

DRAFT

Minutes of a Regular Meeting
of the Members of the
Hawaii Community Development Authority,
State of Hawaii

MEETING NO. 383
Wednesday, March 6, 2013

**AUTHORITY BUSINESS
(KAKAAKO, KALAELOA AND HEELA)**

I. CALL TO ORDER/ROLL CALL

A regular meeting of the Members of the Hawaii Community Development Authority ("Authority"), a body corporate and public instrumentality of the State of Hawaii, was called to order by Mr. Brian Lee, Chairperson of the Authority, at 10:16 a.m. on Wednesday, March 6, 2013, at the Authority's principal executive offices at 461 Cooke Street, Honolulu, Hawaii 96813, pursuant to Article IV, Section 1 of the Authority's Bylaws.

Members Present: Jade Butay (DOT)
Grady Chun (for Kakaako and Kalaeloa) (arrive 10:20 am)
Miles Kamimura (for Kakaako and Kalaeloa)
Kamaki Kanahele
Mary Lou Kobayashi (DBEDT)
Brian Lee
Amy Luersen
Lois Mitsunaga
Luis Salaveria (DBF)
Dean Seki (DAGS)

Members Absent: Linda Chinn (DHHL)

Others Present: Anthony Ching, Executive Director
Lori Tanigawa, Deputy Attorney General
Diane Taira, Supervising Deputy Attorney General
Chris Sadayasu, Asset Manager
Shelby Hoota, Program Specialist
Patricia Yoshino, Secretary
Holly Hackett, Court Reporter

MATERIALS DISTRIBUTED:

1. Summary Minutes of Authority Business Meeting of January 9, 2013;
2. Decision Making: Review of Legislative Proposals (a) H.B. 798 - Relating to Notice by the Hawaii Community Development Authority;(b) H.B. 859, H.D. 2 - Relating to Complete Streets; (c) H.B. 865 - Relating to Public School Redevelopment; (d) S.B. 1028 - Relating to Notice by the Hawaii Community Development Authority;

- (e) S.B. 1143, S.D. 1 - Relating to the Office of Environmental Quality Control;
- (f) H.B. 191 - Relating to Small Boat Harbors; (g) H.B. 476 - Relating to the Hawaii Community Development Authority; (h) H.C.R. 49 - Requesting the Department of Land and Natural Resources to Establish a Small Boat Harbor Management Task Force; (i) S.B. 741, S.D. 1 - Relating to the Hawaii Community Development Authority (distributed at the meeting);
- 3. Presentation of Certain Aspects of Sunshine Law and Other Legal Issues Relevant to Boards and Commission: January 2013 Open Records Guide to Hawaii's Uniform Information Practices Act, and October 2011 Open Records Guide to Hawaii's Uniform Information Practices Act (distributed at the meeting);
- 4. Decision Making: Acceptance or Appeal of the Office of Information Practices' Memorandum Opinion Dated February 19, 2013.

II. APPROVAL OF MINUTES

1. Regular Meeting of January 9, 2013

Chairperson Lee asked whether there were any corrections to the minutes of the January 9, 2013 meeting. There were no comments or corrections from the Members, and the minutes were approved as presented.

III. REPORT OF THE EXECUTIVE DIRECTOR

Executive Director Anthony Ching provided his report via a PowerPoint presentation (see Exhibit A).

Member Kanahale inquired about the recommendation to meet regarding the decision on the Hawaii Community Development Authority's ("HCDA") By-Laws amendments and the two committees who had already done their work.

Chairperson Lee stated the plan was for the committees to meet this month. The committee had met in November 2012 and was waiting for a committee member to summarize the meeting. He asked Mr. Chris Sadayasu to follow up and schedule the meetings.

There were no comments from the public on this agenda item.

IV. AUTHORITY BUSINESS

2. Decision Making: Review of 2013 Legislative Proposals

(b) H.B. 859, H.D. 2 - Relating to Complete Streets

Executive Director Anthony Ching explained that the bill has passed House Finance. He summarized the bill's content and requirements for HCDA in the current draft. He noted that the Authority has previously adopted a position on the bill and recommended no change to its position.

