

The Howard Hughes Corporation  
1240 Ala Moana Boulevard  
Suite 200  
Honolulu, Hawaii 96814

April 2, 2014

Honorable David Ige, Chair  
Honorable Michelle Kidani, Vice Chair  
Senate Committee on Ways and Means



**RE: HB 1866 HD2 SD1 – Relating to the Hawaii Community Development Authority**  
**Hawaii State Capitol, Rm. 211; 9:20 AM**

Aloha Chair Ige, Vice Chair Kidani and Members of the Committee,

The Howard Hughes Corporation, and its wholly-owned subsidiary Victoria Ward Limited (“VWL”), appreciate the opportunity to comment on HB 1866 HD2 SD1.

Under the current law, contested case proceedings are available when properly requested. Therefore, language in the bill regarding contested case proceedings may not be necessary, especially in light of the changes to procedures that Hawaii Community Development Authority has recently implemented.

We appreciate the language in the bill recognizing vested development rights under approved master plans and development agreements. VWL invested significant time and resources in developing a master plan for the 60 contiguous acres in Kakaako under its ownership, and in implementing various development projects under that master plan. We ask the Committee to retain this language, as this bill moves forward.

We understand the community’s concerns and support community engagement. We believe there are existing procedural processes that ensure community participation and input.

Thank you for the opportunity to provide comments.

David Striph  
Senior Vice President - Hawaii

*Howard Hughes*

Testimony of  
Sharon Y. Moriwaki  
Before the  
Senate Committee on Ways & Means  
Wednesday, April 2, 2014, 9:20 a.m., Conference Room 208

**In Strong Support of HB 1866, SD1, Proposed SD2,  
Relating to the Hawaii Community Development Authority**

To: Chair David Ige, Vice Chair Michelle Kidani, and Members

My name is Sharon Moriwaki. I am a resident of Kaka'ako and president of Kaka'ako Ūnited, an organization of citizens concerned about Kaka'ako's future. We have seen the problems created by a state agency that has been given broad discretion without proper legislative oversight. HB1866 provides the oversight required to ensure that the Hawaii Community Development Authority ("authority") follows the law and legislative intent. While HB1866, SD1, addresses some of our concerns such as public hearings and notification of affected community residents within 300 feet of proposed development projects, prohibition of any building over 418 feet in height, and cash in lieu provisions to enable HCDA to keep "reserved housing" in the affordable housing pool (and prevent the current practice of "flipping"), it does not provide for the community recommendations in previous versions of the bill, and we urge this committee to address the following as provided in HB1866 SD1, Proposed SD2, which:

- ✓ Inserts language to clarify that all persons aggrieved by the authority's decisions have a right to an administrative appeal and to be heard by an independent hearings officer (Section 206E-C);
- ✓ Deletes giving master plan holders permanent development rights; they currently have vested rights for 10 years and may extend for 20 years and there is a savings clause in SD1 (Sec 206E-7b)
- ✓ Broadens the authority's current composition to make it more representative by expanding the sources of nominees, including the legislature, county, cultural specialist, small business, and affected communities being served (Sec 206E-3);
- ✓ Requires prior legislative approval for any amendment to the Kaka'ako mauka and makai area plans and rules (sec 206E-5);
- ✓ Requires any building 100 feet or higher to be oriented on a mauka-makai axis (Sec 206E-33(4)); and
- ✓ Requires HCDA to conduct a comprehensive study of and develop plans to address the infrastructure capacity before approving development projects, and assess impact fees for needed improvements as required (Sec 206E-33(10)).

We ask your support of HB 1866 SD1, with the amendments above.

Thank you for the opportunity to testify.

# Hawai'i Construction Alliance



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

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April 1, 2014

The Honorable David Y. Ige, Chair  
The Honorable Michelle N. Kidani, Vice Chair  
and members  
Committee on Ways and Means  
Hawai'i State Senate  
415 South Beretania Street  
Honolulu, Hawai'i 96813

## **RE: Comments on HB1866 HD2 SD1**

Dear Chair Ige, Vice Chair Kidani, 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 the next generation can live, work, play, and raise families.

**Section 1** of the bill would require HCDA to adopt rules to provide for intervention in development permit applications, including procedures for contested case hearings. In order to serve the public interest, any rules for intervention and contested case hearings ought to be clear, consistent, fair, and predictable. We urge the legislature and HCDA to work with the Attorney General and other stakeholders to develop a process which allows all parties to be heard while minimizing unnecessary delays and legal uncertainties.

**Sections 1, 4, and 5** of the bill contain several provisions intended to expand public participation and public notice, such as a requirement to hold a separate hearing on variances, exemptions, or modifications, and specifications on how and where hearing notices must be distributed to the public. In order for Kaka'ako to continue growing responsibly, stakeholders must feel confident in the public hearing process. We support these provisions insofar as they may lead to more positive, productive discussions on how the area should be developed.

**Sections 2, 3, and 10** of the bill deal with reserved housing, specifically whether HCDA is allowed to buy or sell reserved housing, and whether developers are allowed to provide in-lieu payments for reserved housing. We have been strong advocates for the creation of affordable and workforce housing, and urge the legislature to establish policies which lead to the development of such housing in the urban core.

We support **Section 6** of the bill, which recognizes that development rights under a master plan permit and master plan development agreement issued and approved by the agency are vested under the rules in effect at the time of initial approval. We urge the committee to retain this provision as the bill moves forward.

We are opposed to **Section 8** of the bill, which proposes to cap the revolving fund of the agency at \$3,641,818 per fiscal year. Currently, HCDA does not receive any operating or development funds from the legislature. This arbitrary cap would constrain HCDA's ability to conduct its important day-to-day business and to carry out its long term plans, which include review of permits and development of master plans for the areas under its jurisdiction.

We remain concerned with the provision in **Section 11** that proposes to limit any building or structure in Kaka'ako to 418 feet in height. 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. Recognizing our growing population, we request that the legislature to consider a sunset provision on such a height limit or otherwise commit to revisit this provision at a later date.

Mahalo for the opportunity to provide these comments on HB1866 HD2 SD1.

Sincerely,

A handwritten signature in black ink, reading "Tyler Dos Santos-Tam". The signature is fluid and cursive, with the first name "Tyler" being the most prominent.

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





# KO`OLAUPOKO HAWAIIAN CIVIC CLUB

April 1, 2014

TO: SEN. DAVID IGE, Chair/ And Members  
Ways and Means Committee

FROM: ALICE P. HEWETT, President  
Ko`olaupoko Hawaiian Civic Club

RE: H.B. 1866, H.D.2, S.D. 1 - Relating to the  
Hawaii Community Development Authority

Aloha, Senator Ige and Members of the Committee:

The Ko`olaupoko Hawaiian Civic Club offers the following mana`o on H.B. 1866, H.D.2, S.D. 1:

- 1) We commend the Senate Committees on Economic Development, Government Operations and Housing for the improvements they made to this bill since its original introduction.
- 2) We strongly urge your committee to preserve the Authority's two community boards at Kalaeloa and He`eia. Our civic club, along with many others in our community, have worked long and hard to advocate for the restoration of 400 acres of farmlands at the He`eia wetlands (which we know as "Hoi"). This land is currently the kuleana of HCDA. There are three seats on the authority representing our community, and we ask that you keep these community seats in place.
- 3) We also urge your committee to retain the budget for the HCDA, as advised by the earlier committee. Our community is concerned that some of the funding for our farmland restoration project, contained in the HCDA budget, would be lost if the agency's budget were eliminated..

For these reasons, we ask that your committee either file this bill or make the accommodations we have requested: retain the existing board, particularly the community seats of He`eia and Kalaeloa; and retain the HCDA's budgetary authority.

Mahalo for this opportunity to share our mana`o.

*The Ko`olaupoko Hawaiian Civic Club was established in 1937 and is a not-for-profit community organization dedicated to preserving and perpetuating the history, heritage and culture of Native Hawaiians. Its membership is open to people of Hawaiian ancestry and those who are "Hawaiian at heart".*



To: Senate Committee on Ways and Means, Chair: Sen. Ige, Vice-Chair: Sen. Kidani

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

Testimony in **SUPPORT** with amendments

Chair Ige, Vice-Chair Kidani and members of the committee:

I have lived in Kaka'ako for the past 7 years and I am testifying in **support** of the measure, with suggested amendments. I appreciate very much the work of the previous committee on this measure and think it is extremely important that this measure proceed to a meaningful conference committee. The House and the Senate need to agree to a bill clearly reforming how HCDA conducts its business, so that Kakaako mauka can be developed, but in a way that results in a livable, multi-faceted, and practical community.

With respect to the **composition of the board**, I favor stronger language that will allow a community representative. Current members of the board who represent Kaka'ako all have ties to development and big business and do not represent the voice of the residents. The HD2 of this measure that passed over to the Senate, as well as the current HRS 206E-3, is far too weighted in favor of the governor's office and its appointees. As it stands now, the SD1 makes no changes to the HD2 nor to current HRS 206E-3, so if the Senate wishes for this important topic to be included in conference committee, WAM needs to make a substantive proposal concerning composition of the HCDA "board."

With regards to **vested rights**, please take a look at the language that came over from the House in HD2 on page 12, lines 12-17, which purports to legally vest all development rights, apparently **in perpetuity**. I strongly urge the committee to obtain prior concurrence from the chair of EGH and delete this language from SD1, which is an unprecedented statutory attempt to permanently create a cause of legal action in developers against the state in the event that HCDA district rules must be modified at some point in the future. HB1866 HD2 SD1 already contains a standard "savings clause" on page 27, lines 4-6, the state is currently well protected from potential developer lawsuits with respect to specific individual projects that have already been permitted. The language on page 12, lines 12 - 17, therefore, is unnecessary.

Finally, I would still like to see language regarding a **comprehensive studies of and plans for the infrastructure capacity of sewers, roads, utilities, schools, and parks** to ensure that adequate capacity exists for the 20,000 to 30,000 residents who will live in the proposed 30 condo towers. As a resident who lives in Kaka'ako, I am very afraid of the repercussions to my neighborhood if the current infrastructure challenges are not addressed **prior** to development being approved. It only make sense to ensure that you have a solid foundation on which to build before adding this many people to my neighborhood.

Thank you for your consideration of my testimony, and for moving this measure forward to conference committee.

Sincerely,

Bernard K. Nunies  
Kaka'ako Resident

Senate Committee on Ways and Means  
Wednesday, April 2, 2014  
9:20 AM Decision Making  
Conference Room 211



House Bill 1866, HD2, SD1  
Testimony in Support with Requested Improvements

Aloha Chair Ige, Vice Chair Kidani and Committee Members:

House Bill 1866 has been comprised of a list of reforms urgently needed for the Hawaii Community Development Authority (HCDA) to function in the public interest as a responsible and accountable public agency. The HCDA, as a quasi-autonomous public agency, has clearly not been serving the public interest, as the ongoing eruptions of public outcry demonstrate. The attached Proposed SD2 is strongly supported, and significant statutory sections are needed to further ensure proper oversight of the Hawaii Community Development Authority:

- 1) **Comprehensive carrying capacity studies and documentation must be required to pre-determine the sufficient capacity of sewers, roads, utilities, schools, and green recreational park open space for the projected redevelopment of Kaka'ako.** This must ensure that sufficient capacity exists not only for the present 12,000 residents, but for the 30,000 to 45,000 residents who will live in the proposed 30 residential towers. The national planning standard for urban recreational open space is 2 to 2 1/2 acres per 1000 capita. **Carrying capacity must be measured by the impacts on Oahu water supply, Honolulu sewage infrastructure, present and future Kaka'ako school needs, and public recreational open space requirements.**
  
- 2) **A review task force of qualified planning professionals independent of the HCDA** should be appointed by the Legislature to evaluate the HCDA's present capabilities and conformance with the public interest for present and future planning and development of Kaka'ako, both Mauka and Makai, and to report back to the Legislature. A development moratorium of at least one year should be imposed on the HCDA to allow the independent task force to accomplish their work and help resolve this public agency's misguided planning decisions and misdirected permitting actions, which often violate their own governing statute and rules. The 801 South Street travesty is one such example, for which community residents have now filed for injunctive relief. **The independent task force should consist of qualified planners, architects, and resource capacity specialists along with true representation of the residents and small businesses within in the community district.**

- 3) As in HB 1866, HD2, because the HCDA is a quasi-autonomous agency **legislative oversight must be ensured** for any proposed changes to established community development district plans and rules by concurrent resolution with majority approval of the Senate and the House.

Further, there is no community representation in the selection process for the HCDA public agency board, nor is there representation on the board on behalf of the directly affected Kaka'ako community *residents*, whose interests, needs and desires this public agency is mandated to serve in the capacity of *meeting the highest needs and aspirations of Hawaii's people*. **The community must have truly representative voices for issues directly affecting both its residents and local small businesses.**

- The Kaka'ako Mauka residential community and Kaka'ako Makai recreational community stakeholders should be represented in the list of those providing names for selection of Hawaii *Community Development Authority* (HCDA) board member nominations.
- He'eia and Kalaeloa community representatives should also be selected from a list provided by their communities.
- Hawaiian cultural and small business representatives should be reliably restored to the HCDA board, with neither position left vacant. They, too, should be selected from a list provided by the Hawaiian and local small business communities within the respective HCDA community districts.
- Multiple counties, and mayors of same, are referenced in this statute and the subject measure. Yet HCDA operates on only one island, comprised of one county. Surely the Legislature is not proposing to compound the controversies cloaking the HCDA by expanding this problematic agency to other islands!

***Justification:*** *This provides balanced community representation specific to the community districts affected by the HCDA by including the absent residential community component in both selection of candidates for the HCDA board, and representation on the HCDA board. While each of the three communities within HCDA public agency jurisdiction are represented on this list, it should be noted that Kaka'ako, Kalaeloa and He'eia each have their own agendas and separate voting structure during HCDA board meetings.*

In addition, the public must retain the right to due process through **contested case hearings and judicial review** in accordance with Chapter 91, HRS. HCDA's rules must comprehensively include contested case procedure. Conversely, the HCDA has just recently made up a new rule – HCDA is now claiming that the standard public hearing is a

“contested case” even before proposals are fully presented and any determination of grievances can be made, and that the public must file as intervenors prior to a public hearing on any proposal. Thus, HCDA further alienates both the public and the public process.

Section 15 of HB 1866, HD2, stipulates that the HCDA must be made **fiscally accountable** beginning with a zero-based budget. This is strongly supported and should be restored, because it will help ensure HCDA financial accountability in the larger public interest.

Section 17 of HB 1866, HD2 and Section 14 of HB 1866, SD1 read:

This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun-before its effective date.

This section should be amended to read:

This Act does not affect rights and duties that matured, penalties that were incurred, and **legal** proceedings that were begun-before its effective date.

***Justification:*** *In reaction to district Legislators’ expressed concerns and in anticipation of the Legislature’s scrutiny this session, the HCDA has fast-tracked 11 high-density development projects in less than a year, and such proceedings continue. The Legislature should not allow mere “proceedings”, including public hearings and the HCDA’s contrived “exclusive negotiations,” to be irrevocable prior to the effective date of this measure and the necessary confirmation of project eligibility.*

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

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# A BILL FOR AN ACT

RELATING TO THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY.

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

1           SECTION 1. Chapter 206E, Hawaii Revised Statutes, is  
2 amended by adding three new sections to part I to be  
3 appropriately designated and to read as follows:

4           "**§206E-A Assignment of powers and duties prohibited.**

5 Notwithstanding anything contained in this chapter to the  
6 contrary, the authority shall not assign to any person or  
7 agency, including the executive director of the authority, any  
8 of its powers and duties related to the approval of any  
9 variance, exemption, or modification of any provision of a  
10 community development plan or community development rules.

