDA. In the same time frame, the State of Hawaii only constructed 985 low/moderate income qualified units and 93 for-sale units.

It is obvious therefore, that the private sector with guidance from the HCDA is able to provide needed housing in Kakaako. HB1860 will essentially curtail the HCDA operations to the detriment of the progress it has made in providing housing. We defer to HCDA to respond to the community engagement and public notices.

Sincerely,

Al Lardizabal
Government Relations

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

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

Hearing Date: Saturday, 2-8-2014

Referring to House Bills 1860, 1861 & 1863

Chairwoman Evans:

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

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

Sincerely,

A handwritten signature in black ink, appearing to read 'Pete Holt', with a stylized flourish at the end.

Mr. Pete Holt
MD & Downtown Honolulu Resident

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

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

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

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

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

Thank you for the opportunity to offer these comments.



Shantise Chlasson

726 Menehune Lane

Honolulu, HI 96826

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

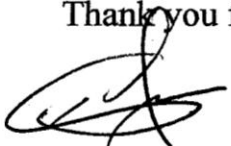
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Thank you for the opportunity to offer these comments.



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

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

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Thank you for the opportunity to offer these comments.

Jeffrey Santos
183 Kuulei Road
Kailua, HI 96734



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

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

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Thank you for the opportunity to offer these comments.



Shantise Eliasson
726 Menehune Lane
Honolulu, HI 96826

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

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

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Thank you for the opportunity to offer these comments.



Catherine Paredes
1602 Tinker Ave
Honolulu, HI 96818

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

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

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

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Thank you for the opportunity to offer these comments.

Shantelle Alcaide

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

Evelyn C. Lane Vice President of the ASSO
Kahuku Senior Citizens Community Association
56-154 Puuluana Place #10, Kahuku, Hawaii 96731

February 7, 2014

Director,
Hawaii Housing Finance and Development Corporation
677 Queen Street, Suite 300
Honolulu, Hawaii 96813

Sir/Madam:

Kahuku Elderly Hauoli Hale is scheduled for an inspection by Spectrum Enterprises who you have hired to conduct the annual audit as a tax credit property.

As a HUD "Resident Rights" Association President and a member of the National Alliance of HUD Tenants I take this opportunity to bring to your attention an number of "irregularities" on the property which we believe need to be corrected to meet HUD standards and create a better place to live for the elderly and disabled.

For your convenience we have included areas where there has been a failure to complete regulation standards for tenant security, health or well-being; or requirements of other governmental regulation pertaining to seniors and the disabled (many resulting from or oversights of the reconstruction undertaken June-November 2012).

We ask that you include this material in your audit and take action to have the problem areas corrected. We would be happy to work with you in providing available additional information.

DISCREPANCIES

Living Units

--Privacy: The hedges behind bathroom and bedroom (which, literally, were torn out by the roots upon direction of the owners' representative and were later promised to be restored) have not materialized (more than a year). Residents now have lost their privacy and protection.

--Health Issues-- Heat: * Back screen doors & ceiling fans in bedroom (these were committed to at the 8/5/2012 meeting (the only pre-construction meeting) by the owners' representative. Without them there is insufficient cross breeze (Trade Winds through the unit) to maintain liveable temperature within residential units (temperatures reach nearly 100 degrees in units in some instances without this circulation).

--Safety: *Back screen doors also required to prevent infestation by disease carrying crawling and flying insects, intrusion of chickens, feral cats and dogs, debris, dust and pollen. Owner stalled by claims they could not fit existing construction and then not meet building code (both proved false by us) and then set up unattainable qualification requirements for tenants to install their own screen doors.

*-- Absence of safety handrails for tub users.

- *--residents asked for showers, owners representative agreed, renovation replaced old bathroom tubs with new tub units which is hazardous for elderly/disabled.
- *--laundry washer/driers and tubs on back porch removed (without notice or consideration) as part of renovations making clothes washing for elderly with mobility issues and the disabled (and especially incontinent) very difficult or impossible.
- *--venetian blind operating mechanism are rusting out-almost impossible for residents with arthritic hands to operate; no replacements, only words.
- *--toilets too low to accommodate elderly/disabled
- *--end of granite counters in kitchen unfinished (about 3 inch overhang)
- *--on/off switch over sink unreachable for many, too high
- *--kitchen top of window cannot be opened to relieve cooking heat
- *--back porch outlet behind rear entry door
- *--back hall and bathroom lights on same single switch in bedroom
- *--roof gutters (some) allow runoff to cascade down building side
- *--no "peep" holes in back doors
- *-- three (3) important closets removed (leaving clothes and linen only, nothing for mops, brooms, etc.)

