

PHONE (808) 594-1888



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Committee on Beneficiary Advocacy and Empowerment
Trustee Robert K. Lindsey, Jr., Hawai'i, *Chair*
Trustee Dan Ahuna, Kaua'i / Ni'ihau, *Vice-Chair*
Members
Trustee Leina'ala Ahu Isa, At-Large
Trustee Rowena Akana, At-Large
Trustee Keli'i Akina, At-Large
Trustee Peter Apo, O'ahu
Trustee Carmen Hulu Lindsey, Maui
Trustee Colette Y. Machado, Moloka'i / Lāna'i
Trustee John Waihe'e, IV, At-Large

STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS
560 N. NIMITZ HIGHWAY, SUITE 200
HONOLULU, HAWAII 96817

Committee on Resource Management
Trustee Carmen Hulu Lindsey, Maui, *Chair*
Trustee John Waihe'e, IV, At-Large, *Vice-Chair*
Members
Trustee Leina'ala Ahu Isa, At-Large
Trustee Dan Ahuna, Kaua'i / Ni'ihau
Trustee Rowena Akana, At-Large
Trustee Keli'i Akina, At-Large
Trustee Peter Apo, O'ahu
Trustee Robert K. Lindsey, Jr., Hawai'i
Trustee Colette Y. Machado, Moloka'i / Lāna'i

JOINT MEETING OF THE
COMMITTEE ON RESOURCE MANAGEMENT AND
THE COMMITTEE ON BENEFICIARY ADVOCACY AND EMPOWERMENT

DATE: Tuesday, June 26, 2018
TIME: 9:00 AM
PLACE: Maui Ola Boardroom
Nā Lama Kukui
560 N. Nimitz Highway
Honolulu, Hawai'i 96817

18 JUN 18 09:17
LIEUTENANT GOVERNOR'S
OFFICE

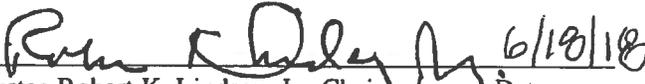
AGENDA

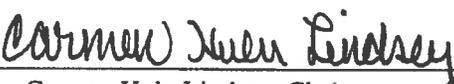
- I. Call to Order
- II. Public Testimony*
- III. Executive Session**
 - A. Approval of Minutes: March 7, 2018
 - B. Consultation with Attorney Randall Sakumoto, Esq. and Lisa Cataldo, Esq. pertaining to the OHA Board of Trustees' powers, privileges, immunities, and liabilities regarding the potential sale of Kaka'ako Makai Parcel Lot I, TMK (1) 2-1-015:061, to City & County of Honolulu. Pursuant to HRS section 92-5(a)(4).
- IV. New Business
 - A. Approval of Minutes: March 7, 2018
 - B. Action Item RM/BAE #18-02 - Kaka'ako Makai Lot I TMK (1)2-1-015:061 sale negotiations with City & County of Honolulu
- V. Community Concerns*
- VI. Announcements
- VII. Adjournment

*Notice: Persons wishing to provide written testimony are requested to submit thirteen (13) copies of their testimony to the OHA Puhana / CEO at 560 N. Nimitz Highway, Suite 200, Honolulu, HI 96817 or fax to 594-1868, or email BOTmeetings@oha.org 48 hours prior to the scheduled meeting. Persons wishing to testify orally at the meeting may do so within a five (5) minute limit.

**Notice: This portion of the meeting will be closed pursuant to HRS §92-5.

† Notice: The 72 Hour rule, pursuant to OHA Operations Guide, may be waived for distribution of new committee materials


Trustee Robert K. Lindsey, Jr., Chair
Committee on Beneficiary Advocacy and Empowerment
Date 6/18/18


Trustee Carmen Hulu Lindsey, Chair
Committee on Resource Management
Date 6/18/2018

STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS
560 N. Nimitz Hwy, Suite 200
HONOLULU, HI 96817

**Minutes of the Office of Hawaiian Affairs Joint Committee on Resource
Management and Beneficiary Advocacy and Empowerment**
June 26, 2018
9:04 a.m.

