



HCR129/HR111
CONVENING A WORKING GROUP
TO DISCUSS THE FUTURE DEVELOPMENT PLANS IN KAKA‘AKO MAKAI
Ke Kōmike Hale o ka Wai a me ka ‘Āina
House Committee on Water & Land

Malaki 23, 2021

8:30 a.m.

Lumi 430

The Beneficiary Advocacy and Empowerment Committee of the Office of Hawaiian Affairs (OHA) **STRONGLY OPPOSES** HCR129/HR111, which convenes a working group to discuss the future development plans in Kaka‘ako Makai and to identify public lands of comparable value suitable to OHA for a possible land exchange for some or all of its parcels in Kaka‘ako Makai. This resolution represents an intrusion by the Legislature into the OHA Board of Trustees’ exclusive authority under the state Constitution to manage the Native Hawaiian people’s share of the Public Land Trust; a unilateral attempt to undo a major settlement between Native Hawaiians and the State of Hawai‘i over the State’s use of our people’s ancestral lands; and an attack on the Native Hawaiian people’s indigenous right of self-determination.

If Passed, HCR129 and HR111 Would Represent A Legislative Intrusion into the OHA Board of Trustees Exclusive Authority Over Native Hawaiian Trust Assets

OHA’s Kaka‘ako Makai lands are Native Hawaiian trust lands. These lands are not public lands. The state Legislature cannot interfere with the OHA Board’s exclusive authority under the state Constitution to manage these lands.

The trust character of OHA’s Kaka‘ako Makai lands are sourced in the state Constitution and Act 15, which transferred the lands to OHA. Article XII, Section 5, of the state Constitution makes clear that all real property conveyed to OHA “shall be held in trust for native Hawaiians and Hawaiians,” and Section 6 of that Article further states that “the board of trustees of the Office of Hawaiian Affairs shall exercise power as provided by law: to manage and administer . . . all income and proceeds from that portion of the [Public Land Trust] referred to in section 4 of this article for native Hawaiians.” Section 6 of Act 15 specifies that OHA Kaka‘ako properties are “deemed income and proceeds from the public land trust, as if the Properties had been paid out of the income and proceeds from the public land trust pursuant to article XII, section 6 of the State Constitution” (emphasis added).¹ Further, Section 2 of the Act states that OHA “shall administer the

¹ Act 15 (Reg. Sess. 2012).

Properties in accordance with its duties under the Hawaii Constitution and as provided by law.”

In 2003, the state Attorney General opined that the state Constitution “makes the elected trustees of OHA, not the Legislature, responsible for determining how the native Hawaiians’ portion of ceded land receipts are spent [...].” The Attorney General went on to write that “the native Hawaiians’ share of ceded land receipts does not belong to the State, and thus is not ‘public money’” (emphasis added).² If Native Hawaiian’s share of Public Land Trust revenues are not “public money,” then Kaka‘ako Makai, which Act 15 deemed to be Public Land Trust revenues, are certainly not public lands, and are instead part of the trust corpus that the Constitution places squarely within the prerogative of the OHA Board of Trustees.

The proposed working group to discuss the “development plans” for Kaka‘ako Makai would allow the Legislature and other organizations to intrude into the OHA Board of Trustee’s exclusive authority and responsibility to manage its trust corpus for the sole benefit of its beneficiaries. The inclusion of the Kaka‘ako Makai Community Planning Advisory Council in the working group is also particularly offensive. It is wholly inappropriate for the Legislature, much less a community organization with no connection to the Native Hawaiian community, to determine how OHA’s Board of Trustees should administer its trust corpus.

OHA opposes this legislative overreach and if passed, this measure would represent a significant and constitutionally problematic legislative intrusion into the OHA Board of Trustee’s fiduciary prerogatives.

HCR129 Represents a Unilateral Attempt to Undo a Major Settlement Between Native Hawaiians and the State of Hawaii

For decades, OHA and the State have debated at the Capitol and in the courts to resolve a longstanding dispute regarding the debt owed to Native Hawaiians as required under the Public Land Trust, itself embodied within the Admission Act and the state Constitution. In 2008, the Executive Branch and OHA reached a historic agreement that the debt owed to Native Hawaiians at that time was valued at \$200 million. However, for four consecutive sessions, the state Legislature rejected every proposed deal to resolve this debt, including combinations of various land transfers and dollar amounts totaling \$200 million.

Finally, the state Legislature was presented with a proposal in 2012 to transfer to OHA 30 acres of land in Kaka‘ako Makai. Some legislators raised concerns about the fairness of the proposed agreement, because of a law that prohibited residential development on these lands. A clear message was sent to OHA, however, that the Legislature would not approve a proposed settlement bill that included residential

² Attorney General Op. No. 03-04.

entitlements. Ultimately, while Act 15 was passed into law, the residential restriction on the parcels conveyed to OHA were not lifted. However, the Committee Report from the Committees on Judiciary and Labor and Ways and Means did express “concerns about the fairness of this proposed settlement” and recognize that “**property values [of the Kaka‘ako Makai parcels] could be enhanced by certain entitlements that, while not specifically provided for in this measure, could be obtained at a future date**” (emphasis added).³ Therefore, OHA accepted these lands, promising to return to the Legislature after completing its initial planning and financial analysis.

After decades of fighting and expending resources to settle this dispute, and after years of expending trust resources to manage our Kaka‘ako Makai lands, OHA is now being told that the Legislature wants to unilaterally renegotiate the entire 2012 settlement. This is patently unfair and calls into the question whether the State can ever be trusted to deliver on its legal obligations to Native Hawaiians.

Should the 2012 settlement be re-opened under HCR129, it would mean that two significant legislative agreements between OHA and the State regarding the state’s legal obligations to Native Hawaiians would have unraveled without being fully implemented. The other legislative agreement was Act 304, which finally established a formula for the Native Hawaiian people’s share of Public Land Trust revenues in 1990. The Hawai‘i Supreme Court invalidated Act 304 in 2001.

OHA notes that the inclusion of the Kaka‘ako Makai Community Planning Advisory Council, which has no connection to the Native Hawaiian community, in a renegotiation of Act 15 is also, again, particularly offensive.

HCR129 ignores the years of negotiations between OHA and the state into both the value of the debt owed and identifying lands that both sides could agree to including in a settlement. The Legislature itself rejected numerous land proposals. OHA does not see the benefit in returning to the table.

HCR129 Represents an Attack on the Native Hawaiian People’s Indigenous Right of Self-Determination

In 2012, the Legislature transferred these Kaka‘ako Makai lands for OHA to manage for its beneficiaries in furtherance of the State’s commitment to support Native Hawaiian self-determination. The delegates to the Constitutional Convention in 1978 created OHA to be a vehicle for Native Hawaiian self-determination. The idea was to place Native Hawaiian resources into Native Hawaiian hands because Native Hawaiians understood where those resources would best go to meet our people’s needs.

³ Stand. Comm. Rpt. No. 2710 (Reg. Sess. 2012), available at https://www.capitol.hawaii.gov/session2012/commreports/SB2783_SSCR2710_.PDF.

In 2012, lawmakers envisioned that these Kaka‘ako Makai lands would become an economic engine to help Native Hawaiians statewide. The Committee Report from the Committees on Judiciary and Labor and Ways and Means on Act 15 specifically states:

The lands identified in this measure will provide a revenue stream to fund the Office of Hawaiian Affairs' services to its beneficiaries, while creating jobs and funding valuable programs in every corner of the State.

(emphasis added).⁴ These lands were not to serve only the immediate Kaka‘ako community but to provide funds for Native Hawaiian communities throughout the entire State. As such, OHA has a fiduciary duty to seek the highest and best uses at Kaka‘ako Makai to enable serving Native Hawaiians across the Pae‘āina, from Ka‘ū on Hawai‘i Island to Kekaha on Kaua‘i and all island communities in between.

We understand that the residential prohibition established by the Legislature in 2006 was intended to further protect certain public interest purposes, including the protection of open space and ocean views for the broader public. We also understand that the Kaka‘ako community included these public interest considerations in plans for the area.

However, the Legislature specifically pivoted on its policy for Kaka‘ako Makai when it transferred these lands to OHA, which, again, divested them of their public character. Nowhere in the legislative history of Act 15 is any mention that these Native Hawaiian trust lands should continue to be used to protect the ocean views of and open space for area residents or users. In fact, the opposite is true: the Committee Report for Act 15 specifically states that OHA’s Kaka‘ako Makai lands are virtually contiguous, suited for master planning, and located in an area of Honolulu that is already experiencing significant redevelopment.⁵ HCR129 correctly notes that Act 15 keeps these parcels under the jurisdiction and authority of the Hawai‘i Community Development Authority (HCDA). OHA notes, however, that HCDA rules zone all but one of OHA's parcels as either MUZ or WC, which otherwise identify residential uses as an allowable use; the residential prohibition was a law that superseded HCDA’s rules.

