

STAND. COM. REP. NO. 929

Honolulu, Hawaii

MAR 05 2021

RE: S.B. No. 1334
S.D. 2

Honorable Ronald D. Kouchi
President of the Senate
Thirty-First State Legislature
Regular Session of 2021
State of Hawaii

Sir:

Your Committees on Judiciary, Ways and Means, and Water and Land, to which was referred S.B. No. 1334, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY,"

beg leave to report as follows:

The purpose and intent of this measure is to:

- (1) Increase the building height limit for two of the six parcels owned by the Office of Hawaiian Affairs in the Kaka'ako Makai area to four hundred feet; and
- (2) Lift the current restriction against residential development in Kaka'ako Makai to allow residential development by the Office of Hawaiian Affairs or by third parties to which the Office of Hawaiian Affairs conveys the parcels.

Your Committees received testimony in support of this measure from the Office of Hawaiian Affairs; Department of Hawaiian Home Lands; Hawaiian Community Development; Ke One O Kākuhihewa-'Oahu Council for the Association of Hawaiian Civic Clubs; Na Kuleana O Kanaka 'Oiwi; Association of Hawaiian Civic Clubs; Stanford Carr Development, LLC; Ka Ohana O Na Pua; Pe'a Records & Entertainment; Hawaii Appleseed Center for Law and Economic Justice; Keaukaha Community Association; Native Hawaiian Legal Corporation;



Innovations Development Group, Inc.; Prince Kūhiō Hawaiian Civic Club; and eighty individuals. Your Committees received testimony in opposition to this measure from the Free Access Coalition, Friends of Kewalos, alohahawaiionipaa.org, Hawaii's Thousand Friends, Kaka'ako Makai Community Planning Advisory Council, Life of the Land, and ninety individuals. Your Committees received comments on this measure from the Hawaii Community Development Authority, Department of Transportation, O'ahu Island Parks Conservancy, Historic Hawai'i Foundation, and one individual.

Your Committees find that Act 15, Session Laws of Hawaii 2012 (Act 15), conferred to the Office of Hawaiian Affairs (OHA) parcels of land in Kaka'ako Makai to settle certain claims against the State regarding longstanding claims to income and proceeds from ceded lands by OHA. The property identified in Act 15 is virtually contiguous, suited for master planning, and is in an area of Honolulu that is already experiencing significant redevelopment. Increasing the revenue stream on these commercial lands will provide a greater sum to fund OHA's programs and services for its beneficiaries, including direct grants, advocacy services, and legacy land stewardship.

Your Committees further find that existing law prohibits OHA, an agency solely dedicated to serving the Native Hawaiian population, from developing housing and housing-associated projects makai of Ala Moana. Therefore, lifting this prohibition would create parity for the Office of Hawaiian Affairs with these mauka landowners by affording the agency the same land use options for its parcels as enjoyed by its neighbors. This measure exempts OHA from the residential development restrictions on certain parcels located in Kaka'ako Makai for OHA to realize the full value of these lands.

During the hearing on this measure, members of your Committees expressed various viewpoints about the measure including whether the measure went beyond what had been contemplated in previous legislation and whether permitting residential developments at heights of up to four hundred feet in Kaka'ako Makai warranted additional consideration from OHA in exchange. Your Committees additionally find that the language of Act 15 states in part that the parcels were being conveyed to OHA "as is, where is", meaning that OHA accepted the parcels in their



condition as of March 1, 2012, without warranties or representations of any kind or nature.

Your Committees also find that the Department of the Attorney General, in its testimony on Senate Bill No. 2783, Regular Session of 2012 (S.B. No. 2783), which was enacted as Act 15, noted that the properties were commercially zoned. Two of the committee reports filed on S.B. No. 2783 also discussed the issue of commercial zoning, and noted that the value of the parcels could be enhanced by certain entitlements that, while not specifically provided for in S.B. No. 2783, could be obtained at a future date. Additionally, Senate Bill No. 682, Regular Session of 2012, was under consideration by the Legislature contemporaneous to S.B. No. 2783, and would have explicitly permitted residential development of certain parcels in Kaka'ako Makai. Although the measure was not enacted, in part due to concern by OHA and the Department of the Attorney General about impairing the passage of S.B. No 2783, OHA stated in testimony on the measure that once becoming the landowner, they would be in a position to request entitlements for the parcels in subsequent legislative sessions.