11           **§206E-B Public hearing on variances, exemptions, or**  
12 **modifications; separate hearing required.** (a) When considering  
13 any developer's proposal to develop lands under the authority's  
14 control that includes any request for a variance, exemption, or  
15 modification of a community development plan or of the  
16 authority's community development rules, the authority shall  
17 hear the request for variance, exemption, or modification at a  
18 public hearing separate from and subsequent to the hearing at





1 which the developer's proposal was presented; provided that the  
2 authority may hear all requests applicable to a single proposal  
3 at the same separate public hearing.

4 (b) The authority shall issue a public notice for the  
5 public hearing in accordance with section 1-28.5 and post the  
6 notice on its website; provided that the public hearing shall  
7 not occur earlier than five business days after the notice is  
8 posted.

9 (c) The authority shall notify the president of the senate  
10 and speaker of the house of representatives of any public  
11 hearing subject to this section upon posting of the public  
12 notice.

13 (d) The authority's decision on requests subject to this  
14 section shall be rendered at the public hearing held pursuant to  
15 section 206E-5.6 rendering a decision regarding the developer's  
16 proposal.

17 **§206E-C Contested case hearing; judicial review.** (a) Any  
18 person adversely affected by the authority's final decision may  
19 petition the authority for a contested case hearing within  
20 thirty days of the effective date of the authority's final  
21 decision.



1        (b) Contested case hearings shall comply with chapter 91  
2 and shall be conducted by a hearings officer independent of the  
3 authority.

4        (c) The final decision shall be rendered within sixty days  
5 of the filing of the contested case hearing petition.

6        (d) Any contested case may be appealed upon the record to  
7 the intermediate court of appeals."

8        SECTION 2. Section 171-64.7, Hawaii Revised Statutes, is  
9 amended by amending subsection (b) to read as follows:

10        "(b) Notwithstanding any law to the contrary, no sale of  
11 lands described in subsection (a) in fee simple including land  
12 sold for roads and streets, or gift of lands described in  
13 subsection (a) in fee simple to the extent such gift is  
14 otherwise permitted by law, shall occur without the prior  
15 approval of the sale or gift by the legislature by concurrent  
16 resolution to be adopted by each house by at least a two-thirds  
17 majority vote of the members to which each house is entitled in  
18 a regular or special session at which a concurrent resolution is  
19 submitted for approval of the sale; provided that the provisions  
20 of this section shall not apply to remnants, as that term is  
21 defined in section 171-52, or portions thereof; provided further  
22 that this section shall not apply to the issuance of licenses,





1 permits, easements, and leases executed in conformance with the  
2 laws applicable to the lands listed in subsection (a); provided  
3 further that this section shall not apply to non-ceded lands  
4 conveyed to the University of Hawaii after December 31, 1989 to  
5 which the University of Hawaii holds title[-]; provided further  
6 that this section shall not apply to reserved housing, as that  
7 term is defined in section 206E-101, conveyed by the Hawaii  
8 community development authority."

9 SECTION 3. Section 206E-3, Hawaii Revised Statutes, is  
10 amended by amending subsection (b) to read as follows:

11 "(b) The authority shall consist of [~~nine~~] eleven voting  
12 members for each community development district established in  
13 this chapter[-]; provided that the authority shall consist of  
14 twelve voting members for the Kakaako community development  
15 district. The director of finance, the director of business,  
16 economic development, and tourism, the comptroller, and the  
17 director of transportation, or their respective designated  
18 representatives, shall serve as ex officio, voting members of  
19 the authority; provided that, in addition:

20 (1) A cultural expert shall be appointed by the governor  
21 pursuant to section 26-34 as a voting member; provided  
22 that the cultural expert shall be appointed from a



1 list of three nominees submitted by the University of  
2 Hawaii Hawai'inuiākea school of Hawaiian knowledge;

3 (2) One member shall be appointed by the governor pursuant  
4 to section 26-34 as a voting member; provided further  
5 that this paragraph shall not apply to the Kalaeloa  
6 community development district; ~~and~~

7 (3) The chairperson of the Hawaiian homes commission or  
8 the chairperson's designee, shall serve as an ex  
9 officio, voting member for the Kalaeloa community  
10 development district only, shall be considered in  
11 determining quorum and majority only on issues  
12 relating to the Kalaeloa community development  
13 district, and shall vote only on issues relating to  
14 the Kalaeloa community development district[-

15 ~~Three additional members, hereinafter referred to as county~~  
16 ~~members, shall be selected by the governor from a list of ten~~  
17 ~~prospective appointees recommended by the local governing body~~  
18 ~~of the county in which each designated district is situated,~~  
19 ~~provided that when vacancies occur in any of the three positions~~  
20 ~~for which the members were selected from a list of county~~  
21 ~~recommendations, the governor shall fill such vacancies on the~~  
22 ~~basis of one from a list of four recommendations, two from a~~



1 ~~list of seven recommendations, or three from a list of ten~~  
2 ~~recommendations. The list of recommendations shall be made by~~  
3 ~~the local governing body of the county. Of the three members~~  
4 ~~appointed as county members recommended by the local governing~~  
5 ~~body of the county in which each designated district is~~  
6 ~~situated, two members shall represent small businesses and shall~~  
7 ~~be designated as the small business representatives on the board~~  
8 ~~whose purpose, among other things, is to vote on matters before~~  
9 ~~the board that affect small businesses. The small business~~  
10 ~~representatives shall be owners or active managers of a small~~  
11 ~~business with its principal place of operation located within~~  
12 ~~the physical boundaries of each designated district.~~  
13 ~~Notwithstanding section 84 14(a), the small business~~  
14 ~~representatives may vote on any matter concerning any district~~  
15 ~~under the board's jurisdiction other than matters concerning the~~  
16 ~~Heeia community development district; provided that the matter~~  
17 ~~is not limited to solely benefiting the specific interest of~~  
18 ~~that member and the matter concerns broader interests within the~~  
19 ~~district. One of the county members shall be a resident of the~~  
20 ~~designated district; provided that for purposes of this section,~~  
21 ~~the county member who is a resident of the Kalaeloa community~~  
22 ~~development district shall be a resident of the Ewa zone (zone~~





1 ~~9, sections 1 through 2), or the Waianae zone (zone 8, sections~~  
2 ~~1 through 9) of the first tax map key division. The county~~  
3 ~~members shall be considered in determining quorum and majority~~  
4 ~~only on issues not relating to the Heeia community development~~  
5 ~~district and may only vote on issues not related to the Heeia~~  
6 ~~community development district.~~

7 ~~Three additional voting members shall be appointed to the~~  
8 ~~authority by the governor pursuant to section 26-34 to represent~~  
9 ~~the Heeia community development district. These three members~~  
10 ~~shall be considered in determining quorum and majority only on~~  
11 ~~issues relating to the Heeia community development district and~~  
12 ~~may vote only on issues related to the Heeia community~~  
13 ~~development district. The three members shall be residents of~~  
14 ~~the Heeia community development district or the Koolaupoko~~  
15 ~~district which consists of sections 1 through 9 of zone 4 of the~~  
16 ~~first tax map key division.~~

17 ~~If an additional district is designated by the legislature,~~  
18 ~~the governor shall appoint three county members as prescribed~~  
19 ~~above for each additional designated district.];~~

20 (4) Two members shall be appointed by the governor, one  
21 from each of two separate lists of three nominees  
22 submitted by the president of the senate;



- 1       (5) Two members shall be appointed by the governor, one  
2       from each of two separate lists of three nominees  
3       submitted by the speaker of the house of  
4       representatives;
- 5       (6) A community member shall be appointed by the governor  
6       from a list of three nominees submitted by the  
7       community for each community development district and  
8       who shall be considered in determining quorum and  
9       majority only on issues relating to the community  
10       member's respective community district; and
- 11       (7) A small business member shall be appointed by the  
12       governor to represent small businesses and shall be  
13       designated as the small business representative on the  
14       authority for the Kakaako community development  
15       district only whose purpose, among other things, is to  
16       vote on matters before the authority that affect small  
17       businesses; provided that the small business  
18       representative shall be an owner or active manager of  
19       a small business with its principal place of operation  
20       located within the physical boundaries of the Kakaako  
21       community development district.



1       The director of planning of a county that contains a  
2       community development district, or the director's designee,  
3       shall be an ex officio, nonvoting member.

4       In the event of a vacancy, the governor shall appoint a  
5       member to fill the vacancy within thirty days of the vacancy or  
6       within thirty days of the submission of the list of nominees to  
7       the governor, as applicable.

8       If the governor fails to make any appointment within the  
9       thirty-day period specified in this subsection or within ten  
10      days of the senate's rejection of any previous appointment, the  
11      appointment shall be made by the applicable appointing authority  
12      from the list, as applicable, with the advice and consent of the  
13      senate. The same appointment and consent procedure shall be  
14      followed until a valid appointment has been made.

15      The terms of the voting members shall be four years,  
16      commencing on July 1 and expiring on June 30; provided that the  
17      governor may reduce the terms of those initially appointed so as  
18      to provide, as nearly as can be, for the expiration of an equal  
19      number of terms at intervals of one year. The governor may  
20      remove or suspend for cause any member after due notice and  
21      public hearing.





1 Notwithstanding section 92-15, a majority of all members  
2 shall constitute a quorum to do business, and the concurrence of  
3 a majority of all members shall be necessary to make any action  
4 of the authority valid; except as provided in this subsection.  
5 All members shall continue in office until their respective  
6 successors have been appointed and qualified. Except as herein  
7 provided, no member appointed under this subsection shall be an  
8 officer or employee of the State or its political subdivisions.

9 ~~[For purposes of this section, "small business" means a~~  
10 ~~business which is independently owned and which is not dominant~~  
11 ~~in its field of operation.]"~~

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

14 **"§206E-4 Powers; generally.** Except as otherwise limited  
15 by this chapter, the authority may:

- 16 (1) Sue and be sued;
- 17 (2) Have a seal and alter the same at pleasure;
- 18 (3) Make and execute contracts and all other instruments  
19 necessary or convenient for the exercise of its powers  
20 and functions under this chapter;
- 21 (4) Make and alter bylaws for its organization and  
22 internal management;



- 1       (5) Make rules with respect to its projects, operations,  
2           properties, and facilities, which rules shall be in  
3           conformance with chapter 91;
- 4       (6) Through its executive director appoint officers,  
5           agents, and employees, prescribe their duties and  
6           qualifications, and fix their salaries, without regard  
7           to chapter 76;
- 8       (7) Prepare or cause to be prepared a community  
9           development plan for all designated community  
10          development districts;
- 11       (8) Acquire, reacquire, or contract to acquire or  
12          reacquire by grant or purchase real, personal, or  
13          mixed property or any interest therein; to own, hold,  
14          clear, improve, and rehabilitate, and to sell, assign,  
15          exchange, transfer, convey, lease, or otherwise  
16          dispose of or encumber the same;
- 17       (9) Acquire or reacquire by condemnation real, personal,  
18          or mixed property or any interest therein for public  
19          facilities, including but not limited to streets,  
20          sidewalks, parks, schools, and other public  
21          improvements;





- 1       (10) By itself, or in partnership with qualified persons,  
2       acquire, reacquire, construct, reconstruct,  
3       rehabilitate, improve, alter, or repair or provide for  
4       the construction, reconstruction, improvement,  
5       alteration, or repair of any project; own, hold, sell,  
6       assign, transfer, convey, exchange, lease, or  
7       otherwise dispose of or encumber any project, and in  
8       the case of the sale of any project, accept a purchase  
9       money mortgage in connection therewith; and repurchase  
10      or otherwise acquire any project that the authority  
11      has theretofore sold or otherwise conveyed,  
12      transferred, or disposed of;
- 13      (11) Arrange or contract for the planning, replanning,  
14      opening, grading, or closing of streets, roads,  
15      roadways, alleys, or other places, or for the  
16      furnishing of facilities or for the acquisition of  
17      property or property rights or for the furnishing of  
18      property or services in connection with a project;
- 19      (12) Grant options to purchase any project or to renew any  
20      lease entered into by it in connection with any of its  
21      projects, on terms and conditions as it deems  
22      advisable;



- 1       (13) Prepare or cause to be prepared plans, specifications,  
2            designs, and estimates of costs for the construction,  
3            reconstruction, rehabilitation, improvement,  
4            alteration, or repair of any project, and from time to  
5            time to modify the plans, specifications, designs, or  
6            estimates;
- 7       (14) Provide advisory, consultative, training, and  
8            educational services, technical assistance, and advice  
9            to any person, partnership, or corporation, either  
10           public or private, to carry out the purposes of this  
11           chapter, and engage the services of consultants on a  
12           contractual basis for rendering professional and  
13           technical assistance and advice;
- 14       (15) Procure insurance against any loss in connection with  
15            its property and other assets and operations in  
16            amounts and from insurers as it deems desirable;
- 17       (16) Contract for and accept gifts or grants in any form  
18            from any public agency or from any other source;
- 19       (17) Do any and all things necessary to carry out its  
20            purposes and exercise the powers given and granted in  
21            this chapter; and



1 (18) Allow satisfaction of any affordable housing  
2 requirements imposed by the authority upon any  
3 proposed development project through the construction  
4 of reserved housing, as defined in section 206E-101,  
5 by a person on land located outside the geographic  
6 boundaries of the authority's jurisdiction; provided  
7 that the authority shall [~~not~~] permit [~~any person to~~  
8 ~~make~~] cash payments in lieu of providing reserved  
9 housing[~~, except to account for any fractional unit~~  
10 ~~that results after calculating the percentage~~  
11 ~~requirement against residential floor space or total~~  
12 ~~number of units developed~~]. The substituted housing  
13 shall be located on the same island as the development  
14 project and shall be substantially equal in value to  
15 the required reserved housing units that were to be  
16 developed on site. The authority shall establish the  
17 following priority in the development of reserved  
18 housing:  
19 (A) Within the community development district;  
20 (B) Within areas immediately surrounding the  
21 community development district;  
22 (C) Areas within the central urban core;





1 (D) In outlying areas within the same island as the  
2 development project.

3 The Hawaii community development authority shall  
4 adopt rules relating to the approval of reserved  
5 housing that are developed outside of a community  
6 development district. The rules shall include, but  
7 are not limited to, the establishment of guidelines to  
8 ensure compliance with the above priorities."

9 SECTION 5. Section 206E-5, Hawaii Revised Statutes, is  
10 amended by amending subsection (f) to read as follows:

11 "(f) The authority may amend the community development  
12 plan as may be necessary. Amendments shall be made in  
13 accordance with chapter 91[-]; provided that no amendment to the  
14 operative Kakaako community development district mauka and makai  
15 area plans, and their attendant rules, shall take effect without  
16 prior approval of the legislature by concurrent resolution."

17 SECTION 6. Section 206E-5.5, Hawaii Revised Statutes, is  
18 amended by amending subsection (a) to read as follows:

19 "(a) The authority shall adopt community and public notice  
20 procedures pursuant to chapter 91 that shall include at a  
21 minimum:



- 1       (1) A means to effectively engage the community in which  
2           the authority is planning a development project to  
3           ensure that community concerns are received and  
4           considered by the authority;
- 5       (2) The posting of the authority's proposed plans for  
6           development of community development districts, public  
7           hearing notices, and minutes of its proceedings on the  
8           authority's website; [~~and~~]
- 9       (3) The posting of every application for a development  
10           permit for any project within a community development  
11           district on the authority's website when the  
12           application is deemed complete;
- 13       (4) Notification by the applicant of any application for a  
14           development permit for a project valued at \$250,000 or  
15           more by mail to a list of owners and lessees of record  
16           of real property located within a three hundred foot  
17           radius of the perimeter of the proposed project  
18           compiled from the most current list available from the  
19           real property assessment division of the department of  
20           budget and fiscal services of the county in which the  
21           proposed project is located when the application is  
22           deemed complete; provided that notice mailed pursuant



1 to this paragraph shall include but not be limited to  
2 notice of:

3 (A) Project specifications;

4 (B) Requests for variance, exemption, or modification  
5 of a community development plan or the  
6 authority's community development rules; and

7 (C) Procedures for intervention and a contested case  
8 hearing; and

9 [+3+] (5) Any other information that the public may find  
10 useful so that it may meaningfully participate in the  
11 authority's decision-making processes."