The Legislature did not transfer these Kaka‘ako Makai lands for OHA to protect the broader public’s interests in the area. The Legislature specifically transferred these lands to OHA to settle its obligation to the Native Hawaiian people, with the necessary understanding that OHA would be able to exercise its rights and obligations consistent with the self-determination constitutionally envisioned for OHA and its Native Hawaiian beneficiaries.

If the Legislature won’t allow Native Hawaiians to build housing on a former landfill in the middle of a portion of urban Honolulu experiencing massive commercial

⁴ *Id.*

⁵ *See id.*

and residential redevelopment, where will the state allow Native Hawaiians to exercise self-determination over our ancestral lands? At most, this resolution only proposes to push Native Hawaiians to the outside of the urban core, where another community could oppose proposed land uses intended to benefit our people.

OHA's intent moving forward is to finish our planning efforts. We hope that our progress over the next year will demonstrate that a Native Hawaiian vision for Kaka'ako Makai is something that the entire State should support.

In light of the above, OHA strongly urges the Committee to **HOLD** HCR129/HR111.

Mahalo for the opportunity to testify on this important matter.



**HAWAII COMMUNITY
DEVELOPMENT AUTHORITY**

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DEEPAK NEUPANE, P.E., AIA
EXECUTIVE DIRECTOR

Statement of
DEEPAK NEUPANE, P.E., AIA
Executive Director
Hawaii Community Development Authority
before the

HOUSE COMMITTEE ON WATER AND LAND

Tuesday, March 23, 2021, 8:30 A.M.
Conference Room 430 & Videoconference

In consideration of
HCR 129
CONVENING A WORKING GROUP TO DISCUSS THE FUTURE DEVELOPMENT
PLANS IN KAKAAKO MAKAI.

Chair Tarnas , Vice Chair Branco, and members of the committee. The Hawaii Community Development Authority (HCDA) appreciates being included in this working group to discuss the future development plans in Kakaako Makai.

Thank you for the opportunity to provide **support** for this resolution.

HCR129 Testimony of Support

This HCR speaks for itself. In order to dedicate time and meaningful effort to collaboratively reach a solution for all parties, this working group must be afforded the resources and support to strategize effective plans for all stakeholders. It will be most successful through the spirit of a team approach. TEAM: Together Everyone Achieves More.



To: Water & Land committee
Rep. David A. Tarnus, Chair, Rep. Patrick Branco, Vice Chair
And Members

Date: Tuesday, March 23, 2021 8:30 am
From: *Friends of Kewalos*

Subject: Testimony in strong support to HCR 129
Working toward a Solution

Aloha Representatives,

March 22, 2021

I was always taught don't only complain but help find a solution...

House Concurrent Resolution 129 will do just that. It will bring all stakeholders to the table to discuss alternative types of development for OHA's parcels in Kaka'ako Makai (KM)

Friends of Kewalos has educated the People to support this resolution in order for everyone to reach some kind of consensus on this topic. It is the righteous thing to do. It is my hope that they come through with enlightening testimony to persuade you to pass it.

Friends of Kewalos has been steadfastly protecting this land for 16 years now. This is the 4th time we had to campaign to keep this last public oceanfront land from being sold and being overrun by 400 foot private residential high-rises. Once you build residential the land turns from public to private instantly.

We really need to do this so a suitable solution can be found so we do not have to rally again year after year to protect this special land, wasting yours and the People's precious time.

I would like to assure you that if a working group is convened, *Friends of Kewalos* will gladly participate in this discussion. In other words, we would like to be part of the solution that hopefully ends up benefiting all the People of Hawaii. An especially important part of this discussion should include the KM Conceptual Master Plan, created by the People and adopted by HCDA in 2011, as the "go to plan" for the area. Up to now this has been largely ignored by OHA.

Lastly, I would like to share this history testimony for the sake of the members that were not around when the residential prohibition was enacted and how OHA got the land.

On September 7, 2005, a state agency called the Hawai'i Community Development Authority (HCDA) voted unanimously to allow residential development

in Kaka'ako Makai (KM), the last public oceanfront land in urban Honolulu. Exactly one week after this zoning change, HCDA selected Alexander & Baldwin (A&B) as the master developer. Their plan revealed for the first time showing the extent of the \$650 million dollar project highlighting three 200 feet tall residential luxury high rise towers along with a giant 45 foot high pedestrian bridge spanning the Kewalo channel with high end restaurants and retail malls. On top of that, the 36.5 acres of public land was to be sold to A&B for \$50 million. A "sweetheart deal."

The People could not believe what just happened. Long story short, Save Our Kaka'ako Coalition was formed consisting of 12 organizations including: Friends of Kewalos, Save our Surf, Hawaii State Bodysurfing Association, Da Hui, Surfrider Foundation, Sierra Club, Life of the Land and others. This totally grassroots movement, fueled by the "Power of the People" included a March to the Capital, meeting with Governor Lingle, numerous rallies, and countless testimonies, was able to stop the project by rallying the support of all the legislators except one, to enact a landmark law banning the sale of public land and banning all residential development in KM. This law stands today as a testament to the public sentiment for this land.

The People did not stop there. After five years of hard work, a plan was created, this time with extensive public input, called the Kaka'ako Makai Conceptual Master Plan with a Vision Statement and 14 guiding principles. It was adopted by HCDA in 2011 and declared it to be the "go to" plan for future development of the land.

It was not over yet...

In the 2012 legislative session, two bills were introduced, one to transfer this same public land to the Office of Hawaiian Affairs (OHA) valued at \$200 million, to settle claims of back rent for the use of the ceded lands dating back to 1978.

The second bill would have allowed an EXCEPTION to the law and allow residential entitlements for two parcels in the OHA land settlement.

We believe the powers that be cleverly tied this bill to the settlement bill, which had a lot of momentum, in the hopes of squeezing it through together to benefit OHA. I was told the Governor at the time encouraged OHA to take the land settlement and not worry about the residential ban.

As it turned out OHA got the land, but the exception bill died due to public opposition.

They tried again in 2014 to get the exception bill passed, but again the People prevailed. Power of the People.

Now, they are trying again for the third time...

I would like to share part of an article by former Governor George Ariyoshi that he wrote for Hawaii Business News in 2006 about our mounting opposition to the KM sale of

Public Land to build luxury high rise residential towers because it ties into what we are talking about today.

He says “ HCDA asked, how can we put this land to use now?
The People asked what do we want from this land in perpetuity?

The People asked the better question with the realization that when the land is developed, other potentials are gone forever.”

He continues “ In 1970, high rise construction was proposed the Magic Island and Kewalo ends of Ala Moana Park. Although this plan followed the original design for dredging and improving the area, the People spoke out against it. Today, this land is open space for the enjoyment of all.”

The \$50 million that the State would have made from the KM land sale back in 2006 would have long been forgotten. Today, the money would be gone.

I know other landowners are waiting in the wings to build too.
If one exception is made, it would be difficult to deny others.

We are not against all development. We understand the people need housing, but ask yourselves “Is this the right place?” We support “smart development” that puts emphasis on **People first over profit.**

In closing, The KM Master Plan along with the law has protected this land from becoming another Waikiki to ensure that this last public ocean front land in Honolulu will be preserved for the enjoyment of all the People of Hawaii.

It is too late for Waikiki, but not too late for Kaka’ako Makai.

I hope you enjoyed and learned from this story.

You, the legislators, and the Office of Hawaiian Affairs, have a huge responsibility as stewards of this land to respect its history, the law, and the principle of “*preserving what little oceanfront land we have left*” not only in KM but the entire State. Think beyond the “Making the Quick Buck”. In 10 years the money would be gone... But the towers remain.
True riches of the land come when you can provide for the Hawaiian People and in turn the broader public year after year, generation after generation in perpetuity.
That is how we all THRIVE.

Mahalo for this opportunity to share our mana’o.

Ron Iwami
Friends of Kewalos, President
Non profit 501C3
ronald@kewalo.org

*To Protect, Preserve, and Malama Kewalo Basin Park and the surrounding shoreline and ocean to ensure that the recreational user will continue to have access.
and the ability to enjoy the area for future generations to come.
www.kewalos.org*

HCR-129

Submitted on: 3/21/2021 5:08:47 PM

Testimony for WAL on 3/23/2021 8:30:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|----------------------|-----------------------|---------------------------|---------------------------|
| John & Rita Shockley | FREE ACCESS COALITION | Support | No |

Comments:

Aloha!

We cannot go on fighting OHA on their plans to build high-rise condos on the last ocean front area of Honolulu. There are NO high-rises makai of Ala Moana Blvd. for good reasons. Let's work out a new solution to this recurring problem.

There is comparable land out at Barber's Point and other areas where OHA can directly help the Hawaiian and other local people with housing that is actually affordable. Why not trade the troublesome Kaka'ako Makai property for user friendly land that will actually help Hawaii.

The State can develop Kaka'ako Makai with cultural and ocean friendly plans that do not end up making the area look like another Waikiki jungle of hi-rise multi-million dollar condo units.

Mahalo for your time.

