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HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE
Ka 'Oihana Mālama Mo'ohelu a Kālā
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ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT

LATE

WRITTEN ONLY
TESTIMONY BY LUIS P. SALAVERIA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE SENATE COMMITTEES ON JUDICIARY AND WAYS AND MEANS
ON
SENATE BILL NO. 534, S.D. 1, PROPOSED S.D. 2

February 28, 2025
10:15 a.m.
Room 211 and Videoconference

RELATING TO THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY

The Department of Budget and Finance (B&F) offers comments on this bill.

Senate Bill (S.B.) No. 534, S.D. 1, Proposed S.D. 2, does the following:

- Part I of this measure establishes three new sections to Chapter 206E, HRS, to:
 - 1) allow the Hawai'i Community Development Authority (HCDA) to approve residential development on certain parcels of land in the Kaka'ako Makai area within their Kaka'ako Community Development District (KCDD);
 - 2) establish a 400-foot height limit on residential developments situated on a subset of the parcels, only if they are owned by the Office of Hawaiian Affairs (OHA);
 - 3) require any residential development approved by HCDA on the subset of the parcels to allocate at least 50% plus one unit of the residential units to households with income at or below 140% of the area median income, with priority given to individuals who are essential workers working within a five-mile radius of the Kaka'ako Makai area;
 - 4) allow OHA to determine a Kaka'ako Makai association fee to be collected from all residents, tenants, and lessees within the Kaka'ako Makai area; and
 - 5) create a subaccount within OHA's special fund, to deposit the aforementioned fees and to fund various services and projects for the Kaka'ako Makai area.Part I also amends

Sections 206E-12 and 206E-31.5, HRS, to exempt the new residential developments from HCDA dedication rules and statutory prohibitions related to KCDD.

- Part II of this measure authorizes HCDA to establish an infrastructure financing, implementation, and improvement district for the purpose of collecting county revenues generated by development within a district to fund or finance infrastructure improvements within the district.
- Part III of this measure establishes a KCDD Working Group within HCDA to facilitate the transfer of KCDD to the City and County of Honolulu and repeals KCDD-related sections of the HRS on July 1, 2030. This part also appropriates an unspecified amount of general funds in both FY 26 and FY 27 to provide administrative and logistical support for the working group.

B&F notes that it is uncertain which OHA special fund is being referenced in Section 2 of this bill if any currently exists.

Furthermore, as a matter of general policy, B&F does not support the creation of any special fund or special fund subaccount that does not meet the requirements of Section 37-52.3, HRS. Special funds should: 1) serve a need as demonstrated by the purpose, scope of work, and an explanation why the program cannot be implemented successfully under the general fund appropriation process; 2) reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries or a clear link between the program and the sources of revenue; 3) provide an appropriate means of financing for the program or activity; and 4) demonstrate the capacity to be financially self-sustaining. Regarding S.B. No. 534, S.D. 1, Proposed S.D. 2, it is difficult to determine whether the proposed special fund subaccount would be self-sustaining.

Thank you for your consideration of our comments.

LATE



TESTIMONY IN STRONG SUPPORT OF SB534_SD2 WITH COMMENTS
Relating to the Hawai'i Community Development Authority

Senate Committee on Judiciary
Senate Committee on Ways and Means

February 28, 2025 10:15 a.m. Room 211
Aloha e Chairs Rhoads and Dela Cruz, Vice Chairs Gabbard and Moriwaki, and Members
of the Senate Committees on Judiciary and Ways and Means

Mahalo for hearing SB534_SD2, which is one of the Office of Hawaiian Affairs' (OHA's) 2025 Legislative Priorities. OHA appreciates the time dedicated to considering this important bill which provides an innovative approach to addressing the State's housing crisis while also fulfilling the terms of the historic 2012 settlement between the State and OHA by unlocking the full development value of the Kaka'ako Makai lands. OHA submits this testimony in **SUPPORT of SB534_SD2**, with the following comments for the Committees' consideration.

OHA's Position on Amendments to SB534

a. Hazard Mitigation Requirements Proposed HRS § 206E-A(3)(c)(3)

In the last Committee hearings (HOU, JDC, WAL), proposed language was added specifying that any application for residential development in Kaka'ako Makai must include:

Documentation from the department of health verifying that the applicant has **adequately removed or capped any hazardous substances, pollutants, or contaminants** present on a parcel pursuant to chapter 128D and any rules that the department of health has adopted thereunder.

SB534_SD2, p. 10 at lines 4-9 (emphasis added).

OHA appreciates the intent of this amendment and remains committed to environmental remediation. However, the proposed language on environmental hazard mitigation is overly specific, as it limits remediation methods to "removal or capping," which is more restrictive than what existing Department of Health statutes and regulations allow. For example, on-site remediation may be appropriate in some cases, along with other state-of-the-art cleanup methods that continue to evolve. To ensure flexibility while maintaining environmental safeguards, OHA suggests amending the language to read:

Documentation from the department of health verifying that the applicant has adequately ~~removed or capped~~addressed or treated any hazardous substances, pollutants, or contaminants s present on a parcel pursuant to chapter 128D and any rules that the department of health has adopted thereunder.

(proposed deletion in strike through addition underlined).

- b. Transfer of Authority from the Hawai'i Community Development Authority (HCDA) to the City and County of Honolulu

OHA is committed to working cooperatively with the appropriate authority designated by the legislature to advance development of the Kaka'ako Makai area.

However, OHA would respectfully request that it be added to the proposed working group to examine whether funding, programs, or rules and regulations should remain with HCDA or be transferred to another state or city and county agency.

- c. Completion of an EIS, Compliance With HRS chapter 205A, and Sea Level Rise Planning

OHA is committed to best practices for planning which includes compliance with existing environmental laws. OHA understands that complying with HRS Chapter 250A and considering the effects of sea level rise are applicable laws and best practices that should be applied in planning efforts in the Kaka'ako Makai area moving forward. OHA is also willing to commit to completing an EIS under HRS Chapter 343 as part of it's planning given the significant community interest in this development, the presence of known ground contaminants, and the sea level rise concerns raised by the community and this legislature.

