



LATE

SCR19
**APPROVING THE SALE OF THE LEASED FEE INTEREST IN 41-529 INOAOLE STREET,
WAIMANALO, HAWAII**

Senate Committee on Ways and Means

March 30, 2017

1:30 p.m.

Conference Room 211

The Office of Hawaiian Affairs (OHA) offers the following **COMMENTS** on SCR19, which approves the sale of the leased fee interest in a single-family home in the Hale Aupuni affordable housing project. While the lands identified for the sale of the leased fee interest in SCR19 are “ceded” lands, the proposed sale falls within an OHA Board of Trustees (BOT) Executive Policy, which provides that OHA will not oppose such a resolution. Accordingly, **OHA does not oppose the sale of this leased fee interest.**

SCR19 has been offered for consideration by the Legislature in accordance with Act 176, Session Laws of Hawai‘i 2009, as amended. Among other things, Act 176 requires a two-thirds approval by both houses of the Legislature before any specific lands controlled by the State can be sold (including, but not limited to, “ceded” lands).

In general, sales of “ceded” lands raise significant concerns for OHA and its beneficiaries, because the Native Hawaiian people’s unrelinquished claims to “ceded” lands have yet to be resolved. In response to Act 176 (2009) and Act 169 (2011), the BOT adopted a “Ceded Lands” policy which states:

OHA reaffirms its policy to protect the ceded lands corpus until the unrelinquished claims of Native Hawaiians are resolved, and OHA shall oppose the alienation of any ceded lands by the State of Hawai‘i, except in the following limited situations ... (1) OHA shall not oppose a resolution submitted to the Hawai‘i State Legislature pursuant to Act 176 (2009) and Act 169 (2011) for the sale of fee simple interest of apartments, townhouses, and houses for home ownership, where... [2] there have been prior sales in the same development to the extent that the units have previously been substantially sold, or [3] sales of the fee simple interest were approved by the responsible state housing agency prior to the filing of the lawsuit *OHA v. Hawaii Finance and Development Corporation*, Civil No. 94-4207-11, First Circuit Court, State of Hawai‘i, November 4, 1994. (emphasis added).

While SCR19 proposes the sale of “ceded” lands, consistent with the policy exceptions cited above, OHA does not oppose the proposed sale of the leased fee interest at 41-529 Inoaole Street, for the following reasons:

- As of 2015, 173 of 190 of the total units in Hale Aupuni have had the fee simple interest sold (roughly 91% sold), indicating that units “in the same development... have previously been substantially sold;” and
- On January 12, 1990, the Housing Finance and Development Corporation (predecessor of the current Hawai‘i Housing Finance and Development Corporation) Board of Directors voted unanimously to approve the sale of the fee simple interest in Hale Aupuni. The Housing Finance and Development Corporation, as “the responsible state housing agency,” approved the sale of the fee interest in Hale Aupuni prior to the filing of the *OHA v. HFDC* lawsuit on November 4, 1994.

Accordingly, OHA does not oppose the proposed sale in SCR19. Mahalo for the opportunity to testify on this measure.