



BOARD OF TRUSTEES  
 Carmen. Hulu Lindsey, *Chairperson*  
 Leina'ala Ahu Isa, *Vice Chairperson*  
 Dan Ahuna, Trustee Kaua'i & Ni'ihau  
 Kalei Akaka, Trustee O'ahu  
 Keli'i Akina, Trustee At-Large  
 Luana Alapa, Trustee Moloka'i & Lāna'i  
 Brendon Kalei'āina Lee, Trustee At-Large  
 Keola Lindsey, Trustee Hawai'i Island  
 John Waihe'e IV, Trustee At-Large

**STATE OF HAWAII**  
**OFFICE OF HAWAIIAN AFFAIRS**

**MEETING OF THE BOARD OF TRUSTEES**

**DATE:** Tuesday, October 26, 2021  
**TIME:** 11:00 am  
**PLACE:** Virtual Meeting  
 Viewable at [www.oha.org/livestream](http://www.oha.org/livestream) OR  
 Listen by phone: (213) 338-8477, Webinar ID: 876 0572 3899

**Due to the threat of COVID-19, Governor Ige issued the most recent Emergency Proclamation Related to the COVID-19 Delta Response, dated October 1, 2021 that suspends parts of Hawai'i Revised Statutes Chapter 92, Public Agency Meetings and Records to, among other things, enable boards to conduct business without any board members or members of the public physically present at the same location. The OHA Board of Trustees will hold virtual meetings until further notice. The virtual meetings can be viewed and observed via livestream on OHA's website at [www.oha.org/livestream](http://www.oha.org/livestream) or listen by phone: (213) 338-8477, Webinar ID: 876 0572 3899**

**AGENDA**

- I. Call to Order**
- II. Public Testimony** on Items Listed on the Agenda\* (Please see page 2 on how to submit written testimony or provide oral testimony online. Oral testimony by phone will **not** be accepted)
- III. Community Concerns and Celebrations\***(Please see page 2 on how to submit written testimony or provide oral testimony online. Oral testimony by phone will **not** be accepted)
- IV. New Business**
  - A. Action Item BOT #21-14: Approve the Formation of a Permitted Interaction Group to Investigate the Initial Steps in the First Phase of Work for the Development of Kaka'ako Makai.
- V. Announcements**
- VI. Adjournment**

If you require an auxiliary aid or accommodation due to a disability, please contact Raina Gushiken at telephone number 594-1772 or by email [rainag@oha.org](mailto:rainag@oha.org) no later than three (3) business days prior to the date of the meeting.

Meeting Materials will be available to the public on Saturday, October 23, 2021 and posted to OHA's website at:

[www.oha.org/bot](http://www.oha.org/bot) In the event that the livestream public broadcast is interrupted and cannot be restored, the meeting may continue as audio-only through the phone and Webinar ID provided at the beginning of this agenda.

†Notice: The 72 Hour rule, pursuant to OHA BOT Operations Manual, Section 49, shall be waived for distribution of new committee materials.

\* **Public Testimony on Items Listed on the Agenda must be limited to matters listed on the meeting agenda. Community Concerns and Celebrations is not limited to matters listed on the meeting agenda.** Hawai'i Revised Statutes, Chapter 92, Public Agency Meetings and Records, prohibits Board members from discussing or taking action on matters not listed on the meeting agenda.

Testimony can be provided to the OHA Board of Trustees either as: (1) *written testimony* emailed at least 24 hours prior to the scheduled meeting, or (2) live, *oral testimony online* during the virtual meeting.

- (1) Persons wishing to provide *written testimony* on items listed on the agenda should submit testimony via *email* to [BOTmeetings@oha.org](mailto:BOTmeetings@oha.org) at least **24 hours prior** to the scheduled meeting. Any testimony received after this deadline will be late testimony and will be distributed to the Board members after the scheduled meeting. **Due to COVID- 19, please do not fax, mail, or hand-deliver written testimony**
- 2) Persons wishing to provide *oral testimony online* during the virtual meeting must first register at:



BOARD OF TRUSTEES  
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[https://us06web.zoom.us/webinar/register/WN\\_MCwJug4kTm6\\_7XCiCrgQ-w](https://us06web.zoom.us/webinar/register/WN_MCwJug4kTm6_7XCiCrgQ-w)

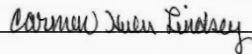
You need to register if you would like to orally testify. Once you have completed your registration, a confirmation email will be sent to you with a link to join the virtual meeting, along with further instructions on how to provide oral testimony during the virtual meeting. The registration page will close during the Public Testimony or Community Concerns agenda item. Oral testimony by telephone/landline **will not** be accepted at this time.