Common Areas

--Security: Large gaps in perimeter hedges; No provision for resident entries through perimeter hedges, (convenience and fire escapes)

--Hedges growth out of control;—no trimming in more than half the perimeter (north and east sides) hedges since 2012 purchase.

--Guards on duty night about 8 hours 5 days per week, none during daylight hours,

--Property Manager lives off-property and has irregular hours;

--Neighborhood Watch gone

Other similar properties have guards 24/7 or other full-time security arrangements

--Recent Capital improvements: solar electric on roof of Community Center (none on resident units) cutting management electric operating expenses; new laundry machines (due in early February 2014) with increase in per load cost to residents (in last nine year washing machine charges per load from \$.50 to \$1.25, dryer from \$.50 to \$1.00), no considerations of reduced electrical expenses due to solar installation.

*--street lights are glaring; need muting by color or intensity.

*--the generator from original owners has disappeared.

*--shade trees and bushes for heat control and landscaping do not exist (ripped out on instructions of owner representative) only plumeria and some palms remain, and owners have shown no plans for replanting in spite of health (primarily heat) and aesthetic considerations and as required under land lease agreement.

--multiple dangerous cracks in cement walkways-tripping hazards.

--multiple cracks in roads inviting deterioration

--Berms on east and south sides not maintained since property purchase; gone to weeds and trash, breeding grounds for vermin

--Common Areas, lawn weed invasion-no effort to remove in more than 2 years
Health issues-- About half of roadways have no curbs or sidewalks, problems in walking, particularly for those with canes, walkers, wheel chairs, scooters).

--Lawns have many holes and depressions which have had no leveling or hole correction since 2012 property purchase, many left from bush uprooting, and are tripping and falling hazards

--Extensive (black), mold on concrete pathways and entry ways ?elsewhere?

--About half of ramps necessary for disabled movement (walkers, wheel chairs, electric scooters, etc.) do not exist.

Resident Relations: *Reconstruction done in 2012 by new owner without consideration of Resident input. A few general presentations "for show" with residents since.

Very truly yours

Douglas H. Worrall
President

cc: Secretary, Department of Housing & Urban Development
Mayor, City & County of Honolulu
Spectrum Enterprises
EAH, Property Manager, Kahuku Elderly Hauoli Hale

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

Testimony of Ryan Harada
Downtown Capital LLC

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

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

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

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

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

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

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

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

Hawai'i Construction Alliance

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

February 7, 2014

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

RE: Opposition to HB1860.

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

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

The four unions of the Hawai'i Construction Alliance have been strong advocates for the development of a vibrant, mixed-use community in Kaka'ako. Over the next several years, Kaka'ako will grow to include housing that local residents can afford, support good-paying jobs, and host amenities for the general public to enjoy. Hundreds of our members are currently at work on projects within the Kaka'ako area, and we are proud to be a part of the transformation of Kaka'ako into a place where people can live, work, play, and raise families.

HB1860 seeks to amend HCDA public notice requirements and requirements for project approval and create an administrative appeal process with available judicial review for HCDA decisions or actions.

In order for Kaka'ako to proceed with responsible growth, stakeholders must feel confident in the public hearing process, a goal which we philosophically support. We note that the bill calls for the posting of HCDA's plans for development onto its website and for the mailing of public hearing notices to interested parties including area legislators. Many of these provisions mirror existing agency practice.

We are extremely concerned with several of the other onerous provisions contained within HB1860, as they may make it very difficult, if not impossible, to proceed with the goal of transforming Kaka‘ako into a place where the next generation of local residents can live, work, play, and raise families.

For example, the provisions calling for contested case hearings for any person “adversely affected” (a term for which no definition is provided) and for the legislature to approve amendments to area plans by two-thirds vote introduce arbitrary legislative and judicial roadblocks to the process of creating a vibrant community in Kaka‘ako. Furthermore, the provisions limiting maximum floor area ratio may slow the delivery of affordable workforce housing, as height and floor area are a factor that contribute to cost per housing unit.