ATTENDANCE:

Trustee Rowena Akana
Trustee Keli'i Akina
Trustee Colette Machado
Trustee Lei Ahu Isa

Trustee Dan Ahuna
Trustee Carmen Hulu Lindsey
Trustee John Waihe'e, IV.
Trustee Robert Lindsey

STAFF PRESENT:

Claudine Calpito
Everett Ohta
Kauikeaolani Wailehua
Lee Miller
Lehua Itokazu

Liana Pang
Lōpaka Baptiste
Maria Calderon
Paul Harleman
Raina Gushiken

GUESTS:

Sam Chung
Randall Sakumoto

I. CALL TO ORDER

Chairperson Hulu Lindsey – Calls the Joint Committee on Resource Management and Beneficiary Advocacy and Empowerment to order at 9:04 a.m.

Chairperson Hulu Lindsey notes that the following trustees are present:

		Present	Excused	Comments
TRUSTEE LEI	AHU ISA	X		
TRUSTEE DAN	AHUNA	X		
TRUSTEE ROWENA	AKANA			Arrives at 9:05 a.m.
TRUSTEE KELI'I	AKINA	X		
TRUSTEE PETER	APO		X	

TRUSTEE ROBERT	LINDSEY	X		
TRUSTEE COLETTE	MACHADO	X		
TRUSTEE JOHN	WAIHE'E			Arrives at 9:25 a.m.
CHAIRPERSON HULU	LINDSEY	X		
TOTAL		6	1	
At the Call to Order, there are six (6) Trustees PRESENT and one (1) EXCUSED.				

Chairperson Hulu Lindsey seeks a 72 hr. waiver for item IV. B. on the agenda

Trustee Robert Lindsey moves to seek a 72 hr. waiver for item IV. B. Action Item RM/BAE #18-02 – Kaka'ako Makai Lot I TMK (1)2-1-015:061 sale negotiations with City & County of Honolulu

Trustee Dan Ahuna seconds the motion.

Trustee Robert Lindsey moves to seek a 72 hr. waiver for item IV. B. Action Item RM/BAE #18-02 – Kaka'ako Makai Lot I TMK (1)2-1-015:061 sale negotiations with City & County of Honolulu

Trustee Dan Ahuna seconds the motion.

	1	2	'AE (YES)	'A'OL E (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEI AHU ISA			X			
TRUSTEE DAN AHUNA		X	X			
TRUSTEE ROWENA AKANA						
TRUSTEE KELI'I AKINA			X			
TRUSTEE PETER APO						X
TRUSTEE ROBERT LINDSEY	X		X			
TRUSTEE COLETTE MACHADO			X			

TRUSTEE JOHN WAIHE'E					
CHAIRPERSON HULU LINDSEY			X		
TOTAL VOTE COUNT			6		1
MOTION: <input type="checkbox"/> UNANIMOUS <input checked="" type="checkbox"/> PASSED <input type="checkbox"/> DEFERRED <input type="checkbox"/> FAILED					
Motion passes with six (6) YES votes and one (1) EXCUSED					

Chairperson Hulu Lindsey seeks a motion to recuse into executive session.

Trustee Dan Ahuna moves to recuse into executive session.

Trustee Keli'i Akina seconds the motion.

Chairperson Hulu Lindsey asks for roll call.

Trustee Dan Ahuna moves to recuse into executive session.						
Trustee Keli'i Akina seconds the motion.						
	1	2	'AE (YES)	'A'OL E (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEI AHU ISA			X			
TRUSTEE DAN AHUNA	X		X			
TRUSTEE ROWENA AKANA						
TRUSTEE KELI'I AKINA		X	X			
TRUSTEE PETER APO						X
TRUSTEE ROBERT LINDSEY			X			

TRUSTEE COLETTE MACHADO			X			
TRUSTEE JOHN WAIHE'E						
CHAIRPERSON HULU LINDSEY			X			
TOTAL VOTE COUNT			6			1
MOTION: <input type="checkbox"/> UNANIMOUS <input checked="" type="checkbox"/> PASSED <input type="checkbox"/> DEFERRED <input type="checkbox"/> FAILED						
Motion passes with six (6) YES votes and one (1) EXCUSED						

The Board moved into Executive session at 9:05 a.m.

The Board reconvened in Open Session at 9:29 a.m.

IV. NEW BUSINESS

A. Approval of minutes March 7, 2018

Trustee Robert Lindsey moves to approve the minutes dated March 7, 2018.

Trustee John Waihe'e seconds the motion.