Public Comment: Audience member commented that the bill passed last night by both House and Senate.

Member Luersen asked why there was a disclaimer on the testimony when the Authority had approved it at the January meeting.

Mr. Ching clarified that the footnote should have been removed since it was previously approved.

A motion was made by Member Kanahele and seconded by Member Salaveria for the Authority to adopt the draft legislative testimony for H.B. 859, H.D. 2 submitted by staff as its own.

A roll call vote was conducted.

Ayes: Members Butay, Chun (for Kakaako), Chun (for Kalaeloa), Kamimura (for Kakaako), Kamimura (for Kalaeloa), Kanahele, Kobayashi, Lee, Luersen, Mitsunaga, Salaveria and Seki.

Nays: None.

The motion passed 12 to 0 with 4 excused (Member Chinn and 3 members not yet appointed).

(a) H.B. 798 - Relating to Notice by the Hawaii Community Development Authority

Mr. Ching reported on the status of the bill and explained the content of the draft testimony. The authority had previously adopted support for passage of the bill and would be ratifying continuation of its support for the proposal.

There were no comments offered by the public.

A motion was made by Member Salaveria and seconded by Member Mitsunaga for the Authority to adopt the draft legislative testimony for H.B. 798 submitted by staff as its own.

A roll call vote was conducted.

Ayes: Members Butay, Chun (for Kakaako), Chun (for Kalaeloa), Kamimura (for Kakaako), Kamimura (for Kalaeloa), Kanahele, Kobayashi, Lee, Luersen, Mitsunaga, Salaveria and Seki.

Nays: None.

The motion passed 12 to 0 with 4 excused (Member Chinn and 3 members not yet appointed).

(c) H.B. 865 - Relating to Public School Redevelopment

Mr. Ching reported on the status of the bill and explained that the bill was the governor's initiative regarding public school redevelopment. The HCDA would serve as project management support without any zoning or other direct authority.

Member Chun asked if there would be any financial responsibility that HCDA would have other than staffing.

Mr. Ching replied that there were none.

Member Luersen asked if the public school redevelopment districts would be for any public school throughout the state.

Mr. Ching responded that it would be subject to county control and limited to the school facility boundary.

Chairperson Lee asked if the content of the bill were to change materially, how would Mr. Ching address it, since board had approved one thing, but the bill changes over the course of events.

Mr. Ching explained that if there is no change, role change but provisions of Department of Education ("DOE") side may change. If there were no change to the HCDA requirement he would continue to support its role. He would defer to the DOE on all other matters. If the role changes for the HCDA, he would submit comments as his own viewpoint.

Member Luersen asked if the HCDA would be responsible for developing a master plan for the school or would the DOE be responsible. She asked for clarification the role HCDA has in terms of developing the school as a public - private partnership.

Mr. Ching explained that the DOE has all initiatives with respect to policy and direction. HCDA would just provide project management services. If the HCDA is asked to develop a master plan, it would be subject to the DOE's strategic objectives. This bill was the Governor's initiative, and the HCDA is obliged to work in concert with other state agencies and the governor's office.

Public Testimony:

Ms. Shannon Wood stated she was tracking a wide range of legislation with economic impact, especially dealing with education. HB865 was not placed on the House floor agenda for voting. She suggested calling the House Clerk's office to ask if it is on the agenda, otherwise the bill was essentially dead for the year. Another bill passed in the Senate and had crossed over to the House, but it had nothing dealing with the HCDA. She suggested taking the contents of the House bill and work with people so it would get to the Senate version.

A motion was made by Member Salaveria and seconded by Member Seki for the Authority to adopt the draft legislative testimony for H.B. 865 - Relating to Public School Redevelopment submitted by staff as its own.

A roll call vote was conducted.