To provide oral testimony online, you will need:

- (1) a computer or mobile device to connect to the virtual meeting;
- (2) internet access; and
- (3) a microphone to provide oral testimony.

Oral testimony online will be limited to five (5) minutes. Once your oral testimony is completed, you will be asked to disconnect from the meeting, unless you are also signed up for oral testimony during Community Concerns and Celebrations. If you do not sign off on your own, support staff will remove you from the Zoom meeting. You can continue to view the remainder of the meeting on the livestream or by telephone, as provided at the beginning of this agenda.

Please visit OHA's website for more detailed information on how to submit Public Testimony OR Community Concerns at: <https://www.oha.org/how-to-submit-testimony-for-oha-bot-meetings/>



Trustee Carmen Hulu Lindsey  
Chairperson, Board of Trustees

10/20/2021

Date

Office of Hawaiian Affairs  
Meeting of the Board of Trustees  
October 26, 2021  
11:00 A.M.

**IV. New Business**

**A. Committee of Beneficiary Advocacy and Empowerment**

- 1. Action Item BOT#21-14: Approve the Formation of a Permitted Interaction Group to Investigate the Initial Steps in the First Phase of Work for the Development of Kaka‘ako Makai.**


OFFICE OF HAWAIIAN AFFAIRS  
Action Item


BOARD OF TRUSTEES


October 26, 2021


BOT #21-14

**Action Item Issue:** Approve the Formation of a Permitted Interaction Group to Investigate the Initial Steps in the First Phase of Work for the Development of Kaka‘ako Makai

**Co-Prepared by:**  Oct 21, 2021  
\_\_\_\_\_  
R. Kalani Fronda Date  
Ka Pou Kihī Kanaloa ‘Āina, Land Director

**Co-Prepared by:**  Oct 22, 2021  
\_\_\_\_\_  
Casey K. Brown Date  
Ka Pou Nui, Chief Operating Officer

**Reviewed by:**  Oct 22, 2021  
\_\_\_\_\_  
Sylvia M. Hussey, Ed.D. Date  
Ka Pouhana, Chief Executive Officer

**Reviewed by:**  Oct 22, 2021  
\_\_\_\_\_  
Carmen Hulu Lindsey Date  
Ke Kauhuhu o ke Kaupoku  
Chair, Board of Trustees

**Action Item BOT #21-14: Approve the Formation of a Permitted Interaction Group to Investigate the Initial Steps in the First Phase of Work for the Development of Kaka’ako Makai**

**I. Proposed Action**

Approve the formation of a Permitted Interaction Group (PIG) to investigate the initial steps in the first phase of work for the development of Kaka’ako Makai including the following purview, members and term/duration:

**Purview.** The purview of the PIG is for the Board of Trustees (BOT or Board), BOT staff and OHA Administration staff to work together to investigate the **initial steps** in the first phase of work for the development of Kaka’ako Makai. The first phase of work includes activities to learn (e.g., due diligence, objectives, vision, understanding current zoning and market conditions), plan (e.g., mission, understanding constraints, entitlements, functionality, utility), and recommend (e.g., vision, outcome, values immediate, long-range impact, performance).

**Members.** The membership of the Permitted Interaction Group is proposed as follows: (a) Trustee Carmen Hulu Lindsey; (b) Trustee Leina’ala Ahu Isa; (c) Trustee John Waihee, IV; and (d) Trustee Kalei Akaka. Trustee Carmen Hulu Lindsey will serve as the Chair of the Permitted Interaction Group and Trustee Leina’ala Ahu Isa will serve as its Vice Chair. Casey K. Brown, Ka Pou Nui, will function as the Project Manager.