12 SECTION 7. Section 206E-5.6, Hawaii Revised Statutes, is  
13 amended by amending subsection (a) to read as follows:

14 "(a) When rendering a decision regarding:

15 (1) An amendment to any of the authority's community  
16 development rules established pursuant to chapter 91  
17 and section 206E-7; or

18 (2) The acceptance of a developer's proposal to develop  
19 lands under the authority's control,

20 the authority shall render its decision at a public hearing  
21 separate from the hearing that the proposal under paragraph (1)





1 or (2) was presented~~[7]~~, subject to the requirements of section  
2 206E-B."

3 SECTION 8. Section 206E-8, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "~~[+]§206E-8[+]~~ **Use of public lands; acquisition of state**  
6 **lands.** [~~(a) Any provision of chapter 171 to the contrary~~  
7 ~~notwithstanding, the governor may set aside public lands located~~  
8 ~~within community development districts to the authority for its~~  
9 ~~use.~~

10 ~~(b)~~ (a) If state lands under the control and management  
11 of other public agencies are required by the authority for its  
12 purposes, the agency having the control and management of those  
13 required lands [~~shall,~~] may, upon request by the authority and  
14 with the approval of the governor, convey~~[7]~~ or lease such lands  
15 to the authority upon such terms and conditions as may be agreed  
16 to by the parties.

17 [~~(e)~~] (b) Notwithstanding the foregoing, no public lands  
18 shall be [~~set aside,~~] conveyed~~[7]~~ or leased to the authority as  
19 above provided if such [~~setting aside,~~] conveyance~~[7]~~ or lease  
20 would impair any covenant between the State or any county or any  
21 department or board thereof and the holders of bonds issued by  
22 the State or such county, department, or board."



1 SECTION 9. Section 206E-16, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 **"[+]§206E-16[+] Hawaii community development revolving**  
4 **fund.** There is created the Hawaii community development  
5 revolving fund into which ~~[all]~~ receipts and revenues of the  
6 authority up to a maximum aggregate amount of \$3,641,818 per  
7 fiscal year shall be deposited. Amounts exceeding the specified  
8 maximum aggregate per fiscal year shall be transferred to the  
9 general fund. Proceeds from the fund shall be used for the  
10 purposes of this chapter."

11 SECTION 10. Section 206E-16.5, Hawaii Revised Statutes, is  
12 amended to read as follows:

13 **"[+]§206E-16.5[+] Expenditures of revolving funds under**  
14 **the authority ~~[exempt from];~~ appropriation and allotment.**  
15 Except as to administrative expenditures, and except as  
16 otherwise provided by law, expenditures from any revolving fund  
17 administered by the authority may be made by the authority  
18 without further appropriation or allotment of the legislature;  
19 provided that no expenditure shall be made from and no  
20 obligation shall be incurred against any revolving fund in  
21 excess of the amount standing to the credit of the fund or for  
22 any purpose for which the fund may not lawfully be expended.



1 ~~[Nothing]~~ Subject to the maximum aggregate amount specified in  
2 section 206E-16, nothing in sections 37-31 to 37-41 shall  
3 require the proceeds of any revolving fund administered by the  
4 authority to be reappropriated annually."

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

7 "~~[+]§206E-31.5[+]~~ **Prohibitions.** Anything contained in  
8 this chapter to the contrary notwithstanding, the authority is  
9 prohibited from:

10 (1) Selling or otherwise assigning the fee simple interest  
11 in any lands in the Kakaako community development  
12 district to which the authority in its corporate  
13 capacity holds title, except with respect to:

14 (A) Utility easements;

15 (B) Remnants as defined in section 171-52;

16 (C) Grants to any state or county department or  
17 agency; or

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

20 (E) Reserved housing as defined in section 206E-101;

21 or



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

6 SECTION 12. Section 206E-33, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 **"§206E-33 Kakaako community development district;**  
9 **development guidance policies.** The following shall be the  
10 development guidance policies generally governing the  
11 authority's action in the Kakaako community development  
12 district:

13 (1) Development shall result in a community which permits  
14 an appropriate land mixture of residential,  
15 commercial, industrial, and other uses. In view of  
16 the innovative nature of the mixed use approach, urban  
17 design policies should be established to provide  
18 guidelines for the public and private sectors in the  
19 proper development of this district; while the  
20 authority's development responsibilities apply only to  
21 the area within the district, the authority may engage  
22 in any studies or coordinative activities permitted in



1           this chapter which affect areas lying outside the  
2           district, where the authority in its discretion  
3           decides that those activities are necessary to  
4           implement the intent of this chapter. The studies or  
5           coordinative activities shall be limited to facility  
6           systems, resident and industrial relocation, and other  
7           activities with the counties and appropriate state  
8           agencies. The authority may engage in construction  
9           activities outside of the district; provided that such  
10          construction relates to infrastructure development or  
11          residential or business relocation activities;  
12          provided further, notwithstanding section 206E-7, that  
13          such construction shall comply with the general plan,  
14          development plan, ordinances, and rules of the county  
15          in which the district is located;

16          (2) Existing and future industrial uses shall be permitted  
17          and encouraged in appropriate locations within the  
18          district. No plan or implementation strategy shall  
19          prevent continued activity or redevelopment of  
20          industrial and commercial uses which meet reasonable  
21          performance standards;



- 1           (3) Activities shall be located so as to provide primary  
2           reliance on public transportation and pedestrian  
3           facilities for internal circulation within the  
4           district or designated subareas;
- 5           (4) Major view planes, view corridors, and other  
6           environmental elements such as natural light and  
7           prevailing winds, shall be preserved through necessary  
8           regulation and design review; provided that any  
9           building that is at least one hundred feet in height  
10           shall be oriented on a mauka-makai axis; provided  
11           further that no portion of any building or structure  
12           shall exceed four hundred eighteen feet in height;
- 13          (5) Redevelopment of the district shall be compatible with  
14          plans and special districts established for the Hawaii  
15          Capital District, and other areas surrounding the  
16          Kakaako district;
- 17          (6) Historic sites and culturally significant facilities,  
18          settings, or locations shall be preserved;
- 19          (7) Land use activities within the district, where  
20          compatible, shall to the greatest possible extent be  
21          mixed horizontally, that is, within blocks or other



- 1 land areas, and vertically, as integral units of  
2 multi-purpose structures;
- 3 (8) Residential development may require a mixture of  
4 densities, building types, and configurations in  
5 accordance with appropriate urban design guidelines;  
6 integration both vertically and horizontally of  
7 residents of varying incomes, ages, and family groups;  
8 and an increased supply of housing for residents of  
9 low- or moderate-income may be required as a condition  
10 of redevelopment in residential use. Residential  
11 development shall provide necessary community  
12 facilities, such as open space, parks, community  
13 meeting places, child care centers, and other  
14 services, within and adjacent to residential  
15 development;
- 16 (9) Public facilities within the district shall be  
17 planned, located, and developed so as to support the  
18 redevelopment policies for the district established by  
19 this chapter and plans and rules adopted pursuant to  
20 it[-]; and
- 21 (10) Before approving development projects, the authority  
22 shall:



- 1           (A) Require comprehensive studies of and plans for
- 2                   the infrastructure capacity of the sewers, roads,
- 3                   utilities including water and electricity,
- 4                   schools, parks, and other requirements to ensure
- 5                   that they meet the needs generated by the
- 6                   additional number of anticipated residents; and
- 7           (B) Where improvements are needed, impose the
- 8                   necessary impact fees upon the developer."

9           SECTION 13. Section 206E-182, Hawaii Revised Statutes, is  
10 amended to read as follows:

11           **"§206E-182 Powers.** In addition and supplemental to the  
12 powers granted to the authority by law, the authority may:

13           (1) With the approval of the governor, enter into a  
14 special facility lease or an amendment or supplement  
15 thereto whereby the authority agrees to construct,  
16 acquire, or remodel and furnish or equip a special  
17 facility solely for the use by another person to a  
18 special facility lease;

19           (2) With the approval of the governor, issue special  
20 facility revenue bonds in principal amounts not to  
21 exceed the total amount of bonds authorized by the  
22 legislature, that may be necessary to yield all or a





- 1           portion of the cost of any construction, acquisition,  
2           remodeling, furnishing, and equipping of any special  
3           facility;
- 4           (3) With the approval of the governor, issue refunding  
5           special facility revenue bonds, in principal amounts  
6           not to exceed the total amount of bonds authorized by  
7           the legislature, with which to provide for the payment  
8           of outstanding special facility revenue bonds  
9           (including any special facility revenue bonds  
10          theretofore issued for this purpose) or any part  
11          thereof; provided any issuance of refunding special  
12          facility revenue bonds shall not reduce the principal  
13          amount of the bonds which may be issued as provided in  
14          paragraph (2);
- 15          (4) Perform and carry out the terms and provisions of any  
16          special facility lease;
- 17          (5) Notwithstanding section 103-7 or any other law to the  
18          contrary, acquire, construct, or remodel and furnish  
19          or equip any special facility, or accept the  
20          assignment of any contract therefor entered into by  
21          the other person to the special facility lease;



1 (6) Construct any special facility on land owned by the  
2 State; provided that no funds derived herein will be  
3 expended for land acquisition; and

4 (7) Agree with the other person to the special facility  
5 lease whereby any acquisition, construction,  
6 remodeling, furnishing, or equipping of the special  
7 facility and the expenditure of moneys therefor shall  
8 be undertaken or supervised by another person."

9 SECTION 14. Section 206E-185, Hawaii Revised Statutes, is  
10 amended to read as follows:

11 "[+]§206E-185[+] **Special facility revenue bonds.** All  
12 special facility revenue bonds authorized to be issued in  
13 principal amounts not to exceed the total amount of bonds  
14 authorized by the legislature shall be issued pursuant to part  
15 III of chapter 39, except as follows:

16 (1) No revenue bonds shall be issued unless at the time of  
17 issuance the authority shall have entered into a  
18 special facility lease with respect to the special  
19 facility for which the revenue bonds are to be issued;

20 (2) The revenue bonds shall be issued in the name of the  
21 authority, and not in the name of the State;





- 1           (3) The revenue bonds shall be payable solely from and  
2           secured solely by the revenues derived by the  
3           authority from the special facility for which they are  
4           issued;
- 5           (4) The final maturity date of the revenue bonds shall not  
6           be later than either the estimated life of the special  
7           facility for which they are issued or the initial term  
8           of the special facility lease;
- 9           (5) If deemed necessary or advisable by the authority, or  
10          to permit the obligations of the other person to the  
11          special facility lease to be registered under the U.S.  
12          Securities Act of 1933, the authority, with the  
13          approval of the director of finance, may appoint a  
14          national or state bank within or without the State to  
15          serve as trustee for the holders of the revenue bonds  
16          and may enter into a trust indenture or trust  
17          agreement with the trustee. The trustee may be  
18          authorized by the authority to collect, hold, and  
19          administer the revenues derived from the special  
20          facility for which the revenue bonds are issued and to  
21          apply the revenues to the payment of the principal and  
22          interest on the revenue bonds. If any trustee shall



1 be appointed, any trust indenture or agreement entered  
2 into by the authority with the trustee may contain the  
3 covenants and provisions authorized by part III of  
4 chapter 39 to be inserted in a resolution adopted or  
5 certificate issued, as though the words "resolution"  
6 or "certificate" as used in that part read "trust  
7 indenture or agreement". The covenants and provisions  
8 shall not be required to be included in the resolution  
9 or certificate authorizing the issuance of the revenue  
10 bonds if included in the trust agreement or indenture.  
11 Any resolution or certificate, trust indenture, or  
12 trust agreement adopted, issued, or entered into by  
13 the authority pursuant to this part may also contain  
14 any provisions required for the qualification thereof  
15 under the U.S. Trust Indenture Act of 1939. The  
16 authority may pledge and assign to the trustee the  
17 special facility lease and the rights of the authority  
18 including the revenues thereunder;

19 (6) If the authority, with the approval of the director of  
20 finance, shall have appointed or shall appoint a  
21 trustee for the holders of the revenue bonds, then  
22 notwithstanding the provisions of the second sentence



1 of section 39-68, the director of finance may elect  
2 not to serve as fiscal agent for the payment of the  
3 principal and interest, and for the purchase,  
4 registration, transfer, exchange, and redemption, of  
5 the revenue bonds, or may elect to limit the functions  
6 the director of finance shall perform as the fiscal  
7 agent. The authority, with the approval of the  
8 director of finance, may appoint the trustee to serve  
9 as the fiscal agent, and may authorize and empower the  
10 trustee to perform the functions with respect to  
11 payment, purchase, registration, transfer, exchange,  
12 and redemption, that the authority may deem necessary,  
13 advisable, or expedient, including, without  
14 limitation, the holding of the revenue bonds and  
15 coupons which have been paid and the supervision and  
16 conduction of the destruction thereof in accordance  
17 with sections 40-10 and 40-11. Nothing in this  
18 paragraph shall be a limitation upon or construed as a  
19 limitation upon the powers granted in the preceding  
20 paragraph to the authority, with the approval of the  
21 director of finance, to appoint the trustee, or  
22 granted in sections 36-3 and 39-13 and the third





1 sentence of section 39-68 to the director of finance  
2 to appoint the trustee or others, as fiscal agents,  
3 paying agents, and registrars for the revenue bonds or  
4 to authorize and empower the fiscal agents, paying  
5 agents, and registrars to perform the functions  
6 referred to in that paragraph and sections, it being  
7 the intent of this paragraph to confirm that the  
8 director of finance as aforesaid may elect not to  
9 serve as fiscal agent for the revenue bonds or may  
10 elect to limit the functions the director of finance  
11 shall perform as the fiscal agent, that the director  
12 of finance may deem necessary, advisable, or  
13 expedient;

14 (7) The authority may sell the revenue bonds either at  
15 public or private sale;

16 (8) If no trustee shall be appointed to collect, hold, and  
17 administer the revenues derived from the special  
18 facility for which the revenue bonds are issued, the  
19 revenues shall be held in a separate account in the  
20 treasury of the State, separate and apart from the  
21 Hawaii community development revolving fund, to be  
22 applied solely to the carrying out of the resolution,





1 certificate, trust indenture, or trust agreement  
2 authorizing or securing the revenue bonds;

3 (9) If the resolution, certificate, trust indenture, or  
4 trust agreement shall provide that no revenue bonds  
5 issued thereunder shall be valid or obligatory for any  
6 purpose unless certified or authenticated by the  
7 trustee for the holders of the revenue bonds,  
8 signatures of the officers of the State upon the bonds  
9 required by section 39-56 may be facsimiles of their  
10 signatures;

11 (10) Proceeds of the revenue bonds may be used and applied  
12 by the authority to reimburse the other person to the  
13 special facility lease for all preliminary costs and  
14 expenses, including architectural and legal costs; and

15 (11) If the special facility lease shall require the other  
16 person to operate, maintain, and repair the special  
17 facility which is the subject of the lease, at the  
18 other person's expense, the requirement shall  
19 constitute compliance by the authority with section  
20 39-61(a)(2), and none of the revenues derived by the  
21 authority from the special facility shall be required  
22 to be applied to the purposes of section 39-62(2).