Trustee Robert Lindsey moves to approve the minutes dated March 7, 2018.						
Trustee John Waihe'e seconds the motion.						
	1	2	'AE (YES)	'A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEI AHU ISA			X			
TRUSTEE DAN AHUNA			X			
TRUSTEE ROWENA AKANA			X			

TRUSTEE KELI'I AKINA			X			
TRUSTEE PETER APO						X
TRUSTEE ROBERT LINDSEY	X		X			
TRUSTEE COLETTE MACHADO			X			
TRUSTEE JOHN WAIHE'E		X	X			
CHAIRPERSON HULU LINDSEY			X			
TOTAL VOTE COUNT			8			1
MOTION: <input type="checkbox"/> UNANIMOUS <input checked="" type="checkbox"/> PASSED <input type="checkbox"/> DEFERRED <input type="checkbox"/> FAILED						
Motion passes with eight (8) YES votes and one (1) EXCUSED						

B. RM/BAE #18-02 Kaka'ako Makai Lot I TMK (1) 2-1-015:061 sale negotiations with the City and County of Honolulu

Trustee Robert Lindsey moves to accept the recommendations by Administration and Council on RM/BAE #18-02 Kaka'ako Makai Lot I TMK (1) 2-1-015:061 to cease sale negotiations with City and County of Honolulu and a letter to that effect be prepared for the CEO to be signed and sent to the City and County.

Trustee John Waihe'e seconds the motion.

Trustee Robert Lindsey moves to accept the recommendations by Administration and Council on RM/BAE #18-02 Kaka'ako Makai Lot I TMK (1) 2-1-015:061 to cease sale negotiations with City and County of Honolulu and a letter to that effect be prepared for the CEO to be signed and sent to the City and County.						
Trustee John Waihe'e seconds the motion.						
	1	2	'AE (YES)	'A'OL E (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEI AHU ISA			X			

TRUSTEE DAN AHUNA			X			
TRUSTEE ROWENA AKANA			X			
TRUSTEE KELI'I AKINA			X			
TRUSTEE PETER APO						X
TRUSTEE ROBERT LINDSEY	X		X			
TRUSTEE COLETTE MACHADO			X			
TRUSTEE JOHN WAIHE'E	X		X			
CHAIRPERSON HULU LINDSEY			X			
TOTAL VOTE COUNT			8			1
MOTION: <input type="checkbox"/> UNANIMOUS <input checked="" type="checkbox"/> PASSED <input type="checkbox"/> DEFERRED <input type="checkbox"/> FAILED						
Motion passes with eight (8) YES votes and one (1) EXCUSED						

V. COMMUNITY CONCERNS

None

V.I. ANNOUNCEMENTS

Committee Chair Hulu Lindsey announces that Chair Colette Machado will take the seat as soon as the Joint RM and BAE meeting adjourns to ratify the referral.

VII. ADJOURNMENT

Trustee John Waihe'e moves to adjourn meeting.

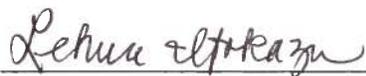
Trustee Rowena Akana seconds the motion.

Trustee John Waihe'e moves to adjourn meeting.
Trustee Rowena Akana seconds the motion.

	1	2	'AE (YES)	'A'OL E (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEI AHU ISA			X			
TRUSTEE DAN AHUNA			X			
TRUSTEE ROWENA AKANA		X	X			
TRUSTEE KELI'I AKINA			X			
TRUSTEE PETER APO						X
TRUSTEE ROBERT LINDSEY			X			
TRUSTEE COLETTE MACHADO			X			
TRUSTEE JOHN WAIHE'E	X		X			
CHAIRPERSON HULU LINDSEY			X			
TOTAL VOTE COUNT			8			1
MOTION: <input type="checkbox"/> UNANIMOUS <input checked="" type="checkbox"/> PASSED <input type="checkbox"/> DEFERRED <input type="checkbox"/> FAILED						
Motion passes with eight (8) YES votes and one (1) EXCUSED						

Joint RM/BAE meeting adjourns at 9:31 a.m

Respectfully Submitted,



Lehua Itokazu
Trustee Aide
Committee on Resource Management

As approved by the Chairpersons of the Joint Committees on Resource Management and Beneficiary Advocacy and Empowerment on March 5, 2019.



