

**STATE OF HAWAI‘I
HAWAI‘I COMMUNITY DEVELOPMENT AUTHORITY
KAKA‘AKO MEETING**

Wednesday, June 7, 2023

MINUTES

I. CALL TO ORDER/ROLL CALL

The Hawai‘i Community Development Authority (“Authority” or “Board”), a body corporate and a public instrumentality of the State of Hawai‘i, met virtually (utilizing the state-supported Zoom Meeting platform) for a Regular meeting on June 7, 2023.

Chairperson Chason Ishii called the June 7, 2023, HCDA Kakaako Authority Regular meeting to order at 10:30 a.m.

Acknowledgement that the Meeting is Being Convened Virtually

Executive Director Craig Nakamoto reiterated the wording contained in the Meeting Agenda regarding the guidelines and directives provided by Section 92-3.7, Hawai‘i Revised Statutes (“HRS”), to enable public boards and commissions to conduct business virtually with a meeting site open to the public.

About the foregoing, Mr. Nakamoto reiterated wording contained in the Meeting Agenda, noting that the HCDA welcomes public attendance via the Zoom link provided and also at the meeting site, located at The American Brewery Building, 547 Queen Street, 2nd Floor Board room, Honolulu, Hawai‘i 96813. He noted that the meeting would be live streamed on the HCDA’s YouTube Channel contained in the Meeting Agenda, and that the HCDA also welcomed public comment and public participation via submission of written and/or oral testimony. Mr. Nakamoto stated that individuals, if any, from the public who had requested to provide testimony were on standby and would be permitted to speak during the public testimony session of the specific agenda item.

Chair Ishii conducted the roll call. Those present were as follows:

Members Present:

Chason Ishii, Chairperson
Peter Apo, Vice Chairperson
Sterling Higa, Secretary
Melissa Miranda-Johnson, DOT (Ex Officio)
Craig Hirai, DPP (Ex Officio)
Kevin Sakoda
Mary Alice Evans, DBEDT (Ex Officio)

Members Absent:

Sabrina Nasir, B&F (Ex Officio)

A quorum was present.

Legal Counsel: Delanie Prescott-Tate, Deputy Attorney General

Staff Present: Craig Nakamoto, HCDA Executive Director
Garet Sasaki, HCDA Administrative Services Officer
Francine Murray, HCDA Community Outreach Officer
Ryan Tam, HCDA Director of Planning and Development
Lindsey Doi Leaverton, HCDA Asset Manager
Germaine Salim-Hagihara, Project Management Engineer
Tommilyn Soares, HCDA Executive Secretary

II. APPROVAL OF MINUTES
Regular Meeting Minutes of May 3, 2023

Chair Ishii asked for comments or corrections. There were none. The meeting minutes were approved as presented.

III. INFORMATION AND DISCUSSION
Samie Kuuipo Kumukahi v. Hawaii Community Development Authority, et al;
Civil No. CCV-20-0001171, Litigation Status Update.

The Authority may convene in executive session pursuant to § 92-5 (a)(4), HRS, to consult with the Board’s attorney on questions and issues pertaining to the Board’s powers, duties, privileges, immunities and liabilities.

Chair Ishii stated Ms. Delanie Prescott Tate, Deputy Attorney General will provide an update to the Board in executive session.

Vice Chair Apo motioned for the Board to enter into an Executive Session. Member Higa seconded.

Chair Ishii called for a voice vote; all members affirmed.

Chair Ishii requested the following people to join the Executive Session: Deputy Attorney General Delanie Prescott-Tate, Attorney Shannon Wack, HCDA Executive Director Craig Nakamoto, HCDA Asset Manager Lindsey Doi Leaverton, HCDA Staff member Francine Murray and HCDA Staff member Tommilyn Soares.

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Pursuant to Section 92-5(a)(4), Hawai‘i Revised Statutes, the Authority convened in Executive Session at 10:40 a.m.

