REPORT OF THE COMMITTEE ON PLANNING AND THE ECONOMY

Voting Members:
Esther Kia'āina, Chair; Radiant Cordero, Vice Chair;
Val A. Okimoto, Calvin K.Y. Say, Matt Weyer

Committee Meeting Held
August 22, 2024

Honorable Tommy Waters
Chair, City Council
City and County of Honolulu

Mr. Chair:

Your Committee on Planning and the Economy, which considered Resolution 24-151 entitled:

"RESOLUTION APPROVING AND AUTHORIZING THE CONVEYANCE OF THE FORMER KALAHEO ELEMENTARY SCHOOL PROPERTY IN KAILUA, O'AHU, TO THE STATE OF HAWAI'I, DEPARTMENT OF HAWAIIAN HOME LANDS, IN FURTHERANCE OF THE INTENT OF THE HAWAIIAN HOMES COMMISSION ACT AND TO HONOR THE LEGACY OF PRINCE JONAH KŪHIŌ KALANIANA'OLE, WHICH INCLUDES HIS ROLE IN ESTABLISHING HAWAI'I'S COUNTIES, INCLUDING THE CITY AND COUNTY OF HONOLULU,"

introduced on June 4, 2024, reports as follows:

The purpose of Resolution 24-151 is to approve and authorize the conveyance of the former Kalaheo Elementary School property, a 10.038-acre vacant parcel located on Iliaina Street in Kailua, O'ahu, to the State of Hawai'i, Department of Hawaiian Home Lands ("DHHL") in furtherance of the intent of the Hawaiian Homes Commission Act, to provide housing for the City's residents, and to honor the legacy of Prince Jonah Kūhiō Kalaniana'ole.

Prior to the Committee's July 25, 2024 meeting, Committee Chair and District 3 Councilmember Esther Kia'āina received extensive stakeholder feedback from District 3 constituents through phone calls, email communications, neighborhood board meetings,

and visits with constituents residing adjacent to the subject parcel. In response to this feedback, Committee Chair Kia'āina introduced proposed amendments to the Resolution.

At the Committee's July 25, 2024 meeting, Resolution 24-151 and Committee Chair Kia'āina's amendments were brought up for hearing. The following entities submitted testimony in support:

- Office of Housing (strong support);
- Department of Budget and Fiscal Services (recommending transfer of the parcel);
- Department of Hawaiian Homelands (strong support);
- Office of Hawaiian Affairs (support); and
- Council for Native Hawaiian Advancement (strong support).

Twenty-four individuals submitted testimony opposing the measure based primarily on concerns regarding pre-transfer due diligence, infrastructure planning, and issues regarding soil quality; one individual offered neutral comments; and one individual testified against the measure based primarily on his belief that programs supporting Native Hawaiians are racist.

After thorough consideration, the Committee approved a CD1 version of the Resolution incorporating Committee Chair Kia'āina's proposed amendments and verbal amendments offered during the meeting.

On August 1, 2024, the Kailua Neighborhood Board passed a resolution requesting that a geotechnical study be conducted prior to the proposed transfer, and that a survey assessing existing conditions of homes abutting Kalaheo Hillside be conducted, approved, and disseminated to homeowners prior to construction.

In response to the Kailua Neighborhood Board's resolution and the concerns expressed at the July 25, 2024 meeting regarding pre-transfer due diligence, infrastructure planning, and soil quality, Committee Chair Kia'āina proposed additional amendments to:

- Clarify that the conveyance of the Kalaheo Site to DHHL is for the development of single-family homes consistent with the character of the surrounding neighborhood;

- Provide that DHHL will need to conduct due diligence prior to conveyance to determine the suitability of the site for the proposed development, including preparation of a Preliminary Engineering Report detailing utility and infrastructure availability, topography, soils, physical constraints and access restrictions, and other pertinent information; and

- Provide that the City will also need to conduct due diligence prior to conveyance, including evaluation of the potential impacts of the proposed development to the surrounding neighborhood, such as impacts to traffic and infrastructure, as well as a survey of any existing, soil-related damage to the homes abutting the site.

The proposed CD1 version of the Resolution and Committee Chair Kia'āina's additional amendments came on for hearing at the Committee's meeting on August 22, 2024. The following entities submitted testimony in support:

- Office of Housing (strong support);
- Department of Budget and Fiscal Services (strong support);
- Department of Hawaiian Homelands (strong support); and
- Office of Hawaiian Affairs (support).

Three individuals submitted testimony in support of the measure, and R.M. Towill Corporation and one individual submitted neutral comments.

Nineteen individuals submitted testimony in opposition, reiterating their concerns about due diligence, infrastructure, and soil quality.