We are also concerned about the provision which permanently restricts building height to 400’, as many of the already-permitted buildings include 18’ of necessary mechanical apparatuses on their rooftops. A sudden change in height regulations may lead to uncertainty on whether these current projects are allowed to proceed. Furthermore, in the future, taller buildings may be found necessary or desirable by urban planners and other stakeholders, considering that we do live on an island with limited space.

Finally, we are concerned with the provision of the bill which calls for comprehensive studies of and plans for infrastructure capacity and other requirements. Duplicative studies that do not add substantial information to the decision-making process may delay needed projects. Furthermore, the requirement that developers pay for infrastructure improvements from which multiple parties will benefit seems unfair and may drive up costs.

Thank you for the opportunity to provide these comments in opposition to HB1860.

Mahalo,

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

Tyler Dos Santos-Tam
Executive Director
Hawai‘i Construction Alliance
execdir@hawaiiconstructionalliance.org

lowen2-Lanaly

From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 07, 2014 8:47 PM
To: waltestimony
Cc: daigoro@hawaii.rr.com
Subject: Submitted testimony for HB1860 on Feb 8, 2014 08:30AM

HB1860

Submitted on: 2/7/2014

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

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

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

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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LABORERS' INTERNATIONAL UNION OF NORTH AMERICA LOCAL 368



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

ALFONSO OLIVER
President

JOBY NORTH II
Vice President

TONI FIGUEROA
Recording Secretary

THOMAS CATHCART
Executive Board

JAMES DRUMGOLD JR.
Executive Board

LEIMOMI JOHNSON
Executive Board

MARK MAGUSARA
Auditor

MARK TRAVALINO
Auditor

JOSEPH YAW
Auditor

LEUMA L. LEATUMAUGA
Sergeant-At-Arms

February 7, 2014

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

Re: HB1860 Relating to Hawaii Community Development Authority

Dear Chair Evans and members of the Committee:

The Hawaii Laborers' Union opposes bill HB 1860 which establishes a contested case hearing process; requires the prior approval of 2/3 of the Legislature by concurrent resolution and requires new community engagement and public notices.

The HCDA has been successful in guiding the development of 4,331 market and 1,059 reserved housing units since 1984. These were built by private developers at their cost. Today, there are 1,828 market and 2,158 low/moderate units under construction or have been permitted by the HCDA. In the same time frame, the State of Hawaii only constructed 985 low/moderate income qualified units and 93 for-sale units.

It is obvious therefore, that the private sector with guidance from the HCDA is able to provide needed housing in Kakaako. HB1860 will essentially curtail the HCDA operations to the detriment of the progress it has made in providing housing. We defer to HCDA to respond to the community engagement and public notices.

Sincerely,

Al Lardizabal
Government Relations

lowen2-Lanaly

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, February 08, 2014 1:26 AM
To: waltestimony
Cc: michelematsuo@yahoo.com
Subject: Submitted testimony for HB1860 on Feb 8, 2014 08:30AM

HB1860

Submitted on: 2/8/2014

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

Submitted By	Organization	Testifier Position	Present at Hearing
michele matsuo	Individual	Support	No

Comments: I generally support hb 1860, however, think that the FAR should be no more than a maximum of 1.5, and that there should be a minimum of 300 feet between buildings 100 feet or taller. All buyers of condos approved by HCDA but not yet given their certificate of occupancy, and any company providing financing for such condos, should be given and be required to sign off on a mandatory copy of SOEST-developed and NOAA maps showing the likely flooding projected in this century, for the Kakaako and Downtown areas prior to purchase. That sign off should include language that the buyer and the company providing the financing understands that the unit purchased is likely located in a flood plain and/or flood prone area, and indemnifies and holds harmless the government for insufficient ingress and egress to the condo building, prior to the sale of the condominium becoming binding and prior to the developer having access to any funds from the sale or financing of such improvements.