Trustee Carmen Hulu Lindsey
Committee Chair
Committee on Resource Management



Trustee Robert Lindsey
Committee Chair
Committee on Beneficiary Advocacy and Empowerment

Attachments:

1. A.I. RM/BAE #18-02
2. Excused Memo (1)

OFFICE OF HAWAIIAN AFFAIRS
Action Item

Joint Committees on Resource Management
and Beneficiary Advocacy and Empowerment
June 26, 2018

RM/BAE #18-02

Action Item Issue: Kaka'ako Makai Lot I TMK (1) 2-1-015:061 sale negotiations with the City and County of Honolulu

Prepared by: Everett Ohta 6/25/18
Everett Ohta Date
Pōhaku Kihi, Kānāwai Pili Nohona a me Nā Pono 'Ōiwi
Counsel for Environmental Law and Native Rights

Reviewed by: Albert Tiberi 6/25/18
Albert Tiberi Date
Ka Paepae Puka, Senior Legal Counsel

Reviewed by: Not available for signature
David Laaha Date
Ka Pou Kihi Kanaloa, Wai, Chief Financial Officer

Reviewed by: Miles T. Nishijima 6/25/2018
Miles T. Nishijima Date
Pou Kihi Kanaloa, 'Āina, Land and Property Director

Reviewed by: Kamana'opono M. Crabbe, Ph.D. 6/25/18
Kamana'opono M. Crabbe, Ph.D. Date
Ka Pouhana, Chief Executive Officer

Reviewed by: Robert K. Lindsey, Jr. 6/25/18
Ke Kua, Robert K. Lindsey, Jr. Date
Luna Ho'omalua Kōmike BAE, BAE Chairperson

Reviewed by: Carmen Hulu Lindsey 6/25/18
Ke Kua, Carmen Hulu Lindsey Date
Luna Ho'omalua Kōmike RM, RM Chairperson

I. Proposed Action:

Authorize the OHA CEO to cease ongoing negotiations on a Purchase and Sale Agreement (“PSA”) to sell Kaka’ako Makai Lot I, TMK (1) 2-1-015:061, to the City & County of Honolulu (“City”) due to disagreements over unresolved business points of a potential sale, and to take all the other reasonable and appropriate actions to implement the foregoing.

II. Issue:

Whether to authorize the OHA CEO to cease ongoing negotiations on a PSA to sell Kaka’ako Lot I, TMK (1) 2-1-015:061, to the City & County of Honolulu.

III. Discussion:

A. Background

Lot I is an approximately 3.3 acre property located in Kaka’ako Makai. The property is bordered by Ala Moana Boulevard, Forrest Avenue, Ilalo Street, HCDA’s TMK (1) 2-1-015:062 (containing the City’s existing sewer pump station) and HCDA’s TMK (1) 2-1-015:063 (containing the historic Kaka’ako Pump Station). HCDA’s Kaka’ako Makai Rules allow Mixed Use, with a maximum floor-to-area ratio of 3.5 and a maximum height of 200 feet. HCDA is prohibited by statute from allowing residential use in Kaka’ako Makai. Lot I is partially encumbered by a sewer easement, and the existing coral block wall along Ala Moana Boulevard could possibly be deemed historic.

The property is undeveloped and partially paved, and is currently being used for short-term surface parking. The property is not contiguous to any of OHA’s other land parcels in Kaka’ako Makai, and the Comprehensive Master Plan concluded that the highest and best use under existing entitlements would be a mid-rise commercial development.

Since OHA’s acquisition of Lot I, the parcel has generated approximately \$2.6 million of revenue. Prior to the settlement with the State of Hawai’i, by which OHA acquired Lot I, the appraised value of Lot I was \$23.9 million on December 29, 2011. Pursuant to a December 5, 2017 appraisal, Lot I’s present value is approximately \$29.64 million.

Discussions with the City on a potential sale started at the end of 2015, with the City stating its need for a site for a new sewer pump station to serve East Honolulu. The Lot I property was ideal, since it was adjacent to the City’s existing sewer pump station. Initially, OHA and the City discussed a long-term lease, but the City advised us they wanted to purchase the property to support the planned investment in the wastewater infrastructure.

OHA Administration staff have actively engaged with City staff in negotiating the terms of a draft PSA for the sale of Lot I. Based on communications between OHA and the City, Administration has identified areas of disagreement between the parties on several important business points in the PSA.

Pursuant to OHA's Board of Trustees' Executive Policy Manual, Series 1030 Trustee Duties, Responsibilities, and Conduct, section 1.3.n (as amended), the Committee on Resource Management, in a joint meeting, must approve any conveyance of land by a majority of the members present at the joint committee meeting. The proposed conveyance must then be approved by the BOT by a majority (5) of all members to which the BOT is entitled.

B. Legislative approval requirements

Hawai'i Revised Statutes (HRS) section 171-64.7 requires all state agencies and departments to obtain legislative approval prior to the sale of former crown or government lands. OHA staff have previously determined that Lot I was formerly government land, as well as ceded land and public land trust land.