After thorough consideration, the Committee approved a CD1 version of the Resolution, which makes the following amendments:

A. Amends the resolution title to read as follows:

"APPROVING AND AUTHORIZING THE CONVEYANCE OF THE FORMER KALAHEO ELEMENTARY SCHOOL PROPERTY IN KAILUA, O'AHU, TO THE STATE OF HAWAI'I DEPARTMENT OF HAWAIIAN HOME LANDS, IN FURTHERANCE OF THE INTENT OF THE HAWAIIAN HOMES COMMISSION ACT AND TO HONOR THE LEGACY OF PRINCE JONAH KŪHIŌ KALANIANA'OLE, WHICH INCLUDES HIS ROLE IN ESTABLISHING THE COUNTIES OF THE STATE OF HAWAI'I."

B. Amends the 13th WHEREAS clause to provide that the Hawaiian Homes Commission Act served as the legal basis for the establishment of the State of Hawai'i Department of Hawaiian Home Lands ("DHHL").

C. Deletes the 15th and 16th WHEREAS clauses relating to a previous land exchange between the City and the DHHL.

D. Amends the 17th WHEREAS clause to clarify that the former Kalaheo Elementary School property (the "Kalaheo Site") is zoned R-7.5 Residential District and P-1 Restricted Preservation District, has an assessed value of $10,455,000, and is depicted on the map attached to the resolution as Exhibit A (instead of Exhibits A-1 and A-2).

E. Amends the 19th WHEREAS clause to delete the reference to Departmental Communication 231 (2015).

F. Amends the 20th WHEREAS clause to provide that by Departmental Communication 557 (2024), the BFS Director has determined that the Kalaheo Site is surplus City real property, and, with the concurrence of the Department of the Corporation Counsel, has recommended the disposal of the Kalaheo Site pursuant to ROH § 37-1.2, subject to the City retaining its ownership of portions of the Kalaheo Site to be designated as roadways.

G. Deletes the 21st (relating to surplus City real property under ROH § 37-1.2) and 22nd (relating to Council adoption of a resolution pursuant to ROH § 37-1.2(g)) WHEREAS clauses, as most of the contents were incorporated into the 20th WHEREAS clause.

H. Adds a new 21st WHEREAS clause providing that the BFS Director has recommended that the fee simple interest in the Kalaheo Site, except for portions of the Kalaheo Site to be designated as roadways, be conveyed to the DHHL for purposes of providing native Hawaiians with homesteads.

I. Amends the 22nd WHEREAS clause to clarify that conveyance of the Kalaheo Site to the DHHL for the development of affordable single-family housing consistent with the character of the surrounding neighborhood serves a public purpose and is in the interest of the residents of the City.

J. Deletes the 23rd (relating to a minimum negotiated sale price), 24th (relating to the difference between the Kalaheo property's assessed value and the minimum negotiated sale price), and 25th (relating to treating the sale of City real property for less than the fair market value as a gift of City real property) WHEREAS clauses.

K. Adds a new 23rd WHEREAS clause to provide that the conveyance by the City to the DHHL of the Kalaheo Site, except for portions of the Kalaheo Site to be designated as roadways, will be considered a gift of City real property to the DHHL.

L. Amends the 24th WHEREAS clause to provide that the portions of the Kalaheo Site that are being conveyed will be conveyed (instead of sold) in an "as-is," "where-is" condition, and that the DHHL will need to conduct due diligence prior to the conveyance to determine the suitability of the Kalaheo Site for the proposed development, including preparation of a Preliminary Engineering Report detailing utility and infrastructure availability, topography, soils, physical constraints and access restrictions, and other pertinent information.

M. Adds a new 25th WHEREAS clause to provide that the City will also need to conduct due diligence prior to the conveyance, including evaluation of the potential impacts of the proposed development to the surrounding neighborhood, such as impacts to traffic and infrastructure, as well as a survey of any existing soil-related damage to the homes abutting the Kalaheo Site.

N. Deletes the penultimate and final WHEREAS clauses, which related to Drainage Easements A, E, F, and V that are in favor of the City for storm drain purposes and the cancellation of those Drainage Easements upon the sale of the Kalaheo property.

O. Amends the BE IT RESOLVED clause to provide that the Council approves and authorizes the conveyance of the former Kalaheo Elementary School property in Kailua, Oʻahu, identified as Tax Map Key 4-4-033:018, and depicted on the map attached to the resolution as Exhibit A and incorporated by reference therein, except for portions of the property to be designated as roadways, over which the City will retain its ownership (the "Property"), to the State of Hawaiʻi Department of Hawaiian Home Lands to provide native Hawaiians with homesteads, thereby furthering the intent of the Hawaiian Homes Commission Act ("Act") and the City's commitment to advancing the Act; providing housing for the City's residents and addressing the City's affordable housing crisis; and honoring the legacy of Prince Jonah Kūhiō Kalanianaʻole, without whom the City may not have achieved its independence and right to self-governance.