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

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lowen2-Lanaly

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

HB1864

Submitted on: 2/8/2014

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

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

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

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

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lowen2-Lanaly

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, February 08, 2014 4:40 AM
To: waltestimony
Cc: 1mu630@gmail.com
Subject: Submitted testimony for HB1860 on Feb 8, 2014 08:30AM

HB1860

Submitted on: 2/8/2014

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

Submitted By	Organization	Testifier Position	Present at Hearing
Ricky Tamashiro	Individual	Oppose	No

Comments: we the Hawaii Masons Union Strongly OPPOSE this bill HB1860

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

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

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

Re: Opposition of HB1860, Relating to the Hawaii Community Development Authority

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

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

Local 675 opposes HB1860, which amends the HCDA public notice requirements for project approval. Creates an administrative appeal process with available judicial review for HCDA decisions or actions.

We believe that the legislature provided certain autonomy to the HCDA to operate as an instrumentality of the state without requiring continued legislative appropriations. To plan and develop mixed-use communities with a balance of diversified housing markets, commercial, light industrial, and along with civic uses.

For the Construction Trades the future is looking brighter with projects in Kakaako coming on line.

Local 675 opposes HB1860 as burdensome and unnecessary.

Thank you for this opportunity to testify.

Mahalo,

Glenn Ida
808-295-1280



HAWAII LABORERS-EMPLOYERS COOPERATION AND EDUCATION TRUST

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

TESTIMONY OF HAWAII LECET CLYDE T. HAYASHI - DIRECTOR

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

COMMITTEE ON WATER & LAND

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

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

NOTICE OF HEARING

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

TESTIMONY ON HOUSE BILL NO. 1860, RELATING TO THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY.

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

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

Mahalo for the opportunity to testify in **opposition** to House Bill No. 1860. The two sections which are especially troubling are the establishment of a contested case proceeding process for any person who is "adversely affected" and the requirement that no amendment to the Kakaako community development plan and rules shall take effect without prior approval of the legislature by concurrent resolution of 2/3 majority of each chamber. Both could potentially result in the process coming to a complete standstill.

The HCDA was created as a corporate instrumentality of the State of Hawaii. It was intended to combine the best of business and government such that a new community could be established by blending government and private development money. Given the proposed energy and dollars being invested by area developers, it would appear that this exercise in the semi-autonomous HCDA is working. Introduction of legislative oversight to what is already a public development process is a step backwards.

Mahalo for the opportunity to testify in **opposition** to House Bill No. 1860.

I support HB 1860 because...

1. If a person is adversely affected by a decision made by HCDA, he/she should be allowed to request a hearing to contest the decision.
2. HCDA should be more transparent and responsive to community concerns.
3. HCDA should be made more accountable with more oversight by legislators. It should not be allowed to change building rules without legislative authorization.
4. Developers of condos should be required to perform impact studies to evaluate sewers, roads, utilities including water and electricity, schools, parks, and other infrastructure requirements needed for the additional number of residents.
5. Buildings in Kakaako should have stricter limits on height and density, similar to the City & County of Honolulu standards to keep the beauty of public vistas of the last remaining shoreline of urban Honolulu.



Testimony before the
House Committee on Water and Land

IN SUPPORT OF EIGHT HOUSE BILLS TO IMPROVE HCDA

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

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

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

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

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

HB1860
HB1861
HB1862
HB1863
HB1864
HB1865
HB1866
HB 1867

Improve Transparency and Accountability

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

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

1314 S. King Street #306 • Honolulu, Hawai'i 96814
Phone: 808-593-0300 • Fax: 808-593-0525 • Email: mail@outdoorcircle.org • www.outdoorcircle.org

robotically approve projects. Never through 2 HCDA executive directors has the HCDA mitigated issues for the public or appeared to be genuinely concerned. The Board shrugs off very real concerns about adequate open space, where the parks will be, and the need to solve to the sewer odors that plague the area.

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

Uphold minimum building standards, green space and affordable housing

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

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

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

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

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

Balance HCDA Board

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

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

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

Empower Citizen Litigation

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

Zero Base Budgeting

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

One-year Moratorium

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

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

lowen2-Lanaly

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

HB1864

Submitted on: 2/8/2014

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

Submitted By	Organization	Testifier Position	Present at Hearing
Rachelle Nobriga	Individual	Support	No

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

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lowen2-Lanaly

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



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

February 8, 2014 @8:30 am

Conference room 325, State Capitol

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

Aloha,

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

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

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

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

Mahalo for this opportunity to testify and share our manao.