1           Sections 39-62(4), 39-62(5), and 39-62(6) shall not  
2           apply to the revenues derived from a special facility  
3           lease."

4           SECTION 15. This Act does not affect rights and duties  
5           that matured, penalties that were incurred, and legal  
6           proceedings that were begun before its effective date.

7           SECTION 16. In codifying the new sections added by section  
8           1 of this Act, the revisor of statutes shall substitute  
9           appropriate section numbers for the letters used in designating  
10          the new sections in this Act.

11          SECTION 17. Statutory material to be repealed is bracketed  
12          and stricken. New statutory material is underscored.

13          SECTION 18. This Act shall take effect on July 1, 2050.



**Report Title:**

Hawaii Community Development Authority

**Description:**

Amends requirements for notice, hearing, approval, and contest case hearings for development proposals involving variances, exemptions, or modifications of community development plans or rules. Increases the voting membership of the Authority and amends Authority membership and appointment procedures. Permits the Authority to accept cash in lieu of provision of reserved housing. Prohibits the Authority from amending the operative Kakaako community development district mauka and makai area plans without prior approval from the legislature. Requires applicants for certain proposed development projects to provide notice of the proposed project to residents and businesses within 300 feet of the proposed project. Establishes cap amount for HCDA revolving fund and legislative oversight of HCDA bond authority. Prohibits acquisition of public land by the Authority by set aside. Creates height limit and building orientation for Kakaako. Effective July 1, 2050. (Proposed SD2)

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





**From:** [Pam Wood](#)  
**To:** [WAM Testimony](#)  
**Subject:** HB 1866, HD2, SD1  
**Date:** Tuesday, April 01, 2014 2:00:11 PM

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**Testimony of Pamela Wood**

**Before the Senate Committee on Ways**

**Wednesday, April 2, 2014 at 9:20 am, Room 211**

**HB 1866, HD2, SD1**

**Relating to the Hawaii Community Development Authority**

Chair Senator David Ige and Members of the Senate Ways and Means Committee:

My name is Pamela Wood, a Kakaako resident, and I support **HB 1866, HD2, SD1**, especially the following provisions:

1. The **restructuring of the HCDA Board of Directors** to ensure its independence in decision-making.
2. The establishment of a **separate public hearing process** by HCDA to consider developer requests for variances, exemptions, and/or modifications.
3. The establishment of **contested case hearing procedures** to insure timely decisions.
4. The setting of a **418-foot** height limit.

I ask you to consider requiring all mailed notices be sent by first class mail to ensure timely delivery; and, if legally possible, set the deadline to intervene in a contested case hearing on a date after the 1<sup>st</sup> public hearing. This will provide those most affected by the proposed development adequate notice and the opportunity to hear the developer presentation and learn more about the project before having to file for intervention.

I appreciate the opportunity to comment on this legislation. By improving communication and working together we can build a better community.

Pamela Wood





LAND USE RESEARCH  
FOUNDATION OF HAWAII

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April 1, 2014

Senator David Y. Ige, Chair  
Senator Michelle N. Kidani, Vice Chair  
Senate Committee on Ways and Means

**Comments, Concerns and Opposition to Portions of HB 1866, HD2, SD1 (Amends requirements for notice, hearing, approval, and vesting of rights for development permits. Permits the Authority to accept cash in lieu of provision of reserved housing. Requires applicants for certain proposed development projects to provide notice of the proposed project to residents and businesses within 300 feet of the proposed project. Establishes cap amount for HCDA revolving fund and legislative oversight of HCDA bond authority. Prohibits acquisition of public land by the Authority by set aside. Creates height limit for Kakaako. Effective July 1, 2050.)**

**Wednesday, April 2, 2014, 9:20 a.m., in Conference Room 211**

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

LURF members include the major landowners and developers across the State of Hawaii, who engage in a wide array of diverse enterprises and activities ranging from projects under the jurisdiction of HCDA, conservation and preservation lands, Important Agricultural Lands and agriculture, providing energy, including renewable energy, residential, commercial and resort development.

Recent bills to repeal HCDA impose a moratorium, totally cut its budget, or to usurp HCDA and Governor's authority – and instead exert more political legislative power over Kakaako, raise issues of uncertainty and instability, which will cause serious concerns for financial institutions, developers and investors who plan to build needed housing in Kakaako.

LURF and its members understand that the public may have differing views and may react in different ways, however, there is a belief and hope that the public and our governing bodies – the administration and its agencies, the legislative branch and the courts will act rationally, fairly and in the public interest relating to issues involving HCDA and development in Kakaako.

LURF appreciates the opportunity to offer **comments, concerns and opposition to portions of HB 1866, HD2, SD1.**

**HB 1866, HD2, SD1.** While this measure appears to be an omnibus” bill relating to the HCDA, there is no stated purpose, are no factual findings and no justifications to explain any current problems that this measure is intends to remedy. Nevertheless, the following is a summary of the provisions of this bill:

- **SECTION 1 – Unreasonably prohibits HCDA Executive Director from exercising any HCDA powers and duties relating to approval of even the most minor modification, variance or exemption of HCDA’s Community Development Plan or rules.**
- **SECTION 1 - New Section 206E-B, which requires a confusing and unclear “Separate” public hearings procedure:**

*“...the authority shall hear the request for variance, exemption, or modification at a public hearing separate from and subsequent to the hearing at which the developer's proposal was presented; provided that the authority may hear all requests applicable to a single proposal at the same separate public hearing...*

*The authority's decision on requests subject to this section shall be rendered at the public hearing held pursuant to section 206E-5.6 rendering a decision regarding the developer's proposal.*

The term “separate public hearing” is not clearly defined or explained.

- **SECTION 1 – New contested case hearing; intervention rules create uncertainty and does not require compliance with Chapter 91, Hawaii Revised Statutes (“HRS”), Administrative Procedure; and does not require compliance with HRS Section 91-9 Contested cases; notice; hearing; records.** Creates uncertainty regarding the current rights to appeal HCDA actions; creates confusion regarding the current rights of aggrieved parties to file a declaratory action; directs HCDA to adopt rules for intervention in development permit applications, including procedures for contested case hearings; requires filing of petitions to intervene no later that twenty days after the development permit application is deemed complete; and requires the acceptance of testimony from intervenors and other individuals. Does not require compliance with State laws, including HRS Chapter 91 relating to Administrative Procedure and HRS Section 91-9 relating to Contested cases; notice and hearing records.
- **SECTION 2 – Allows sale of reserved housing without Legislative approval**
- **SECTION 3 – Allows in-lieu cash payments for reserved housing.**
- **SECTION 4 – New hearing notice procedures.**
- **SECTION 5 – Confusing requirement that HCDA render its decision at a public hearing separate from the hearing that the proposal was presented, “subject to the requirements of new Section 206E-B.”**
- **SECTION 6 – Terms and rights under already-approved and issued master plan permits and master plan development agreements are vested.**

- **SECTION 7 – Revokes Governor’s authority to set aside public lands within community development districts to HCDA, which could result in additional delays, increased costs, and the opportunity for future expensive litigation.**
- **SECTION 8 – “Caps” HCDA Revolving Funds earned by HCDA leases and HCDA programs and allows the Legislature to “skim” funds from the HCDA Revolving Fund to serve as a new revenue source for the General Fund; and imposes new political Legislative control over HCDA operations.**
- **SECTION 9 – Usurps HCDA’s authority to expend its own revolving funds, and unreasonably imposes new political control and restriction of HCDA funds by requiring Legislative approval of all HCDA expenditures appropriation and allotment.**
- **SECTION 10 – Allows sale of reserved housing to residents in the low-or moderate-income ranges who meet eligibility requirements.**
- **SECTION 11 – Limits the buildings or structures in the Kakaako District to four hundred eighteen feet in height.**
- **SECTION 12 – Clarifies current HCDA authority to issue Special Facility Revenue Bonds and refunding Special Facility Revenue Bonds in principal amounts not to exceed the total amount of bonds authorized by the Legislature.**
- **SECTION 13 – Confirms current practice that HCDA Special Facility Revenue Bonds cannot exceed principal amounts authorized by Legislature.**
- **SECTION 14 – Grandfather clause.** Confirms that this *“Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.”*

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

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

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

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

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

Over the years, HCDA has had tremendous success with redeveloping Kakaako's infrastructure, housing, parks and open space and implementing other projects for the benefit of the community. No other government agency had had this kind of success.

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

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

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

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

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



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

**LURF’s Position.** LURF’s comments and concerns relating to HB 1866, HD2, SD1, is based on, among other things, the following:

- **Section 1 - Prohibits HCDA Executive Director from exercising any HCDA powers and duties relating to approval of even the most minor variance, exemption or modification of HCDA Community Development Plan or rules.** There are no factual findings; no explanation of any current problems relating to this issue; and there is no justification for this section. Most government agencies allow authority for its director to make minor decisions relating to approvals, modifications, variances and exemptions, including the Department of Land and Natural Resources (“DLNR”), the State land Use Commission (“LUC”), the Department of Planning and Permitting of the City and County of Honolulu (“DPP”), and other State and county agencies that deal with land use approvals. Similar to other government agencies, the HCDA should be allowed to assign powers and duties to its Executive Director. The HCDA meets once a month, and this new restriction could delay projects for very minor reasons. HCDA Exec. Dir. should have authority to approve/deny minor modifications (subject to appeal). Thus, LURF respectfully recommends that this Committee **DELETE this portion of Section 1**, or **REVISE** it to allow the HCDA to establish rules to assign such minor matters to its Executive Director, similar to DLNR, LUC and DPP.
- **SECTION 1 – New Section 206E-B “Separate” public hearing requirement for even the most minor modifications, variances and exemptions.** There are no factual findings; no explanation of any current problems relating to HCDA’s hearing process; and there is no justification for this section. This new requirement is unnecessary, confusing & creates new opportunities for legal challenges which will delay Kakaako redevelopment. The proposed provision could be interpreted to require an applicant to submit an application for a project it does not intend to build; then submit another application and have a hearing on another date for any major variances,

exemptions or modifications to the original proposal. This process is neither rational, nor efficient - the developer should make one application and have one hearing, which includes any major variances, exemptions or modifications. Is this new proposal consistent with procedures for DLNR and LUC land use approvals? Under the circumstances, LURF would respectfully recommend that this Committee should **DELETE this portion of Section 1**, or this Committee should accept the advice from the Attorney General, and **REVISE** this provision to create a more reasonable process consistent with other government agencies, and clarify the definition and process for a “separate” public hearing.

- **SECTION 1 – New Contested Case hearing and Intervention requirements and rules.** LURF understands that there are no problems with the current appeal process; no problems with the right to seek a declaratory action in Circuit Court relating to HCDA’s actions; and in cases that qualify as contested cases, HCDA is already required to comply with contested case hearings process under Chapter 91, HRS. Notwithstanding the above, LURF would respectfully urge adoption of **REVISIONS** recommended by the State Department of the Attorney General that would be consistent with HRS Chapter 91 (administrative procedures), Section 91-9 (contested cases) and the hearing procedures of other government agencies which decide land use approvals. LURF also **SUPPORTS** the 20-day period to file for intervention. However, any changes to this section should be minimal, because the current HCDA procedures are sufficient (if properly implemented) and there is no evidence of any problems with the current appeal process, the right of any aggrieved party to file a declaratory action, or the current Contested Case hearing procedures which should be followed. No need to “recreate the wheel,” which also creates new opportunities for legal challenges which will delay Kakaako redevelopment. LURF supports the new provision creating a twenty-day period to file a motion to intervene. Under the circumstances, the rest of Section 1 is unnecessary, confusing, and will result in more questionable lawsuits. Thus, LURF respectfully recommends that this Committee should **REVISE** this section to simply provide that HCDA rules and practices should be consistent with HRS Chapter 91, and allow for a 20-day period to file petitions for intervention.
- **SECTION 5 – HCDA must render its decision at a public hearing separate from the hearing that the proposal was presented, “subject to the requirements of new Section 206-E-B.”** This measure does not include any factual findings, and there is no justification or any explanation of any need for separate hearings. Section 206E-B is confusing and could be subject to interpretation and litigation (see Section 1, above). Under the circumstances, LURF would respectfully recommend that this Committee **DELETE this portion of Section 1**, or this Committee should accept the advice from the Attorney General, and **REVISE** this provision to create a more reasonable process consistent with other government agencies, and clarify the definition and process for a “separate” public hearing.
- **SECTION 7 – Rescinds Governor’s current authority to set aside State lands within HCDA’s districts.** The bill does not include any factual findings, and there is no justification or any explanation of any abuse of the Governors authority to set aside lands in Kakaako or any other HCDA district. The proposed revisions would result in unnecessary additional delays, increased costs, and the opportunity for future expensive litigation. Therefore, LURF respectfully recommends that this Committee should **DELETE Section 7**.

- **SECTION 8 – Establishes an arbitrary “cap” on HCDA’s Revolving Fund revenue and changes part of HCDA’s purpose to be a revenue source for the General Fund; imposes new Legislative control over HCDA operations.** The bill does not include any factual findings, and there is no justification or any explanation of any problems relating to HCDA’s revolving funds. Currently, HCDA makes revenue by leasing properties and reinvests the revenues in Kakaako. HCDA undergoes an annual audit, and current law allows HCDA to expend its revolving funds, subject to availability of funds and legality of use. This section changes part of HCDA’s purpose to be a revenue source for the General Fund. There is no prudent reason for the Legislature to control and “cap” the HCDA revolving fund and transfer HCDA’s funds (above the arbitrary “cap”) to General Fund. This section is unnecessary and unreasonable, thus LURF respectfully recommends that this Committee should **DELETE Section 8.**
- **SECTION 9 – New political control and restriction of HCDA Revolving Funds through Legislative appropriation and allotment.** HCDA is audited annually and there have been no major problems in almost thirty years. The measure does not include any factual findings, and there is no justification or any explanation of the reason for this new section. HCDA is currently exempt from Legislative appropriation and allotment, because HCDA makes its own revenues. This section would arbitrarily “cap” and restrict expenditures of HCDA’s revolving funds and subject it to the Legislative control through appropriation and allotment. The Legislature will not be available to approve every HCDA expenditure when it is not in session, so this bill would have the effect of shutting down HCDA operations. HCDA should retain the authority to expend its own revolving funds, and not be subject to Legislative approval of all HCDA expenditures. Under the circumstances, LURF would respectfully recommend that this Committee should **DELETE Section 9.**

For the reasons stated above, LURF **must strongly oppose HB 1866, HD2**, and respectfully requests that this bill be **HELD** in Committee, or **REVISED** as recommended above.

Thank you for the opportunity to present LURF’s comments, concerns and testimony regarding this matter.



Dear Chair Ige, Vice-Chair Kidani, and Members of the Committee,

I am writing today to support HB1866 HD2 SD1 with the following amendments that I think will help ensure that the HCDA follow the guidelines set for any Kaka'ako planning with fidelity, keeping the best interest of the community in mind:

- I support requiring the HCDA to adopt rules and systems that allows a person who is negatively affected by an HCDA decision to intervene.
- I support changing the make-up of the authority to include a cultural expert and small business member that will reflect the make-up of the communities affected.
- I am extremely supportive of requiring comprehensive studies of and plans to improve the infrastructure capacity of sewers, roads (including walking and bike paths), utilities, schools, and park/ public spaces, while maintaining commercial, industrial, and retail spaces— all needed to support any further residential development.
- I support denying the HCDA the power to amend Kaka'ako community development district mauka and makai area plans, guidelines, and rules without prior approval of the legislature and public hearings.
- I support the limit heights of 418 feet for all buildings and that buildings be oriented to keep open sight-lines from mauka to makai.
- I support having applicants for a development permit notify by mail (might it be via building management or condo board of directors) property owners, and residents within a 300 foot radius of the perimeter of the proposed project.