OHA's Additional Proposed Amendment

- d. Definition of Owner Occupant Proposed HRS §206E-A(3)(d)(2)(i)

In line with the purpose of this bill—to provide affordable housing for Hawai'i's essential workers living in and serving the citizens of this State—OHA would like to amend the proposed definition of owner-occupant, which as written incorporates the definition used in HRS Chapter 514B. *See* HRS § 514B-95 (defining an owner occupant as living in the unit for 365 consecutive days). Instead, OHA proposes to adopt the definition currently found in the HCDA rules specifying that an owner-occupant of an affordable housing unit will live there for ten years, subject to certain exceptions spelled out in the rules. *See* Hawai'i Administrative Rules (HAR) § 15-218-33, 35.

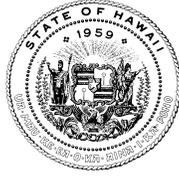
Because any proposed residential development will remain subject to the HCDA Rules until authority is transferred to the City and County, there is no further amendment

needed other than to delete proposed sub-section 206E-A(3)(d)(2)(i) from the bill. The proposed working group will consider how to address transfer of authority over enforcement of owner-occupancy requirements and other regulations governing the Kaka'ako Makai area moving forward. Alternatively, the Committee could choose to add specific language to define an owner occupant consistent with existing HCDA rules.

Mahalo nui for your consideration of this testimony. SB534_SD2 aligns with OHA's primary mission to improve the conditions of Native Hawaiians while also addressing the ongoing affordable housing shortage in our community. We look forward to partnering with the Legislature on this and other important initiatives to improve life in Hawai'i nei in the years ahead.

JOSH GREEN, M.D.
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Hawaii*

SYLVIA J. LUKE
LT. GOVERNOR
STATE OF HAWAII
*Ka Hope Kia'āina o ka Moku'āina
'o Hawaii*



KALI WATSON
CHAIRPERSON, HHC
Ka Luna Ho'okele

KATIE L. LAMBERT
DEPUTY TO THE CHAIR
Ka Hope Luna Ho'okele

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS
Ka 'Oihana 'Āina Ho'opulapula Hawaii'i

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LATE

TESTIMONY OF KALI WATSON, CHAIR
HAWAIIAN HOMES COMMISSION
BEFORE THE SENATE COMMITTEES ON JUDICIARY AND WAYS AND MEANS
HEARING ON FEBRUARY 28, 2025 AT 10:15AM IN CR211

**SB 534, SD 1, RELATING TO THE HAWAII COMMUNITY DEVELOPMENT
AUTHORITY**

February 27, 2025

Aloha Chairs Rhoads and Dela Cruz, Vice Chairs Gabbard and Moriwaki, and Members of the Committees:

The Department of Hawaiian Home Lands (DHHL) **supports** this bill which 1) Part I: Clarifies the process by which the Hawaii Community Development Authority may approve residential development on certain parcels of Kakaako Makai. Raises the building height limit and the maximum floor area ratio on certain parcels in the area. Requires a certain percentage of the residential units developed on certain parcels to be allocated to households at or below a certain income level in perpetuity, with priority given to certain essential workforce in the area. Limits the sale of residential units developed in certain residential developments to prospective owner-occupants. Requires the Office of Hawaiian Affairs to determine a Kakaako Makai association fee to be collected from residents, tenants, and lessees of certain parcels to be deposited into a special account in the Office of Hawaiian Affairs Special Fund to fund various services and projects in the Kakaako Makai area. Part II: Authorizes the HCDA to engage in tax increment financing with respect to the Kakaako Community Development District. Establishes a Kakaako Community Development District Working Group to plan, coordinate, and facilitate the transfer of the Kakaako Community Development District and its functions from the HCDA to the City and County of Honolulu. Requires a report to the Legislature. Appropriates funds.

SB534, SD1 will help to facilitate residential housing on lands managed by the Office of Hawaiian Affairs, which may be used by DHHL. DHHL remains committed to working with the noted organizations to provide affordable residential housing and communities where shared beneficiaries can live, work, and play.

Thank you for your consideration of our testimony.

LATE



February 28, 2025

TESTIMONY OF THE ASSOCIATION OF HAWAIIAN CIVIC CLUBS
To the Senate Committees on Judiciary and Ways and Means

**SB 534 SD2 - RELATING TO THE HAWAII COMMUNITY DEVELOPMENT
AUTHORITY**

Aloha Chair Rhoads, Chair Dela Cruz, Vice Chairs, and Members of the Committees:

The Association of Hawaiian Civic Club **supports** SB 534, Proposed SD 2, which allows for the approval of residential development on certain parcels in Kaka‘ako Makai, includes requirements to develop housing units that are affordable for at or below certain income levels, and allows for special financing structures to be used as part of the development of the Kaka‘ako Makai lands.

This bill will support the Office of Hawaiian Affairs in realizing the full value of the parcels in Kaka‘ako Makai that it acquired during the settlement agreement in 2012. The existing prohibitions against residential development and the height restrictions have prevented this in the past. By allowing the residential development in Kaka‘ako Makai, the Office of Hawaiian Affairs will be able to better serve its constituents while also creating needed housing units for people of Hawai‘i.

The Association of Hawaiian Civic Clubs has a long-standing track record of advocating for the Office of Hawaiian Affairs, and other Native Hawaiian trusts, in its efforts to manage trust assets on behalf of beneficiaries. Over the past 15 years, our organization has adopted dozens of resolutions at our annual conventions to this end. We believe this measure will lead to great future opportunities for those served by the Office of Hawaiian Affairs.

We appreciate your favorable consideration of this bill.