The Authority met in Executive Session until 10:48 a.m.
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Member Higa motioned for the board to exit the executive session. Vice Chair Apo seconded. Deputy Attorney General Prescott-Tate asked that all members affirm via a voice vote. All members affirmed and exited the executive session.

Chair Ishii reconvened the public meeting at 10:48 a.m.

Discussion Regarding Amendment of Kaka‘ako Community Development District 2005 Makai Area Plan and Rules to Reflect HRS 206E-31.5 and a Ban on Residential Development, Subsequent Planning Efforts, and Consistency with Rules in Other Districts.

Executive Director Nakamoto presented the staff report provided in the board packet. He noted for the board that the subject agenda item is for information and discussion only.

Historically, in Kaka‘ako Makai, residential development has been both allowed and not allowed. The 2005 Makai Area Plan and Rules, which are currently in effect, include approximately 50-acres of mixed-use zone with commercial and residential uses. There was an effort by Alexandar and Baldwin to develop a high-rise condominium project in Kaka‘ako Makai that generated strong community opposition. In 2006, Act 317, became law prohibiting residential development in Kaka‘ako Makai. HCDA then established the Kaka‘ako Community Planning Advisory Council (“CPAC”). From 2006 to 2011, extensive planning and community engagement efforts occurred. Those efforts included meetings with community stakeholders including the Office of Hawaiian Affairs and the Friends of Kewalos. The discussions focused on the physical area, local economic influence, market demand, viability for commercial, and other land uses. Those efforts resulted in 14 guiding principles and the creation of a conceptual master plan for the redevelopment of Kaka‘ako Makai, known as the 2011 Kaka‘ako Makai Conceptual Master Plan (“2011 Conceptual Plan”). In May 2011, the Authority unanimously adopted the 2011 Conceptual Plan, which did not include residential development as an allowable use. The 2011 Conceptual Plan became the guiding document for reviewing and approving development in Kaka‘ako Makai.

Act 317 was codified as Section 206E-31.5, *Hawaii Revised Statutes*. The 2005 Makai Area rules were not amended to conform with Section 206E-31.5, HRS.

Executive Director Nakamoto indicated a need to conform the 2005 Makai Area Rules with Section 206E-31.5, HRS, and the 2011 Conceptual Plan. He outlined that the next step for the board would be a proposed action item to start community engagement and the rulemaking process.

Member Higa asked how long this process would take.

Executive Director Nakamoto responded that to include time for community engagement and the Administrative Rule process, he anticipates it would take between 6 to 7 months.

Public Testimony

Chair Ishii called for public testimony.

Mr. Wayne Takamine, recognized as the Chair for the Kaka‘ako Makai Community Planning and Advisory Council (CPAC), provided historical background on CPAC. In 2005 when HCDA approved the 2005 Kaka‘ako Makai Area Rules that allowed residential development, the community had concerns and voiced its opposition to residential development thus creating CPAC. Mr. Takamine noted that it’s been 17 years and agrees to codify the Kaka‘ako Makai Area Plan and Rules with the 2006 Act that was passed by the legislature prohibiting residential development in Kaka‘ko Makai.

Mr. Ross Stephenson, Urban and Regional Planning Ph.D and Oahu resident, noted that his emphasis is in documenting the development of the City of Honolulu and stated he is providing public testimony in retaining the ban against development in Kaka‘ako Makai. There are numerous reasons for prohibiting residential development in Kaka‘ako and noted concerns of it being a tsunami inundation zone that have been raised in the past. In the 1900s, the area was an unregulated urban garbage dump creating hazardous conditions. The dump was expanded as a landfill and is documented as retaining toxins that have disturbed and threaten water supplies. He added that the public has been continually desiring the retention of coastal open space. There is a list of records in the Bureau of Conveyance and State Archives of government proclamations being made to support the construction of parks even if little money was ever provided. Instead, that Government land became devoted to public institutional use. He noted that the public remains determined that this land not be developed. He noted in his opinion, the land swap between the State and OHA was a “bad deal” for both parties. The State and OHA should swap other lands so that OHA can meet its purpose to provide housing for Native Hawaiians. The toxins and soil at Kaka‘ako Makai should not be disturbed and the State should provide previous central open space for the city residents.