Ayes: Members Butay, Chun (for Kakaako), Chun (for Kalaeloa), Kamimura (for Kakaako), Kamimura (for Kalaeloa), Kanahale, Kobayashi, Lee, Mitsunaga, Salaveria and Seki.

Nays: None.

Abstain: Member Luersen.

The motion passed 11 to 0 with 1 abstention and 4 excused (Member Chinn and 3 members not yet appointed).

- (d) S.B. 1028 - Relating to Notice by the Hawaii Community Development Authority
Mr. Ching reported that this S.B. 1028 bill did not advance, so no action by the Authority was required.

There were no comments offered by the public.

- (e) S.B. 1143, S.D. 1 - Relating to the Office of Environmental Quality Control

Mr. Ching reported on the status of the bill and explained the HCDA's position that it be exempt from fees collected to support a sister state agency's operation.

There were no comments offered by the public.

A motion was made by Member Seki and seconded by Member Butay for the Authority to adopt the draft legislative testimony for S.B. 1143, S.D. 1 - Relating to the Office of Environmental Quality Control submitted by staff as its own.

Member Salaveria made a disclosure that as Deputy Director of the Department of Budget and Finance, the department has submitted testimony that it does not support creation of a special fund. He would be abstaining from the vote.

A roll call vote was conducted.

Ayes: Members Butay, Chun (for Kakaako), Chun (for Kalaeloa), Kamimura (for Kakaako), Kamimura (for Kalaeloa), Kanahale, Kobayashi, Lee, Luersen, Mitsunaga and Seki.

Nays: None.

Abstain: Member Salaveria.

The motion passed 11 to 0 with 1 abstention and 4 excused (Member Chinn and 3 members not yet appointed).

(f) H.B. 191 - Relating to Small Boat Harbors

Mr. Ching reported on the status of the bill and explained the bill would allow HCDA to assist the Department of Land and Natural Resources with its management of small boat harbor projects. This bill would allow the HCDA to provide services outside of its community development district.

There were no comments offered by the public.

A motion was made by Member Salaveria and seconded by Member Chun for the Authority to adopt the draft legislative testimony for H.B. 191 - Relating to Small Boat Harbors submitted by staff as its own.

A roll call vote was conducted.

Ayes: Members Butay, Chun (for Kakaako), Chun (for Kalaeloa), Kamimura (for Kakaako), Kamimura (for Kalaeloa), Kanahale, Kobayashi, Lee, Luersen, Mitsunaga, Salaveria and Seki.

Nays: None.

The motion passed 12 to 0 with 4 excused (Member Chinn and 3 members not yet appointed).

(g) H.B. 476 - Relating to the Hawaii Community Development Authority, and
(i) S.B. 741, S.D. 1 - Relating to the Hawaii Community Development Authority

Mr. Ching explained that no action was needed since companion measures S.B. 741 and H.B. 476 have died for lack of hearing in the Ways and Means Committee as well and House Finance.

There were no comments offered by the public.

(h) H.C.R. 49 - Requesting the Department of Land and Natural Resources to Establish a Small Boat Harbor Management Task Force

Mr. Ching explained the content of the draft testimony.

There were no comments offered by the public.

A motion was made by Member Salaveria and seconded by Member Chun for the Authority to adopt the draft legislative testimony for H.C.R. 49 - Requesting the Department of Land and Natural Resources to Establish a Small Boat Harbor Management Task Force submitted by staff as its own.

A roll call vote was conducted.

Ayes: Members Butay, Chun (for Kakaako), Chun (for Kalaeloa), Kamimura (for Kakaako), Kamimura (for Kalaeloa), Kanahele, Kobayashi, Lee, Luersen, Mitsunaga, Salaveria and Seki.

Nays: None.

The motion passed 12 to 0 with 4 excused (Member Chinn and 3 members not yet appointed).

3. Presentation of Certain Aspects of Sunshine Law and Other Legal Issues Relevant to Boards and Commissions

Chairperson Lee introduced Mr. Diane Taira, Supervising Attorney General, who would be providing the presentation on the Sunshine Law. He explained that the Authority would convene an executive session only if the board members had questions or discussions that would involve attorney-client privilege or any aspect of Section 95(a)(4).