O'ahu Island Parks Conservancy

HOUSE COMMITTEE ON WATER AND LAND
Representative David A. Tarnas, Chair
Representative Patrick Pihana Branco, Vice Chair
Tuesday, March 23, 2021
8:30 AM

House Concurrent Resolution 129 and House Resolution 111 Convening a Working Group to Discuss Future Development Plans in Kaka'ako Makai Support and Recommendations

Aloha Chair Tarnas, Vice Chair Branco and Committee Members:

HCR 129 and HR 111 are the most sensible measures produced by the 2021 State Legislature to address, and ultimately resolve, the continuing debacle surrounding the Kaka'ako Makai Public Shoreline Lands for the true benefit of all.

The State's Office of Hawaiian Affairs (OHA) was seemingly short-changed when a 30-acre portion of Kaka'ako Makai was offered to OHA and accepted, a portion of which is a toxic hot-spot comprised of incinerator fill within an area that was once a thriving Hawaiian fishpond.

In order to compensate for the shortcomings of this shoreline-zoned area, OHA has understandably struggled and endured challenges to achieve their objectives to support Hawaiian beneficiaries, as well as their corporate objectives of highest and best use by attempting to repeal the protective statute governing this shoreline area, HRS 206E-31.5:

§206E-31.5 Prohibitions. Anything contained in this chapter to the contrary notwithstanding, the authority is prohibited from: . . . (2) Approving any plan or proposal for any residential development in that portion of the Kakaako community development district makai of Ala Moana boulevard and between Kewalo Basin and the foreign trade zone. [L 2006, c 317, §1; am L 2014, c 61, §9]

Clearly the State Legislature did not permit repeal of this protective shoreline statute when first attempted, nor should this reversal be undertaken now or in the future.

Significantly, there appears to be a far better path for all concerned: the State Legislature by Resolution must encourage OHA to seek assistance from the State Office of Planning to determine appropriately-zoned State lands in central urban Honolulu to offer in exchange with renewed compensatory value for OHA's six (6) parcels in Kaka'ako Makai, to develop to highest and best use in the quest to support the Hawaiian beneficiaries and OHA's programs and services. Such an exchange has been recommended to OHA by State Legislators since their first attempt to extinguish Kaka'ako Makai's protective statute.

Therefore, it is recommended that the **Director of the State Office of Planning** be added to the list of Kaka'ako Makai working group members.

Beginning in 2005 and extending through 2010, representatives of the larger community throughout O'ahu, including Hawaiian cultural practitioners and educators, park users and shoreline surfers, representatives of the performing arts and sustainable agriculture, community leaders and residents of Honolulu communities from Downtown through Kaka'ako to Manoa through Hawaii Kai, comprised the **Kaka'ako Makai Community Planning Advisory Council**, the community-based planning group authorized by the Hawaii State Legislature to engage in planning the future of Kaka'ako Makai. This highly organized effort produced the Kaka'ako Makai Master Plan that was ultimately adopted by the Hawaii Community Development Authority in 2011.

The Vision and Guiding Principles serving as the foundation for the Kaka'ako Makai Master Plan adopted by the HCDA are attached. Apart from the lands to be exchanged for State public lands zoned for highest and best use within the urban area, the remainder of OHA's acreage in Kaka'ako Makai might benefit significantly from the Guiding Principles for Kaka'ako Makai as well as the Kaka'ako Makai Master Plan adopted by the Hawaii Community Development Authority in 2011.

With planning appropriate to Kaka'ako Makai's present land use laws and zoning regulations, and the recommended renewed compensatory land exchange in Honolulu's central urban area with existing highest-and-best-use zoning, OHA's remaining vast portion of Kaka'ako Makai can achieve many of the objectives and elements of the adopted Kaka'ako Master Plan to compatibly thrive as a shoreline asset that showcases Native Hawaiian identity, contributes to the Hawaiian cultural revitalization of Honolulu, and generates revenues to support needed programs and services for Hawaiian beneficiaries.

Respectfully submitted,
Michelle S. Matson
President, O'ahu Island Parks Conservancy

THE VISION FOR KAKA‘AKO MAKAI **The Hawaiian Place of Ka‘ākaukukui and Kukuluae‘o**

Kaka‘ako Makai is the community’s gathering place. A safe place that welcomes all people, from keiki to kūpuna, with enriching cultural, recreational and educational public uses. A special place that continues the shoreline lei of green with scenic beauty, connects panoramic vistas mauka to makai, and encourages ecological integrity of land, air and sea. Kaka‘ako Makai honors, celebrates and preserves its historic sense of place, Hawaiian cultural values and our unique island lifestyle for present families and future generations.

GUIDING PRINCIPLES

Community Cultural Gathering Place

Establish Kaka‘ako Makai as a gathering place where community and culture converge in response to the natural scenic beauty of the green shoreline open space.

Celebrate the intertwined cultures of the community by ensuring a welcoming gathering place for a broad cross-section of people diverse in age, income and ethnicity.

Provide enriching public recreational, cultural and educational opportunities for residents and visitors alike through Kaka‘ako Makai’s scenic coastal and marine environment, the Native Hawaiian cultural heritage, compatible facilities and activities, and historic sites and settings.

Hawaiian Culture and Values of the Ahupua‘a

Base the framework for planning, decision-making and implementation of the Kaka‘ako Makai master plan on Native Hawaiian values and traditional and customary rights and practices protected by the State.¹

Emphasize the host Hawaiian culture.²

Incorporate the ahupua‘a concept and spirit of caring for, conserving and preserving the self sustaining resource systems necessary for life, including the land that provides sustenance and shelter, the natural elements of air, wind and rain extending beyond the mountain peaks and streams of pure water, and the ocean from the shoreline to beyond the reef where fish are caught.

Adopt the ahupua‘a lifestyle of individual kuleana working together and contributing to the whole for a greater level of stewardship, conservation, and proper management of resources with contemporary land-use benchmarks, such as growth boundaries and carrying capacity.

Assure that the planning of collective or individual traditional features, settings, and activities will be overseen by Hawaiian historic and cultural experts to prevent misinterpretation or exploitation.

Open View Planes

Protect, preserve and perpetuate Kaka‘ako Makai’s open view planes from the mountains to the sea as an inherent value of the Hawaiian ahupua‘a and an important public asset for residents, visitors and future generations.³

Ensure planning and development safeguards to identify, document, retain, restore and protect makai-mauka and diamond head-ewa open view planes to the Ko‘olau mountains, Diamond Head (Lē‘ahi) and the Wai‘anae mountains as seen from the view vantage areas and vicinities of Kaka‘ako Makai’s public lands and Kewalo Basin Harbor.

¹ Hawaii State Constitution, Article XII, Section 7. Inform the planning process by the principles and traditions of the ahupua‘a, and inspire the master plan by the interconnected relationship of people.

² §206E-34(c)(5), Hawaii Revised Statutes. The Hawaiian host culture is emphasized as pre-eminent yet inclusive of other cultures.

³ Significant Panoramic Views Map A-1, Honolulu Primary Urban Center Development Plan.

Coastal and Marine Resources

Preserve, restore and maintain Kaka‘ako Makai’s valuable coastal and marine resources for present and future generations.

Enable the monitoring, protection, restoration, and conservation of natural coastal and ocean resources, including reef and marine life, through responsible stewardship and sustainable practices.

Protect and sustain the coastal environment for cultural uses including fishing, ocean gathering, surfing and ocean navigation.

Expanded Park and Green Space

Ensure expansion of Kaka‘ako Makai’s shoreline parks as significant landscaped open spaces⁴ joining the lei of green parks extending from Diamond Head (Lē‘ahi) to Aloha Tower.

Implement the Hawaiian values of the ahupua‘a and mālama ‘āina by preserving shoreline open space, protecting scenic coastal and marine resources, and respecting the natural interaction of people, land, ocean and air.

Welcome residents and visitors alike with green open space, abundant shade trees and opportunities for family recreation.

Use the established park planning standard of at least 2 acres per 1000 residents as a benchmark to assure sufficiency of park space to contribute to the health and welfare of Kaka‘ako Mauka’s growing population and offset increased urban density, noise and pollution.

Public Accessibility

Provide open and full public access to recreational, cultural and educational activities within and around Kaka‘ako Makai’s parks and ocean shoreline.

Ensure complete public recreational access with minimal impact to the environment, including drop-off accommodation of ocean recreation equipment and connections to public transportation.

Provide a shoreline promenade and tree-lined paths to safely and comfortably accommodate pedestrians, bicyclists and the physically impaired.

Provide sufficient shared parking complementary to the natural setting to support all uses in Kaka‘ako Makai, with workplace parking available for recreational and cultural users during non-working hours.

Public Safety, Health and Welfare

Ensure that Kaka‘ako Makai is a safe and secure place for residents and visitors.

Keep public use areas safe day and night for public comfort and enjoyment.

Ensure that exposure to land and ocean is environmentally safe for people and marine life by assuring timely investigation, determination, and remediation of contaminants.

