

LAND USE

KAKAAKO MAKAI CONUNDRUM

One option: Renegotiate a new settlement agreement for OHA

ISLAND VOICES



House Speaker Scott K. Saiki represents House District 25 (Ala Moana, Kakaako, Downtown); state Sen. Sharon Y. Moriwaki represents Senate District 12 (Waikiki, Ala Moana, Kakaako, McCully).

By state Rep. Scott K. Saiki and Sen. Sharon Y. Moriwaki

In 2012, the Office of Hawaiian Affairs negotiated a settlement agreement with the Abercrombie administration to satisfy the state's obligation to pay public land trust proceeds that were owed to OHA for the period from Nov. 30, 1978, through June 30, 2012. The agreement called for the transfer of nine mixed waterfront parcels at Kakaako Makai to OHA. OHA had identified the parcels that were valued at \$200 million based upon appraisals made on the commercial zoning of the lands.

The settlement agreement sounded like a good idea, but now, 10 years later, the current OHA board believes it was a bad deal. Kakaako Makai sits atop a toxic landfill that must be remediated and the wharf requires major repairs — the cost of this work alone may exceed \$100 million. High-rise buildings may obstruct the airport flight path. Sea-level rise is impending.

Please see **OPTION, E4**

OHA helped drive 2012 deal, so build on solid foundation

By former Gov. Neil Abercrombie

I do not know the chief operating officer of the Office of Hawaiian Affairs, Casey Brown, but I do know he needs to get his facts straight if he expects support for efforts to address residential restrictions currently existent in Kakaako Makai ("Battle over Kakaako housing continues," Star-Advertiser, Feb. 6). Recent testimony of Mr. Brown and others claims that OHA was somehow "swindled" when it got these lands. Nothing could be further from the truth.

Leading up to 2012, prime lands in Kakaako, some of the most valuable in Honolulu, were designated for OHA ownership to settle litigation over ceded lands revenue claims — an effort that was led by Attorney General David Louie and Native Hawaiian senior Deputy Attorney General Charleen Aina, in coordination with OHA Chair Collette Machado and Native Hawaiian

Please see **SETTLEMENT, E4**

ISLAND VOICES



Neil Abercrombie was governor of Hawaii from 2010 to 2014.

Pictured below is a land parcel on the ewa edge of Kewalo Harbor owned by the Office of Hawaiian Affairs. The drawing of the harbor looking ewa shows the proposed Hakuone development, which OHA hopes would include residential towers.

ON POLITICS



RICHARD BORRECA

Good public planning for waterfront must prevail

If Carl Sandburg can call Chicago the "City of the Big Shoulders," city planners can also dub the marvelous city as the city of big promises kept.

As our state Legislature again launches an attempt to despoil Honolulu's vista with thoughtless development, there's a land use lesson to be learned from our Midwest metropolis.

Since the late 1960s, developers have eyed the beachfront land fronting Kakaako. Back then it was the man-made peninsula called Magic Island off the Waikiki tip of Ala Moana Park. Developers looked at the park land and saw hotels and condominiums. The developer needed state approval and in a last-minute deal, the 1969 Legislature approved the land use change as the clock hit midnight. The public was outraged and Gov. John Burns, who had helped

Please see **BORRECA, E4**



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KAKA'AOKO MAKAI LAND-USE STRUGGLE

The Office of Hawaiian Affairs owns nine parcels in Kakaako Makai and wants state lawmakers' approval to build residential high-rises. Current state law bans such use in the area, and some community groups want the ban to remain. Above is a conceptual drawing of the proposed Hakuone development with the former Fisherman's Wharf site on the right and Kewalo Basin Park on the left.

OPTION

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The lands were conveyed subject to future zoning approvals by the Hawaii Community Development Authority. OHA testified in support of this deal, without reservation. All of this took place in 2012, which was six years after the Legislature prohibited residential development on all Kakaako Makai lands, in response to several years of public opposition to high-rise residential proposals.

Whatever plans OHA trustees at the time had for commercial development on those parcels apparently is not enough for the current trustees. Instead, OHA seeks to repeal the state law ban on residential development. But their proposal goes beyond just undoing the prohibition to residential development.

OHA wants specific parcels to go up to 400 feet, which would be a series of 40-story buildings. Setting aside whether that's a good idea from a land-use perspective, this would mean the Legislature would be doing spot zoning, and would open the doors for any landowner from anywhere in Hawaii, to come to the Legislature for the same treatment, whether it makes sense or whether there is neighborhood opposition. It would be a very bad precedent.

OHA wants to build "affordable" housing to house its Hawaiian beneficiaries. But there is no guarantee that the housing in this development will be affordable. And federal housing laws do not allow OHA to limit the housing units to only Hawaiian persons.

All of these Kakaako Makai challenges apply to any developer, not just OHA. We support OHA and our collective mission to advance the Hawaiian community. This is why, just nine months ago, we approved more public land trust payments to OHA (\$64 million for back pay and an annual payment of \$21.5 million), funded the Kalima class-action lawsuit (\$328 million) and approved a mutual stewardship governance model for Mauna Kea.

But the Legislature's work is not over. We want to work with OHA to resolve this matter in a reasonable and practical way. One option is to reopen the settlement agreement and negotiate in good faith a new package comprised of funds and an exchange of conducive developable land that will put OHA on a faster track to reach its fiduciary, housing and other goals for their beneficiaries.