UNITED PUBLIC WORKERS

AFSCME Local 646, AFL-CIO

LATE

THE SENATE KA 'AHA KENEKOA

THE THIRTY-THIRD LEGISLATURE REGULAR SESSION OF 2025

COMMITTEE ON JUDICIARY
Senator Karl Rhoads, Chair
Senator Mike Gabbard, Vice Chair

COMMITTEE ON WAYS AND MEANS
Senator Donovan M. Dela Cruz, Chair
Senator Sharon Y. Moriwaki, Vice Chair

Wednesday, February 28, 2025, 10:15 AM
Conference Room 211 & Videoconference

Re: Testimony on SB534, SD2 (Proposed) – RELATING TO THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY

Chairs Rhoads and Dela Cruz, Vice Chairs Gabbard and Moriwaki, and Members of the Committees:

The United Public Workers, AFSCME Local 646, AFL-CIO (“UPW”) is the exclusive bargaining representative for approximately 14,000 public employees, which includes blue collar, non-supervisory employees in Bargaining Unit 1 and institutional, health, and correctional employees in Bargaining Unit 10, in the State of Hawaii and various counties. Additionally, UPW also represents approximately 1,500 members in the private sector.

UPW **supports** the proposed SD2 of SB534, which clarifies the process by which the Hawaii Community Development Authority may approve residential development on certain parcels of Kakaako Makai. Additionally, this measure requires a certain percentage of the residential units developed on certain parcels to be allocated to households at or below a certain income level in perpetuity, with priority given to certain essential workforce in the area and limits the sale of residential units developed in certain residential developments to prospective owner-occupants.

For many years, Hawaii has had the distinction of having the highest cost of living in the U.S., based in part on the average price of food, utility, and transportation costs. However, it is

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KAUAI

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841 Kolu Street
Wailuku, Hawaii 96793-1436
Phone 808.244.0815

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Toll Free - *Molokai/Lanai only*

widely known that the high cost of housing, particularly in urban Honolulu, is the most substantial cost for working families and has become a significant financial burden for hard-working local residents who want to remain in Hawaii.

By allocating more than 50% of residential units to households with income at or below 140% of the area median income, limiting the sale of residential units to prospective owner-occupants, and prioritizing the housing needs of Oahu's essential workforce, we believe the development of Kakaako Makai could provide some of our members with a path to homeownership in urban Honolulu.

Mahalo for this opportunity to testify in support of this measure.

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THE KAKA'AKO MAKAI COMMUNITY PLANNING ADVISORY COUNCIL
TESTIMONY IN STRONG OPPOSITION to SB534 SD2 Proposed



SB 534 RELATING TO THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY

COMMITTEE ON WAYS AND MEANS

Senator Donovan M. Dela Cruz, Chair, Senator Sharon Y. Moriwaki, Vice Chair

COMMITTEE ON JUDICIARY

Senator Karl Rhoads, Chair, Senator Mike Gabbard, Vice Chair

Aloha Senators:

The Kaka'ako Makai Community Planning Advisory Council (CPAC), was established in 2006 by H.C.R 30, which called for a collaborative community working group to develop a Master Plan for Kaka'ako Makai.

Also in 2006, the State Legislature established laws under Chapter 206E-31, Hawaii Revised Statutes, to 1) prohibit residential development in Kaka'ako Makai and 2) prohibit the sale of state land in Kaka'ako..

CPAC became the diverse working group created by HCR30 (2005) that comprised of many members of the public, including Hawaiian Beneficiaries and OHA representatives, that created the Kaka'ako Makai Vision and Guiding Principles and the Kaka'ako Makai Master Plan approved and adopted by the Hawaii Community Development Authority (HCDA) in 2010. In 2023 the HCDA revised the Kaka'ako Makai Area Rules to incorporate the 2010 Kaka'ako Makai Master Plan and its Kaka'ako Makai Vision and Guiding Principles.

Currently, the HCDA is continuing its community outreach to further define the Kaka'ako Makai area rules to begin implementing long delayed development of this important shoreline public recreation area in the best interest of future generations. It will also focus on current issues including; 1) Sea level Rise, 2) Mitigation of hazardous toxic materials and ash from the two former incinerators and the city and county refuse motorcade site fuel storage site and a high voltage transformer disposal site. In 2010 the HCDA covered the Piano Lot that is a Brownfield site with 2" asphalt as a temporary remedial cap. Other Kaka'ako Makai Brownfield sites are capped with 6" of gravel including the Cannery Lot, Former Waste Water Lot and Look Lab site.

From 2006 through today, the issues against residential development in Kaka'ako Makai have remained constant. Kaka'ako Makai remains one of Honolulu's last remaining open recreational shoreline areas. This State public trust land is frequented daily by myriad recreational ocean and park users including surfers, fishermen, divers, picnickers and visitors to the Children's Discovery Center.

The Save Our Kaka'ako Makai community movement focused on preserving open spaces is similar to the preservation of Magic Island in the 1960's, Save Sandy Beach and the Ka'iwi coastline movement, preservation of Kawela Bay and Turtle Bay and the North Shore "Keep the Country Country" movement.

Kaka'ako Makai was originally a shoreline fishing area built on infill from two (2) two large incinerators that burned trash and generated toxic ash high in lead, arsenic, mercury, asbestos and other toxic waste.. Cattle were herded from barges into pits of DDT pesticides and tanks of petroleum corroded by salty ground water leaking petroleum and benzene. Used transformers leaking PCB were dumped here,

and a pesticide mixing plant built in Kaka'ako Makai discarded carcinogenic chemicals. These and other toxic materials remain underground in Kaka'ako Makai today, capped with an impermeable surface layer with piping to emit methane gas released from below the surface, and most of the underground toxins have leached to the soil below while being undisturbed for decades. Below the toxic infill throughout Kaka'ako Makai, is the seabed where underground seawater mixes with subterranean streams that carry onshore storm water into the changing tides.