Ron Iwami
President, Friends of Kewalos

lowen2-Lanaly

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

Part II of II

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

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

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

From: GlennShiroma@hawaiiantel.net

To: House Water & Land Committee Testimony <WALTestimony@capitol.hawaii.gov>

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

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

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

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

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

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

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

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

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

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

Thank you for this opportunity to testify.

Glenn Shiroma

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

Subject:Hearing Notice HEARING_WAL_02-08-14_ - HI State Legislature

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

From:<mailinglist@capitol.hawaii.gov>

To:<mailinglist@capitol.hawaii.gov>

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

You may view the hearing notice here:

http://www.capitol.hawaii.gov/session2014/hearingnotices/HEARING_WAL_02-08-14_.HTM

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

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

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

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

CARL M. VARADY

ATTORNEY AT LAW

Pauahi Tower
1003 Bishop Street, Suite 1730
Honolulu, Hawai'i 96813
Telephone 808.523.8447
Facsimile 808.523.8448
e-mail: carl@varadylaw.com

February 7, 2014

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

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

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

Chair Evans and members of the committee:

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

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

HCDA is Insulated from Voters and State and Local Regulation

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

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

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

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

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

HCDA is Insulated and Raises Constitutional Concerns

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

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

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

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

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

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

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

Specific Criticisms of the 801 South Street Permit for Tower B

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

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

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

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

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

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

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

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

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

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

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

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January 2, 2014

HAND DELIVERED

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

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

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

Dear Director Ching and Members of the Authority:

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

LEGAL AUTHORITY

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

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

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

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

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

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

PETITIONERS' INTEREST

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

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

STANDARDS OF REVIEW

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

PETITIONERS' OPPOSITION--LEGAL AND FACTUAL BASES

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Range of Height: 100 feet - 250 feet.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- i. HAR § 15-217-58(d)(7): Driveway Rules: Requires that “[f]or large lots² that abut other parcels not subject to a permit application, an alley of at least twenty-six feet in width must be provided at the edge of the lot that is adjacent to the other parcels to ensure access by vehicles and access to light and air of the

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

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

Mauka Area Rules provide:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Petitioners' Position: Because of the lack of adherence to the Mauka Area Rules and Plan, and the impacts of these deviations, Petitioners believe the development permit does not satisfy any of the above listed requirements:

- It does not comply with nor advance the goals, policies and objectives of the Mauka Area Rules as shown in the discussions above.
 - It does not comply with nor advance the goals, policies and objectives of the Mauka Area Plan as shown in the discussions above.
 - The development plan, as proposed, does not create a pedestrian-friendly neighborhood and actually intends to create a pedestrian hazard on Kapiolani Boulevard and therefore does not protect, preserve or enhance the neighborhood characteristics as set forth in the Mauka Area Rules. Although the packet specifically describes six modifications, in reality numerous additional Mauka Area Rules would require modification in order to support this development.
 - As proposed, the design of Tower B and its parking garage seem to provide a substantial adverse effect on neighboring properties and residents and will isolate Kaka'ako visually and physically from the Honolulu Civic Center.
- p. The Mauka Area Plan FEIS and FSEIS are outdated and do not properly contemplate the impact of the proposed project.

Petitioners' Position: Before the Phase II begins, the existing FEIS and FSEIS must be updated and amended to reflect changes in circumstances since their adoption. *Unite Here! Local 5 v. City & County of Honolulu*, 123 Haw. 150, 231 P.3d 423 (Haw. 2010); and/or acted in excess of its statutory authority.

RELIEF REQUESTED

Petitioners respectfully request that:

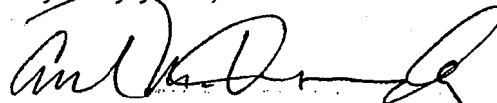
1. The HCDA rescind approval of the Development Permit for Phase II of the Downtown Capital LLC 801 South Street Project Planned Development Permit Number KAK 13-057.
2. HCDA conduct and complete another supplement Environmental Impact Statement that addresses, evaluates and mitigates all the changes that have been granted to ensure there is adequate sewer, public parks, public schools, health care facilities and road infrastructure.