Your Committees have amended this measure by:

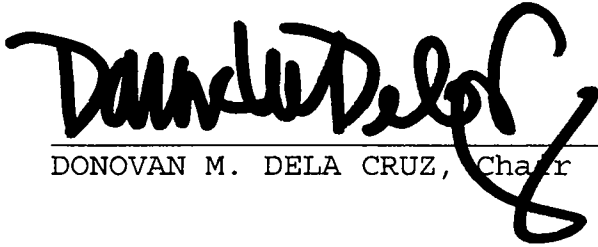
- (1) Requiring the Office of Hawaiian Affairs and any developer to provide advance written notice to potential lessees and residents of possible noise, odor, and other aircraft related nuisances before entering any lease agreement;
- (2) Requiring the Office of Hawaiian Affairs and any developer to assess and propose mitigation efforts to address possible noise, odor, and other aircraft related nuisances in their development plans and proposals;
- (3) Inserting an effective date of May 6, 2137, to encourage further discussion; and
- (4) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the records of votes of the members of your Committees on Judiciary, Ways and Means, and Water and Land that are attached to this report, your Committees are in accord with



the intent and purpose of S.B. No. 1334, S.D. 1, as amended herein, and recommend that it pass Third Reading in the form attached hereto as S.B. No. 1334, S.D. 2.

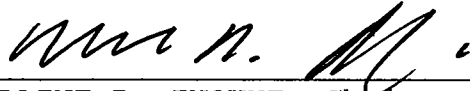
Respectfully submitted on behalf of the members of the Committees on Judiciary, Ways and Means, and Water and Land,



DONOVAN M. DELA CRUZ, Chair



KARL RHOADS, Chair



LORRAINE R. INOUYE, Chair



The Senate
Thirty-First Legislature
State of Hawai'i


Record of Votes
Committee on Judiciary
JDC

Bill / Resolution No.:*	Committee Referral:	Date:		
SB 1334 SD1	HWN/HOU, JDC/WAM/WTL	03/03/2021		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
RHOADS, Karl (C)	✓			
KEOHOKALOLE, Jarrett (VC)	✓			
ACASIO, Laura		✓		
GABBARD, Mike	✓			
KIM, Donna Mercado			✓	
LEE, Chris		✓		
FEVELLA, Kurt		✓		
TOTAL	3	3	1	0
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <i>Karl Rhoads</i>				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes

The Senate
Thirty-First Legislature
State of Hawai'i


Record of Votes
Committee on Ways and Means
WAM

Bill / Resolution No.:*	Committee Referral:	Date:		
SB 1334, SD1	HWN/HDU, JDC/WAM/WTL	3/3/21		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
DELA CRUZ, Donovan M. (C)	X			
KEITH-AGARAN, Gilbert S.C. (VC)	X			
ENGLISH, J. Kalani	X			
INOUYE, Lorraine R.	X			
KANUHA, Dru Mamo	X			
KIDANI, Michelle N.	X			
MORIWAKI, Sharon Y.			X	
SHIMABUKURO, Maile S.L.	X			
TANIGUCHI, Brian T.		X		
WAKAI, Glenn	X			
FEVELLA, Kurt		X		
TOTAL	8	2	1	
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes

The Senate
 Thirty-First Legislature
 State of Hawai'i

Record of Votes
Committee on Water and Land
WTL

Bill / Resolution No.:* <i>SB 1334 SD 1</i>	Committee Referral: <i>HWN/HOU, JDC/WAM/WTL</i>	Date: <i>3/3/21</i>		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
INOUE, Lorraine R. (C)	<i>X</i>			
KEITH-AGARAN, Gilbert S.C. (VC)	<i>X</i>			
MISALUCHA, Bennette E.			<i>X</i>	
RIVIERE, Gil			<i>X</i>	
FEVELLA, Kurt		<i>X</i>		
TOTAL	<i>2</i>	<i>1</i>	<i>2</i>	
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes