

House Committee on Finance
Representative Marcus Oshiro, Chair
Representative Marilyn B. Lee, Vice Chair

Senate Bill 995, SD2, HD2
Relating to the Office of Hawaiian Affairs

Tuesday, April 7, 2009
House Conference Room 308
2:00 PM

Statement of Concerns

Aloha Chair Oshiro, Vice Chair Lee and Finance Committee Members:

I respectfully offer this individual testimony as one who has been an active Kaka'ako Makai Community Planning Advisory Council (CPAC) participant. The CPAC was established in April 2007 in accordance with the intent of HCR30, 2006, to "*meaningfully participate in the development, acceptance, and implementation of any future plans for the development of Kakaako Makai.*" As established by the State Legislature's intent in recognition of the greater public interest, the larger community must have a voice in the planning of Kaka'ako Makai. The CPAC was established to represent the larger community, and the consensus "Vision and Guiding Principles for Kaka'ako Makai" sets Kaka'ako Makai apart as the Community Gathering Place with shoreline recreational, cultural and educational public uses.

Senate Bill 995, SD2, HD1 contains one small exemption clause that could have a **significant adverse impact** on all that has gone before in the protection and preservation of this remaining existing shoreline open space for public use in the greater public interest, as follows:

SECTION 3. Section 206E-32, Hawaii Revised Statutes, is amended to read as follows:
§206E-32 District; established, boundaries. The Kakaako community development district is established. The district shall include

Any other provision of this section or of this chapter notwithstanding, the Kakaako community development district shall not include any lands conveyed in fee simple to the office of Hawaiian affairs pursuant to Act , Session Laws of Hawaii 2009; provided further that these lands shall not be subject to any other of the provisions of this chapter."

This exemption flies in the face of the Hawaii Revised Statutes and the State Legislature's work in the greater public interest to ensure that Kaka'ako Makai will forever remain free of residential development and will always remain state public land for public use. Senate Bill 995, SD2, HD2 threatens to compromise existing laws and legislative intent associated with Kaka'ako Makai, including §206E-31.5, HRS, and HCR 30, 2006, which were respectively enacted and adopted in light of overwhelming public support. ***Specifically, §206E-31.5, HRS, protects Kaka'ako Makai public lands as the last existing urban Honolulu shoreline open space by prohibiting the sale of public land and prohibiting residential development, from which the subject property would be exempted according to this measure.***

Therefore, should Senate Bill 995, SD2, HD2 be advanced by your committee, I respectfully urge amendments reflective of the following:

To ensure that the statutory guidance of Chapter 206E, HRS, specific to Kaka'ako Makai shall be incorporated with this measure, including §206E-31.5, a) to prohibit any sale of the subject public shoreline land and b) to prohibit any residential development on this public land; and

To ensure that the legislative intent of HCR 30, 2006, is sustained and that the voice of the larger community is represented by the Kaka'ako Makai Community Planning Advisory Council established for this purpose, and that these advisory functions shall be made part of any transfer of Kaka'ako Makai lands from the HCDA to any state or county department or agency.

Kaka'ako Makai is the last existing shoreline open space in urban Honolulu that we can restore, preserve and protect for future generations. I believe that OHA can be an important part of this objective, and, with open communication and consistently working together, the future of Kaka'ako Makai as a significant shoreline gathering place and recreation area with important public uses could evolve into a great achievement for all.

Respectfully,

Michelle S. Matson

LATE TESTIMONY

Michael M. Kliks, PhD

From: "Michael M. Kliks, PhD" <mmkliks@hawaii.rr.com>
To: "Robert Harris" <robert.harris@sierraclub.org>
Cc: "Steven Montgomery" <manninga001@hawaii.rr.com>; "Carey Morishige" <Carey.Morishige@noaa.gov>; "Elizabeth Dunne" <elizabethdunne@hotmail.com>; "James Hayes" <hayesja@pbworld.com>; "Kim Kido" <096754@gmail.com>; "Lydi Morgan" <lydi_morgan@yahoo.com>; "Randy Ching" <oahurandy@yahoo.com>
Sent: Tuesday, April 07, 2009 1:02 PM
Subject: Fw: URGENT: Amended Draft Testimony in opposition to SB995 SD2

TESTIMONY IN SUPPORT OF SB 995, HD 2, WITH AMENDMENTS

BEFORE THE HOUSE FINANCE COMMITTEE TUESDAY APRIL 7, 2009, 2:00 PM IN ROOM 308,

Aloha Chair Oshiro, Vice Chair Lee and members of the House Finance Committee:

On behalf of the Executive Committee of the Sierra Club, O`ahu Group and the community of users of Kaka`ako State Waterfront Park and adjacent properties, I wish to offer testimony in support of the intent of SB 996, HD 2, and any of the companion bills, but register our concern about the transfer of the particular parcel located at Kaka`ako Makai to OHA, and about the removal of existing statutory restrictions on the future development of this area. We ask that you include the amendments offered below in order to continue the community wide discussions about this bill.