Thank you for your consideration in adding the aforementioned amendments.

Sincerely,

Gail Yoshioka





**Testimony Supporting HB1866 SD1**  
Galen Fox, Kaka'ako United

Chair Ige, Senators:

I'm Galen Fox of Kaka'ako United and I support HB1866. We have seen the problems created by a state agency with broad discretion and without proper legislative oversight. HB1866 provides oversight that will help ensure the Hawaii Community Development Authority ("authority") follows the law.

While HB1866, SD1, addresses some of our concerns such as public hearings and notification of affected community residents within 300 feet of proposed development projects, prohibition of any building over 418 feet in height, and cash in lieu provisions to enable HCDA to keep "reserved housing" in the affordable housing pool (and prevent the current practice of "flipping"), it does not preserve community recommendations contained in previous versions of the bill.

We urge this committee to add the following to HB1866, as provided in a proposed SD2, which:

- Clarifies that persons aggrieved by the authority's decisions have a right to an administrative appeal before an independent hearings officer.
- Deletes permanent development rights for master plan holders with vested rights for 10 years that may be extended for 20 years; they already have a savings clause protection.
- Broadens the authority's board by including the legislature in the nominating process, and providing for county, small business, and affected communities representatives, plus a cultural specialist.
- Requires prior legislative approval for amendments to Kaka'ako plans and rules.
- Requires buildings on a mauka-makai, view-preserving axis.

We ask your support for HB 1866 with the above amendments added. Mahalo.

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**TESTIMONY TO THE SENATE COMMITTEE ON WAYS AND MEANS****Wednesday, April 2, 2014****9:20 a.m.****State Capitol - Conference Room 211****RE: H.B. 1866, H.D. 2, RELATING TO HAWAII COMMUNITY DEVELOPMENT  
AUTHORITY**

Dear Chair Ige, Vice-Chair Kidani, and members of the Committee:

My name is Gladys Marrone, Government Relations Director for the Building Industry Association of Hawaii (BIA-Hawaii), the Voice of the Construction Industry. We promote our members through advocacy and education, and provide community outreach programs to enhance the quality of life for the people of Hawaii. BIA-Hawaii is a not-for-profit professional trade organization chartered in 1955, and affiliated with the National Association of Home Builders.

BIA-HAWAII **opposes** H.B. No. 1866 H.D. 2 S.D.1, which proposes to:

1. Amend the reserved housing requirements, including:
  - (A) Requiring a developer to satisfy reserved housing requirements through either construction within the same development district or an equivalent cash payment;
2. Require that the expenditure of revolving funds and issuance of special facility revenue bonds, be subject to legislative approval;
3. Require that rules adopted by the Authority comply with all existing laws, rules, and ordinances;
4. Caps at \$3,641,818 per fiscal year the HCDA revolving fund;
5. Requiring the adoption of rules to provide for intervention in development permit applications, including procedures for contested case hearings, as well as for vested development rights under a master plan permit and master plan agreement issued and approved by the HCDA at the time of initial approval by the HCDA;
6. Allowing the HCDA to sell reserve housing and to buy back reserved housing;
7. Provide additional oversight of the Authority through:
  - (A) Prohibiting the Authority from delegating its power to approve variances, exemptions, or modifications of community development plans or rules and expanding public hearing and public notice requirements for the Authority's use of such power;
  - (B) Setting out additional public notice procedures for development permit applications including posting on the Authority's website and notice by mail to property owners and residents in a specified radius by and at the expense of the developer;
  - (C) Setting height limits for buildings and structures in the Kakaako Community Development District; and
  - (D) Eliminating the set aside of public lands within the community districts for HCDA use.

We understand that the recent activities in Kakaako have brought attention to the manner in which HCDA oversees redevelopment activities in Kakaako. The bill proposes to allow for more legislative oversight and legal challenges for projects currently under the jurisdiction of HCDA. It would appear that HCDA is a victim of its own success.

When HCDA was originally established in 1976, its purpose was 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, at that time, 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.

The legislature further determined at that time 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. The activity in Kakaako is also the result of the level of "predictability and certainty" that HCDA has created in the process. HB 1866, HD 2, removes the level of predictability and certainty and ultimately creates more risk for developers in Kakaako. The proposed bill will move HCDA closer to the current draconian land use entitlement process employed by the State and Counties, which has partly resulted in the limited supply of housing at all price points and pushing the average median price of a home on Oahu well past \$650,000.00.

It is ironic that just when the process created by policy makers almost 40 years ago is beginning to show results, the policy makers today want to severely reduce its effectiveness. If policy makers had concerns about redevelopment in this area, the concerns should have been addressed when the planning was being done and infrastructure capacity was being installed to accommodate the projected densities in the area.

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.

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



*Hawaii's Thousand Friends*

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April 2, 2014

COMMITTEE ON WAYS AND MEANS

Senator David Ige, Chair

Senator Michelle Kidani, Vice Chair

HB 1866 HD2 SD1

RELATING TO HAWAII COMMUNITY DEVELOPMENT AUTHORITY

Committee Chair and Members;

Hawaii's Thousand Friends, a statewide nonprofit organization dedicated to reasonable, responsible and appropriate planning and land use, recommends that the amendments in the attached HB 1866 HD2 SD1 proposed SD2 be adopted.

Justifications for the amendments are as follows:

**§206E-C Contested case hearing; judicial review.**

**Pg. 2 line 17** This amendment is needed to ensure that HCDA's contested case rules and processes are understandable and transparent, not subject to change except through rule making and are followed by the authority.

**Composition of the authority i.e. board.**

**Pg. 4 lines 11 & 13** These amendments are needed to change the composition of the authority to reflect the needs of each community development district. The additional voting members on the Kakaako authority allow for community and small business representation, which is not the presently the case.

Residents and small businesses in the Kakaako community development district are facing enormous challenges and changes as Kakaako is developed into a high-rise, high density residential and retail district and should have representation on the authority that oversees those changes.

**Pg. 4 Line 22** This amendment is needed to ensure that the cultural specialist appointed to the authority has a wide spectrum of cultural understanding since that person will be called upon for her/his expertise and knowledge of the three existing and diverse community development districts – Kakaako, Kalaeloa and Heeia.

**Legislative oversight.**

**Pg. 15 Line 13** This amendment is needed to provide oversight of the Kakaako authority to help ensure that the authority does not indiscriminately change Kakaako community development district mauka and makai area plans and rules, which seems to be the current



practice.

**Community notification.**

**Pg. 16 Line 9** This amendment is needed to ensure that residents within a community development district are notified of a proposed development or request for a variance, exemption or modification of a community development plan or rule change and procedures for intervention and a contested case hearing in an efficient and timely manner.

**§206E-8 Use of public lands; acquisition of state lands.**

**Pg. 18 Line 6** Deletion of Section (a) is necessary to ensure that Hawaii's public lands are not conveyed into private hands for private development and private gain to the detriment of the public.

**§206E-33 Kakaako community development district; development guidance policies.**

**Pg. 23-line 8** The amendment requiring buildings at least 100 feet in height be oriented on a mauka-makai axis is needed to prevent a series of buildings from creating a solid wall which will obstruct block mauka and makai views, trade winds and sunlight.

**Pg. 23-line10** The amendment setting a 418-foot height limit is needed to curtail the higher is better mentality that seems to be inherent in most development applications in Kakaako. If height limits are not established then literally the sky is the limit and approvals are given without any understanding of or information on singular or cumulative impacts.

**Pg. 24 line (10)** This amendment is needed to help ensure that adequate infrastructure capacity – sewer, water, utilities, schools, parks exists to accommodate existing residents and approved projects before the authority approves any new development.

Since rail will go through Kakaako and high density Transit Oriented Developments (TOD) are proposed around rail stations, within Kakaako community development district and outside of the district, it is prudent to ensure that adequate infrastructure capacity will be available for TOD when needed. (Kakaako TOD overlay attached)

It is critical to ensure that adequate infrastructure exists to meet the mandate in Act 153, which created HCDA, that areas designated community development district *result in communities which serve the highest needs and aspirations of Hawaii's people.*

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## A BILL FOR AN ACT

RELATING TO THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY.

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

1           SECTION 1. Chapter 206E, Hawaii Revised Statutes, is  
2 amended by adding three new sections to part I to be  
3 appropriately designated and to read as follows:

4           "**§206E-A Assignment of powers and duties prohibited.**

5 Notwithstanding anything contained in this chapter to the  
6 contrary, the authority shall not assign to any person or  
7 agency, including the executive director of the authority, any  
8 of its powers and duties related to the approval of any  
9 variance, exemption, or modification of any provision of a  
10 community development plan or community development rules.

11           **§206E-B Public hearing on variances, exemptions, or**  
12 **modifications; separate hearing required.** (a) When considering  
13 any developer's proposal to develop lands under the authority's  
14 control that includes any request for a variance, exemption, or  
15 modification of a community development plan or of the  
16 authority's community development rules, the authority shall  
17 hear the request for variance, exemption, or modification at a  
18 public hearing separate from and subsequent to the hearing at



1 which the developer's proposal was presented; provided that the  
2 authority may hear all requests applicable to a single proposal  
3 at the same separate public hearing.

4 (b) The authority shall issue a public notice for the  
5 public hearing in accordance with section 1-28.5 and post the  
6 notice on its website; provided that the public hearing shall  
7 not occur earlier than five business days after the notice is  
8 posted.

9 (c) The authority shall notify the president of the senate  
10 and speaker of the house of representatives of any public  
11 hearing subject to this section upon posting of the public  
12 notice.

13 (d) The authority's decision on requests subject to this  
14 section shall be rendered at the public hearing held pursuant to  
15 section 206E-5.6 rendering a decision regarding the developer's  
16 proposal.

17 **§206E-C Contested case hearing; judicial review.** (a) Any  
18 person adversely affected by the authority's final decision may  
19 petition the authority for a contested case hearing within  
20 thirty days of the effective date of the authority's final  
21 decision.





1        (b) Contested case hearings shall comply with chapter 91  
2 and shall be conducted by a hearings officer independent of the  
3 authority.

4        (c) The final decision shall be rendered within sixty days  
5 of the filing of the contested case hearing petition.

6        (d) Any contested case may be appealed upon the record to  
7 the intermediate court of appeals."

8        SECTION 2. Section 171-64.7, Hawaii Revised Statutes, is  
9 amended by amending subsection (b) to read as follows:

10        "(b) Notwithstanding any law to the contrary, no sale of  
11 lands described in subsection (a) in fee simple including land  
12 sold for roads and streets, or gift of lands described in  
13 subsection (a) in fee simple to the extent such gift is  
14 otherwise permitted by law, shall occur without the prior  
15 approval of the sale or gift by the legislature by concurrent  
16 resolution to be adopted by each house by at least a two-thirds  
17 majority vote of the members to which each house is entitled in  
18 a regular or special session at which a concurrent resolution is  
19 submitted for approval of the sale; provided that the provisions  
20 of this section shall not apply to remnants, as that term is  
21 defined in section 171-52, or portions thereof; provided further  
22 that this section shall not apply to the issuance of licenses,





1 permits, easements, and leases executed in conformance with the  
2 laws applicable to the lands listed in subsection (a); provided  
3 further that this section shall not apply to non-ceded lands  
4 conveyed to the University of Hawaii after December 31, 1989 to  
5 which the University of Hawaii holds title[-]; provided further  
6 that this section shall not apply to reserved housing, as that  
7 term is defined in section 206E-101, conveyed by the Hawaii  
8 community development authority."

9 SECTION 3. Section 206E-3, Hawaii Revised Statutes, is  
10 amended by amending subsection (b) to read as follows:

11 "(b) The authority shall consist of [~~nine~~] eleven voting  
12 members for each community development district established in  
13 this chapter[-]; provided that the authority shall consist of  
14 twelve voting members for the Kakaako community development  
15 district. The director of finance, the director of business,  
16 economic development, and tourism, the comptroller, and the  
17 director of transportation, or their respective designated  
18 representatives, shall serve as ex officio, voting members of  
19 the authority; provided that, in addition:

20 (1) A cultural expert shall be appointed by the governor  
21 pursuant to section 26-34 as a voting member; provided  
22 that the cultural expert shall be appointed from a



1 list of three nominees submitted by the University of  
2 Hawaii Hawai'inuiākea school of Hawaiian knowledge;

3 (2) One member shall be appointed by the governor pursuant  
4 to section 26-34 as a voting member; provided further  
5 that this paragraph shall not apply to the Kalaeloa  
6 community development district; ~~and~~

7 (3) The chairperson of the Hawaiian homes commission or  
8 the chairperson's designee, shall serve as an ex  
9 officio, voting member for the Kalaeloa community  
10 development district only, shall be considered in  
11 determining quorum and majority only on issues  
12 relating to the Kalaeloa community development  
13 district, and shall vote only on issues relating to  
14 the Kalaeloa community development district[-

15 ~~Three additional members, hereinafter referred to as county~~  
16 ~~members, shall be selected by the governor from a list of ten~~  
17 ~~prospective appointees recommended by the local governing body~~  
18 ~~of the county in which each designated district is situated,~~  
19 ~~provided that when vacancies occur in any of the three positions~~  
20 ~~for which the members were selected from a list of county~~  
21 ~~recommendations, the governor shall fill such vacancies on the~~  
22 ~~basis of one from a list of four recommendations, two from a~~



1 ~~list of seven recommendations, or three from a list of ten~~  
2 ~~recommendations. The list of recommendations shall be made by~~  
3 ~~the local governing body of the county. Of the three members~~  
4 ~~appointed as county members recommended by the local governing~~  
5 ~~body of the county in which each designated district is~~  
6 ~~situated, two members shall represent small businesses and shall~~  
7 ~~be designated as the small business representatives on the board~~  
8 ~~whose purpose, among other things, is to vote on matters before~~  
9 ~~the board that affect small businesses. The small business~~  
10 ~~representatives shall be owners or active managers of a small~~  
11 ~~business with its principal place of operation located within~~  
12 ~~the physical boundaries of each designated district.~~  
13 ~~Notwithstanding section 84 14(a), the small business~~  
14 ~~representatives may vote on any matter concerning any district~~  
15 ~~under the board's jurisdiction other than matters concerning the~~  
16 ~~Heeia community development district; provided that the matter~~  
17 ~~is not limited to solely benefiting the specific interest of~~  
18 ~~that member and the matter concerns broader interests within the~~  
19 ~~district. One of the county members shall be a resident of the~~  
20 ~~designated district; provided that for purposes of this section,~~  
21 ~~the county member who is a resident of the Kalaeloa community~~  
22 ~~development district shall be a resident of the Ewa zone (zone~~





1 ~~9, sections 1 through 2), or the Waianae zone (zone 8, sections~~  
2 ~~1 through 9) of the first tax map key division. The county~~  
3 ~~members shall be considered in determining quorum and majority~~  
4 ~~only on issues not relating to the Heeia community development~~  
5 ~~district and may only vote on issues not related to the Heeia~~  
6 ~~community development district.~~

7 ~~Three additional voting members shall be appointed to the~~  
8 ~~authority by the governor pursuant to section 26-34 to represent~~  
9 ~~the Heeia community development district. These three members~~  
10 ~~shall be considered in determining quorum and majority only on~~  
11 ~~issues relating to the Heeia community development district and~~  
12 ~~may vote only on issues related to the Heeia community~~  
13 ~~development district. The three members shall be residents of~~  
14 ~~the Heeia community development district or the Koolaupoko~~  
15 ~~district which consists of sections 1 through 9 of zone 4 of the~~  
16 ~~first tax map key division.~~

17 ~~If an additional district is designated by the legislature,~~  
18 ~~the governor shall appoint three county members as prescribed~~  
19 ~~above for each additional designated district.];~~

20 (4) Two members shall be appointed by the governor, one  
21 from each of two separate lists of three nominees  
22 submitted by the president of the senate;





- 1       (5) Two members shall be appointed by the governor, one  
2       from each of two separate lists of three nominees  
3       submitted by the speaker of the house of  
4       representatives;
- 5       (6) A community member shall be appointed by the governor  
6       from a list of three nominees submitted by the  
7       community for each community development district and  
8       who shall be considered in determining quorum and  
9       majority only on issues relating to the community  
10       member's respective community district; and
- 11       (7) A small business member shall be appointed by the  
12       governor to represent small businesses and shall be  
13       designated as the small business representative on the  
14       authority for the Kakaako community development  
15       district only whose purpose, among other things, is to  
16       vote on matters before the authority that affect small  
17       businesses; provided that the small business  
18       representative shall be an owner or active manager of  
19       a small business with its principal place of operation  
20       located within the physical boundaries of the Kakaako  
21       community development district.