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

4. Either: (1) Grant the request for a public contested case hearing pursuant to HAR § 15-219-46 for a determination of the issues that can properly be determined by the HCDA; or (2) deny the request for contested case hearing pursuant to HAR § 15-219-46; and, (3) regardless of whether granting or denying the request, state, with particularity, whether HCDA asserts that any of the issues raised herein are not ripe for adjudication under standards established in *Office of Hawaiian Affairs v. Hous. and Cmty. Dev. Corp. of Hawai'i*, 121 Hawai'i 324, 336, 219 P.3d 1111, 1123 (2009); *Pele Defense Fund v. Puna Geothermal Venture*, 8 Haw. App. 203, 204, 797 P.2d 69, 71-72 (1990); *Leone v. County of Maui*, 128 Hawai'i 183, 284 P.3d 956 (2012).

Petitioners request the HCDA schedule this matter for a contested case hearing as soon as practicable.

Very truly yours,



Carl M. Varady
Attorney for Petitioners

c: William Aila, Jr., State Historic Preservation Officer
Hon. Carol Fukunaga
George I. Atta, FAICP, LEED AP, CEI, Director, Planning and Permitting
Michael D. Formby, Director, Transportation Services

EXHIBIT 1: Royal Capitol Plaza AOA – Petition

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NEIL ABERCROMBIE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

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WILLIAM M. TAM
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AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

October 9, 2013

Ryan Harada
Downtown Capital LLC
215 N. King Street, Ste 1000
Honolulu, HI 96817

Log No. 2013.5697
Doc No. 1310PA01

Dear Mr. Harada:

RE: 801 South Street, Building B project and the former Honolulu Advertiser Building (News Building)
Honolulu, Kona Moku, Island of O'ahu
TMK: (1) 2-1-047:004 (por)

We are in receipt of your September 19, 2013 letter to Mr. Anthony Ching, the Executive Director of the Hawaii Community Development Authority (HCDA). Thank you for copying the letter to us. We wanted to take the opportunity to clarify some items of your letter.

You state that applicable federal and Hawaii laws allow for the demolition of the entire News Building. While this is true, the intent of 6E also states:

The legislature declares that the historic and cultural heritage of the State is among its important assets and that the rapid social and economic developments of contemporary society threaten to destroy the remaining vestiges of this heritage.

While SHPD understands your intent to create workforce housing, and acknowledges the importance of workforce housing in our state, we do not believe that our choices should be either workforce housing or historic preservation. With proper planning, the people of our state, no matter their income, should be able to afford and benefit from both, as the legislature intended.

It is for this purpose that HRS 6-E and its associated Administrative Rules were created. HRS §6E-42 requires that SHPD be allowed to comment on any project affecting a historic property. HRS §6E-2 defines a historic property as "any building, structure, object, district, area or site, including heiau and underwater site, which is over fifty years old." SHPD's comments, as defined in HAR 13-284 are in the form of a historic preservation review process which consists of the following steps:

1. Identification and Inventory

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

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

2. Evaluation and Significance

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

Significance evaluations for potential archaeological historic properties will be completed as part of the archaeological inventory survey process.

3. Effect determination

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

4. Mitigation commitments –these remain to be negotiated.

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

5. Detailed mitigation plans—these are developed after mitigation commitments are agreed to.

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

We note on page 2 of your letter that you request "that HCDA approve the plan for the News Building described in the Permit Application and coordinate with SHPD to confirm that although the Project will have an effect, the mitigation provided in this letter and the Permit Application is adequate and nothing further is required by SHPD. As stated
Exh. 1.25 to Testimony of Carl M. Varady

above, additional information is required by SHPD regarding details of the proposed mitigation. HCDA needs to take SHPDs comments and request for information into account before it can approve the Project.

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

We look forward to working with you to complete the historic preservation review and ensuring that Hawaii retains its important historic and cultural heritage.

Sincerely,



William Aila, Jr
State Historic Preservation Officer

cc: Anthony Ching, Executive Director, HCDA
Nicki Thompson, Acting Administrator, SHPD
Angie Westfall, SHPD
Susan Lebo, SHPD