Ms. Taira distributed copies of the Open Records Guide to Hawaii's Uniform Information Practices Act of January 2013 and the older October 2011 version of the open meetings law. She explained that the purpose of the Sunshine Law was to promote transparency in government. The public has a right to know how its money is being spent. Discussion in private is limited to 2 board members. Discussion and communication by fax, telephone, or Facebook by more than 2 board members are prohibited. Person A can talk to Person B, but Person B cannot talk to person C. The intent is public information, so the public will know what thought process goes into decision making as board members.

An individual is open to liability if there is an intentional violation of the law. Emails are discoverable. She recognized that communications that can take place from the Executive Director to Members in the form of email to provide notices. She recommended sending email to members as "bcc" so if there is a reply, there is no unintended discussion with other board members.

Chairperson Lee noted that things may happen inadvertently in the course of trying to conduct business. For example, if there is an article in a journal that a member may want to share, what would the recommended way be to disseminate that information with other members.

Ms. Taira replied that if the information is relevant to something will be coming up before the board for decision making, especially if it comes from another board member. The information should be disseminated through a packet that is also available to the public.

Chairperson Lee noted that board members should feel free to discuss any issues with Deputy Attorney General Lori Tanigawa.

There were no public comments on the presentation.

4. Decision Making: Acceptance or Appeal of the Office of Information Practices' Memorandum Opinion Dated February 19, 2013

Mr. Ching summarized his report and the Office of Information Practices ("OIP") memorandum via a PowerPoint presentation (see Exhibit B.)

Member Salaveria suggested having a discussion on what happened.

Chairperson Lee apologized for any violations when he requested more involvement by board members. It was a time sensitive issue on restructuring of the board, and there had not been the opportunity for the board to discuss the testimony submitted to the Legislature nor desire by the Chairperson to call an emergency meeting. He wanted to share information and ran afoul of the Sunshine Law. He definitely supported the call for open meetings, as public trust is very important.

Member Kanahale asked if the intent of the Chairperson was just to inform members to get involved more actively to ask questions and whether that was not appropriate.

Ms. Tanigawa replied that the discussion related to board business and it was related to legislative testimony.

Chairperson Lee stated there was a chart that diagrammed the proposed restructuring of the Authority.

Ms. Tanigawa explained there was a bill at that time regarding restructuring the Authority. Up until that point, Mr. Ching submitted testimony and Member Lee's email touched on the testimony and talked about how that procedure should be handled. To the extent that it constituted board business, it should have been conducted during an open meeting that was duly noticed. The reason for this agenda item is that there was recently a bill that OIP decisions can be appealed. The Authority has 30 days from the date of the OIP memorandum to accept or appeal the decision.

Member Salaveria stated that he was on the board at the time. From his standpoint, it was discussion on a specific piece of legislation. As a recipient he looked at it as discussion of the process and not the bill itself. As far as the involvement of the board in looking at legislation involving the HCDA, the board has moved the process forward.

Member Luersen asked what would be the consequences of appealing, both as a board and individually, given the discussion on individual liability.

Ms. Tanigawa replied that it was the board's decision to appeal and not any one person. If individual liability was an issue, OIP would have pointed it out in the memo. It did not think it was a willful violation. It implied that it was inadvertent.

Chairperson Lee noted that the memo stated that this issue cannot be used to set precedence. He would consider appealing if it did set precedence.

Ms. Tanigawa confirmed that the OIP memo does say that it would not set precedence.

Chairperson Lee noted that the testimony was publicly available on the State Legislature website, even though it was an agenda item. He personally did not feel that there was a need to appeal the opinion.

Member Chun asked what the goal or result would be if the board decided to appeal.

Ms. Tanigawa responded that the decision would be to appeal the determination of the fact that there was a violation of the Sunshine Law. The procedure would be to initiate a special proceeding in Circuit Court and file a complaint. Even though the decision is from OIP, they do not have to be a party.