Ensure that Kaka‘ako Makai remains free and clear of elements, activities and facilities that may be potentially harmful to the natural environment and public well-being, including laboratories containing and experimenting with Level 3 or higher bio-hazardous pathogens and/or biological toxins known to have the potential to pose a severe threat to public health and safety.⁵

⁴ Inclusive of Kewalo Basin Park, Kaka‘ako Waterfront Park and Kaka‘ako Gateway Park.

⁵ Protection of the public health and safety is first and foremost in this area a) immediately adjacent to a Shoreline

Public Land Use Legislation – Public Use of Public Lands in the Public Interest

Recognize and respect the effort and intent of the Hawaii State Legislature to uphold the greater public interest by ensuring and sustaining public uses on Kaka‘ako Makai State public lands for the greater public good.

Preclude the sale of public land and development of housing in Kaka‘ako Makai;⁶

Demonstrate commitment to serve the highest needs and aspirations of Hawaii’s people and the long-term good of Hawaii’s residents and future generations through community-based planning;⁷

Restore the site-dependent use of Kewalo Basin Cove to the Kewalo Keiki Fishing Conservancy.⁸

Kewalo Basin

Ensure that Kewalo Basin Harbor’s unique identity is retained with continued small commercial fishing and excursion boat uses, keiki fishing and marine conservation, marine research and education, and accessible green park open space expanding the lei of green between Ala Moana Park and Kaka‘ako Waterfront Park.

Enable continued functional commercial boating uses at Kewalo Basin Harbor⁹ and preserve the beneficial relationships between the existing small commercial fishing and excursion boat businesses and land-based maritime support service businesses.

Ensure that Kewalo Basin will continue as a State of Hawaii commercial harbor and valuable public facility asset by repairing, maintaining and enhancing the harbor for small commercial fishing and excursion boat use.

Ensure the protected use of Kewalo Basin Cove for Kewalo Keiki Fishing Conservancy keiki fishing and marine conservation programs.

Support Kewalo Marine Laboratory’s continued valuable marine biology and ecosystems research and education in the vicinity of Kewalo Basin.

Ensure preservation of Kewalo Basin Park, the net house and parking lot for public use, upgrade and improve existing facilities within the park, and provide green open space between Ala Moana Park and the channel frontage.¹⁰

Cultural Facilities

Offer public enrichment opportunities through both fixed and flexible cultural facilities that celebrate the diverse cultures of Hawai’i and blend compatibly with the shoreline open space.

Contemplate compatible indoor and outdoor performance venues that encourage the teaching, practicing, and presentation of hula, theater, music, dance, and other performing and visual arts, with an outdoor multi-cultural festival space for Honolulu’s diverse ethnic communities.¹¹

recreation area and the urban population center, b) in close proximity to a regional beach park and the Waikiki primary visitor destination, and c) within the updated tsunami zone.

⁶ §206E-31.5, Hawaii Revised Statutes.

⁷ HCR 30, 2006.

⁸ Act 3, 2007, Special Session.

⁹ §206E-33(2), Hawaii Revised Statutes.

¹⁰ Inclusive of greenbelt connections between Ala Moana Park and Kewalo Basin Park, between the Net House and Kewalo Basin Channel, and between Ala Moana Boulevard and Kewalo Basin to Point Panic.

¹¹ §206E-34(d)(3), Hawaii Revised Statutes.

Contemplate educational facilities, such as an exhibition hall with permanent, interactive and rotating exhibits, museums communicating the cultural history of the area, and places for traditional Hawaiian cultural practices.¹²

Establish a cultural market stocked by local farmers, fishers and Hawaiian traditional craft makers to reflect the Hawaiian values of gathering and trading in the ahupua‘a between the mountains and the sea.¹³

Ensure a community center for local families to gather, interact and learn from each other.

Small Local Businesses

Apportion a limited number of small local businesses to assist in cooperatively sustaining Kaka‘ako Makai’s public use facilities. Ancillary small businesses may include diverse local restaurants, cafés, small shops, markets or other uses that will complement the recreational, cultural, harbor or other public facilities serving the community interest.¹⁴

Encourage small local enterprises that emphasize the Hawaiian culture and support traditional local products, rather than large corporate retailing attractions.

Site Design Guidelines –A Hawaiian Sense of Place in Landscape, Setting and Design

Ensure that Kaka‘ako Makai’s public use facilities are compatible in placement, architectural form, and functional design within the landscape of the shoreline gathering place.¹⁵

Provide and maintain abundant native coastal plants and trees to blend the scenic and sensory qualities of the coastal environment and create a Hawaiian sense of place.

Identify, protect, preserve, restore, rehabilitate, interpret and celebrate Kaka‘ako Makai’s historic sites, facilities, settings, and locations.

Maintain the quality of coastal environmental elements including natural light, air and prevailing winds.

Mandate sustainability principles, conservation technologies, and green building standards for buildings, grounds and infrastructure.¹⁶

Community/Government Planning Partnership

The Kaka‘ako Makai Community Planning Advisory Council places the public interest first and foremost, and will strive to uphold the greater good of the community in partnership with the HCDA as the public oversight agency by:

Openly working with the community, the HCDA and the HCDA’s planning consultants as guaranteed by government commitment to ongoing community representation and involvement throughout the master planning process;

Openly communicating with the State Legislature and other elected public officials;

¹² §206E-34(d)(5), Hawaii Revised Statutes.

¹³ §206E-34(a) and (b), Hawaii Revised Statutes.

¹⁴ §206E-34(d)(2), Hawaii Revised Statutes.

¹⁵ Encourage private development mauka of Ilalo Street to compliment the gathering place concept of the Kaka‘ako Makai public use area on public lands by providing landscaped set-backs and inviting open architecture at the street level.

¹⁶ Ensure reasonable carrying capacity with limited infrastructure for sufficient water supply, storm-water drainage and waste disposal.

Committing the time and effort required to meet the goals and objectives of the Kaka‘ako Makai planning process, and advocating responsibly in the public interest both collectively and individually, notwithstanding premature or conflicting proposals.

Future Funding and Management

Assure and assist viable and sustainable operation of public uses and facilities on State public land in Kaka‘ako Makai through public/private partnerships and 501(c)(3) non-profit management¹⁷ similar to successful park conservancies and their stewardship programs.

The community land conservancy will be essential in determining safeguards to restore, protect and perpetuate Kaka‘ako Makai’s natural shoreline resources and view planes, historic and recreational resources, and public uses on State public lands in the public interest as a quality of life benchmark.

This conservancy may be a public/private partnership of the Kaka‘ako Makai Community Planning Advisory Council (CPAC), the Hawaii Community Development Authority (HCDA) or current oversight agency, and private contributing interests to both monitor and underwrite public use on State public land in service to the public good.¹⁸

¹⁷ §206E-34(c)(3), Hawaii Revised Statutes.

¹⁸ A public/private community benefits agreement may be developed upon completion of the master plan to define respective responsibilities and contributions.

Testimony in Strong Support of HCR129 & HR111
Relating to the Hawaii Community Development Authority
Tuesday, March 23, 2021
8:30 AM Hearing

COMMITTEE ON WATER & LAND

Rep. David A. Tarnas, Chair

Rep. Patrick Pihana Branco, Vice Chair

Rep. Sonny Ganaden Rep. Dee Morikawa
Rep. Bertrand Kobayashi Rep. Takashi Ohno
Rep. Sam Satoru Kong Rep. Bob McDermott

NOTICE OF HEARING

DATE: Tuesday, March 23, 2021
TIME: 8:30 a.m.
PLACE: VIA VIDEOCONFERENCE
 Conference Room 430
 State Capitol
 415 South Beretania Street

Testimony in Strong Support of HCR129 & HR111

Aloha David A. Tarnas, Chair and Patrick Pihana Branco, Vice Chair and the Committee on Water & Land:

My name is Wayne Takamine, a founding member and chair of the Kaka’ako Makai Community Planning Advisory Council (CPAC). My background in Kaka’ako Makai goes back to 2005 when the Hawaii Community Development Authority (HCDA) presented a condominium development RFP for Kaka’ako Makai. Soon after, public outcry in opposition to the Kaka’ako Makai residential development plan created a whirlwind of controversy that forced the 2006 legislature to approved HB2555 that prohibited the HCDA from any residential planning in Kaka’ako Makai and prohibited the sale of state land in the Kaka’ako district. The legislature also adopted HCR30 (2006) that required the HCDA to adopt an Advisory Working Group (AWG) of community groups and individuals to work in collaboration to create the Kaka’ako Makai Master Plan. This AWG became the Kaka’ako Makai CPAC and in 2011, CPAC presented the [Kaka'ako Makai Master Plan](#) to the HCDA Board that was unanimously approved.

Of note: During the CPAC Kaka’ako Makai Master Plan process, surveys were taken of various concepts for Kaka’ako Makai and residential development was consistently near the bottom of the list.