**Term/Duration.** The term of the Permitted Interaction Group expires at the completion of the assigned tasks or at the discretion of the Chair of the Board of Trustees, subject to later adjustment, but in no event later than November 5, 2021.

**II. Issue**

Whether or not the Board of Trustees (BOT) will approve the formation of a Permitted Interaction Group (PIG), consistent with Hawai’i Revised Statutes §92-2.5(b)(1), to investigate the initial steps in the first phase of work for the development of Kaka’ako Makai.

**III. Background and Discussion**

**A. Applicable Law in Hawaii Revised Statutes, Permitted Interaction Groups**

In accordance with HRS, CHAPTER 92, PUBLIC AGENCY MEETINGS AND RECORDS §92-2.5 Permitted interactions of members: (b) Two or more members of a board, but less than the number of members which would constitute a quorum for the board, may be assigned to: (1) Investigate a matter relating to the official business of their board; provided that: (A) The scope of the investigation and the scope of each member’s authority are defined at a meeting of the board; (B) All resulting findings and recommendations are presented to the board at a meeting of the board; and (C) Deliberation and decision making on the matter investigated, if any, occurs only at a duly noticed meeting of the board held subsequent to the meeting at which the findings and recommendations of the investigation were presented to the board.

**B. Setting Context for the Formation of a Third Permitted Interaction Group**

**1. Land and Commercial Property Permitted Interaction Group #1 Formation & Report.** Via Action Item #21-01 on January 28, 2021 the Board authorized a PIG to investigate the development of land and commercial property (“LCP”) policies and strategies relating to the development of OHA’s Nā Lama Kukui and Kaka’ako Makai properties (“LCP PIG”). The purview of the LCP PIG was for the Board of Trustees

**Action Item BOT #21-14: Approve the Formation of a Permitted Interaction Group to Investigate the Initial Steps in the First Phase of Work for the Development of Kaka‘ako Makai**

(BOT), BOT staff and OHA Administration staff to work together to investigate the: (1) Development, alignment, and updates related to land and commercial property policies and strategies relating to the development of OHA’s Nā Lama Kukui and Kaka‘ako Makai; (2) Implications of other fiscal policies’ impact on land and commercial properties (e.g., investment, spending) relating to the development of OHA’s Nā Lama Kukui and Kaka‘ako Makai properties; (3) Identification, articulation and formulation of strategies relating to the development of OHA’s Nā Lama Kukui and Kaka‘ako Makai properties; and (4) Alignment of the formulated policies and strategies with the strategic plan 2020-2035 implementation.

The report of the LCP PIG was delivered to the Board on April 8, 2021 and was accepted via Action Item BOT #21-03 on April 15, 2021 (LCP PIG #1 Report). The report covered the results of the LCP PIG’s work: Nā Lama Kukui Long Term Strategies; Kaka‘ako Makai Long Term Strategies, Requests for Proposal Related to Kaka‘ako Makai, Land and Commercial Property Policies, Other Fiscal Policies, Alignment with the Strategic Plan 2020-2035 Implementation and Next Board of Trustees Actions, including Permitted Interaction Groups. Each section of the report began with a context setting section, a section that describes the authorized PIG’s work and related recommendations.

- 2. 3rd Party Assistance.** The following is an excerpt from the LCP PIG #1 report which provides the continuing basis and context for subsequent PIGs:

*“**PIG Investigative Work.** The investigative work of the PIG illuminated the need for professional 3rd party assistance in the furtherance of development and deployment of strategies for Nā Lama Kukui (NLK) and Kaka‘ako Makai (KM). Working definitions and descriptors of such 3rd party assistance is provided below in support of recommendations. While working descriptors below reflect KM application, engagement of 3rd party assistance can further NLK strategies as well.*

***a. Development Consultant.** Provides planning, consultative, analysis, review, validation and other services as needed, spanning the period from inception of engagement through the period of time to develop a Kaka‘ako Makai, Land Development Plan, including implementation (e.g., regulatory approval, development, construction, tenant occupancy) of the first project in the Master Plan.*