We anticipate that the broader Hawaiian community wants us to work together. We agree. Let's get to work.

OHA leader, trustee write about justice at Hakuone

For perspectives from the Office of Hawaiian Affairs on the Kakaako Makai issue, see "Island Voices" columns published in the Star-Advertiser on Dec. 11 and Jan. 8. A couple of excerpts from those pieces:

>> "Allow OHA to develop Kaka'ako Makai," by OHA CEO Sylvia Hussey (Dec. 11, online at 808ne.ws/HusseyKakaako): "Before the elections, we heard promises about doing right by beneficiaries of homestead trust lands. Promises to address the injustice of Native Hawaiians being unable to afford a home in the land of their ancestors. We don't claim to be able to solve the housing crisis with what we build in Hakuone. But Hawaiians should be making decisions about our lands for our people."

>> "Kakaako Makai intent in 2012 needs to become reality in 2023," by OHA trustee Milliani Trask (Jan. 8, online at 808ne.ws/TraskKakaako): "I have a fiduciary obligation to ensure that OHA realizes optimum value from our Kakaako parcels, known collectively now as Hakuone. Hawaiians must be free to do what is right and smart to realize the full value of their lands. Developers on the mauka side of Ala Moana Boulevard do not have their hands tied. So, why have lawmakers placed obstacles in the way of OHA delivering for its beneficiaries? That needs to change."

SETTLEMENT

Continued from E1

attorney William Meheula, a well-respected trial attorney.

The land values were reviewed by two of the best commercial and residential real estate appraisers in Hawaii, one for the state and one for OHA, and an agreed-upon estimate of approximately \$200 million in value based on current zoning was reached.

Extensive public meetings in Native Hawaiian communities were then held over several months under OHA auspices with resultant broad-based community support.

Nothing was "rushed under pressure," as Mr. Brown claims now. The times, places, agendas, etc., of the gatherings were completely under the control and management of OHA. We stood completely aside, pending the emergence of approval or not by the OHA trustees. OHA did not want to let the opportunity slip away, as prior attempts at settlement of the claims had failed.

Only then did we approach the state Legislature in 2012. At no time did OHA put a value on the settlement of less than \$200 million, and certainly not the \$92 million now being claimed by some unknown appraiser.

The City and County of Honolulu currently appraises the property at \$300 million.

Is Mr. Brown seriously contending

that OHA Chair Machado and OHA trustees blindly approved a settlement with more than a \$100 million negative gap? That experienced attorneys and top real estate appraisers misled the OHA trustees? Or that my administration deliberately and knowingly somehow short-changed the trustees?

My history with OHA goes back to 1978, when under the leadership of then-Sen. Ben Cayetano, OHA was voted into existence. When the 2012 settlement was approved, I signed the bill at Washington Place with Chair Machado at my side — 34 years of support for OHA.

Mr. Brown claims he wants "justice" for Hawaiians, "and we need to be made whole." Citing false flag history and maligning allies does not win support or votes or friends. OHA, in the present legislative circumstances, could well use a strong dose of all of those items. Rather, such claims do a disservice by suggesting that the Native Hawaiian leaders and attorneys who did a landmark deal could be so easily fooled. To be sure, I support OHA's attempts to enhance the value of those lands, but not at the expense of the truth.

Stop playing the victim and start taking responsibility for building on the strong foundation the Kakaako Makai settlement provides.

BORRECA

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nudge it along, was forced to approve turning the 35 acres into park land. "Remember Magic Island" was the rallying cry for those worrying about Honolulu's growth sped on by political corruption.

What does this have to do with Chicago?

Although as one Windy City columnist noted, "Chicago has a long and unsavory tradition of powerful men deciding things for the people against their will," there is a fighting spirit to save the last inch of open space and keep the classic views of parkland along Lake Michigan free of development.

As one English observer said in an opinion piece, "We look at that lakefront, and we think, 'This is a good town. Greed didn't take this town.'" Well, that might be a tad of an overstatement for Chicago, but good planning is always to be honored.

Back in 1836, Chicago officials looked at the then-rotting waterfront structures along the lake and declared "that it would be held in 'common to remain forever open, clear, and free of any buildings, or other obstruction whatever.'"

That stipulation has held through the decades, preserving the lakefront, blocking airports, harbors or megadevelopments. All proposals for Chicago's lake park land have failed. Politicians are known for what they saved, not what they snuff through with midnight chicanery.

So what now will come from the 2023 Hawaii Legislature?

It is faced again with calls to plow up the Kakaako Makai land, putting view-destroying condos along the shoreline.

There's a series of goofy catches to this scheme. The state settled a \$200 million debt owed the Office of Hawaiian Affairs for unpaid ceded land revenue by handing over the undeveloped Kakaako land. The parcel carries with it a stipulation that it cannot be used for development.

So now legislators are faced with voting against significant Native Hawaiian interests, or against those caring for proper planning.

The solution is to look to the future. Will the land in 25 or 100 years be used best as whatever land use development scheme makes the most money? The rich will always have good views, but for the rest living in Honolulu, will those generations have open park land looking over the Pacific to be enjoyed just because they live here, or a wall of concrete?

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