



**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).<sup>1</sup> Further, Section 2 of the Act states that OHA “shall administer the

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<sup>1</sup> 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).<sup>2</sup> 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

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<sup>2</sup> 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).<sup>3</sup> 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.

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<sup>3</sup> Stand. Comm. Rpt. No. 2710 (Reg. Sess. 2012), available at [https://www.capitol.hawaii.gov/session2012/commreports/SB2783\\_SSCR2710\\_.PDF](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).<sup>4</sup> 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.<sup>5</sup> 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

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<sup>4</sup> *Id.*

<sup>5</sup> *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.

# 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.<sup>1</sup>

Emphasize the host Hawaiian culture.<sup>2</sup>

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.<sup>3</sup>

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.

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<sup>1</sup> 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.

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

<sup>3</sup> 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 spaces<sup>4</sup> 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.<sup>5</sup>

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<sup>4</sup> Inclusive of Kewalo Basin Park, Kaka‘ako Waterfront Park and Kaka‘ako Gateway Park.

<sup>5</sup> 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;<sup>6</sup>

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;<sup>7</sup>

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

### **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 Harbor<sup>9</sup> 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.<sup>10</sup>

### **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.<sup>11</sup>

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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.

<sup>6</sup> §206E-31.5, Hawaii Revised Statutes.

<sup>7</sup> HCR 30, 2006.

<sup>8</sup> Act 3, 2007, Special Session.

<sup>9</sup> §206E-33(2), Hawaii Revised Statutes.

<sup>10</sup> 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.

<sup>11</sup> §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.<sup>12</sup>

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.<sup>13</sup>

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.<sup>14</sup>

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.<sup>15</sup>

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.<sup>16</sup>

### **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;

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<sup>12</sup> §206E-34(d)(5), Hawaii Revised Statutes.

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

<sup>14</sup> §206E-34(d)(2), Hawaii Revised Statutes.

<sup>15</sup> 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.

<sup>16</sup> 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 management<sup>17</sup> 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.<sup>18</sup>

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<sup>17</sup> §206E-34(c)(3), Hawaii Revised Statutes.

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

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

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

**HR-111**

Submitted on: 3/22/2021 7:26:53 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 HR 111.

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 HR 111

Doreen Yarson

2500 Kalakaua Ave #902

Honolulu, HI 96815