To obtain legislative approval, a state agency must receive approval of a concurrent resolution by two-thirds of the members of each legislative chamber. The concurrent resolution must include:

- a. the specific location and size of the parcel to be sold;
- b. the appraisal value of the land;
- c. the names of all appraisers performing appraisals of the land;
- d. the date of the appraisal valuation;
- e. the purpose for which the land is being sold;
- f. a detailed summary of any development plans for the land; and
- g. a statement of whether the land is, or is not, land that was classed as government or crown lands previous to August 15, 1895, and a detailed explanation of how the state department or agency made this determination.

The state agency proposing the sale must also conduct a public informational briefing on the proposed sale in the community where the parcel is located. The state agency proposing the sale is also required to submit a draft resolution to OHA three months prior to the convening of the legislative session, to provide OHA time to determine whether the parcel proposed for sale is subject to the requirements of HRS §171-64.7.

Although OHA timely submitted the resolution regarding the Lot I sale for the 2018 legislative session, the resolution was not adopted by the legislature. If OHA did execute a PSA with the City, the PSA would include as a condition that the sale of Lot I will be subject to approval of a concurrent resolution by the legislature in 2019.

C. Sale of ceded lands.

OHA has sought to maintain the ceded lands corpus and has generally opposed the alienation (sale) of ceded lands in order to protect the long-term interests of Native Hawaiians in their unresolved and un-relinquished claims arising from the overthrow of the Native Hawaiian government and resulting transfer of former crown and government lands to the United States. To this end, the OHA Board of Trustees (BOT) adopted its Ceded Lands policy on February 7, 2013, as section 2.1.f of the OHA Executive Policy Manual.

The potential sale of Lot I to the City would not violate OHA's Ceded Land policy or long-standing position on ceded lands. As noted earlier, Parcel I is a ceded land parcel. The City is a political subdivision of the State of Hawai'i; therefore, Lot I would remain part of the ceded land corpus following a sale to the City. Although OHA has previously raised concerns that inter-agency sales of ceded land from a state agency to the federal or county governments would remove the subject parcel from the protections of HRS §171-64.7 should a future sale occur, such concerns are minimal here, where the city has long-term plans to build wastewater facilities on the property, which would make a future sale highly unlikely. Similar transfers, such as the sale or gift of state road parcels to the counties, have not been opposed by OHA. A PSA to sell Lot I to the City would include a right of first refusal that would allow OHA to purchase the property if the City seeks to sell Lot I to a private party.

D. Timeline.

Due to the City's internal deadlines, a PSA will need to be executed no later June 30, 2018 to utilize the City's currently budgeted funds.

IV. Recommended Action:

Authorize the OHA CEO to cease ongoing negotiations on a Purchase and Sale Agreement ("PSA") to sell Kaka'ako Makai Lot I, TMK (1) 2-1-015:061, to the City & County of Honolulu ("City") due to disagreements over unresolved business points of a potential sale, and to take all the other reasonable and appropriate actions to implement the foregoing.

V. Alternatives:

- A. Authorize the OHA CEO to negotiate and execute a Purchase and Sale Agreement to sell Kaka'ako Makai Lot I, TMK (1) 2-1-015:061, to the City & County of Honolulu, and to take all the other reasonable and appropriate actions, including the execution of all other necessary agreements and/or documents, to implement the foregoing. The PSA shall be consistent with those terms and conditions as determined and adopted by the OHA Board of Trustees and shall bind OHA upon mutual agreement by the City.
- B. Take no action.

VI. Time Frame: Immediate action is recommended.

VII. Funding Source and Certification of Funding Availability:

For the Alternative action, funds to continue negotiations and execute a PSA are available in the current budget.

Not available for signature

David Laeha
Ka Pou Kihī Kanaloa-Wai, Chief Financial Officer

Date


OFFICE OF HAWAIIAN AFFAIRS
INTEROFFICE MEMORANDUM

TO: Trustee Hulu Lindsey, RM Chair
Trustee Robert Lindsey, BAE Chair

FROM: Trustee Peter Apo

DATE: June 25, 2018

RE: Joint RM/BAE Meeting Absence on June 26, 2018

I am unable to attend the Joint RM/BAE Meeting at 9:00 a.m. on Tuesday, June 26, 2018. Please excuse my absence and extend my apologies to the members of the Committee.

If you have any questions, please call my office at 594-1879.

Mahalo.