Mr. Keali‘i Makekau, resident and OHA beneficiary, asked what jurisdictions and rights HCDA has, which OHA retains, specifically the mooring sites at Fisherman’s Wharf.

Executive Director Nakamoto offered to meet offline and provide information that Mr. Makekau is questioning.

Mr. Makekau thanked Mr. Nakamoto for the offer and stated his support prohibiting residential development in Kaka‘ako Makai. He also noted he supports Speaker Scott Saiki’s idea in a land swap.

Mr. Kanekoa Crabbe, long time Kewalo Basin body surfer who coordinated the body-surfing events from 2009 to 2017 at Kewalo Basin humbly asked HCDA members to not allow residential development in Kaka‘ako Makai. He notes that between 2006 to 2011, HCDA retained contractors and subcontractors to conduct research of the Kaka‘ako Makai area, specifically to study the environmental hazards. He recalled when the state shut down the City & County jurisdiction in the area due to layer upon layer of rubbish, dumping and layers of contamination in the soil that created health conditions for even future generations. He noted his concerns that as sea levels rise, the contaminants will leach into the water. He stated his continued support for green space in the area as noted in the 2011 Conceptual Plan. He ended his testimony with explaining to the board that before Kaka‘ako Makai was developed, between Honolulu and Waikiki (Ewa end), there existed what is known (by Native Hawaiians) as a Kahakai - a continuous white sandy beach that went out to a thriving coral reef which provided an unlimited amount of sea food for the people of Hawaii. He added that the only other land, similar to that Kahakai, that currently remains in the state is on the island of Moloka‘i.

There was no further public testimony. Chair Ishii noted there were 30 individuals who submitted written testimonies via email to board members, in support of codifying HRS 206E31.5 and the Kaka‘ako Makai Area Rules.

Member Higa thanked those who came forward to provide oral testimony and noted of all the HCDA districts, Kaka‘ako is the most important for him personally with history of his uncle teaching him to body surf at Point Panic and surfing at straight outs. He noted that the surf spots are appropriately named which are Point Panic, Flies, and Incinerators. Member Higa urged members to take stock of the land and what can safely be built and ensure members are not putting contaminants into the ocean. It’s good to see the efforts, of those who were advocates of the area years ago, continuing to be pushed and thanked those who came forward to testify.

Chair Ishii thanked Member Higa and noted that the HCDA members take this issue very seriously and would like to make sure that all the hard work that went into the Kaka‘ako Makai final report is taken into consideration, and that is the reason the board felt it was important to bring this issue forward for discussion at this time.

IV. DECISION MAKING

Consider Authorizing the Executive Director to Waive HCDA’s First Option to Purchase Rycroft Terrace Unit 513 and Defer the Payment of Shared Equity Due to the Unit Owner’s Death, pursuant to Hawaii Administrative Rules Section 15-22-188.

Ms. Lindsey Doi Leaverton, Asset Manager stated that the subject Rycroft unit is currently in probate due to the owner’s death intestate. The subject unit is a small studio

apartment without a parking space. HCDA originally chose to exercise its first option to purchase, and the unit owners' beneficiaries agreed to HCDA's buyback terms and conditions. However, upon further review of the unit appraisal, HCDA staff determined repurchasing Rycroft Terrace Unit 513 is not financially feasible. The unit will require extensive renovations and repairs to be saleable. Upon the conclusion of the probate proceedings, the unit will be transferred to the executor, who plans to sell the unit. The family of the owner is asking HCDA to defer (not waive) the payment of shared equity upon the transfer of the unit to the executor. The shared equity will be due and owing to HCDA upon the executor selling the unit to a third party.

Public Testimony

Chair Ishii called for public testimony.

Mr. Aryn Nakaoka, family representative of the unit owner, stated he was present to answer any questions that board members may have.

Member Sakoda asked Ms. Leaverton if there is a time limit.