We support any and all amicable efforts to resolve the ongoing fiscal affairs between the Office of Hawaiian Affairs and the State of Hawai`i. The Sierra Club has found OHA to be good stewards of the land and hope to continue to work with them in the future to make Hawai`i a more sustainable environment.

There has been some concern, however, that OHA may have plans in the future to build luxury residential-units over luxury commercial businesses all along the Kewalo Basin channel, and to build a large amphitheater and another performance venue immediately adjacent to the Point Panic surfing area of the state waterfront park.

Such a plan is highly inappropriate based on the following considerations:

- 1) The interested community had a promise in the form of HRS 206E-31.5, 206E.32 and Act 317 that there would never be any residential development or transfer of state lands to OHA in Kaka`ako Makai, and
- 2) These precious few acres of accessible urban shoreline should be preserved as open park and recreational lands for the millions of users in generations to come, and
- 3) Global climate change, sea level rise, tsunami waves and tidal surges, hurricanes and cyclones will jeopardize any fixed structures along the shoreline, and
- 4) Paving streets, parking areas and building aprons and creating large roofed surface areas in this very sensitive shoreline area will result in huge increases of potentially damaging runoff onto nearshore reef waters and greatly increase the local threat to already challenged marine animals and plants.

Accordingly, we suggest amending this bill by removing the parcel located at Kaka'ako Makai entirely from consideration. If this is not possible, we urge you to amend the language of SB 955, HD2 to indicate that "any current development restrictions as set forth in Haw. Rev. Stat. Chapter 206E will remain in place." This will ensure that a productive dialogue will continue among OHA and the community of users with regard to this critical recreational area in the heart of urban Honolulu.

Thank you for the opportunity to testify.

Michael M. Kliks, PhD
Chair, Conservation and Land Use Committee
Sierra Club of Hawai'i, O'ahu Chapter

FINTestimony

From: rawcohi@cs.com
Sent: Tuesday, April 07, 2009 1:13 PM
To: FINTestimony
Subject: Late Testimony REGARDING SB 995, SD 2, HD 2.

- LATE TESTIMONY ON SB 995 SD 2, HD 2-

IMPORTANT CONSIDERATIONS REGARDING SB 995, SD 2, HD 2.

IN SUPPORT IF MODIFIED AS BELOW:

House Committee on Finance
Tuesday, 7 April 2009 at 1400 in room 308

Chair Oshiro and Respected members of the Committee;

For most of the past thirty five years I have been involved with the operation of commercial boating companies operating out of Kewalo basin. If you are to give this land on the ewa side of the basin to OHA, please leave a 36' easement along the water's edge at the 600 feet of pier fronting the Fishermen's Wharf restaurant site, and reserve it to whatever agency has purview over the waters of the basin. That way the pier will be accessible to serve the vessels that moor and operate from alongside. There also needs to be at least a one lane access from the makai end of this easement out to Ahui street so that traffic does not need the space to U turn.

The plans as expressed by OHA at present seem to be very positive and a complement to the atmosphere of the basin. I think they will be great neighbors, but as we all know, over time the personnel of committees and agencies, and with them the goals of those agencies, change. In order to preserve these presently stated goals over the coming generations of bureaucrats it is necessary to insert into this bill the requirement that the present laws concerning development and use for the Kakaako Makai properties be maintained in force, that is to say: HRS206E-31.5, Act 317, HCR 30, and the adopted CPAC Guiding Principles and Vision Statement for the Kakaako Makai area as a "Community Gathering place".

With these changes, I support this bill.

Respectfully,

Reg White
Vice president, project development
Paradise cruise, Ltd.
1540 S. King St.
Honolulu, Hawaii 96826-1919
(808) 222-9794
RawcoHI@cs.com

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