But if the protective long-standing law is changed and this toxic-infilled land is disturbed by the construction of 200-foot to 400-foot high-rise residential towers built on required foundation pilings penetrating deep into this toxic infill, the embedded toxins will be released into the nearby ocean shoreline and public park recreational areas, causing a public health disaster when these toxins become dislodged and contaminate the underground streams, coral, rocks and lava tubes. Equally concerning would be any heavy construction damage to the basalt cap, that protects the freshwater aquifer from ocean seawater, consequently releasing the toxins.

Excavation to construct the huge foundations for the towers will also compromise toxic materials imbedded in Kaka'ako Makai. In Waikiki, Ala Moana, and Kaka'ako Mauka and even near Ala Moana Park, construction of large buildings has resulted in sinkholes, broken sidewalks, and broken water mains and sewer lines. A developer of a 400-foot residential condo in Kakaako Mauka required about 80 auger pilings drilled 150 feet deep to anchor the building. If that is required of a building in Kakaako Makai, the encapsulated contaminants of the underground landfill will endanger the waters and health of residents. In Kaka'ako Makai large berms in Waterfront Park cap toxic waste under large impermeable membranes to keep the public safe. But consider what would happen if there was a sinkhole or other breach of the toxic landfill, necessarily closing the popular Park and denying access to the public.

The OHA Chairman of the board mentioned that this proposed condo development project in Kaka'ako Makai may require removing truckloads of hazardous materials. However, to remove the toxic waste under the current remedial cap would create a HAZMAT site requiring all equipment coming in contact with toxins to be decontaminated, with the water used to clean the equipment safely collected and taken to an off island certified toxic waste disposal site. There are no such disposal sites in the state for this type of hazardous waste, which would have to be shipped out of state. To overcome these environmental concerns would be costly and make construction of the OHA-promised affordable housing impossible.

The Hawaiian beneficiaries were severely shortchanged when a former governor made a deal with OHA to take this toxic land "as is, where is". Instead, and to remedy this disrespectful endeavor, and for truly affordable housing needed by the beneficiaries, an equal amount of land of equal value to the debt owed to the Beneficiaries should be exchanged by the State for non-toxic land with necessary infrastructure for more immediate building of affordable housing for beneficiaries. It could be in the present Aloha Stadium Redevelopment Area now slated for high-rise residential development. And in the best interests of Hawaii's communities, including Native Hawaiian beneficiaries and the general public, OHA should first convene a publicly-vetted master plan process for the exchanged land.

Since taking the Kakaako Makai parcels pursuant to Act 15 (SB2783) in 2012, OHA has continually sought to overturn the existing law prohibiting residential development and sale of state land in Kaka'ako Makai. And during the over dozen years since then these OHA parcels have remained undeveloped. Notably, ACT 15 states the following for the transferred lands in Kaka'ako Makai under OHA:

For purposes of this section and this Act, "as is, where is" means that the office of Hawaiian affairs is accepting the Properties in their existing condition as of March 1, 2012, the close of the office's period for due diligence, without representations or warranties of any kind or nature.

All too often public access restrictions and limitations result from rampant residential development of public land sold to developers and out of state investors, and the public has the right to know what OHA's true intentions are.

Historically, OHA has shown a lack of transparency with its Kaka'ako Makai planning and development process. In 2011 OHA participated with CPAC and the HCDA in creating the community based Kaka'ako Makai Master Plan. CPAC supported OHA in 2012 in acquiring Kaka'ako Makai due to their strong support of the HCDA approved Kaka'ako Makai master plan. However, an OHA audit by Plante Moran reported on October 31, 2022 reported OHA spent \$2,925,752 for Kaka'ako Makai planning. Although OHA did not disclose any planning information for the audit, a rendering for an 800' "Tower of Earth and Sky" turned up later that appeared to be very unappropriated.



The CPAC and HCDA 2010 Kaka'ako Makai Master Plan was created through a comprehensive community planning process to preserve the tranquil nature and scenic view planes from the Mountains to the Sea as part of the "lei of green" planning effort, echoing the preservation of "Magic Island" park land that was formerly considered for hotel and resort development. As our limited spaces become overwhelmed with development, it is quite clear that SB354 SD2 Proposed would deprive the community and future generations to the many visual, recreational, and iconic benefits offered by this irreplaceable Kaka'ako Makai shoreline asset.

The participants of CPAC and the "Save Our Kaka'ako Makai" movement fully understand the full value of preserving Kaka'ako Makai's public trust lands and the importance of preserving the now limited

shoreline public access for future generations. While SB534 SD2 Proposed has added protections such as requiring an environmental impact statement, meeting conditions as a special management area and mitigating any contaminants and nuisances, it is still not adequate to protect the vulnerable coastline and waters as it allows for 400 foot structures that are 200 feet above current maximum allowable height and density of 10.0 floor area ratio (FAR) at three times the current maximum density of 3.0 FAR.

For all of the above reasons, CPAC opposes Senate Bill 534 SD2 Proposed.

Sincerely,

Wayne Takamine
Chair, Kaka'ako Makai Community Planning Advisory Council

Kanekoa Crabbe
Vice Chair, Kaka'ako Makai Community Planning Advisory Council

Michelle Matson
Secretary, Kaka'ako Makai Community Planning Advisory Council

AIRLINES COMMITTEE OF HAWAII



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Senator Karl Rhoads, Chair
Senator Mike Gabbard, Vice Chair
Committee on Judiciary

Senator Donovan Dela Cruz, Chair
Senator Sharon Moriwaki, Vice Chair
Committee on Ways and Means

Friday, February 28, 2025; 10:15 AM
Conference Room 211 & Videoconference

RE: SB 534 Proposed SD2 Relating to the Hawaii Community Development Authority - Comments

Aloha Chairs Rhoads and Dela Cruz, Vice Chairs Gabbard and Moriwaki and members of the committees:

The Airlines Committee of Hawaii (ACH), comprised of 20 signatory air carriers that underwrite the State airport system, appreciates the opportunity to submit testimony expressing concerns with a specific provision of SB 534 Proposed SD2, which clarifies the process by which the Hawaii Community Development Authority may approve residential development on certain parcels of Kakaako Makai and raises the building height limit and the maximum floor area ratio on certain parcels in the area.