The [Kaka’ako Makai Conceptual Master Plan](#) is based on the assumption that if the Arizona Memorial and Hanauma Bay can attract over 1,000,000 visitors a year, a well-planned multi-cultural gathering place in Kaka’ako Makai would be able to attract enough people to sustain venues like: the Museum for Hawaiian Music and Dance (\$35MM), Community Center (\$10MM), Performing Arts Venue (\$55MM) and a Surf and Watersport Museum (\$30MM). If these 4 projects were implemented by OHA they could have added \$130 million in value to its property along with jobs and cultural pride not only for the Hawaiian Community but a benefit for the entire state. Other concepts include a permanent “Mauka to Makai” Farmer’s Market and Seafood Market. OHA can also seek federal and state subsidies and grant money to plan and develop projects to further support the Hawaiian Community’s Cultural and fundraising activities. The Kaka’ako Makai Master Plan was created to transform the land into a gathering for locals and visitors to enjoy Hawaiian and multi-cultural exhibitions including: fish and farmer’s markets, performing arts venues, watersports innovation and history and hall of fame for Hawaiian music, dance, watermen and waterwomen.

On May 9, 2013 the Star Advertiser posted this article that reported, “OHA says it will abide by the (Kaka’ako Makai) guiding principles of a master plan developed for the Kakaako area. The plan calls for open space, gathering places and shoreline access.”



OHA gets grants to study Kakaako lands

By Audrey McAvoy
May 9, 2013

The Office of Hawaiian Affairs is receiving \$400,000 in federal grants to look for petroleum and hazardous substances on several former industrial sites in Kakaako that are among land parcels the state gave the agency to settle a ceded land claim.

The grants will be used to determine what cleanup work will be needed at six parcels, the U.S. Environmental Protection Agency said Wednesday.

The land is among 30 acres of waterfront property worth about \$200 million. The state gave the land to the agency last year.

In exchange for the parcels, which are near downtown Honolulu and the Ward shopping area, OHA agreed to waive decades-old claims it had to money generated on land once owned by the Hawaiian monarchy. The monarchy lands house the Honolulu airport, state hospital, public housing projects and other facilities.

The grants are from an EPA fund for brownfields, which are former industrial sites contaminated by pollutants. Some of the six parcels once housed a garbage incinerator and auto repair shop. Others are still home to a shipyard, office buildings and a marine research laboratory.

The EPA says the grants provide communities with funds to assess, cleanup and redevelop contaminated properties. The grants aim to boost local economies while protecting public health and the environment.

OHA received a total of 10 parcels in its settlement with the state. Trustees have said they expect the parcels — collectively called Kakaako Makai — to be part of the land base for a new Hawaiian nation.

The agency has said the lands will provide revenue for programs benefiting Native Hawaiians, including college scholarships, cultural events and efforts to preserve Hawaiian culture.

OHA says it will abide by the guiding principles of a master plan developed for the Kakaako area. The plan calls for open space, gathering places and shoreline access.

When OHA made its second attempted (2014) to repeal the prohibition of residential in Kaka’ako Makai, a Honolulu advertiser poll showed 67% against allowing OHA to build residential. HB2554 ultimately met its demise by the end of that legislative session. Strong environmental, legal and safety concerns continue today with a February 18, 2021 Staradvertiser.com poll showing OHA’s residential plans are still very unpopular:

BIG Q

Should the residential prohibition on Kakaako Makai be lifted to enable the Office of Hawaiian Affairs to optimize use of its lands?

Feb. 18, 2021



C. No; keep sites low-rise makai of Ala Moana (531 Votes)

A. Yes; enable high-rise housing, advance OHA mission (114 Votes)

B. Maybe; open to hearing more (76 Votes)

This is not a scientific poll — results reflect only the opinions of those voting.

Kaka’ako Makai was also a city dump with an incinerator. Hazardous waste includes Lead, Arsenic, Asbestos and PBC. These toxic materials exist in the substrata. Toxic soil remediation for this area is currently by capping the hazardous waste with barriers including impermeable membranes, asphalt, gravel, concrete, roads and buildings. An Army Corp. of Engineers study stated that the fill covering the preexisting reef is constantly

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

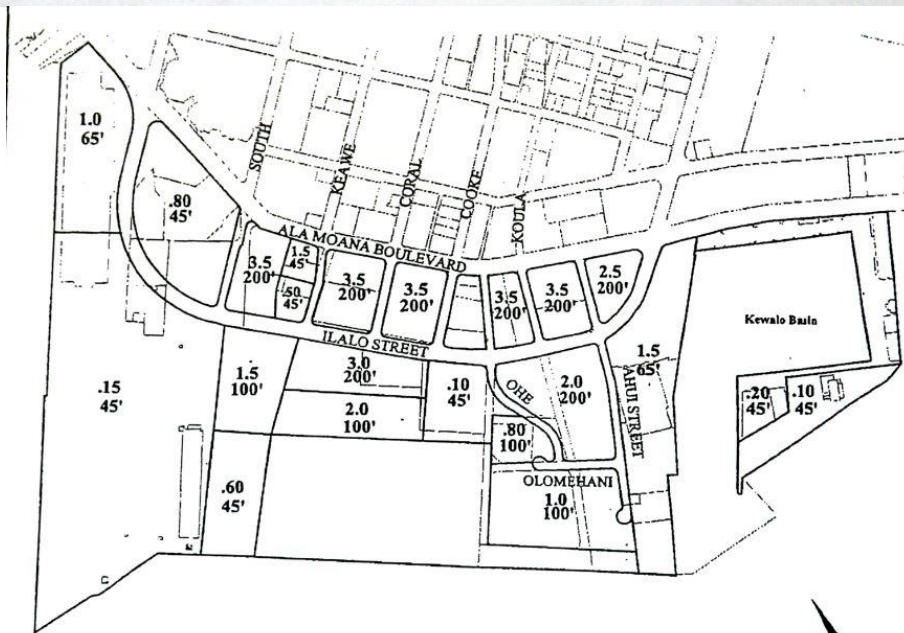
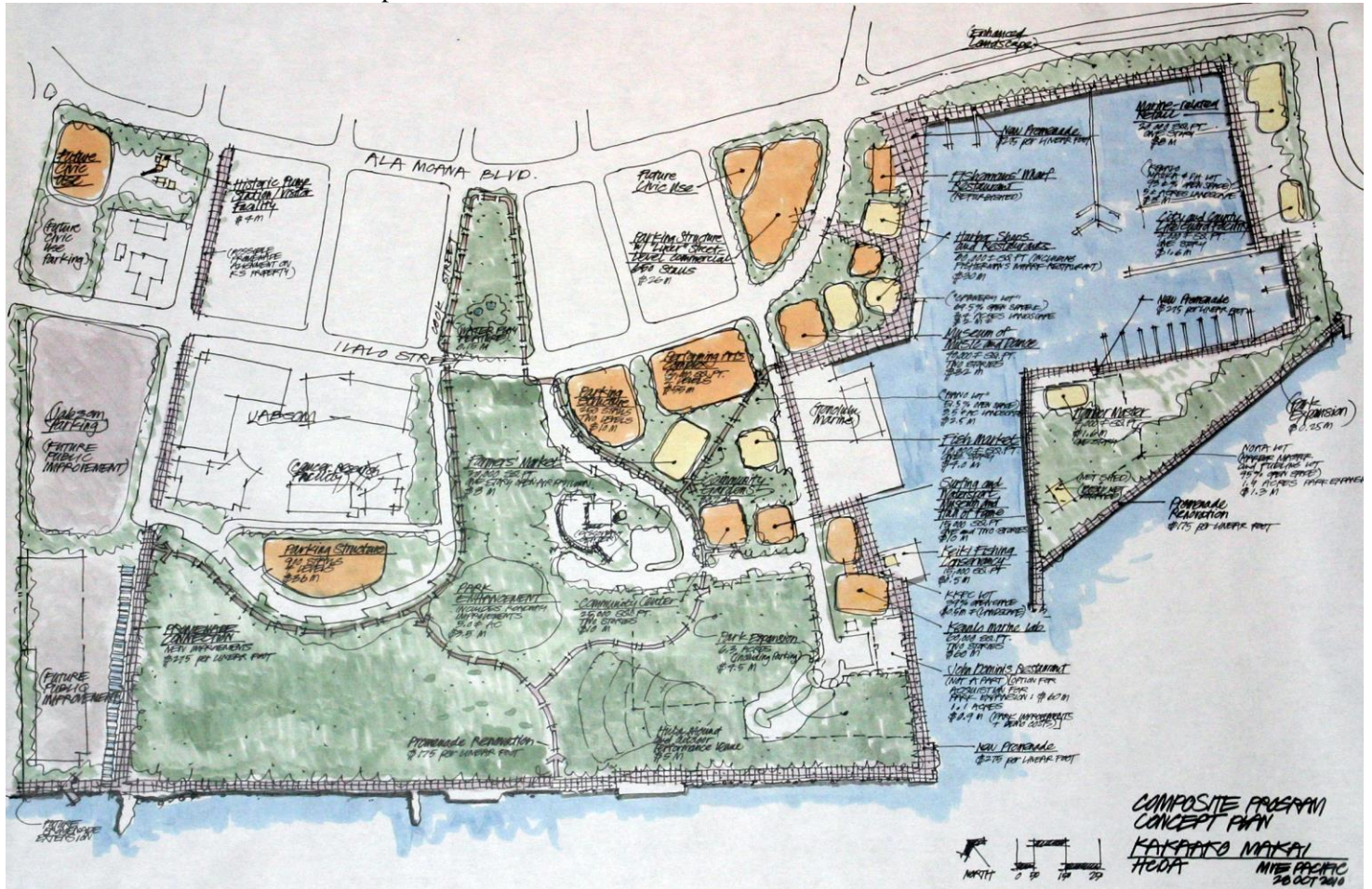
As the spokesman for the Kaka’ako Makai CPAC we strongly urge that HCR129 and HR111 can lead to the creation of a good business plan will allow OHA and Hawaii’s communities to make sustainable revenue from the lands in Kaka’ako Makai for future generations. Development focusing on a Hawaiian Community Center and the preservation of its cultural heritage would bring the highest returns for the Hawaiian community and the state. Planning and negotiations with OHA to implement the Kaka’ako Makai Master Plan and guiding principles with the support of local communities could prove to create better value and sustainability for all Communities.

Respectfully,

Wayne Takamine M.B.A.
Founding Member and Chair
Kaka’ako Makai Community Planning Advisory Council

Exhibitions:

In 2011 the Kaka'ako Makai Conceptual Master Plan was completed and approved by the Hawaii Community Planning Authority (HCDA) Board in 2011. The completion and approval of the Kaka'ako Makai Master Plan concluded CPAC's formal relationship with HCDA as defined by HRS 206E-35. Since then, CPAC has continued its role with Kaka'ako Makai as an independent and public community group by holding regular monthly meetings at the HCDA conference room, participating at HCDA monthly staff briefings, providing interested parties with information regarding the Kaka'ako Makai Conceptual Master Plan and the Kaka'ako Makai Vision Guiding Principals, providing feedback and testimony on relevant Kaka'ako Makai matters at HCDA Monthly board meetings and provide the community with updates on Kaka'ako Makai issues and developments.



THE VISION FOR KAKA‘AKO MAKAI

The Hawaiian Place of Ka‘ākaukui and Kukuluae‘o

Kaka‘ako Makai is the community’s gathering place. A safe place that welcomes all people, from keiki to kūpuna, with enriching cultural, recreational and educational public uses. A special place that continues the shoreline lei of green with scenic beauty, connects panoramic vistas mauka to makai, and encourages ecological integrity of land, air and sea. Kaka‘ako Makai honors, celebrates and preserves its historic sense of place, Hawaiian cultural values and our unique island lifestyle for present families and future generations.

GUIDING PRINCIPLES

Community Cultural Gathering Place

Establish Kaka‘ako Makai as a gathering place where community and culture converge in response to the natural scenic beauty of the green shoreline open space.

- Celebrate the intertwined cultures of the community by ensuring a welcoming gathering place for a broad cross-section of people diverse in age, income and ethnicity.
- Provide enriching public recreational, cultural and educational opportunities for residents and visitors alike through Kaka‘ako Makai’s scenic coastal and marine environment, the Native Hawaiian cultural heritage, compatible facilities and activities, and historic sites and settings.

Hawaiian Culture and Values of the Ahupua‘a

Base the framework for planning, decision-making and implementation of the Kaka‘ako Makai master plan on Native Hawaiian values and traditional and customary rights and practices protected by the State.¹

- Emphasize the host Hawaiian culture.²
- Incorporate the ahupua‘a concept and spirit of caring for, conserving and preserving the self-sustaining resource systems necessary for life, including the land that provides sustenance and shelter, the natural elements of air, wind and rain extending beyond the mountain peaks and streams of pure water, and the ocean from the shoreline to beyond the reef where fish are caught.
- Adopt the ahupua‘a lifestyle of individual kuleana working together and contributing to the whole for a greater level of stewardship, conservation, and proper management of resources with contemporary land-use benchmarks, such as growth boundaries and carrying capacity.
- Assure that the planning of collective or individual traditional features, settings, and activities will be overseen by Hawaiian historic and cultural experts to prevent misinterpretation or exploitation.

¹ Hawaii State Constitution, Article XII, Section 7. Inform the planning process by the principles and traditions of the ahupua‘a, and inspire the master plan by the interconnected relationship of people.

² §206E-34(c)(5), Hawaii Revised Statutes. The Hawaiian host culture is emphasized as pre-eminent yet inclusive of other cultures.

Open View Planes

Protect, preserve and perpetuate Kaka‘ako Makai’s open view planes from the mountains to the sea as an inherent value of the Hawaiian ahupua‘a and an important public asset for residents, visitors and future generations.³

- Ensure planning and development safeguards to identify, document, retain, restore and protect makai-mauka and diamondhead-ewa open view planes to the Ko‘olau mountains, Diamond Head (Lē‘ahi) and the Wai‘anae mountains as seen from the view vantage areas and vicinities of Kaka‘ako Makai’s public lands and Kewalo Basin Harbor.

Coastal and Marine Resources

Preserve, restore and maintain Kaka‘ako Makai’s valuable coastal and marine resources for present and future generations.

- Enable the monitoring, protection, restoration, and conservation of natural coastal and ocean resources, including reef and marine life, through responsible stewardship and sustainable practices.
- Protect and sustain the coastal environment for cultural uses including fishing, ocean gathering, surfing and ocean navigation.

Expanded Park and Green Space

Ensure expansion of Kaka‘ako Makai’s shoreline parks as significant landscaped open spaces 4 joining the lei of green parks extending from Diamond Head (Lē‘ahi) to Aloha Tower.

- Implement the Hawaiian values of the ahupua‘a and mālama ‘āina by preserving shoreline open space, protecting scenic coastal and marine resources, and respecting the natural interaction of people, land, ocean and air.
- Welcome residents and visitors alike with green open space, abundant shade trees and opportunities for family recreation.
- Use the established park planning standard of at least 2 acres per 1000 residents as a benchmark to assure sufficiency of park space to contribute to the health and welfare of Kaka‘ako Mauka’s growing population and offset increased urban density, noise and pollution.

Public Accessibility

Provide open and full public access to recreational, cultural and educational activities within and around Kaka‘ako Makai’s parks and ocean shoreline.

- Ensure complete public recreational access with minimal impact to the environment, including drop-off accommodation of ocean recreation equipment and connections to public transportation.
- Provide a shoreline promenade and tree-lined paths to safely and comfortably accommodate pedestrians, bicyclists and the physically impaired.
- Provide sufficient shared parking complementary to the natural setting to support all uses in Kaka‘ako Makai, with workplace parking available for recreational and cultural users during non-working hours.

Public Safety, Health and Welfare

Ensure that Kaka‘ako Makai is a safe and secure place for residents and visitors.

- Keep public use areas safe day and night for public comfort and enjoyment.
- Ensure that exposure to land and ocean is environmentally safe for people and marine life by assuring timely investigation, determination, and remediation of contaminants.
- Ensure that Kaka‘ako Makai remains free and clear of elements, activities and facilities that may be potentially harmful to the natural environment and public well-being, including laboratories containing and experimenting with Level 3 or higher bio-hazardous pathogens and/or biological toxins known to have the potential to pose a severe threat to public health and safety.⁵

Public Land Use Legislation – Public Use of Public Lands in the Public Interest

Recognize and respect the effort and intent of the Hawaii State Legislature to uphold the greater public interest by ensuring and sustaining public uses on Kaka‘ako Makai State public lands for the greater public good.

- Preclude the sale of public land and development of housing in Kaka‘ako Makai;⁶
- Demonstrate commitment to serve the highest needs and aspirations of Hawaii’s people and the long-term

good of Hawaii's residents and future generations through community-based planning;⁷

- Restore the site-dependent use of Kewalo Basin Cove to the Kewalo Keiki Fishing Conservancy.⁸

Kewalo Basin

Ensure that Kewalo Basin Harbor's unique identity is retained with continued small commercial fishing and excursion boat uses, keiki fishing and marine conservation, marine research and education, and accessible green park open space expanding the lei of green between Ala Moana Park and Kaka'ako Waterfront Park.

- Enable continued functional commercial boating uses at Kewalo Basin Harbor⁹ and preserve the beneficial relationships between the existing small commercial fishing and excursion boat businesses and land-based maritime support service businesses.
- Ensure that Kewalo Basin will continue as a State of Hawaii commercial harbor and valuable public facility asset by repairing, maintaining and enhancing the harbor for small commercial fishing and excursion boat use.
- Ensure the protected use of Kewalo Basin Cove for Kewalo Keiki Fishing Conservancy keiki fishing and marine conservation programs.
- Support Kewalo Marine Laboratory's continued valuable marine biology and ecosystems research and education in the vicinity of Kewalo Basin.
- Ensure preservation of Kewalo Basin Park, the net house and parking lot for public use, upgrade and improve existing facilities within the park, and provide green open space between Ala Moana Park and the channel frontage.¹⁰

5 Protection of the public health and safety is first and foremost in this area a) immediately adjacent to a Shoreline recreation area and the urban population center, b) in close proximity to a regional beach park and the Waikiki primary visitor destination, and c) within the updated tsunami zone.

<http://beta.abc3340.com/news/stories/1007/460171.html>

http://www.nytimes.com/2007/10/05/us/05labs.html?_r=1

6 §206E-31.5, Hawaii Revised Statutes.

7 HCR 30, 2006.

8 Act 3, 2007, Special Session.

9 §206E-33(2), Hawaii Revised Statutes.

10 Inclusive of greenbelt connections between Ala Moana Park and Kewalo Basin Park, between the Net House and Kewalo Basin Channel, and between Ala Moana Boulevard and Kewalo Basin to Point Panic.

Cultural Facilities

Offer public enrichment opportunities through both fixed and flexible cultural facilities that celebrate the diverse cultures of Hawai'i and blend compatibly with the shoreline open space.

- Contemplate compatible indoor and outdoor performance venues that encourage the teaching, practicing, and presentation of hula, theater, music, dance, and other performing and visual arts, with an outdoor multi-cultural festival space for Honolulu's diverse ethnic communities.¹¹
- Contemplate educational facilities, such as an exhibition hall with permanent, interactive and rotating exhibits, museums communicating the cultural history of the area, and places for traditional Hawaiian cultural practices.¹²
- Establish a cultural market stocked by local farmers, fishers and Hawaiian traditional craft makers to reflect the Hawaiian values of gathering and trading in the ahupua'a between the mountains and the sea.¹³
- Ensure a community center for local families to gather, interact and learn from each other.

Small Local Business

Apportion a limited number of small local businesses to assist in cooperatively sustaining Kaka'ako Makai's public use facilities.

- Ancillary small businesses may include diverse local restaurants, cafés, small shops, markets or other uses that will complement the recreational, cultural, harbor or other public facilities serving the community interest.¹⁴
- Encourage small local enterprises that emphasize the Hawaiian culture and support traditional local products, rather than large corporate retailing attractions.

Site Design Guidelines – A Hawaiian Sense of Place in Landscape, Setting and Design

Ensure that Kaka‘ako Makai’s public use facilities are compatible in placement, architectural form, and functional design within the landscape of the shoreline gathering place.¹⁵

- Provide and maintain abundant native coastal plants and trees to blend the scenic and sensory qualities of the coastal environment and create a Hawaiian sense of place.
- Identify, protect, preserve, restore, rehabilitate, interpret and celebrate Kaka‘ako Makai’s historic sites, facilities, settings, and locations.
- Maintain the quality of coastal environmental elements including natural light, air and prevailing winds.
- Mandate sustainability principles, conservation technologies, and green building standards for buildings, grounds and infrastructure.¹⁶

11 §206E-34(d)(3), Hawaii Revised Statutes.

12 §206E-34(d)(5), Hawaii Revised Statutes.

13 §206E-34(a) and (b), Hawaii Revised Statutes.

14 §206E-34(d)(2), Hawaii Revised Statutes.

15 Encourage private development mauka of Ilalo Street to compliment the gathering place concept of the Kaka‘ako Makai public use area on public lands by providing landscaped set-backs and inviting open architecture at the street level.

16 Ensure reasonable carrying capacity with limited infrastructure for sufficient water supply, storm-water drainage and waste disposal.

Community/Government Planning Partnership

The Kaka‘ako Makai Community Planning Advisory Council places the public interest first and foremost, and will strive to uphold the greater good of the community in partnership with the HCDA as the public oversight agency by:

- Openly working with the community, the HCDA and the HCDA’s planning consultants as guaranteed by government commitment to ongoing community representation and involvement throughout the master planning process;
- Openly communicating with the State Legislature and other elected public official; and
- Committing the time and effort required to meet the goals and objectives of the Kaka‘ako Makai planning process, and advocating responsibly in the public interest both collectively and individually, notwithstanding premature or conflicting proposals.

Future Funding and Management

Assure and assist viable and sustainable operation of public uses and facilities on State public land in Kaka‘ako Makai through public/private partnerships and 501(c) (3) non-profit management¹⁷ similar to successful park conservancies and their stewardship programs.

- The community land conservancy will be essential in determining safeguards to restore, protect and perpetuate Kaka‘ako Makai’s natural shoreline resources and view planes, historic and recreational resources, and public uses on State public lands in the public interest as a quality of life benchmark.
- This conservancy may be a public/private partnership of the Kaka‘ako Makai Community Planning Advisory Council (CPAC), the Hawaii Community Development Authority (HCDA) or current oversight agency, and private contributing interests to both monitor and underwrite public use on State public land in service to the public good.¹⁸

17 §206E-34(c)(3), Hawaii Revised Statutes.

18 A public/private community benefits agreement may be developed upon completion of the master plan to define respective responsibilities and contributions. KAKAAKO COMMUNITY

DEVELOPMENT DISTRICT

§206E-34 Cultural public market. [Act 231, 2005)

- a) There shall be established within the Hawaii community development authority a state cultural public market.
- b) The cultural public market shall be located on state land within the Kakaako Makai area and developed pursuant to sections 206E-31, 206E-32, and 206E-33. A public parking lot shall be included.
- c) The Hawaii community development authority shall:
 - (1) Designate and develop the state-owned land for the cultural public market;
 - (2) Accept, for consideration, input regarding the establishment of the cultural public market from the following departments and agencies:
 - (A) The department of agriculture;
 - (B) The department of business, economic development, and tourism;
 - (C) The department of land and natural resources;
 - (D) The department of labor and industrial relations; and
 - (E) The Hawaii tourism authority;
 - (3) Consider and determine the propriety of using public private partnerships in the development and operation of the cultural public market;
 - (4) Develop, distribute, and accept requests for proposals from private entities for plans to develop and operate the cultural public market; and
 - (5) Ensure that the Hawaiian culture is the featured culture in the cultural public market.
- (d) Requests for proposals for the cultural public market shall contemplate but not be limited to the inclusion of the following types of facilities and services:
 - (1) Retail outlets for ethnically diverse products;
 - (2) Venues for businesses with ethnic themes, including restaurants and other service-related businesses;
 - (3) Theaters, stages, and arenas designed to showcase cultural performing artists as well as community performing arts;
 - (4) Exhibition space or museums that showcase artwork created by international and local artists; and
 - (5) Museums or other educational facilities focusing on the history and cultures of the various ethnic groups within Hawaii, including Hawaiian history. (Emphasis added)

HCR-129

Submitted on: 3/19/2021 5:57:48 PM

Testimony for WAL on 3/23/2021 8:30:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Lei Ho | Individual | Comments | No |

Comments:

Thank you for choosing to discuss the future of Kaka'ako Makai. I feel that is the best way to move forward without attempting to overturn work of the Legislature completed nine years ago and to understand the desires of the citizens of our State while considering changes to a law.

My great concern for the area is the ability of existing infrastructure to handle the demands of all of the new residents in the Kaka'ako areas' new condominiums. They have yet to be sold and occupied, and all toilets flushed. I feel strongly that we should wait for that to happen before we allow any further residential development on the infrastructure supporting it.

My next great concern is that we citizens may be liable for any damage caused to developments by sea level rise or tsunami. We have already been told not to develop land within the flood zone and should listen to good advice.

I doubt that any Native Hawaiians would live in 40-story condos in Kaka'ako Makai and encourage the group to give OHA as much land as possible where they can develop housing for them. The value of land for housing could easily match the amount owed for ceded lands. Our people don't need cash, they need homes.

Mahalo,

Lei Ho

HCR-129

Submitted on: 3/20/2021 1:57:39 PM

Testimony for WAL on 3/23/2021 8:30:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| David Chee | Individual | Support | No |

Comments:

Committee Chair Tarnus, Vice Chair Branco and all the members of the WAL Committee,

My name is David Chee. I am 47 years old and I was born and raised here in Ala Moana. I now live with my wife and family in the Ala Moana area.

I strongly urge you to support HCR129.

We have a tremendous opportunity to use Kaka'ako Makai for the greater good of the entire Oahu community and especially for the local community here within the heart of Honolulu and Kaka'ako. With all the new condo developments all over town, overcrowding and congestion is a major concern. Honolulu badly needs more open green space.

I would love to see Kaka'ako Makai used as a free open public park, connecting Magic Island, Ala Moana Park, Kewalo Basin Park and Kaka'ako Waterfront Park.

Please support HCR 129.

Thank you very much for your consideration.

Mahalo,

David Chee

HCR-129

Submitted on: 3/20/2021 2:15:55 PM

Testimony for WAL on 3/23/2021 8:30:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Ethan Porter | Individual | Support | No |

Comments:

Please use this land to support Hawaiians while giving access to the people!

HCR-129

Submitted on: 3/20/2021 2:38:23 PM

Testimony for WAL on 3/23/2021 8:30:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Mio Chee | Individual | Support | No |

Comments:

My name is Mio Chee and I live in Ala Moana. I am in support of HCR 129. Please do include a group from Friends of Kewalos to be a part of this working group.