***b. Community Planner.** Prepares and delivers a Land Development Plan to include a vision, physical master plan and implementation strategies to guide the future development opportunities of the Kaka‘ako Makai, thirty (30) acres of land considering all of the related attributes (e.g., size, characteristics, height, use or other restrictions).*

***c. Developer.** Real estate or property development encompasses a range of activities such as renovation and releasing of existing buildings, purchase and finance of raw land and sale of developed land to others. Developers coordinate all activities from converting ideas from paper to tangible real property. While there are similar activities, real estate development as a business process does differ from construction or house building Entity is responsible to determine the marketing of the property, develop the building program and design, obtain the necessary public approvals and financing, build the structure(s), rent out, manage.*

**Recommendations re: 3rd Party Assistance**

**Action Item BOT #21-14: Approve the Formation of a Permitted Interaction Group to Investigate the Initial Steps in the First Phase of Work for the Development of Kaka‘ako Makai**

*The following recommendations were made by the LCP PIG #1:*

1. *Select and engage a **Development Consultant** within OHA derived parameters for Kaka‘ako Makai;*
2. *Select and engage a **Community Planner** within OHA derived parameters for Kaka‘ako Makai; and*
3. *Select and engage a **Developer** based on determined development, including financing, construct (e.g., ground lease, joint venture, public-private partnership) for the initial authorized project(s)”*

- 3. Land and Commercial Property Permitted Interaction Group #2 Formation & Report.** Via Action Item BOT #21-05: Approve the Formation of a Permitted Interaction Group (PIG) to Investigate: and Recommend a Short List of Eligible Entities for Selection of a Development Consultant; Land and Commercial Property Policies; and the Development and Implementation of a Request for Proposal for a Community Planner, dated April 15, 2021, a second land and commercial property (LCP) PIG was authorized and formed.

The report of the second LCP PIG was delivered to the Board on June 17, 2021, discussed and accepted via Action Item BOT #21-07 on June 24, 2021. The report summarized the following PIG investigative activities and related recommendations:

- a. **Purview 1.** Acknowledge the release of Request for Proposal (RFP) NO. LA 2021-022 In House Development Consultant (IHDC) and review the associated evaluation process which provides the broadest participation and contribution of the entire Board;
- b. **Purview 2.** Delegate to Administration the responsibilities to review and update the following policies, returning to the Board with recommendations: Real Estate Vision, Mission and Strategy Policy, June 6, 2007; and Committee on Land and Property, Policy Guidelines, Adopted July 3, 2014; and
- c. **Purview 3.** Suspend the process for development of a RFP for a Community Planner, until the completion of RFP-LA 2021-022, In House Development Consultant to allow for optimized insights and improvements.

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**Action Item BOT #21-14: Approve the Formation of a Permitted Interaction Group to Investigate the Initial Steps in the First Phase of Work for the Development of Kaka’ako Makai**

**C. Considering and Combining Recommendations from LCP PIGs #1 and #2 with New Information to Inform a Third (3<sup>rd</sup>) PIG**

Since the acceptance of LCP PIG #2’s report in June 2021, the Board completed procurement, selection and contracting activities to engage with the selected IHDC team by the end of September 2021.<sup>1</sup> Preliminary engagement, planning and sense making activities with the IHDC, coupled with explicit policy work delegated to Administration, the recommended suspension of a RFP process for a Community Planner (from LCP PIG #2 above), and reflective view and discussions, provide the opportunity for the Board to form a third (3<sup>rd</sup>) PIG to focus on initial next steps in the first phase of the work.

**IV. Formation of a Third (3<sup>rd</sup>) Land and Commercial Property Permitted Interaction Group (PIG) to Investigate the Initial Steps in the First Phase of Work for the Development of Kaka’ako Makai**

Approve the formation of a Permitted Interaction Group (PIG) to investigate the initial steps in the first phase of work for the development of Kaka’ako Makai including the following purview, members and term/duration:

**Purview.** The purview of the PIG is for the Board of Trustees (BOT or Board), BOT staff and OHA Administration to work together to investigate the **initial steps** in the first phase of work for the development of Kaka’ako Makai. The first phase of work includes activities to learn (e.g., due diligence, objectives, vision, understanding current zoning and market conditions), plan (e.g., mission, understanding constraints, entitlements, functionality, utility), and recommend (e.g., vision, outcome, values immediate, long-range impact, performance).