Of particular concern is the 400-foot building height limit in Section 2, Chapter 206E-A (e). Given the different aircraft types, payloads, and destinations, 400-foot structures constructed on Kakaako Makai will have varying impacts to airlines serving Hawaii. For example, it appears that most, if not all flights departing from HNL RWY 08L will not be impacted. On the other hand, flights departing from HNL RWY 08R could be impacted, with certain flights having minimal to no impacts, and others having to impose payload restrictions so severe that it would not be safe and economically feasible to operate the flight.

**ACH members are Air Canada, Air New Zealand, Alaska Airlines, All Nippon Airways/Air Japan, Aloha Air Cargo, American Airlines, China Airlines, Delta Air Lines, Federal Express, Fiji Airways, Hawaiian Airlines, Japan Airlines, Korean Airlines, Philippine Airlines, Qantas Airways, Southwest Airlines, Sun Country Airlines, United Airlines, United Parcel Service, and WestJet.*

If you are inclined to pass this measure, the airlines would like to participate in discussions relating to building and crane heights. Thank you for your consideration.

Sincerely,

ACH Executive Committee



Brendan Baker



David Sellers



Elizabeth Loomis



Randall Fiertz



Richard Ide

4/28/25 MK
1:02pm

January 28, 2025

Re: Cease and Desist Demand to Halt Passage or Advancement of SB534

Dear Senate Sponsors,

I write on behalf of concerned residents, community organizations, and other stakeholders (collectively, "the Undersigned"), to formally demand that the Hawai'i State Legislature cease and desist from any further action to advance **Senate Bill 534 (SB534)**, which seeks to repeal or modify the existing prohibition on residential development in Kaka'ako Makai.

1. Background with Lawful / Legal Standing

Polynesian Kingdom of Atooi / Hawaiian Kingdom Lawful / Legal Framework: Under the **1846 Statute Laws of the Hawaiian Kingdom and the Polynesian Kingdom of Atooi / Hawaiian Kingdom Constitution (2019)**, the governance, lawful and legal jurisdiction over Kingdom lands remain under the oversight of the Sovereign Authority. The actions of the Hawai'i State Legislature must be evaluated under this framework, which remains the *de jure* law of the land.

Existing Ban: The State of Hawai'i previously enacted a 2006 law to prohibit residential development in the Kaka'ako Makai (KM) area. That law protects the public and environment from substantial risks tied to the area's historic use as a landfill, its known contamination (brownfields), and the potential for harmful runoff, leaching, and exposure.

Public Trust and Environmental Statutes: The Polynesian Kingdom of Atooi / Hawaiian Kingdom's Constitution and **Statute Laws of 1846** affirm that nearshore waters, marine resources, and coastal environments must be safeguarded for present and future generations. Many of the activities contemplated under **SB534** risk violating:

- The Public Trust Doctrine (Article XI, Section 1, Hawai'i State Constitution)
- State environmental protection laws, including HRS Chapter 343 (Environmental Impact Statements)
- The lawful/legal principles established in the **Hawaiian Kingdom Statute Laws of 1846**, which continue to assert the Kingdom's jurisdiction over Hawaiian lands and resources.

Community Health and Safety: By allowing residential towers of 200-400 feet on contaminated landfill, **SB534** may expose residents, visitors, marine species, and the broader public to toxins

and contaminants. Such a move could echo the Red Hill fuel storage crisis, creating long-term health hazards and potential liability for state officials.

2. Grounds for Cease and Desist

- **Unlawful Hazard Creation:** Permitting major development on contaminated brownfields endangers public health and violates the spirit (if not the letter) of environmental protection laws.
- **Abuse of Legislative Process:** The short notice hearing on SB534 and its related House or Senate companion bills severely limits public participation, contradicting the principle of open, fair governance enshrined in Hawai'i's Sunshine Laws (HRS Chapter 92).
- **Violation of the Polynesian Kingdom of Atooi / Hawaiian Kingdom Law:** The passage of SB534 disregards the lawful jurisdiction of the Polynesian Kingdom of Atooi / Hawaiian Kingdom Government, as established in the 1846 Statute Laws and reaffirmed under the 2019 Polynesian Kingdom of Atooi / Hawaiian Kingdom Constitution and unlawfully asserts foreign authority over Hawaiian lands.
- **Violation of Public Interest:** Repealing the KM residential ban subverts the community's welfare and the environmental safeguards established through the 2006 legislation.

Based on these factors, the Undersigned assert that proceeding with SB534 is contrary to Hawai'i's public trust obligations and places the Legislature and any future development proponents at significant legal and ethical risk.

3. Demands

1. **Immediate Cessation:** The Undersigned demand that all legislative committees, subcommittees, and members promptly withdraw SB534 from further consideration or voting calendars.
2. **Full Disclosure and Extended Hearings:** Should the bill remain active, we demand the Legislature provide extended public notice and comprehensive hearings to allow experts, community members, and affected agencies to testify on the significant health, environmental, and cultural implications.
3. **Environmental Review:** Prior to any revival of SB534's provisions, the Legislature must mandate or undertake a thorough Environmental Impact Statement (EIS) to assess the extent of contamination and potential harm to nearshore waters, marine life, and future residents.
4. **Recognition of the Polynesian Kingdom of Atooi / Hawaiian Kingdom Jurisdiction:** The Legislature must acknowledge and respect the lawful authority of the Polynesian

Kingdom of Atooi / Hawaiian Kingdom Government, as established under the 1846 Statute Laws and enshrined in the 2019 Polynesian Kingdom of Atooi / Hawaiian Kingdom Constitution, and cease legislative actions that violate the sovereignty of the Polynesian Kingdom of Atooi / Hawaiian Kingdom.