HCR-129

Submitted on: 3/20/2021 3:04:55 PM

Testimony for WAL on 3/23/2021 8:30:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Dyson Chee | Individual | Support | No |

Comments:

Thank you for the opportunity to testify in support of HCR129.

HCR-129

Submitted on: 3/20/2021 7:41:23 PM

Testimony for WAL on 3/23/2021 8:30:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Yvonne Geesey | Individual | Support | No |

Comments:

mahalo!

HCR-129

Submitted on: 3/20/2021 10:35:52 PM

Testimony for WAL on 3/23/2021 8:30:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Marvin Yoshizumi | Individual | Support | No |

Comments:

I strongly support HCR129. I do support many of OHA's projects but we need to preserve Kakaako Makai for our keiki. Please find alternative sites to trade off with OHA so they can develop residential housing on their land.

Mahalo,

Marvin Yoshizumi

HCR-129

Submitted on: 3/21/2021 8:12:25 AM

Testimony for WAL on 3/23/2021 8:30:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Marvin Heskett | Individual | Support | No |

Comments:

Aloha,

I firmly support HCR129 and support the state in fulfilling its obligation to OHA in providing suitable lands and funding to carry out its mission to mā•lama Hawai'i's people and environmental resources, and OHA's assets, toward ensuring the perpetuation of the culture, the enhancement of lifestyle and the protection of entitlements of Native Hawaiians, while enabling the building of a strong and healthy Hawaiian people and IÄ•hui, recognized nationally and internationally.

Although the state of Hawaii administration performed an illegal act of providing lands in Kakaako to achieve this goal, against the wishes of the people of the State of Hawaii, most, if not all people who worked to preserve Kakaako for all people also support the OHA mission. We simply acknowledged building up Kakaako and losing one of the last stretches of Honolulu coastline to skyscrapers to do so was the wrong approach.

Please pass this bill and move quickly towards finding another solution to allow OHA to reach its mission in a timely fashion.

Mahalo,

Marvin Heskett

I am in favor of HCR 129 on convening a working group to discuss the future development plans in Kakaako Makai. On a small island like O'ahu land is at premium, and public land exchanges, when clearly done in the public interest, are an attractive and legitimate land management tool.

Urban public waterfront land is a unique and rare asset that has to be protected, used, and developed in the public interest for Honolulu residents. Community groups have been diligent and explicit in articulating the public interest visions for Kakaako Makai and they should be part of this planning effort.

OHA financing through ceded-lands revenues is a legitimate and overdue goal but not at the expense of the public interest waterfront planning.

Exploring land exchanges for OHA residential development elsewhere and retention of the Honolulu urban waterfront for public use would be a win-win solution for both OHA and the Hawaii taxpayers.

Respectfully submitted as an individual and as an expert in my field.

Luciano Minerbi,

Professor emeritus of urban and regional planning, University of Hawai'i.

lucianominerbi@gmail.com

COMMITTEE ON WATER & LAND

Rep. David A. Tarnas, Chair
Rep. Patrick Pihana Branco, Vice Chair

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Rep. Bertrand Kobayashi Rep. Takashi Ohno
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Hearing, March 23, 2021, 8:30 a.m.

TESTIMONY IN SUPPORT OF HCR129/HR111 WITH AMENDMENTS
CONVENING A WORKING GROUP TO DISCUSS THE FUTURE DEVELOPMENT PLANS
IN KAKA'AKO MAKAI

Aloha,

I am a resident of Kaka'ako and a Native Hawaiian and thus have a vested interest in this bill for more reasons than one. The title of the resolution is, "Convening a Working Group to Discuss the Future Development Plans in Kaka'ako Makai", yet its provisions seem to be focused on the proposed development of the Office of Hawaiian Affairs and calling on the committee to identify public lands of comparable value suitable to OHA for a possible land exchange for some or all of its nine parcels in Kaka'ako Makai. This latter task seems to intrude on the management of the properties owned by OHA, thus, recommend its removal from the resolution.

The OHA Kaka'ako Makai Proposed Development Plan is not the only issue for the Kaka'ako Neighborhood as surrounding homeowners are concerned about other high rises and the seemingly endless approval of exemptions to height restrictions that allow for 400' buildings.

Thus, the working group, as the title of the bill indicates, should be discussing not only the OHA development proposal, but all other development proposals impacting on the Ala Moana/Kaka'ako Neighborhood.

Accordingly, recommend Section 3d be amended to include a representative of the Ala Moana/Kaka'ako Neighborhood Board and a representative of the Kamehameha Schools and/or other developers to the working group for the following reasons:

Oahu's Neighborhood Board System was created in 1973 to assure community participation in the decision-making process of government. The system applies the concept of participatory democracy, involving communities in the decisions that affect them. It establishes an islandwide network of elected neighborhood boards as communication channels, expanding and facilitating opportunities for community and government interaction. As developments in their neighborhood impact directly on the lives of residents, a representative of the Neighborhood Board should have a voice in the working group.

Kamehameha Schools is a large landowner proposing several developments in Kaka'ako. Similarly, there are other developers proposing developments in the Kaka'ako area. Their voices should likewise be heard in the working group.

Mahalo for your consideration of my comments and proposed amendments to HCR 129.

Respectfully,

Leimomi Khan

HCR-129

Submitted on: 3/21/2021 4:07:22 PM

Testimony for WAL on 3/23/2021 8:30:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Christy Martin | Individual | Support | No |

Comments:

Aloha Chair Tarnas, Vice Chair Branco, and members of the Committee,

I'm writing as a private citizen in strong support of HCR 129 which would convene a working group to discuss the future of the area known as Kakaako Makai. Those of us that wish to see the lands preserved with an increase in open space and for the entire community have long worked to protect this vision. Once you build, you cannot get that land or opportunity back. In 2006 the legislature agreed and passed HB2555 CD1 restricting the HCDA from selling, assigning, or approving any plan for residential development in the district makai of Ala Moana Boulevard, between Kewalo Basin and the foreign trade zone (https://www.capitol.hawaii.gov/session2006/bills/HB2555_CD1_.pdf). It became law without Governor's signature.

In 2012, I testified (again as a private citizen) in grateful support when these particular parcels were identified by our previous Governor and given to OHA in partial payment for long-overdue rent on ceded lands. Only now do I see that this was an opportunity to generate new support and have these valuable lands developed. I agree that OHA should be able to develop their lands, but I believe even more that Covid-19 has shown all of us the value and importance of parks and open spaces, especially in urban areas, and that climate change will continue to prove that shoreline building is not a sensible long-term investment strategy. I hope OHA will agree for Kakaako Makai, and that additional or alternate lands may be found and given to Native Hawaiians for development. I respectfully ask for your support of HCR 129 so that the right people can be brought together to discuss this important issue. Thank you for your consideration.

HCR-129

Submitted on: 3/22/2021 7:25:17 AM

Testimony for WAL on 3/23/2021 8:30:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------|--------------|--------------------|--------------------|
| Doreen Yarson | Individual | Support | No |

Comments:

A letter of support for HCR 129.

As I ride my bicycle on Sunday afternoons along from Waikiki to Ala Moana to Ward Ave and then to the Kaka'ako waterfront park. It is always delightful to see families and people of all ages enjoying the outdoor space and recreation in our parks and waterfront areas.

I was really becoming more and more concerned about the environmental impact of the OHA proposed residential development of kaka'ako Makai. Yes i understand OHA is looking for monetary methods to benefit the trust, but please ask this question.....What is **priceless????** open space, fresh air, marine life, outdoor recreation, and unimpeded waterfront access. As you can see all residents and visitors utilize our open space daily when you take some time to wander in our parks, fish, swim, surf in our oceans, gather and picnic with friends and family.

Perhaps OHA will come to understand the "value" of preserving open space, ocean access, and propose a green solution for all generations of Hawaiians, residents, and visitors. As all countries are re-claiming waterfront property and redeveloping the "open space" for their residents.

In my opinion, the extension of the Ala Moana bike path, walking path, green space, park area, would be the single and best use for this land. As it would become one of the "greatest waterfront open spaces in the world" and be enjoyed for many generations.

Mahalo for introducing Bill HCR 129

Doreen Yarson

2500 Kalakaua Ave #902

Honolulu, HI 96815

HCR-129

Submitted on: 3/22/2021 10:44:45 AM

Testimony for WAL on 3/23/2021 8:30:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Todd Yoshizawa | Individual | Support | No |

Comments:

I am writing in support of HCR129. It will be an excellent to aid in communication of development plans of Kaka'ako Makai. It will bring people together to find the best possible solution for all stake holders.

HCR-129

Submitted on: 3/22/2021 5:06:00 PM

Testimony for WAL on 3/23/2021 8:30:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Jay R Kadowaki | Individual | Support | No |

Comments:

Aloha Representative David A. Tarnas,

I support HCR129 to help resolve OHA's issues in Kaka'ako Makai. We need a solution that unites our community versus dividing us.

Mahalo for a all your efforts.

Thank you,

Jay Kadowaki