1       The director of planning of a county that contains a  
2       community development district, or the director's designee,  
3       shall be an ex officio, nonvoting member.

4       In the event of a vacancy, the governor shall appoint a  
5       member to fill the vacancy within thirty days of the vacancy or  
6       within thirty days of the submission of the list of nominees to  
7       the governor, as applicable.

8       If the governor fails to make any appointment within the  
9       thirty-day period specified in this subsection or within ten  
10       days of the senate's rejection of any previous appointment, the  
11       appointment shall be made by the applicable appointing authority  
12       from the list, as applicable, with the advice and consent of the  
13       senate. The same appointment and consent procedure shall be  
14       followed until a valid appointment has been made.

15       The terms of the voting members shall be four years,  
16       commencing on July 1 and expiring on June 30; provided that the  
17       governor may reduce the terms of those initially appointed so as  
18       to provide, as nearly as can be, for the expiration of an equal  
19       number of terms at intervals of one year. The governor may  
20       remove or suspend for cause any member after due notice and  
21       public hearing.



1 Notwithstanding section 92-15, a majority of all members  
2 shall constitute a quorum to do business, and the concurrence of  
3 a majority of all members shall be necessary to make any action  
4 of the authority valid; except as provided in this subsection.  
5 All members shall continue in office until their respective  
6 successors have been appointed and qualified. Except as herein  
7 provided, no member appointed under this subsection shall be an  
8 officer or employee of the State or its political subdivisions.

9 ~~[For purposes of this section, "small business" means a~~  
10 ~~business which is independently owned and which is not dominant~~  
11 ~~in its field of operation.]"~~

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

14 **"§206E-4 Powers; generally.** Except as otherwise limited  
15 by this chapter, the authority may:

- 16 (1) Sue and be sued;
- 17 (2) Have a seal and alter the same at pleasure;
- 18 (3) Make and execute contracts and all other instruments  
19 necessary or convenient for the exercise of its powers  
20 and functions under this chapter;
- 21 (4) Make and alter bylaws for its organization and  
22 internal management;





- 1       (5) Make rules with respect to its projects, operations,  
2             properties, and facilities, which rules shall be in  
3             conformance with chapter 91;
- 4       (6) Through its executive director appoint officers,  
5             agents, and employees, prescribe their duties and  
6             qualifications, and fix their salaries, without regard  
7             to chapter 76;
- 8       (7) Prepare or cause to be prepared a community  
9             development plan for all designated community  
10            development districts;
- 11      (8) Acquire, reacquire, or contract to acquire or  
12            reacquire by grant or purchase real, personal, or  
13            mixed property or any interest therein; to own, hold,  
14            clear, improve, and rehabilitate, and to sell, assign,  
15            exchange, transfer, convey, lease, or otherwise  
16            dispose of or encumber the same;
- 17      (9) Acquire or reacquire by condemnation real, personal,  
18            or mixed property or any interest therein for public  
19            facilities, including but not limited to streets,  
20            sidewalks, parks, schools, and other public  
21            improvements;





- 1       (10) By itself, or in partnership with qualified persons,  
2            acquire, reacquire, construct, reconstruct,  
3            rehabilitate, improve, alter, or repair or provide for  
4            the construction, reconstruction, improvement,  
5            alteration, or repair of any project; own, hold, sell,  
6            assign, transfer, convey, exchange, lease, or  
7            otherwise dispose of or encumber any project, and in  
8            the case of the sale of any project, accept a purchase  
9            money mortgage in connection therewith; and repurchase  
10           or otherwise acquire any project that the authority  
11           has theretofore sold or otherwise conveyed,  
12           transferred, or disposed of;
- 13       (11) Arrange or contract for the planning, replanning,  
14            opening, grading, or closing of streets, roads,  
15            roadways, alleys, or other places, or for the  
16            furnishing of facilities or for the acquisition of  
17            property or property rights or for the furnishing of  
18            property or services in connection with a project;
- 19       (12) Grant options to purchase any project or to renew any  
20            lease entered into by it in connection with any of its  
21            projects, on terms and conditions as it deems  
22            advisable;



- 1       (13) Prepare or cause to be prepared plans, specifications,  
2            designs, and estimates of costs for the construction,  
3            reconstruction, rehabilitation, improvement,  
4            alteration, or repair of any project, and from time to  
5            time to modify the plans, specifications, designs, or  
6            estimates;
- 7       (14) Provide advisory, consultative, training, and  
8            educational services, technical assistance, and advice  
9            to any person, partnership, or corporation, either  
10           public or private, to carry out the purposes of this  
11           chapter, and engage the services of consultants on a  
12           contractual basis for rendering professional and  
13           technical assistance and advice;
- 14       (15) Procure insurance against any loss in connection with  
15            its property and other assets and operations in  
16            amounts and from insurers as it deems desirable;
- 17       (16) Contract for and accept gifts or grants in any form  
18            from any public agency or from any other source;
- 19       (17) Do any and all things necessary to carry out its  
20            purposes and exercise the powers given and granted in  
21            this chapter; and



1 (18) Allow satisfaction of any affordable housing  
2 requirements imposed by the authority upon any  
3 proposed development project through the construction  
4 of reserved housing, as defined in section 206E-101,  
5 by a person on land located outside the geographic  
6 boundaries of the authority's jurisdiction; provided  
7 that the authority shall [not] permit [~~any person to~~  
8 ~~make~~] cash payments in lieu of providing reserved  
9 housing[~~, except to account for any fractional unit~~  
10 ~~that results after calculating the percentage~~  
11 ~~requirement against residential floor space or total~~  
12 ~~number of units developed]. The substituted housing  
13 shall be located on the same island as the development  
14 project and shall be substantially equal in value to  
15 the required reserved housing units that were to be  
16 developed on site. The authority shall establish the  
17 following priority in the development of reserved  
18 housing:  
19 (A) Within the community development district;  
20 (B) Within areas immediately surrounding the  
21 community development district;  
22 (C) Areas within the central urban core;~~





1 (D) In outlying areas within the same island as the  
2 development project.

3 The Hawaii community development authority shall  
4 adopt rules relating to the approval of reserved  
5 housing that are developed outside of a community  
6 development district. The rules shall include, but  
7 are not limited to, the establishment of guidelines to  
8 ensure compliance with the above priorities."

9 SECTION 5. Section 206E-5, Hawaii Revised Statutes, is  
10 amended by amending subsection (f) to read as follows:

11 "(f) The authority may amend the community development  
12 plan as may be necessary. Amendments shall be made in  
13 accordance with chapter 91[-]; provided that no amendment to the  
14 operative Kakaako community development district mauka and makai  
15 area plans, and their attendant rules, shall take effect without  
16 prior approval of the legislature by concurrent resolution."

17 SECTION 6. Section 206E-5.5, Hawaii Revised Statutes, is  
18 amended by amending subsection (a) to read as follows:

19 "(a) The authority shall adopt community and public notice  
20 procedures pursuant to chapter 91 that shall include at a  
21 minimum:





- 1 (1) A means to effectively engage the community in which  
2 the authority is planning a development project to  
3 ensure that community concerns are received and  
4 considered by the authority;
- 5 (2) The posting of the authority's proposed plans for  
6 development of community development districts, public  
7 hearing notices, and minutes of its proceedings on the  
8 authority's website; [~~and~~]
- 9 (3) The posting of every application for a development  
10 permit for any project within a community development  
11 district on the authority's website when the  
12 application is deemed complete;
- 13 (4) Notification by the applicant of any application for a  
14 development permit for a project valued at \$250,000 or  
15 more by mail to a list of owners and lessees of record  
16 of real property located within a three hundred foot  
17 radius of the perimeter of the proposed project  
18 compiled from the most current list available from the  
19 real property assessment division of the department of  
20 budget and fiscal services of the county in which the  
21 proposed project is located when the application is  
22 deemed complete; provided that notice mailed pursuant



1 to this paragraph shall include but not be limited to  
2 notice of:

3 (A) Project specifications;

4 (B) Requests for variance, exemption, or modification  
5 of a community development plan or the  
6 authority's community development rules; and

7 (C) Procedures for intervention and a contested case  
8 hearing; and

9 [+3+] (5) Any other information that the public may find  
10 useful so that it may meaningfully participate in the  
11 authority's decision-making processes."

12 SECTION 7. Section 206E-5.6, Hawaii Revised Statutes, is  
13 amended by amending subsection (a) to read as follows:

14 "(a) When rendering a decision regarding:

15 (1) An amendment to any of the authority's community  
16 development rules established pursuant to chapter 91  
17 and section 206E-7; or

18 (2) The acceptance of a developer's proposal to develop  
19 lands under the authority's control,

20 the authority shall render its decision at a public hearing  
21 separate from the hearing that the proposal under paragraph (1)



1 or (2) was presented~~[7]~~, subject to the requirements of section  
2 206E-B."

3 SECTION 8. Section 206E-8, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "~~[+]§206E-8[+]~~ **Use of public lands; acquisition of state**  
6 **lands.** [~~(a) Any provision of chapter 171 to the contrary~~  
7 ~~notwithstanding, the governor may set aside public lands located~~  
8 ~~within community development districts to the authority for its~~  
9 ~~use.~~

10 ~~(b)~~ (a) If state lands under the control and management  
11 of other public agencies are required by the authority for its  
12 purposes, the agency having the control and management of those  
13 required lands [~~shall,~~] may, upon request by the authority and  
14 with the approval of the governor, convey~~[7]~~ or lease such lands  
15 to the authority upon such terms and conditions as may be agreed  
16 to by the parties.

17 [~~(e)~~] (b) Notwithstanding the foregoing, no public lands  
18 shall be [~~set aside,~~] conveyed~~[7]~~ or leased to the authority as  
19 above provided if such [~~setting aside,~~] conveyance~~[7]~~ or lease  
20 would impair any covenant between the State or any county or any  
21 department or board thereof and the holders of bonds issued by  
22 the State or such county, department, or board."





1 SECTION 9. Section 206E-16, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "[+]§206E-16[+] **Hawaii community development revolving**  
4 **fund.** There is created the Hawaii community development  
5 revolving fund into which [~~all~~] receipts and revenues of the  
6 authority up to a maximum aggregate amount of \$3,641,818 per  
7 fiscal year shall be deposited. Amounts exceeding the specified  
8 maximum aggregate per fiscal year shall be transferred to the  
9 general fund. Proceeds from the fund shall be used for the  
10 purposes of this chapter."

11 SECTION 10. Section 206E-16.5, Hawaii Revised Statutes, is  
12 amended to read as follows:

13 "[+]§206E-16.5[+] **Expenditures of revolving funds under**  
14 **the authority [~~exempt from~~]; appropriation and allotment.**  
15 Except as to administrative expenditures, and except as  
16 otherwise provided by law, expenditures from any revolving fund  
17 administered by the authority may be made by the authority  
18 without further appropriation or allotment of the legislature;  
19 provided that no expenditure shall be made from and no  
20 obligation shall be incurred against any revolving fund in  
21 excess of the amount standing to the credit of the fund or for  
22 any purpose for which the fund may not lawfully be expended.



1 ~~[Nothing]~~ Subject to the maximum aggregate amount specified in  
2 section 206E-16, nothing in sections 37-31 to 37-41 shall  
3 require the proceeds of any revolving fund administered by the  
4 authority to be reappropriated annually."

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

7 "~~[+]§206E-31.5[+]~~ **Prohibitions.** Anything contained in  
8 this chapter to the contrary notwithstanding, the authority is  
9 prohibited from:

10 (1) Selling or otherwise assigning the fee simple interest  
11 in any lands in the Kakaako community development  
12 district to which the authority in its corporate  
13 capacity holds title, except with respect to:

- 14 (A) Utility easements;
- 15 (B) Remnants as defined in section 171-52;
- 16 (C) Grants to any state or county department or  
17 agency; or
- 18 (D) Private entities for purposes of any easement,  
19 roadway, or infrastructure improvements; or
- 20 (E) Reserved housing as defined in section 206E-101;

21 or



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

6 SECTION 12. Section 206E-33, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 **"§206E-33 Kakaako community development district;**  
9 **development guidance policies.** The following shall be the  
10 development guidance policies generally governing the  
11 authority's action in the Kakaako community development  
12 district:

13 (1) Development shall result in a community which permits  
14 an appropriate land mixture of residential,  
15 commercial, industrial, and other uses. In view of  
16 the innovative nature of the mixed use approach, urban  
17 design policies should be established to provide  
18 guidelines for the public and private sectors in the  
19 proper development of this district; while the  
20 authority's development responsibilities apply only to  
21 the area within the district, the authority may engage  
22 in any studies or coordinative activities permitted in



1           this chapter which affect areas lying outside the  
2           district, where the authority in its discretion  
3           decides that those activities are necessary to  
4           implement the intent of this chapter. The studies or  
5           coordinative activities shall be limited to facility  
6           systems, resident and industrial relocation, and other  
7           activities with the counties and appropriate state  
8           agencies. The authority may engage in construction  
9           activities outside of the district; provided that such  
10          construction relates to infrastructure development or  
11          residential or business relocation activities;  
12          provided further, notwithstanding section 206E-7, that  
13          such construction shall comply with the general plan,  
14          development plan, ordinances, and rules of the county  
15          in which the district is located;

16          (2) Existing and future industrial uses shall be permitted  
17          and encouraged in appropriate locations within the  
18          district. No plan or implementation strategy shall  
19          prevent continued activity or redevelopment of  
20          industrial and commercial uses which meet reasonable  
21          performance standards;



- 1           (3) Activities shall be located so as to provide primary  
2           reliance on public transportation and pedestrian  
3           facilities for internal circulation within the  
4           district or designated subareas;
- 5           (4) Major view planes, view corridors, and other  
6           environmental elements such as natural light and  
7           prevailing winds, shall be preserved through necessary  
8           regulation and design review; provided that any  
9           building that is at least one hundred feet in height  
10           shall be oriented on a mauka-makai axis; provided  
11           further that no portion of any building or structure  
12           shall exceed four hundred eighteen feet in height;
- 13           (5) Redevelopment of the district shall be compatible with  
14           plans and special districts established for the Hawaii  
15           Capital District, and other areas surrounding the  
16           Kakaako district;
- 17           (6) Historic sites and culturally significant facilities,  
18           settings, or locations shall be preserved;
- 19           (7) Land use activities within the district, where  
20           compatible, shall to the greatest possible extent be  
21           mixed horizontally, that is, within blocks or other





- 1 land areas, and vertically, as integral units of  
2 multi-purpose structures;
- 3 (8) Residential development may require a mixture of  
4 densities, building types, and configurations in  
5 accordance with appropriate urban design guidelines;  
6 integration both vertically and horizontally of  
7 residents of varying incomes, ages, and family groups;  
8 and an increased supply of housing for residents of  
9 low- or moderate-income may be required as a condition  
10 of redevelopment in residential use. Residential  
11 development shall provide necessary community  
12 facilities, such as open space, parks, community  
13 meeting places, child care centers, and other  
14 services, within and adjacent to residential  
15 development;
- 16 (9) Public facilities within the district shall be  
17 planned, located, and developed so as to support the  
18 redevelopment policies for the district established by  
19 this chapter and plans and rules adopted pursuant to  
20 it[-]; and
- 21 (10) Before approving development projects, the authority  
22 shall:



- 1           (A) Require comprehensive studies of and plans for
- 2                   the infrastructure capacity of the sewers, roads,
- 3                   utilities including water and electricity,
- 4                   schools, parks, and other requirements to ensure
- 5                   that they meet the needs generated by the
- 6                   additional number of anticipated residents; and
- 7           (B) Where improvements are needed, impose the
- 8                   necessary impact fees upon the developer."