4. Reservation of Rights

Nothing in this letter is intended as, nor should be construed as, a waiver or relinquishment of any rights or remedies available to the Undersigned, whether lawful / legal, equitable, or administrative, including potential challenges in court. The Undersigned expressly reserve the right to pursue all lawful / legal remedies under state, federal, and constitutional law if **SB534** is enacted or if any action is taken that further endangers Kaka'ako Makai's environment, marine ecosystems, and public health.

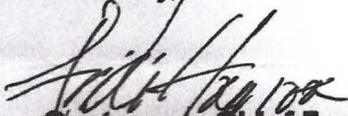
5. Conclusion

If the Legislature proceeds with **SB534** without addressing the fundamental risks it poses, the Undersigned will consider all appropriate measures, including but not limited to litigation, official complaints with oversight agencies, and broad public advocacy to prevent harm. We encourage the Legislature to uphold the 2006 ban and fulfill its constitutional duty to protect the public's health, safety, and Hawai'i's irreplaceable environment.

We trust you will give this matter the urgent attention it requires. Please provide a written response detailing how you intend to comply with these demands no later than 10 business days from receipt of this letter.

Mahalo for your immediate cooperation.

Sincerely,



Customary Chief Ene Faletogo
Office of the Sovereign Authority
P.O. Kekaha, HI 96752 ATOOI

c: Attorney General's Office, State of Hawai'i
Department of Health, Environmental Management Division
Concerned or Relevant Parties

Disclaimer: This letter is for informational purposes only and does not constitute lawful/legal advice. If you believe **SB534** or related legislation violates your rights or the law, consult a licensed attorney familiar with Hawai'i's environmental and administrative laws.

LATE

SB-534-SD-1

Submitted on: 2/27/2025 12:17:22 PM

Testimony for JDC on 2/28/2025 10:15:00 AM

| Submitted By | Organization | Testifier Position | Testify |
|---------------------|---------------------|---------------------------|------------------------|
| JONATHAN LOTT | Individual | Oppose | Written Testimony Only |

Comments:

Aloha members of the committees,

I mistakenly clicked on the SUPPORT button in my previously-submitted testimony, although my testimony language clearly indicated that I meant to OPPOSE this bill.

Please do not open the door to residential developmentt makai of Ala Moana Boulevard in Kakaako!

It would make sense if the State wants to help OHA develop affordable housing to offer additional, more appropriate land elsewhere. Perhaps the State could take back the Kakaako Makai ceded lands in exchange.

Mahalo for the opportunity to testify.

-Jon

LATE

SB-534-SD-1

Submitted on: 2/27/2025 12:22:53 PM

Testimony for JDC on 2/28/2025 10:15:00 AM

| Submitted By | Organization | Testifier Position | Testify |
|---------------------|---------------------|---------------------------|------------------------|
| Bryan Mick | Individual | Oppose | Written Testimony Only |

Comments:

Please no. Its disgraceful what Howard Hughes was allowed to do to Kakaako. That does not mean let OHA do the same.

I support the State swapping land with OHA so OHA can build homes for its beneficiaries.

LATE

SB-534-SD-1

Submitted on: 2/27/2025 12:40:43 PM

Testimony for JDC on 2/28/2025 10:15:00 AM

| Submitted By | Organization | Testifier Position | Testify |
|---------------------|---------------------|---------------------------|---------------------------|
| Sherry Broder | Individual | Support | Written Testimony Only |

Comments:

I am submitting this testimony in strong support of SB 534. OHA should be allowed to maximize this asset just as Howard Hughes and other developers have been doing in Kaka`ako. The current prohibitions are not fair to Native Hawaiian people. OHA's plan is excellent and will bring benefits to everyone: more housing, attractive development and an income stream to OHA for the benefit of Native Hawaiians.

SB-534-SD-1

Submitted on: 2/27/2025 1:21:16 PM

Testimony for JDC on 2/28/2025 10:15:00 AM



| Submitted By | Organization | Testifier Position | Testify |
|---------------|--------------|--------------------|------------------------|
| lynne matusow | Individual | Oppose | Written Testimony Only |

Comments:

OHA screwed up in 2012 when it agreed to accept the lands. Had it paid attention to the law in effect at the time, it would have known it could not build residential on that property. The public back in 2006 started fighting to keep housing off that land. And won. OHA's claim that building residential housing in Kakaako Makai is a blatant falsehood. It may have been OHA's wish, but was not permitted under the law.

With climate change, new FEMA flood maps, and tsunami zones, this is not the proper place to put housing, period. The same holds true for hazardous chemicals on site and the possibility of PFAs (forever chemicals) there too. For anyone. It is a disaster waiting to happen.

This is one of the last open spaces in the downtown area, places to relax, play sports, walk. As the residential community grows, the denizens need open areas, not more edifices.

Fortunately we haven't suffered from the rash of airplane crashes at airports, near airports, on the approach path to airports that is taking place on the mainland and other locations. An army helicopter cashed into an American Airlines passenger jet, with all aboard both planes killed. A Delta plane crashed when landing in Toronto, and ended up on its back. Fortunately no one died but several were hospitalized. What does the FAA have to say about this proposal?

Instead, OHA should trade this land for other state parcels which are not at risk.

LATE

Douglas Meller
2615 Aaliamanu Place
Honolulu, Hawaii 96813
douglasmeller@gmail.com

**Testimony Opposing SB 534, Proposed SD2 Relating to the Hawaii Community Development
Authority**

Submitted to:

Senate Committee on Judiciary

Senate Committee on Ways and Means

Friday, 10:15 AM, February 28, 2025, Conference Room 211 & Videoconference Hearing

Although I support appropriation of public funds owed to OHA, I oppose any kind of statutory “rezoning” of OHA property and any kind of statutory authorization for OHA to assess taxes to be spent however OHA decides. Both are a misguided unconstitutional remedy for OHA’s mistake of accepting property in lieu of funds owed to OHA. If SB 534 is enacted, I predict someone will file a lawsuit alleging that important parts of this bill violate the Hawaii Constitution. Relevant constitutional requirements are explained in the Attorney General’s February 26, 2025 testimony on SB 534, SD 1.

