



**STATE OF HAWAI'I**  
**OFFICE OF HAWAIIAN AFFAIRS**  
560 N. NIMITZ HWY., SUITE 200  
HONOLULU, HAWAI'I 96817

July 26, 2018

Stan S. Fujimoto  
HHFDC Project Director  
677 Queen Street, Suite 300  
Honolulu, HI 96813

Re: Keawe Street Apartments at the Villages of Leiali'i

Aloha e Project Director Fujimoto,

The Administration of the Office of Hawaiians Affairs (OHA) recently acquired a *Notice of Public Informational Briefing Proposed RFP for the Leasehold Development of an Approximately 200-unit Affordable Family Rental Project Named "Keawe Street Apartments at the Villages of Leiali'i"* (Project). OHA would like to take this opportunity to reiterate its position in opposition to the alienation of "ceded" lands, which the proposed Project comprises. OHA understands that the Project currently contemplates only the disposition of the leasehold status, and not the fee, of the lands it would contain; however, OHA believes it prudent to again make clear its longstanding position with regards to the "ceded" lands corpus, insofar as there may be any possible consideration of the fee simple disposal of the Project's lands, now or in the future. In addition, OHA urges the Hawai'i Housing Finance and Development Corporation (HHFDC) to ensure that any development activity properly accounts for and protects Native Hawaiian cultural sites, including burials, that have been known to occur in the Project area.

**In summary, subject to extremely limited exceptions, OHA has long opposed and continues to oppose any alienation of the "ceded" Crown and Government lands taken as a result of the unlawful overthrow of the Hawaiian Kingdom, and without the consent of the Native Hawaiian people or their government.** OHA has specific interest in this project as the 'villages of Leiali'i' were the subject of a lawsuit that was brought by OHA against HHFDC's predecessor, the Housing and Finance Development Corporation (HFDC). On November 4, 1994, in response to the State's attempted sale of "ceded" lands – including "ceded" lands in Leiali'i -- OHA filed a lawsuit, *OHA v. Hawai'i Finance and Development Corporation* (later renamed *OHA v. Housing and Community Development Corporation of Hawai'i (HCDCH)*), to seek a moratorium on the sale of "ceded" lands until the unrelinquished claims of Native

Hawaiians are resolved. In 2008, in *OHA v. HCDCH*, the Hawai'i Supreme Court granted OHA's request for a moratorium on the sale of "ceded" lands. In 2009, in part to resolve the ongoing concerns underlying *OHA v. HCDCH*, the Hawai'i legislature passed Act 176, requiring a two-thirds majority vote by both legislative chambers before any public lands, including "ceded" lands, could be sold or transferred by the State. In 2011, Act 169 further required state agencies wishing to sell or exchange state lands to provide draft measures to OHA at least three months prior to the convening of the legislative session, so that OHA may review and ascertain the "ceded" status of the land proposed for sale or exchange, and determine its position on the proposed alienation. **Consistent with this history of legal intervention and legislative action, OHA reaffirms its opposition to the diminution of the "ceded" lands corpus pending the resolution of Native Hawaiian claims, and urges the HHFDC to ensure that no such alienation can occur with respect to the Project's "ceded" lands.**

Furthermore, OHA would like to reiterate its concerns regarding the need to adequately account for and protect Native Hawaiian burials and other archaeological and cultural sites found within and accessed through the Project area.<sup>1</sup> In a January 28, 2011 letter to the HHFDC Chief Planner, OHA detailed its concerns for archaeological discoveries that were made within the Project area, including a family cemetery. OHA had previously asserted that the scope of a 2008 archaeological survey<sup>2</sup> was inadequate in satisfying the requirements of Chapter 6E, as it amounted to a mere "field check." While OHA notes that the majority of the project area has been under long-term agricultural use, which may have resulted in the permanent destruction of many cultural and historic sites, OHA emphasizes that this may only heighten the great need to preserve those remaining culturally and historically significant sites, however few there may be. **Accordingly, OHA urges the HHFDC to ensure that any development activity adequately accounts for and takes all measures necessary to avoid compromising the integrity of any and all Native Hawaiian burials and other culturally and historically significant sites in the Project Area.**

OHA appreciates this opportunity to share our concerns. Should you have any questions or concerns, please contact me or have your staff contact our Public Policy Advocate, Zuri Aki, at 594-1779 or [zuria@oha.org](mailto:zuria@oha.org).

'O wau iho nō me ka 'oia'i'o,



for  
Kamana'opono M. Crabbe, Ph.D.  
Ka Pouhana, Chief Executive Officer

KMC;za

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<sup>1</sup> PHRI-JENSEN, ARCHAEOLOGICAL INVENTORY SURVEY, LAHAINA MASTER PLANNED PROJECT SITE (1989).

<sup>2</sup> ARCHAEOLOGICAL SURVEY AND CULTURAL IMPACT ASSESSMENT VILLAGES AT LEIALI 'I PHASES A AND B (PHRI, Inc., 2008).