



LATE

SCR23
**APPROVING THE SALE OF THE LEASED FEE INTEREST IN 41-1362 WAIKALOA 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 SCR23, which approves the sale of the leased fee interest in a single-family home in the Waimānalo Village Self-Help affordable housing project. While the lands identified for the sale of the leased fee interest in SCR23 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.**

SCR23 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 [1] there is already an agreement in an existing contract with the state agency allowing the homeowner to purchase the fee simple interest for home ownership, . . . 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 SCR23 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 41-1362 Waikaloa Street, for the following reason:

- On January 5, 1994, an indenture was executed between the Housing Finance and Development Corporation (predecessor of the current Hawai‘i Housing Finance and

Development Corporation) and lessees, Chauncey and Marietta Kalua, for a lease in Waimānalo Village with the option to purchase fee simple interest. The Housing Finance and Development Corporation, as “the responsible state housing agency,” therefore approved the sale of the fee interest in this unit prior to the filing of the *OHA v. HFDC* lawsuit on November 4, 1994, and the lessees here possessed an existing contractual right to purchase the fee interest in their home at that time.

Accordingly, OHA does not oppose the proposed sale in SCR23. Mahalo for the opportunity to testify on this measure.

March 20, 2017

LATE

Chauncey K. and Marietta M. Kalua
41-1362 Waikalua Street
Waimanalo, HI 96795

Subject: Concurrent Resolutions for the Leased Fee Purchase
Project: Waimanalo Village Self-Help
Lot No: 9
Property Address: 41-1362 Waikalua Street, Waimanalo, HI 96795
Tax Map Key: (1)4-1-12-162
Senate Concurrent Resolution: Reso No. SCR23
House Concurrent Resolution: Reso No HCR17

The Concurrent Resolutions submitted to the Legislature for the purchase of the above mentioned leased fee interest property is in our greatest interest. We are hereby notifying you that we, as the homeowners, are expressing our interest in obtaining a favorable review. We feel this marks the inception of a new round of decisions and chapters of possibilities. Be of service and show courage to partake in the existence of someone else's reality(ies).

We are diligently seeking your cooperation and supported assistance through this process. We've been patiently awaiting the negotiations for over a year and would like your continued support. Do take under deep consideration that we have resided at the above stated address for over 20 years. This decision to expedite this purchase is made with a physical firm, mentally stable and spiritually ready standpoint.

Please keep us advised of any changes to the measures that are being in favor of us homeowners to purchase the Lease Fee property.

The Kalua Ohana