I also oppose statutory requirements for development of “affordable housing” on property contaminated by a county landfill and leaks from county corporation yard fuel tanks. Although I support public subsidies and price/rent controls for “affordable” housing at suitable locations, it would be a ridiculous misuse of public funds to subsidize “affordable” housing on property contaminated by either a landfill or massive diesel fuel leaks.

LATE

Aloha members of the Senate Judiciary and Ways and Means Committees,

Mahalo for the opportunity to testify in support of SB534, SD2. I previously testified in support of SB534,SD1 and strongly support the new materials addressed in the SD2.

--Part I clarifies the requirement for OHA to assess and propose a mitigation or adaptation plan for any risk to the development due to its location within a sea level rise exposure area.

--Part II is innovative and action-oriented as it gives HCDA the authority to establish ways to work towards tax increment financing that will provide ways to fund or finance infrastructure improvements working with the state and county.

--Part III repeals Section 206E-31-34, which reference Kakaako community development district and its development guidelines including a cultural market. In its' place it authorizes HCDA to establish and provide administrative and logistical support to a Kakaako Community Development District working group to plan, coordinate and facilitate the transfer of the Kakaako Community Development District and its functions from HCDA to the city and county of Honolulu.

The composition of this working group is focused on action as it includes important decision makers (or their designees) from the Hawaii Housing Finance and Development Corporation; Business, Economic Development, and Tourism; HCDA; the Mayor of the City and County of Honolulu; City and County of Honolulu Planning and Permitting; and City and County of Honolulu Department of Transportation. It expects a proposed transfer schedule and timeline to the Legislature no later than twenty days prior to the convening of the regular session of 2026, while allowing for the Act to remain in full force and effect for five years to allow for complete transfer to the City and County,

I commend the lawmakers for these new additions and deletions as they demonstrate strategies to make significant progress towards providing more affordable housing for more local residents. I am greatly encouraged by the bold thinking and deep commitment of the authors of SB534, SD2 to make or repeal laws that make sense and serve the people of Hawaii.

I urge everyone on the Judiciary and Ways and Means committees to pass SB534, SD2.

Me ka ha`aha`a,

Sharlene Chun-Lum
99-546 Iwaiwa Street
Aiea, HI 96701

Bruce Lum
99-546 Iwaiwa Street
Aiea, Hawaii 96701



February 27, 2025

THE SENATE, KA AHA KENEKOA
Committees on Judiciary & Ways and Means
The Thirty-Third Legislature
Regular Session of 2025

Aloha kākou committee chairs and members,

I am testifying in **full support of SB 534 SD2**, because it is greatly improved version that states more clearly the authority of HCDA as well as the primary roles and responsibilities of HCDA, OHA and the Legislature. I applaud your committees diligence and foresight in crafting SB 534 SD2 so that all of the essential pieces can come together in a highly explicit, coherent, precise and complete framework that will assure success through a clearly defined path and process. Maika'i loa! Job well done.

Inclusion of Part III SECTION 10 truly provides stakeholders and the community a confidence booster that SB 532 SD2 is a plan for success, because it defines how we get there and who the team members will be to design the plan and execute the plan.

I believe that this SD2 version will assure a proper and systematic vetting of all the issues and complexities weighing on OHA's propoal to build affordable Kaka'ako makai housing, because HCDA's development application process, procedures and standards have been well tested and fully developed.

Opposition has been voiced in terms of contaminated soil, sea level rise, tsunami inundation zone, etc. However, Any developer would have to pass the rigors of HCDA and meet the bundle of standards and quality control requirements put in place by the state and city. These are future to-do items in a long list of pre and post development requirements that all developers must satisfy. It has been stated in various climate change reports that the elevation of the Kaka'ako mauka areas are of greater inundation risk than the makai side of Ala Moana Blvd.

Until any developer actually applies to the HCDA to seek approval for development, the real vs imagined concerns are just that... imagined and yet to be verified. Opposing SB 534 SD2 on the basis of imagined concerns is not fair or logical. Even the 400ft height variance and residential design in OHA's master plan will be subject to two public engagements for review... one at the inception and one at the point of final decision making which requires a separate hearing. By amendments, ACT 15 §206E- (2012) mandates this of the Hawaii Community Development Authority.

Bruce Lum
99-546 Iwaiwa Street
Aiea, Hawaii 96701

My opinion is that granting OHA the ability to carry out its purpose is an expression of legislative policy to satisfy the State's constitutional obligations to native Hawaiians under article XII, sections 4 and 6 of the Constitution. Furthermore, adopting SB 534 SD2 would be an affirmation of the statehood compact that the Territory of Hawaii promised to keep with the United States of America, USCODE 48C3 Sec. 4 [Compact with the United States]. The purpose of the compact was, "...for the betterment of the conditions of native Hawaiians, as defined in the Hawaiian Homes Commission Act, 1920".

I attended OHA's January 8, 2025 new Kaka'ako plan presentation at the KUPU Kewalos facility and was energized by OHA's focus on developing truly affordable housing for resident occupants at the heart of its proposal. The following are key points that also resonated with me:

- OHA feels it can transform Kaka'ako Makai into a place that addresses the states most pressing needs while reserving the cultural and rich history of Hawai'i and the Hawaiian people that all people in Hawai'i will benefit from.
- OHA is committed to responsible development.
- OHA is committed to open parks, open spaces and public access.
- OHA is committed to creating a cultural gathering place for all the people of Hawai'i that balances culture and commerce while preseving the Kaka'ako Makai area so local residents can play, surf, fish and continue to experience the ocean recreation activities that make Hawai'i special.

Please pass SB 534 to help propel Oahu into affordable housing and out of our unaffordable housing crisis. OHA's proposal looks like a worthwhile shot at jump-starting us out of the unaffordable housing crisis that we have been suffering for decades.

Mahalo nui loa,

A handwritten signature in black ink, appearing to read "Bruce D. Lum". The signature is fluid and cursive, with a long horizontal stroke at the end.