9           SECTION 13. Section 206E-182, Hawaii Revised Statutes, is  
10 amended to read as follows:

11           "**§206E-182 Powers.** In addition and supplemental to the  
12 powers granted to the authority by law, the authority may:

13           (1) With the approval of the governor, enter into a  
14                   special facility lease or an amendment or supplement  
15                   thereto whereby the authority agrees to construct,  
16                   acquire, or remodel and furnish or equip a special  
17                   facility solely for the use by another person to a  
18                   special facility lease;

19           (2) With the approval of the governor, issue special  
20                   facility revenue bonds in principal amounts not to  
21                   exceed the total amount of bonds authorized by the  
22                   legislature, that may be necessary to yield all or a



- 1           portion of the cost of any construction, acquisition,  
2           remodeling, furnishing, and equipping of any special  
3           facility;
- 4           (3) With the approval of the governor, issue refunding  
5           special facility revenue bonds, in principal amounts  
6           not to exceed the total amount of bonds authorized by  
7           the legislature, with which to provide for the payment  
8           of outstanding special facility revenue bonds  
9           (including any special facility revenue bonds  
10          theretofore issued for this purpose) or any part  
11          thereof; provided any issuance of refunding special  
12          facility revenue bonds shall not reduce the principal  
13          amount of the bonds which may be issued as provided in  
14          paragraph (2);
- 15          (4) Perform and carry out the terms and provisions of any  
16          special facility lease;
- 17          (5) Notwithstanding section 103-7 or any other law to the  
18          contrary, acquire, construct, or remodel and furnish  
19          or equip any special facility, or accept the  
20          assignment of any contract therefor entered into by  
21          the other person to the special facility lease;





1 (6) Construct any special facility on land owned by the  
2 State; provided that no funds derived herein will be  
3 expended for land acquisition; and

4 (7) Agree with the other person to the special facility  
5 lease whereby any acquisition, construction,  
6 remodeling, furnishing, or equipping of the special  
7 facility and the expenditure of moneys therefor shall  
8 be undertaken or supervised by another person."

9 SECTION 14. Section 206E-185, Hawaii Revised Statutes, is  
10 amended to read as follows:

11 "[+]§206E-185[+] **Special facility revenue bonds.** All  
12 special facility revenue bonds authorized to be issued in  
13 principal amounts not to exceed the total amount of bonds  
14 authorized by the legislature shall be issued pursuant to part  
15 III of chapter 39, except as follows:

16 (1) No revenue bonds shall be issued unless at the time of  
17 issuance the authority shall have entered into a  
18 special facility lease with respect to the special  
19 facility for which the revenue bonds are to be issued;

20 (2) The revenue bonds shall be issued in the name of the  
21 authority, and not in the name of the State;





- 1           (3) The revenue bonds shall be payable solely from and  
2           secured solely by the revenues derived by the  
3           authority from the special facility for which they are  
4           issued;
- 5           (4) The final maturity date of the revenue bonds shall not  
6           be later than either the estimated life of the special  
7           facility for which they are issued or the initial term  
8           of the special facility lease;
- 9           (5) If deemed necessary or advisable by the authority, or  
10          to permit the obligations of the other person to the  
11          special facility lease to be registered under the U.S.  
12          Securities Act of 1933, the authority, with the  
13          approval of the director of finance, may appoint a  
14          national or state bank within or without the State to  
15          serve as trustee for the holders of the revenue bonds  
16          and may enter into a trust indenture or trust  
17          agreement with the trustee. The trustee may be  
18          authorized by the authority to collect, hold, and  
19          administer the revenues derived from the special  
20          facility for which the revenue bonds are issued and to  
21          apply the revenues to the payment of the principal and  
22          interest on the revenue bonds. If any trustee shall



1 be appointed, any trust indenture or agreement entered  
2 into by the authority with the trustee may contain the  
3 covenants and provisions authorized by part III of  
4 chapter 39 to be inserted in a resolution adopted or  
5 certificate issued, as though the words "resolution"  
6 or "certificate" as used in that part read "trust  
7 indenture or agreement". The covenants and provisions  
8 shall not be required to be included in the resolution  
9 or certificate authorizing the issuance of the revenue  
10 bonds if included in the trust agreement or indenture.  
11 Any resolution or certificate, trust indenture, or  
12 trust agreement adopted, issued, or entered into by  
13 the authority pursuant to this part may also contain  
14 any provisions required for the qualification thereof  
15 under the U.S. Trust Indenture Act of 1939. The  
16 authority may pledge and assign to the trustee the  
17 special facility lease and the rights of the authority  
18 including the revenues thereunder;

19 (6) If the authority, with the approval of the director of  
20 finance, shall have appointed or shall appoint a  
21 trustee for the holders of the revenue bonds, then  
22 notwithstanding the provisions of the second sentence



1 of section 39-68, the director of finance may elect  
2 not to serve as fiscal agent for the payment of the  
3 principal and interest, and for the purchase,  
4 registration, transfer, exchange, and redemption, of  
5 the revenue bonds, or may elect to limit the functions  
6 the director of finance shall perform as the fiscal  
7 agent. The authority, with the approval of the  
8 director of finance, may appoint the trustee to serve  
9 as the fiscal agent, and may authorize and empower the  
10 trustee to perform the functions with respect to  
11 payment, purchase, registration, transfer, exchange,  
12 and redemption, that the authority may deem necessary,  
13 advisable, or expedient, including, without  
14 limitation, the holding of the revenue bonds and  
15 coupons which have been paid and the supervision and  
16 conduction of the destruction thereof in accordance  
17 with sections 40-10 and 40-11. Nothing in this  
18 paragraph shall be a limitation upon or construed as a  
19 limitation upon the powers granted in the preceding  
20 paragraph to the authority, with the approval of the  
21 director of finance, to appoint the trustee, or  
22 granted in sections 36-3 and 39-13 and the third





1 sentence of section 39-68 to the director of finance  
2 to appoint the trustee or others, as fiscal agents,  
3 paying agents, and registrars for the revenue bonds or  
4 to authorize and empower the fiscal agents, paying  
5 agents, and registrars to perform the functions  
6 referred to in that paragraph and sections, it being  
7 the intent of this paragraph to confirm that the  
8 director of finance as aforesaid may elect not to  
9 serve as fiscal agent for the revenue bonds or may  
10 elect to limit the functions the director of finance  
11 shall perform as the fiscal agent, that the director  
12 of finance may deem necessary, advisable, or  
13 expedient;

14 (7) The authority may sell the revenue bonds either at  
15 public or private sale;

16 (8) If no trustee shall be appointed to collect, hold, and  
17 administer the revenues derived from the special  
18 facility for which the revenue bonds are issued, the  
19 revenues shall be held in a separate account in the  
20 treasury of the State, separate and apart from the  
21 Hawaii community development revolving fund, to be  
22 applied solely to the carrying out of the resolution,





1 certificate, trust indenture, or trust agreement  
2 authorizing or securing the revenue bonds;

3 (9) If the resolution, certificate, trust indenture, or  
4 trust agreement shall provide that no revenue bonds  
5 issued thereunder shall be valid or obligatory for any  
6 purpose unless certified or authenticated by the  
7 trustee for the holders of the revenue bonds,  
8 signatures of the officers of the State upon the bonds  
9 required by section 39-56 may be facsimiles of their  
10 signatures;

11 (10) Proceeds of the revenue bonds may be used and applied  
12 by the authority to reimburse the other person to the  
13 special facility lease for all preliminary costs and  
14 expenses, including architectural and legal costs; and

15 (11) If the special facility lease shall require the other  
16 person to operate, maintain, and repair the special  
17 facility which is the subject of the lease, at the  
18 other person's expense, the requirement shall  
19 constitute compliance by the authority with section  
20 39-61(a)(2), and none of the revenues derived by the  
21 authority from the special facility shall be required  
22 to be applied to the purposes of section 39-62(2).



1           Sections 39-62(4), 39-62(5), and 39-62(6) shall not  
2           apply to the revenues derived from a special facility  
3           lease."

4           SECTION 15. This Act does not affect rights and duties  
5           that matured, penalties that were incurred, and legal  
6           proceedings that were begun before its effective date.

7           SECTION 16. In codifying the new sections added by section  
8           1 of this Act, the revisor of statutes shall substitute  
9           appropriate section numbers for the letters used in designating  
10          the new sections in this Act.

11          SECTION 17. Statutory material to be repealed is bracketed  
12          and stricken. New statutory material is underscored.

13          SECTION 18. This Act shall take effect on July 1, 2050.



**Report Title:**

Hawaii Community Development Authority

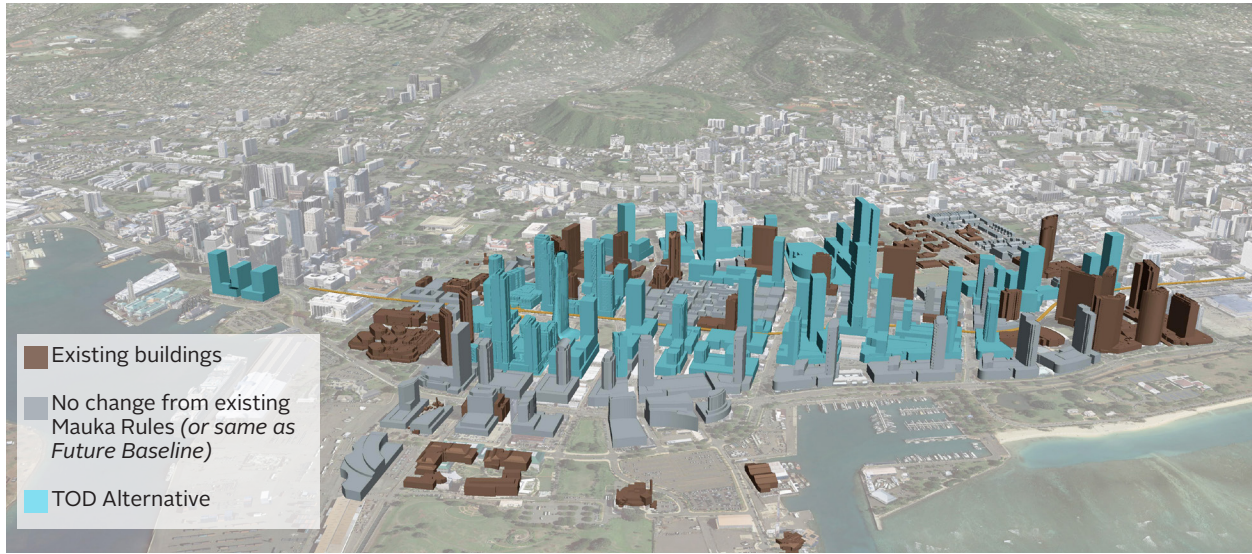
**Description:**

Amends requirements for notice, hearing, approval, and contest case hearings for development proposals involving variances, exemptions, or modifications of community development plans or rules. Increases the voting membership of the Authority and amends Authority membership and appointment procedures. Permits the Authority to accept cash in lieu of provision of reserved housing. Prohibits the Authority from amending the operative Kakaako community development district mauka and makai area plans without prior approval from the legislature. Requires applicants for certain proposed development projects to provide notice of the proposed project to residents and businesses within 300 feet of the proposed project. Establishes cap amount for HCDA revolving fund and legislative oversight of HCDA bond authority. Prohibits acquisition of public land by the Authority by set aside. Creates height limit and building orientation for Kakaako. Effective July 1, 2050. (Proposed SD2)

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







Development scenario of build-out under the TOD Overlay Plan. An array of taller, slender towers are envisioned near by the Civic Center, and Kaka`ako Transit Stations.

Image from VIA Architecture

## Design: Urban Form and Neighborhood Patterns

The TOD Overlay Plan encourages a new diversity of high-rise types – in selected areas introducing a hierarchy of building form. New guidance will also be established to better address views and aesthetics for taller buildings. Together, these buildings will create a skyline of views through and between towers, as well as green spaces on podiums that will enhance views down from neighboring buildings and residential areas on the slopes of Punchbowl, Makiki and Pacific Heights. The sensitive application of height allowance paired with quality streetscape design can produce the characteristics of a comfortable pedestrian-oriented environment on the ground plane, while adding to the overall capacity in Honolulu’s primary urban center.

- **Urban Design to support Transit Integration** – Introduces policies for the collaboration on the design and construction of the HART system.
- **Skyline and Views**- Provides policy for HCDA to add additional guidance for framing and focusing views
  - Apply best practices to advance the development of well-sited, tall, slender towers, and encourages a diversity of high-rise types and a hierarchy of building form.
  - Introduces new high rise tower types that permit a limited number of buildings to reach 550’.
- **Iconic Buildings** - The Plan seeks to introduce opportunities for a limited number (up to three) of exemplary Iconic buildings with exceptional public benefit.
  - Buildings heights up to 700’
  - One building allowed in Auahi, Thomas Square District (Blaisdell Center area), and Pauahi



Forest City Rendering of 690 Pohukaina Project Proposal  
Image from Forest City





Testimony of John Horvath

In Support of HB 1866 SDI, Proposed SD #2

Dear Chair Ige and Members,

I support the proposed SD #2 because of the protection offered to the community.

- Citizens should not be denied due process if they want to appeal decisions
- Master Plan holders should not be given Cater Blanche on development rights
- The authority make-up should reflect the communities make-up
- Plan and rules should be approved by elected officials
- New developments of more 100' tall buildings should oriented mauka-makai
- Infrastructure should truly be addressed in advance of any large project.

Thank you for your time and your support of these common sense additions to HB 1866 SD #1.

Sincerely,

John Horvath

425 South Street #3101

Honolulu, HI 96813

## Senate Committee on Ways and Means

Wednesday, April 2, 2014  
9:20 AM Decision Making  
Conference Room 211  
House Bill 1866, HD2, SD1



### Testimony in Support of HB 1866 SD1 with Requested Improvements

:  
Aloha Chair Ige, Vice Chair Kidani and Committee Members:

My name is Wayne Takamine and I participated as the Chair of the Kaka'ako Makai Community Planning Advisory Council (CPAC) in the creation and HCDA approval of the Kaka'ako Makai Master Plan.

Since May of 2013 the HCDA has increased the number of Kaka'ako Makai commercial proposals for exclusive negotiations. This includes projects located on sensitive areas adjacent to or including public shoreline park lands. Although the HCDA has sporadically held monthly Kaka'ako Community Briefings these briefings do not cover many of the agenda action items discussed at HCDA Monthly Board meetings or HCDA Special Board meetings. As a result, there have been many "surprise" action items on the agendas leaving concerned citizens, community members, stockholders and community groups with little information or time to prepare testimony. Many of these projects are quickly approved despite the concerns by the unprepared community. Adding to the problem is the large amount of dissatisfaction by the Kaka'ako community regarding HCDA's public hearings process, HCDA Board vacancies, lack representation and the inability of the HCDA to incorporate public concerns into the plans of the approved projects. Many feel the HCDA has no backbone and is just bending to developers and ignoring the public. To make matters worse, HCDA has been scheduling multiple hearings on single days and as a result some Kaka'ako Meetings have been over 2.5 hours late. Also a concern is the many executive sessions by the authority during meetings and hearings that leaves the public wondering, "what's going on?"

