



Informational Briefing on the Eleventh Triennial Report Kapi'olani Park Trustees

2024

Submitted by the Department of the Corporation Counsel for the April 2, 2024 Kapiolani Park Trustees Meeting, Agenda Item No. 1.

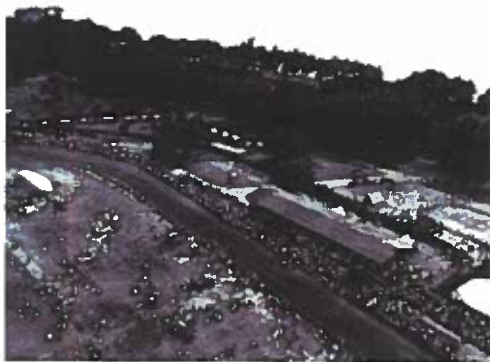
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Topics Covered

- ▶ I. Brief History
- ▶ II. Basic Terms of the Trust
- ▶ III. The Trustees' Role and Duties
- ▶ IV. Update on the Eleventh Triennial Report

I. History

The Kapi'olani Park Association was founded for the purpose of building residences for its stockholders, and laying out a horseracing track, surrounded by ornamental ponds and carriage paths.



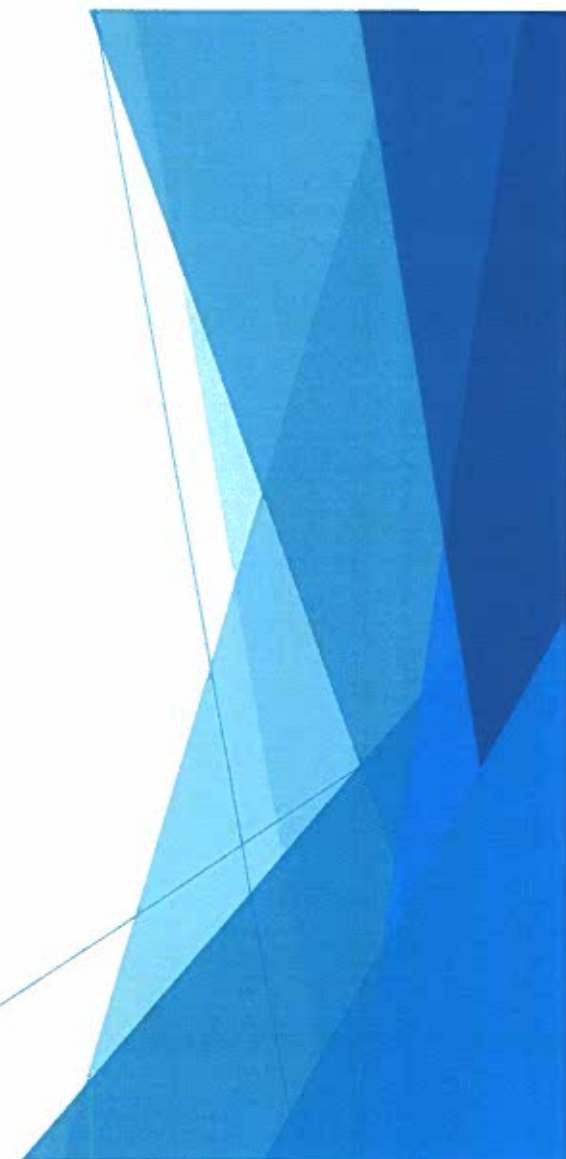
Act 53

On June 6, 1896, the President of the Republic of Hawai'i, Sanford Ballard Dole, approved Act 53 of the 1896 Legislature, which transferred the management of Kapi'olani Park from the Association to the Honolulu Park Commission, a public agency.

Act 53 provided that the park premises were to be "permanently set apart as a free public park and recreation ground forever."

Act 163

In 1913, the territorial legislature passed Act 163, which was entitled “To Transfer the Control and Management of Kapi‘olani Park from the Honolulu Park Commission to the City and County of Honolulu, and to Repeal Certain Laws Relating to Said Park.”



II. Basic Terms of the Trust

- ▶ A. The subject matter of the Trust is, generally speaking, the area we know as Kapi'olani Park.
- ▶ B. The beneficiaries of the Trust are members of the general public.
- ▶ C. The Successor Trustees are the members of the City Council.

“Park Purposes”

- ▶ The land comprising Kapi‘olani Park “are hereby set aside for a public purpose, to wit, for the purposes of a public park and recreation ground under the direction of the City and County of Honolulu.”
- ▶ Under Act 53, Trustees have the power “to grant and terminate franchises and permits for public entertainments, competitive exercises and exhibitions, and to make and enforce regulations for the protection of the grounds.”
- ▶ Trustees are expressly forbidden, by Act 53, to enter into leases or deeds of trust lands. But the Hawai‘i Supreme Court has indicated that licenses are not forbidden.

Examples of Appropriate Park Purposes





Honolulu Zoo



Parking Lots and Metered Parking



Tennis Courts and Lighting

Impermissible Uses



III. The Trustees' Role and Duties

- ▶ Enforcing the provisions of the Trust;
- ▶ Ensuring that those portions of Kapi'olani Park, which are part of the Trust, are kept within the Trust in perpetuity;
- ▶ Ensuring that the Trust lands are used only for park purposes within the terms of the Trust



Trustees' Role and Duties

- ▶ The day-to-day operations, maintenance and running of Kapi'olani Park, including the Trust lands, remain with the executive branch of the City.
- ▶ The budget for Kapi'olani Park shall continue to be developed and approved in the current manner, as provided for under the Revised Charter of the City and County of Honolulu.
- ▶ A report on their administration of the Trust shall be filed every three years.
- ▶ They shall not be compensated for their services as such trustees.

IV. Petition for Approval of the Eleventh Triennial Report

- ▶ The Trustees' Petition for Approval of the Eleventh Triennial Report was timely filed on June 1, 2023.
- ▶ By letter dated July 20, 2023, the Office of the Attorney General, acting as *parens patriae*, requested additional information relating to the Trust.
- ▶ By letter dated January 4, 2024, the Trustees and the City provided a composite response to the Office of the Attorney General, along with the requested information.
- ▶ The hearing on the Trustees' Petition previously was scheduled for April 11, 2024, but at the Office of the Attorney General's request, the hearing has been rescheduled for later this year.