Bruce Lum

LATE

Chair Karl Rhoads

Vice Chair Mike Gabbard

Members of the Senate Committee on Judiciary

Chair Donovan M Dela Cruz

Vice Chair Sharon Moriwaki

Members of the Senate Committee on Ways & Means

Thirty-Third Legislature, Regular Session of 2025

RE: **Strong Support** for SB 534 SD1 -Relating to The Hawaii Community Development Authority

Hearing Date: February 28, 2025

Aloha Chairs Rhoads, Dela Cruz

Vice Chairs Gabbard, Moriwaki and Members of the committee's

"Aloha, my name is Cliff Laboy. I submit this written testimony in strong support of SB 534 SD1, relating to the Hawaii Community Development Authority. The development of Kakaako Makai represents a significant economic and social opportunity for Hawaii. This initiative will:

- Generate critical employment opportunities within the local construction trades.
- Provide essential support for the state's construction industry, a key economic driver.
- Facilitate increased homeownership opportunities for Hawaii residents.
- Address the critical need for affordable housing, promoting resident retention.

SB 534 SD1 is a strategic investment in the future of Hawaii. I respectfully recommend its favorable consideration and passage."

Thank you



LATE

Chair Karl Rhoads

Vice Chair Mike Gabbard

Members of the Senate Committee on Judiciary

Chair Donovan M Dela Cruz

Vice Chair Sharon Moriwaki

Members of the Senate Committee on Ways & Means

Thirty-Third Legislature, Regular Session of 2025

RE: **Strong Support** for SB 534 SD1 -Relating to The Hawaii Community Development Authority

Hearing Date: February 28, 2025, at 1005 AM

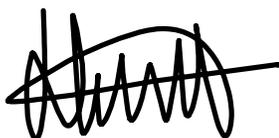
Aloha Chairs Rhoads, Dela Cruz

Vice Chairs Gabbard, Moriwaki and Members of the committee's

Aloha, my name is Dwayne Bautista. My written testimony is from my heart, to offer my strong **support** for SB 534 SD1, relating to the Hawaii Community Development Authority. This testimony is my own.

I truly believe the Kakaako Makai development is essential for Hawaii's future. It's about giving our local trades good jobs, strengthening the backbone of our economy, and creating a real chance for homeownership. It's about ensuring our families can afford to stay on the islands where they belong. SB 534 SD1 is an investment in our community's future, a chance to build a better Hawaii for everyone. I implore you to **support** its passage."

Thank you for your consideration

A handwritten signature in black ink, appearing to read 'Dwayne Bautista', with a long horizontal line extending to the right.

LATE

SB-534-SD-1

Submitted on: 2/28/2025 7:56:25 AM

Testimony for JDC on 2/28/2025 10:15:00 AM

| Submitted By | Organization | Testifier Position | Testify |
|---------------------|---------------------|---------------------------|---------------------------|
| Kala Kahapea-Aquino | Individual | Oppose | Written Testimony Only |

Comments:

Aloha Kakou,

I am writing in strong opposition to SB534, SD1 and the proposed SD2.

While Hawai'i's housing crisis needs to be addressed, this bill is not the means to do so. The proposed development of Kaka'ako Makai presents long-term, irreversible negative impacts on the community, environment, and cultural practices. We need to uphold protections on this land for future generations.

Please do not pass this bill.

SB-534-SD-1

Submitted on: 2/28/2025 8:04:54 AM

Testimony for JDC on 2/28/2025 10:15:00 AM



| Submitted By | Organization | Testifier Position | Testify |
|--------------|--------------|--------------------|------------------------|
| Kai Lorinc | Individual | Oppose | Written Testimony Only |

Comments:

TESTIMONY Strongly Opposing SB 534 STOP THE CORRUPTION IN KAKA‘AKO MAKAI

I am submitting this testimony in strong opposition to SB 534, a bill that seeks to lift longstanding development restrictions in Kaka‘ako Makai not for the benefit of the people of Hawaii, but to exclusively serve the unconstitutional and corrupt Office of Hawaiian Affairs (OHA). This is yet another brazen display of favoritism, cutting out other developers and violating the public trust.

For years, Kaka‘ako Makai has been deemed undevelopable due to serious environmental risks, including:

Flooding and Rising Sea Levels The area is marked on flood maps, making residential development reckless and irresponsible.

Toxic Contamination The land is a former industrial site, laced with hazardous substances like lead, arsenic, and mercury. The long-term health risks are undeniable.

Shoreline Destruction High-rise development here will eliminate public access and destroy one of Honolulu’s last open coastal spaces.

A BETRAYAL OF PUBLIC TRUST

The Legislature banned residential development in Kaka‘ako Makai in 2006 after overwhelming public opposition. Yet now, SB 534 seeks to overturn that ban not because the land suddenly became safe, but because OHA wants to cash in. This is nothing more than an unethical financial grab.

OHA accepted this land in 2012 as part of a \$200 million settlement, fully aware of the development restrictions. Now, they demand a new deal.

This sets a dangerous precedent if the state caves to OHA’s demands, what stops other agencies from renegotiating settled agreements?

THE HOUSING CRISIS EXCUSE

OHA and its allies claim this is about addressing Hawaii's housing crisis. **That's a lie.** A large portion of these units will be market rate condos unaffordable to Hawaiians and local families. This is about revenue, not affordable housing.

ACCOUNTABILITY NOW

Legislators supporting SB 534 are selling out the public in favor of a race-based state agency that has repeatedly mismanaged its resources. If OHA wants to develop land, it should do so within the same legal framework as every other entity. This special treatment is unconstitutional and unacceptable.

REJECT SB 534 – STOP OHA'S LAND GRAB

Hawaii deserves leaders who put the public interest above backroom deals and racial favoritism. The people of Hawaii have spoken before, and they will speak again: NO development in Kaka'ako Makai.

The Legislature must reject SB 534 outright. Anything less is complicity in corruption.

Thank you for the opportunity to testify.

Kai Lorinc