Member Kanahale asked when talking about board business with members whether media had been defined.

Ms. Tanigawa replied that there is no exhaustive list, but to be cautious, it would include any communication regarding board business when there are more than 2 members.

There were no public comments on the agenda item.

Member Salaveria made a motion to accept the Office of Information Practices' Memorandum Opinion Dated February 19, 2013. Member Luersen seconded the motion.

A roll call vote was conducted.

Ayes: Members Butay, Chun (for Kakaako), Chun (for Kalaeloa), Kamimura (for Kakaako), Kamimura (for Kalaeloa), Kanahale, Kobayashi, Lee, Luersen, Mitsunaga, Salaveria and Seki.

Nays: None.

The motion passed 12 to 0 with 4 excused (Member Chinn and 3 members not yet appointed).

A. For Information Only: Status Update on Space Assignments for Hawaii Community Development Authority Staff and Possible Relocation to the Brewery Building

Mr. Ching reported that the HCDA has 21 staff members located in Kakaako and 2 Kalaeloa staff members located in rented space in Kapolei. In the Kakaako meeting agenda, there was a decision making item on the whether to renovate the Brewery Building. That action item does not signal that any staff would be relocated from the Kapolei location. Any relocation of staff would come up as a separate matter at the appropriate time. Considerations would be economic, scheduling, workload and need.

Chairperson Lee noted that Mr. Ching had stated the Brewery building was separate issue. However, he asked whether finances would require consolidation of staff.

Mr. Ching replied that it would be subject to Authority action. Justification is sufficient for 21 staff members to be within the Brewery Building. The question on the agenda only asked the authority approve expending of funds to renovate and does not presuppose staff.

Chairperson Lee asked what was the rent for the Kalaeloa office.

Mr. Ching replied that it was \$5,000.00 per month, not including the CAM.

Member Kanahale stated he read an article in the newspaper about the Brewery Building. Member Kamimura has also raised some flags that make him cautious about spending \$6 million. The community has also flagged it to him on whether it could be used for other purposes. He was hesitant until the board had greater specificity about the costs.

Chairperson Lee asked whether Member Kanahale had any comments about the space assignment and relocation of staff.

Member Kanahale stated he would actively protest relocating Kalaeloa staff members, because there are only 600 acres in Kakaako, but 3,000 acres to be developed in Kalaeloa. The offices should be a major location in the second city. The community would be more receptive to decisions that come from Kalaeloa rather than Kakaako for Kalaeloa.

Member Luersen exited the meeting at 11:35 a.m.

Member Seki asked what was the square footage of the Kapolei office.

Mr. Ching replied that there were 3 office spaces and a central conference room, and estimated it was a total of 1,200 square feet.

Chairperson Lee asked who was the lessor.

Mr. Ching responded that the office was leased from the privately owned Campbell building.

There were no public comments on the agenda item.

V. ADJOURNMENT

There being no further business, a motion was made by Member Chun and seconded by Member Butay to adjourn the meeting. By a show of hands vote, the motion carried unanimously.

The meeting adjourned at 11:36 am.

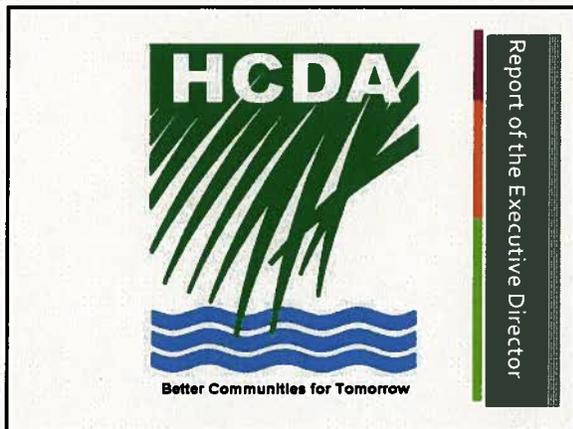
Respectfully submitted,

/s/

Miles Kamimura
Secretary

Attachments: Exhibit A - Report of the Executive Director
Exhibit B - OIP Memorandum Opinion PowerPoint Presentation

Note: The transcript of this meeting contains a verbatim record and should be consulted if additional detail is desired.



ED's KA/KL/Heeia 2013 Report

- Summary Agency Financial Report
- Legislative Note
- Committee Report
- Presentations/Events

HCDA Financial Summary

Current Month - January			Fiscal Year to Date		
Actual	Budget	Variance	Actual	Budget	Variance
(KA) 252,030	206,036	45,994	1,430,444	1,494,438	(63,994)
(KL) 28,483	23,663	4,820	175,819	174,137	1,682
Revenue	Expenditure	Net Change	Revenue	Expenditure	Net Change
(ID) 9,696	12,652	(2,956)	166,061	5,969,086	(5,803,025)
(LM) 73,035	17,612	55,423	576,594	531,736	44,858
(PFD) 977	58,055	(57,078)	8,473	379,897	(371,424)
(RH) -	-	-	155,070	1,010,816	(855,746)
(CL) 2,097	634	1,463	35,312	2,546	32,766
(SDep) 6,200	-	6,200	22,250	37,362	(15,112)
(KL) 17	123	(106)	148	4,692	(4,544)
(Heeia) -	-	-	-	-	-

Summary of HCDA Revolving Funds

	Description	Amount
Cash on Hand		
	HCDA Revolving Fund & Kakaako District Operating Fund	26,883,330
Outstanding Obligations		
	Subtotal - Known Obligations as of 02/29/2012	23,898,492
Cash Balance		2,984,839
Additional Cash		
	Kewalo Basin Harbor Operations Fund (for KBH only)	2,304,303
	Kalaheo Community Development District Revolving Fund	96,660
	Kalaheo Community Development District Operating Fund	48,153
	Heeia Community Development District Revolving Fund	50,000
	Subtotal Additional Cash Balance	2,449,115

HB 429 Relating to Hawaii Community Development Authority

Status	Testimony
<ul style="list-style-type: none"> ➤ Passed House Finance <ul style="list-style-type: none"> ➤ With No Amendments ➤ w/defective date (July 1, 2020) ➤ Requires Kakaako Mauka and Makai Plan Amendments or Exceptions to Be Reviewed and Approved by Legislative Resolution with 2/3 majority of both chambers 	<ul style="list-style-type: none"> ➤ Oppose Passage ➤ Kakaako Plans/Rules are currently subject to stringent review ➤ Review Includes EIS, SBRBB, Informal/Formal Public Hearings - Years in the Making ➤ Legislative Review May Add Up to One Additional Year

Committee Reports

ED Evaluation	By-Laws
<ul style="list-style-type: none"> ➤ Met in November 2012 ➤ Members <ul style="list-style-type: none"> ➤ Chair Lee ➤ Mary Alice Evans ➤ Kamaki Kanahale ➤ Grady Chun ➤ Will Continue to Meet ➤ Final Report Forthcoming 	<ul style="list-style-type: none"> ➤ Met in November 2012 ➤ Members <ul style="list-style-type: none"> ➤ Same as ED Evaluation Committee ➤ Will Continue to Meet ➤ Final Report Forthcoming

Presentations/Events

- February 9
 - Ehime Maru Memorial Ceremony
- February 11 w/Mayor Caldwell
 - 21st Century Schools
- February 20 w/Council Member Harimoto & DTS
 - Complete Streets
- February 23
 - Cancer Center Grand Opening Ceremony
- February 28 w/HART Authority
 - TOD Presentation

Legislative Review

Complete Streets GOV-8(13)

- | Status | HCDA Testimony |
|--|---|
| ➤ HB 859 HD2 (Passed FIN) | ➤ Strongly Support Passage |
| ➤ Establishes Mandate for HCDA w/in All Community Development Districts | ➤ Have coordinated w/City Councilman Harimoto and DTS Director Formby |
| ➤ Requires HCDA to Develop Complete Streets Design Standards along w/Infrastructure Master and Development Plans | ➤ Will Coordinate Efforts with City & County of Honolulu |
| ➤ Gives Opportunity for Affected County to Present Position Before Authority | |
| ➤ HD2 Requires Authority to Adopt Findings of HCDA conformance with C&C policy/principles & Best Practices | |

Public School Redevelopment GOV-17(13)

- | Status | HCDA Testimony |
|--|--|
| ➤ Only HB 865 HD1 advances | ➤ Support Passage |
| ➤ DOE to provide overall priority, phasing and development specifications | ➤ Maintains Focus of Initiative on DOE management and policy directives |
| ➤ All Funds to be Deposited to the Benefit of Public School Redevelopment | ➤ HCDA to contribute staff resources for project management to the limit of its finite resources |
| ➤ HCDA Authorized to Serve as Project Manager w/o zoning or other direct authority | ➤ Part of the Solution |

Clarification Regarding Public Notice BED-05(13)

- | Status | HCDA Testimony |
|---|---|
| ➤ HB 798 Passed House Judiciary <ul style="list-style-type: none"> ➤ Without amendments | ➤ Strongly Supports Passage of Administrative Proposal |
| ➤ Clarifies that HCDA will Publish Statewide Notice for Rulemaking Hearings | ➤ Would Provide Relief to Entities Applying for Development Permit |
| ➤ Specifies that Notice for Development Permit Hearings will be Published Only w/in the Affected County | ➤ Eliminates the need for the applicant to pay for statewide notice |

HB 191 Relating to Small Boat Harbors

- | Status | HCDA Testimony |
|---|---|
| ➤ Passed House Finance | ➤ Support Passage |
| ➤ HB 191 Allows HCDA to Assist DLNR w/Small Boat Harbors <ul style="list-style-type: none"> ➤ Provides Statutory Authority for HCDA to Assist DLNR/DOBAR with Project Management | ➤ HCDA – Part of the Solution |
| | ➤ Will Assist DLNR w/project management services to the finite limits of HCDA current capacity. |

SB 1143 SD 2 Relating to Office of Environmental Quality Control

- | | |
|---|---|
| <p>Status</p> <ul style="list-style-type: none"> ➤ Passed Senate WAM ➤ Establishes Special Fund and Fees to Allow OEQC to Support Its Operations ➤ Allows OEQC to establish filing and other fees | <p>HCDA Testimony</p> <ul style="list-style-type: none"> ➤ Provide Comments ➤ Defer to OEQC and other state agencies as the proposal relates to their operations ➤ HCDA should be exempt from fees collected to support State Agency operations |
|---|---|

SB 741/HB 476 Relating to Hawaii Community Development Authority

- | | |
|--|--|
| <p>Status - DEAD</p> <ul style="list-style-type: none"> ➤ Died in WAM/FIN ➤ Limits Prohibition on Selling Lands to Kakaako Makai ➤ Requires HCDA to Produce Report Itemizing Costs and Benefits. | <p>HCDA Testimony</p> <ul style="list-style-type: none"> ➤ Provides Comments |
|--|--|

HCR 49 Requesting DLNR to Establish Small Boat Harbor Management Task Force

- | | |
|--|--|
| <p>Status</p> <ul style="list-style-type: none"> ➤ Task Force includes: <ul style="list-style-type: none"> ➤ DLNR ➤ HCDA ➤ HTA ➤ HHFDC ➤ DHHL ➤ Environmental Community ➤ Fishing & Boating Concerns ➤ Kaloa Honokohau Harbor and Tenants | <p>HCDA Testimony</p> <ul style="list-style-type: none"> ➤ Provides Comments ➤ Will Participate on Task Force if Established ➤ Defer to DLNR as it relates to the logistics and requirements of the Task Force |
|--|--|

CIP Requests

Request	\$Requested
Reauthorization of 19 Project Staff Positions	\$1.855M
Complete Streets establish Bike Sharing Program & demo street	\$5.0M
Kewalo Basin Harbor Intersection Improvements	\$5.5M
Waterfront Amphitheater & Community Performing Center Facilities	\$4.5M
Kakaako Parks Repair and Maintenance	\$3.5M
Repair of Kewalo Basin Channel Jetty	\$1.0M

OIP Memo Opinion – Feb. 19, 2013
Staff Report

Kakaako, Kalaeloa, Heeia
Regular Meeting May 2, 2012

- April 18, 2012 OIP Correspondence
 - Requiring Response w/in 10 days
 - Complaint Received by OIP
- After Convening in Executive Session
 - Chair Dwight Entertained a Motion to Allow Privileged Communications to be included in a Response to the OIP Prepared by Deputy AG Lori Tanigawa Confirming HCDA Adherence to the Sunshine Law
 - Motion Passed 13-0 with 8 excused

OIP Memorandum Opinion
February 19, 2013

- Anonymous Complaint
 - Board Members' E-mail Correspondence to Other Members (S INVES 12-16)
 - Whether Members of the HCDA violated the Sunshine Law when they sent messages by e-mail to other HCDA members regarding matters that were HCDA's official business

OIP Memorandum Opinion
February 19, 2013

- Opinion
 - "An e-mail sent by one HCDA member to other members included discussions of matters within HCDA's authority that were anticipated to appear on HCDA's agenda in the foreseeable future. As such, the e-mail amounted to HCDA discussion of official business in violation of the Sunshine Law's open meeting requirement."

OIP Memorandum Opinion
February 19, 2013

- E-mails Between HCDA Members
 - April 11 – Member Lee to 17 HCDA members regarding HCDA Legislative Testimony and Directions Given to ED
 - April 12 – Member Lee to Dep AG Tanigawa/copies to 18 members w/Dep AG's 4/12 email included and additional question
 - April 13 – Member Maluafiti to Member Lee and Ms. Tanigawa/copies to 17 members w/additional question to Ms. Tanigawa
 - April 16 – Ms. Tanigawa to Member Lee, copied Chair Dwight, Supervising AG Taira and bcc HCDA ED

OIP Memorandum Opinion
February 19, 2013

- E-mails Between HCDA Members
 - April 16 – Member Lee to Ms. Tanigawa/copy to Chair Dwight and Ms. Taira
 - April 16 – HCDA member to Ms. Tanigawa to notify her of receipt of copy of April 16 Member Lee email
 - Member Lee's April 11 E-mail discussed HCDA official business
 - Subsequent E-mails that included the string of prior e-mails may constitute violations of sunshine law

**OIP Memorandum Opinion
February 19, 2013**

- **Allowable Interactions Between Board Members Outside of Meetings**
- Board Members May Provide Info to Other Members that is Purely Factual (albeit w/caution)
- OIP Recommends that Factual Info be Distributed at Meetings, Described for those in attendance and for the minutes.
- Board Members (individually or no more than 2 at a time) are free to discuss issues w/staff
- Staff May Incorporate its Communications w/members in its report as long as members positions are not id'd

**OIP Memorandum Opinion
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- **OIP Recommendation - HCDA Members and staff that prepare agenda and minutes should**
- Review OIP's Agenda Guidance For Sunshine Law Boards
- Watch OIP's Basic Sunshine Law Training Videos Available at OIP website at <http://hawaii.gov/oip/>

**OIP Memorandum Opinion
February 19, 2013**

- **Right to Bring Suit to Enforce Sunshine Law & to Void Board Action**
- Any Person May File Suit to Require Compliance w/Sunshine Law
- Where a Final Action of a Board was taken in Violation of the Open Meeting & Notice Requirements of the Sunshine Law, that Action may be voided by the Court
- A Suit to Void Any Final Action Must Be Commenced w/in 90 days of Action