Ms. Leaverton stated that there generally is no time limit once the HCDA waives buyback and defers the payment of shared equity; shared equity would be due whenever a sale of the unit to a third party occurs.

Member Sakoda asked if we should place a time limit so that this does not linger for more than five years.

Ms. Leaverton noted in the past, when HCDA deferred payment of shared equity and waived the first option to buy back, there was no time limit in place, but we certainly could impose that restriction if that is what the board would like to do.

Executive Director Nakamoto added that the requirement and covenant to pay the shared equity will always remain on the property and title. He noted we are not waiving the payment of shared equity; we are just deferring it. He further noted we could put a time limit/deadline, but his sense is that the family is motivated to do the necessary repairs to the unit and sell the unit.

Mr. Nakaoka confirmed that plan. He noted the unit does require a lot of renovation, but the family already has the contractors in place to start renovations, and they just need board approval. After approval, he says renovations will take two weeks and they already have a realtor to list the property for sale immediately thereafter. He says the \$33,000 in shared equity due to the HCDA would be calculated into the sale and paid to HCDA. He noted if it does not sell, then the unit would be transferred to a different entity and might be rented, but he believes it will sell due to the low asking price.

Member Hirai asked what happens if an owner dies intestate? Ms. Leaverton noted that the 2005 Rules which govern Rycroft Terrace have a provision for this and do allow transfers to qualifying family members without triggering buyback and the payment of shared equity.

There was no further comments or questions from Members.

MOTION:

Chair Ishii asked for a motion for the Authority to Authorize the Executive Director to Waive HCDA’s First Option to Purchase Rycroft Terrace Unit 513 and Defer the Payment of Shared Equity due to the Unit Owner’s death, pursuant to HAR 15-22-188, and undertake all tasks necessary to effectuate the purpose(s) for this Action.

Member Higa motioned. Member Miranda-Johnson seconded.

Chair Ishii asked if there was any discussion on the motion. There was no further discussion from Board members.

Ms. Lindsey Doi Leaverton conducted the roll call vote. Motion passed with 7 ayes, and 1 excused.

**V. REPORT OF THE EXECUTIVE DIRECTOR
Monthly Report and Other Status Reports**

Approved permit applications that did not require HRS § 206E-5.6, public hearings. Executive Director Nakamoto referred to the report provided in the board packet and highlighted the following three items:

1. A contract was executed with Avalon Commercial to provide 24/7 property management services for Block P – the properties HCDA recently acquired to develop affordable housing.
2. The Crosswalk project at Kolowalu is being worked on. He recognized staff member Germaine Salim-Hagihara who is leading the project. The project is currently in the permitting process and expects that construction will begin in the summer and anticipates completion in December 20223. The crosswalk will address residents’ and community concerns and include a raised traffic island, painted crosswalk, and flashing beacons for pedestrian safety; and
3. The Kolowalu Dog Park which will be a functional dog park as well as a cultural resource for the community. He also recognized Germaine Salim-Hagihara who is leading the project. HCDA has been working with consultant PBR Hawaii and their cultural consultant Ramsay Tom to create a place making (cultural appropriate place-making) within the dog

park that includes locally sourced rocks for the entrance and play area for the dogs and fencing with rock columns. Construction is expected to commence this summer and with completion in December 2023.

Member Sakoda asked about the maintenance expenses and noted his concerns for future funding for maintenance, security landscaping, etc.

Executive Director noted that there will be an ongoing maintenance cost that will be included in HCDA's Kolowalu Park maintenance expenses. He added for Member Sakoda that the dog park will be open during regular park hours and not 24-hours.

There were no further comments or questions from the Board members.

Public Testimony

Chair Ishii called for public testimony. There were no inquiries to provide oral testimony, and no written testimonies were received.

VI. ADJOURNMENT

Chair Ishii thanked those who joined the meeting on Zoom and then adjourned the meeting at 11:31 a.m.



Sterling Higa, Secretary

July 5, 2023

Date Board Approved