**Members.** The membership of the Permitted Interaction Group is proposed as follows: (a) Trustee Carmen Hulu Lindsey; (b) Trustee Leina’ala Ahu Isa; (c) Trustee John Waihee, IV; and (d) Trustee Kalei Akaka. Trustee Carmen Hulu Lindsey will serve as the Chair of the Permitted Interaction Group and Trustee Leina’ala Ahu Isa will serve as its Vice Chair. Casey K. Brown, Ka Pou Nui, will function as the Project Manager.

**Term/Duration.** The term of the Permitted Interaction Group expires at the completion of the assigned tasks or at the discretion of the Chair of the Board of Trustees, subject to later adjustment, but in no event later than November 5, 2021.

**V. Funding Source**

No dedicated funding is needed to authorize and form a PIG to investigate the initial steps in the first phase of work for the development of Kaka’ako Makai. Resources budgeted in the FY 21 commercial property budget have already been committed for an in-house development consultant (IHDC) and non-core operating budget realignment mechanisms have been activated for future FY 22-23 non-core funding needs. Any resources needed to carry out related activities will conform with existing budgetary (e.g., realignment), spending and procurement authorities, policies and procedures.

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<sup>1</sup> The “In-House” Development Consultant (IHDC) will work for the OHA as its trusted advisor responsible for managing the entire development process; coordinating the work of the development team, and serving as a central point for communication to facilitate decision making. The IHDC shall also assist the OHA by providing additional resources and expertise to accomplish negotiated task assignments. (RFP No LA-2021-022)



**Action Item BOT #21-14: Approve the Formation of a Permitted Interaction Group to Investigate the Initial Steps in the First Phase of Work for the Development of Kaka'ako Makai**

**VI. Recommended Action**

Administration recommends the formation of a Permitted Interaction Group (PIG) to investigate the initial steps in the first phase of work for the development of Kaka'ako Makai including the following purview, members and term/duration:

**Purview.** The purview of the PIG is for the Board of Trustees (BOT or Board), BOT staff and OHA Administration to work together to investigate the **initial steps** in the first phase of work for the development of Kaka'ako Makai. The first phase of work includes activities to learn (e.g., due diligence, objectives, vision, understanding current zoning and market conditions), plan (e.g., mission, understanding constraints, entitlements, functionality, utility), and recommend (e.g., vision, outcome, values immediate, long-range impact, performance).

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**Group - Term/Duration.** The term of the Permitted Interaction Group expires at the completion of the assigned tasks or at the discretion of the Chair of the Board of Trustees, subject to later adjustment, but in no event later than November 5, 2021.

**VII. References**

The following action item references are provided for context:

- A. **LCP #2 – Report Action Item BOT #21-07:** Accept the Report of the Permitted Interaction Group re: to Investigate and Recommend a Short List of Eligible Entities for Selection of a Development Consultant; Land and Commercial Property Policies; and the Development and Implementation of a Request for Proposal for a Community Planner, June 24, 2021
- B. **LCP #2 – Formation - Action Item BOT #21-05:** Approve the Formation of a Permitted Interaction Group to Investigate: and Recommend a Short List of Eligible Entities for Selection of a Development Consultant; Land and Commercial Property Policies; and the Development and Implementation of a Request for Proposal for a Community Planner, April 15, 2021
- C. **LCP #1 – Report - Action Item BOT #21-03:** Accept the Report of the Land and Commercial Property Permitted Interaction Group, April 15, 2021
- D. **LCP #1 – Formation - Action Item BOT #21-01:** Approve the Formation of a Permitted Interaction Group to Investigate the Development of Land and Commercial Property Policies and Strategies relating to the Development of OHA's Nā Lama Kukui and Kaka'ako Makai Properties, January 28, 2021

**VIII. Attachment - None**