In 2012, the legislature approved SB2742 SD1 HD2 CD1 that states:

The purpose of this measure is to change the composition of the Hawaii Community Development Authority (HCDA), decrease the membership of HCDA to nine voting members for each established district, and allow HCDA to lease all or a portion of the real or personal property constituting a project in the Kakaako Community Development District, without recourse to public auction or public notice for sealed bids.

After the enactment Act 323 in 2012, the HCDA board was reduced from 13 members to 9 members. However, after the transition the HCDA board consisted of only 8 members and was reduced to 7 board members in May of 2013 when the Cultural Specialist's term was not extended. During this period the Kaka'ako Community and Legislators asked the HCDA to fill its vacancies but those calls were not heeded until recently. Also a concern is that the ex-officio members are not usually present at controversial hearings which brings a question of accountability in the decision making process and the question of what amount the decision is predetermined before the hearing.

On August 21, 2013 (After Act 323 was enacted) the HCDA approved exclusive negotiations for a 25 year lease of over 9 acres of Kaka'ako Waterfront Park for a commercial LED light show. This proposal immediately created a public uproar after learning the HCDA is able to lease public park lands for commercial use. The HCDA Special Hearing was held on August 21, 2013 which was **not** its typical meeting time on the first Wednesday of the month. I also started over 2.5 hours late because it followed a public hearing for a

controversial condominium project. I was one of a handful of the public stayed after 3:00pm to hear the information about the project and then try to give testimony on the project I only heard of minutes earlier.

CPAC was created in 2006 during the Kaka'ako Makai HCDA Condominium RFP controversy by a House Concurrent Resolution HCR-30:

BE IT FURTHER RESOLVED that the Hawaii Community Development Authority immediately convene a working group of interested stakeholders, particularly the groups and individuals that have surfaced in this controversy, to meaningfully participate in the development, acceptance, and implementation of any future plans for the development of Kakaako Makai;

CPAC strongly believes it is time to reform the HCDA due to the heightened concerns voiced in the news media for the many controversial projects and associated problems. In 2013 there has been a significant increase in the amount of projects proposed in both Kaka'ako Mauka and Kaka'ako Makai and the HCDA has not been able to adequately satisfy the public's demand for more transparency and accountability in its public hearings, board membership, rules interpretation, project revisions and decision making process.

While HB1866, SD1, addresses some of our concerns such as public hearings and notification of affected community residents within 300 feet of proposed development projects, prohibition of any building over 418 feet in height, and cash in lieu provisions to enable HCDA to keep "reserved housing" in the affordable housing pool (and prevent the current practice of "flipping"), it does not provide for the community recommendations in previous versions of the bill, and we urge this committee to address the following as provided in HB1866 SD1, Proposed SD2, which:

- Requires that all persons aggrieved by the authority's decisions have a right to an administrative appeal and to be heard by an independent hearings officer (Section 206E-C);
- Deletes giving master plan holders permanent development rights; they currently have vested rights for 10 years and may extend for 20 years and there is a savings clause in SD1 (Sec 206E-7b)
- Changes the authority's composition to make it more representative by expanding the sources of nominees, including the legislature, county, cultural specialist, small business, and affected communities being served (Sec 206E-3);
- Requires prior legislative approval for any amendment to the Kaka'ako mauka and makai area plans and rules (sec 206E-5);
- Requires any building 100 feet or higher to be oriented on a mauka-makai axis (Sec 206E-33(4)); and
- Requires HCDA to conduct a comprehensive study of and develop plans to address the infrastructure capacity before approving development projects, including assessment of impact fees for needed improvements (Sec 206E-33(10)).

We ask your support of HB 1866 SD1, with the amendments above.

Respectfully,

Wayne Takamine  
Chairman  
Kaka'ako Makai Community Planning Advisory Council (CPAC)

---

# A BILL FOR AN ACT

RELATING TO THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY.

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

1           SECTION 1. Chapter 206E, Hawaii Revised Statutes, is  
2 amended by adding three new sections to part I to be  
3 appropriately designated and to read as follows:

4           "**§206E-A Assignment of powers and duties prohibited.**

5 Notwithstanding anything contained in this chapter to the  
6 contrary, the authority shall not assign to any person or  
7 agency, including the executive director of the authority, any  
8 of its powers and duties related to the approval of any  
9 variance, exemption, or modification of any provision of a  
10 community development plan or community development rules.

11           **§206E-B Public hearing on variances, exemptions, or**  
12 **modifications; separate hearing required.** (a) When considering  
13 any developer's proposal to develop lands under the authority's  
14 control that includes any request for a variance, exemption, or  
15 modification of a community development plan or of the  
16 authority's community development rules, the authority shall  
17 hear the request for variance, exemption, or modification at a  
18 public hearing separate from and subsequent to the hearing at





Hawaii Community Development Authority

Special Meeting

August 21, 2013

11:05 a.m.

461 Cooke Street

Honolulu, Hawaii 96813

LIEUTENANT GOVERNOR'S  
OFFICE

13 AUG 14 P2:44

**AGENDA**  
**KAKAAKO**

**I. CALL TO ORDER/ROLL CALL**

**II. REPORT OF THE EXECUTIVE DIRECTOR**

**III. KAKAAKO MATTERS\***

1. Decision Making: Shall the Authority Authorize the Executive Director to Enter into a Thirty (30) Year Lease Agreement with an Option to Extend an Additional Ten (10) Years with KB Marina L.P. for the Kewalo Basin Harbor in Accordance with the Terms and Conditions Recommended by the Hawaii Community Development Authority Staff Report?
2. Decision Making: Shall the Authority Authorize the Executive Director to Enter into an Exclusive Negotiations Agreement with Illuminage Group, Inc. for the Potential Lease and Development of a Portion of Kakaako Waterfront Park (TMK: 2-1-60: 08 por.) for a Family-Oriented Theme Park?
3. Decision Making: Shall the Authority Authorize the Executive Director to Enter into an Exclusive Negotiations Agreement with Goodluck Corporation and/or Take and Give Needs Co., Ltd for the Potential Lease and Development of a Portion of Fast Land along the Diamondhead Side of Kewalo Basin (Portion of TMK 2-1-058:128) for a Mixed Use Development including Parking and Negotiate a Lease and Development Agreement?

**IV. ADJOURNMENT**



From: [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
 To: [WAM Testimony](#)  
 Cc: [management@hawaiishoppingcenter.com](mailto:management@hawaiishoppingcenter.com)  
 Subject: Submitted testimony for HB1866 on Apr 2, 2014 09:20AM  
 Date: Tuesday, April 01, 2014 5:26:31 PM

**HB1866**

Submitted on: 4/1/2014

Testimony for WAM on Apr 2, 2014 09:20AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Rachelle Nobriga	Individual	Support	No

Comments: Please support the changes offered in proposed HB1866 Proposed SD2 that calls for these amendments to ensure the much needed structure and oversight to build Kaka'ako to serve the highest needs and aspirations of Hawaii's people, which is the HCDA mandate. I am writing today in strong support of HB1866 HD2 SD1 with suggested amendments details in proposed SD2 (attached). I appreciate very much the work of the previous committee on this measure and think it is extremely important that this measure proceed to a meaningful conference committee. The House and the Senate need to agree to a bill clearly reforming how HCDA conducts its business, so that Kaka'ako Mauka can be developed, but in a way that results in a livable, multi-faceted, and practical community. SD2 will help to strengthen the current version of the bill. The key points of SD2 that I support include (you may pick and choose from the list below, or include all. Each of these are included in proposed SD2): \* Requiring HCDA to adopt rules and procedures for a contested-case process that entitles any person adversely affected by an HCDA decision with the ability to intervene. \* Changing the makeup of the authority(i.e., the board and decision-making body) from 9 to 12 members, including a cultural expert and small business member, to better-represent the 3 existing community development districts - Kakaako, Kalaeloa and Heeia. \* Requiring comprehensive studies of and plans for the infrastructure capacity of sewers, roads, utilities, schools, and parks to ensure that adequate capacity exists for the 20,000 to 30,000 residents who will live in the proposed 30 condo towers. \* Denying HCDA the ability to amend Kakaako community development district mauka and makai area plans and rules without prior approval of the legislature passed by concurrent resolution. \* Requiring that buildings at least 10 feet in height be oriented in a mauka-makai direction. \* Limiting the height of all buildings to 40 feet. \* Requiring HCDA to hold separate public hearings when considering developers' requests for a variance, exemption or modification of a community development plan or HCDA's rules. \* Requiring that an applicant for a development permit notify, by mail, all property owners, lessees, sub lessees, and residents within a 300-ft radius of the perimeter of a proposed project. Thank you for your consideration of my testimony, and for moving this measure forward to conference committee.

Please note that testimony submitted less than 24 hours prior to the hearing,

improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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**From:** [Ron Iwami](#)  
**To:** [WAM Testimony](#)  
**Subject:** Testimony in support of HB 1866, HD2, SD1  
**Date:** Tuesday, April 01, 2014 10:32:58 PM

---

Committee on Ways and Means  
Senator David Y. Ige, Chair  
Wednesday, April 02, 2014  
9:20 am room 211  
State Capitol

Testimony is support of HB 1866, HD2, SD1

Aloha,

Friends of Kewalos is a nonprofit community group dedicated to Protect, Preserve, and Malama Kewalo Basin Park and the surrounding Kaka'ako shoreline area to ensure continued 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 skewed toward development, business and government. HCDA needs to follow the rules and not exceed the 400 foot height limitation by allowing buildings 650 feet 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 today 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 the recreational areas of the area.

Friends of Kewalos feel this bill will be 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





From: [mailinglist@capitol.hawaii.gov](mailto:mailinglist@capitol.hawaii.gov)  
 To: [WAM Testimony](#)  
 Cc: [autumnrose2010@yahoo.com](mailto:autumnrose2010@yahoo.com)  
 Subject: Submitted testimony for HB1866 on Apr 2, 2014 09:20AM  
 Date: Tuesday, April 01, 2014 3:59:02 PM

**HB1866**

Submitted on: 4/1/2014

Testimony for WAM on Apr 2, 2014 09:20AM in Conference Room 211

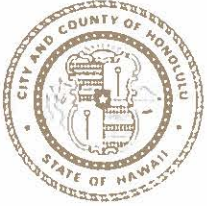
Submitted By	Organization	Testifier Position	Present at Hearing
Wynnie Hee	Individual	Support	No

Comments: Yes we need this bill. HCDA IS NOT JUST A SKYSCRAPER HIGH DENSITY DEVELOPMENT AUTHORITY -- IT IS COMMUNITY DEVELOPMENT. Please put COMMUNITY back into this Authority. Improvements to HCDA's structure and processes now will help others when community development districts are approved by the legislature in other areas and on other islands. While HB 1866 HD2 SD1 provides much-needed structure and oversight to HCDA, the bill needs to be strengthened by... Requiring HCDA to adopt rules and procedures for a contested-case process that entitles any person adversely affected by an HCDA decision with the ability to intervene. Changing the makeup of the authority(i.e., the board and decision-making body) from 9 to 12 members, including a cultural expert and small business member, to better-represent the 3 existing community development districts - Kakaako, Kalaeloa and Heeia. Requiring comprehensive studies of and plans for the infrastructure capacity of sewers, roads, utilities, schools, and parks to ensure that adequate capacity exists for the 20,000 to 30,000 residents who will live in the proposed 30 condo towers. Denying HCDA the ability to amend Kakaako community development district mauka and makai area plans and rules without prior approval of the legislature passed by concurrent resolution. Requiring that buildings at least 100 feet in height be oriented in a mauka-makai direction. Limiting the height of all buildings to 418 feet. Requiring HCDA to hold separate public hearings when considering developers' requests for a variance, exemption or modification of a community development plan or HCDA's rules. Requiring that an applicant for a development permit notify, by mail, all property owners, lessees, sub lessees, and residents within a 300-ft radius of the perimeter of a proposed project. Requiring a one-year moratorium on all development approvals within the Kakaako Community Development District. Creating an urban community redevelopment task force appointed by the Legislature to report back to the Legislature with recommendations as to steps that should be taken to ensure that urban community redevelopment projects meet the highest needs and aspirations of Hawaii's people, which is part of HCDA's mandate. The task force should be independent of HCDA and consist of planners, architects, and resource capacity specialists along with residents living in a community development district.

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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**CITY COUNCIL**  
CITY AND COUNTY OF HONOLULU  
530 SOUTH KING STREET, ROOM 202  
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**ERNEST Y. MARTIN**  
CHAIR and PRESIDING OFFICER  
HONOLULU CITY COUNCIL  
DISTRICT 2  
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EMAIL: [emartin@honolulu.gov](mailto:emartin@honolulu.gov)



Thursday, April 3, 2014  
10:10 A.M.  
State Capitol, Conference Room 211  
Senate Committee on Ways & Means

Testimony of  
Ernest Y. Martin  
Chair and Presiding Officer  
Honolulu City Council

In support of  
HOUSE BILL 1866 HD 2 SD 1  
RELATING TO THE HAWAII COMMUNITY  
DEVELOPMENT AUTHORITY

I would like to express my support for HB 1866 HD 2 SD 1, relating to the Hawaii Community Development Authority. Although I support the basic mission of HCDA, I believe there is room for improvement in the way it conducts business.

It is important that we maintain public faith and confidence in the decision-making process of the organization. I believe this confidence could be safeguarded by the passage of legislation that improves transparency and incorporates public review and input throughout the process.

It is very important that we develop Kakaako in accordance with properly established guidelines. We need to do development right, mistakes are difficult to undo. For these reasons, I support HB 1866 HD 2 SD 1.



*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) 524-689

EXECUTIVE BOARD

April 2, 2014

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415 South Beretania Street  
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**DAMIEN T.K. KIM**

*Vice President*

International Brotherhood of  
Electrical Workers Local 1186

RE: OPPOSITION to HB1866, HD2, SD1 RELATING TO HCDA  
Hearing: Wednesday, April 3, 2014, 10:10 a.m. Conference Room 211

**MARC YAMANE**

*Secretary Treasurer*

Elevator Constructors Local 126

Honorable Chair, Vice Chair and Committee Members;

**RYDEN VALMOJA**

*Sergeant At Arms*

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

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 14 out of 15 international 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.

**DOUGLAS FULP**

*Trustee*

International Assoc. of Heat & Frost  
Insulators & Allied Workers Local 132

The Council respectfully OPPOSES HB1866, HD2, SD1 Amends requirements for notice, hearing, approval, and vesting of rights for development permits. Permits the Authority to accept cash in lieu of provision of reserved housing. Requires applicants for certain proposed development projects to provide notice of the proposed project to residents and businesses within 300 feet of the proposed project. Establishes cap amount for HCDA revolving fund and legislative oversight of HCDA bond authority. Prohibits acquisition of public land by the Authority by set aside. Creates height limit for Kakaako.

**JOSEPH O'DONNELL**

*Trustee*

Iron Workers Local 625

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.

**GARY AYCOCK**

Boilermakers, Ironship Builders  
Local 204

**RONAN KOZUMA**

Hawaii Teamsters & Allied  
Workers Local 996

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.

**VAUGHN CHONG**

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

**KIKA G. BUKOSKI**

*Executive Director*

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 of HB1866, HD2, SD1 appear to create restrictive guidelines that may impede the progress of the HCDA and prevent the agency from achieving its general mission 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.

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

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

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

Thank you for the opportunity to provide comments in opposition to HB1866, HD2, SD1.

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