P. Deletes the 1st (relating to the negotiated sale of the former Kalaheo Elementary School property for the sum of $495,323) and 2nd (relating to deeming the difference between the fair market value of the former Kalaheo Elementary School property and the sale price of the property to be a gift from the City to the State of Hawaiʻi) BE IT FURTHER RESOLVED clauses.

Q. Adds a new 1st BE IT FURTHER RESOLVED clause to provide that the conveyance of the Property by the City to the State of Hawaiʻi Department of Hawaiian Home Lands is considered a gift of City real property that serves a public purpose by putting the currently vacant Property to productive use; demonstrating the City's commitment to furthering the intent of the Act to provide homesteads to native Hawaiians, including the over 11,000 applicants for residential homestead leases on Oʻahu; providing housing for the City's residents while addressing the City's affordable housing crisis; and reducing the City's liability and maintenance costs for the Property.

R. Combines the 2nd and 3rd BE IT FURTHER RESOLVED clauses to provide that the BFS Director or the Director's designee is authorized to execute (instead of sign) the deed and other documents necessary or incident to the conveyance of the Property as authorized and described in the resolution, and to agree to reasonable terms and conditions to effectuate the conveyance thereof; deletes reference to the cancellation of easements.

S. Deletes the 5th BE IT FURTHER RESOLVED clause, which related to the Council's approval of the cancellation of Drainage Easements A, E, F, and V.

T. Amends the 4th BE IT FURTHER RESOLVED clause (formerly the 6th BE IT FURTHER RESOLVED clause) to clarify that the conveyance of the Property must be in accordance with all applicable laws, rules, and regulations (instead of laws and City policies).

U. Amends the BE IT FINALLY RESOLVED clause to provide that a copy of the resolution be transmitted to the Chair of the State of Hawaiʻi Hawaiian Homes Commission (instead of the Chair of the State of Hawaiʻi Department of Hawaiian Home Lands).

V. Replaces the exhibits attached to the resolution (Exhibits A-1 and A-2) with a new Exhibit A.

W. Makes miscellaneous technical and nonsubstantive amendments.

REPORT OF THE COMMITTEE ON PLANNING AND THE ECONOMY

Voting Members:
Esther Kia'āina, Chair; Radiant Cordero, Vice Chair;
Val A. Okimoto, Calvin K.Y. Say, Matt Weyer

Your Committee on Planning and the Economy is in accord with the intent and purpose of Resolution 24-151, as amended herein, and recommends its adoption in the form attached hereto as Resolution 24-151, CD1. (Ayes: Cordero, Kia'āina, Okimoto, Say, Weyer – 5; Noes: None.)

Respectfully submitted,

Esther Kia'aina

Committee Chair

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ADOPTED ON SEP 4 2024

COMMITTEE REPORT NO. 270

HONOLULU CITY COUNCIL

KE KANIHELA O KE KALANA O HONOLULU

CITY AND COUNTY OF HONOLULU

No. **24-151, CD1**

RESOLUTION

APPROVING AND AUTHORIZING THE CONVEYANCE OF THE FORMER KALAHEO ELEMENTARY SCHOOL PROPERTY IN KAILUA, O'AHU, TO THE STATE OF HAWAI'I DEPARTMENT OF HAWAIIAN HOME LANDS, IN FURTHERANCE OF THE INTENT OF THE HAWAIIAN HOMES COMMISSION ACT AND TO HONOR THE LEGACY OF PRINCE JONAH KŪHIŌ KALANIANA'OLE, WHICH INCLUDES HIS ROLE IN ESTABLISHING THE COUNTIES OF THE STATE OF HAWAI'I.

WHEREAS, Prince Jonah Kūhiō Kalaniana'ole ("Prince Kūhiō"), who served as Hawai'i's delegate to the United States Congress ("Congress") from 1902 through 1922, was a zealous advocate for the perpetuation and rehabilitation of the Native Hawaiian people and their culture, and an advocate for the right of all of the people of Hawai'i to be represented by an elected local government; and

WHEREAS, as his first major undertaking after being elected as Hawai'i's Congressional delegate, Prince Kūhiō was determined to achieve self-governance for the people of Hawai'i by establishing independent counties within the Territory of Hawai'i ("Territory"), led by local elected leaders, to more evenly distribute the economic and political decision-making powers among the people; and

WHEREAS, in 1905, despite his lack of voting powers as a territorial delegate, Prince Kūhiō strategically gained the support of his colleagues and a seat on the House Committee on Territories, and ultimately successfully catalyzed the Territory's establishment of independent counties by shepherding through the enactment of Public Law Number 58-198; and

WHEREAS, Public Law Number 58-198 provided the impetus and authority for the 1905 Hawai'i Territorial Legislature to enact Act 39, which divided the Territory into independent counties and set forth a government structure for the counties that included an elected Board of Supervisors (later renamed to be the county Councils); and

WHEREAS, Act 39 laid the foundation for the current governance structure of the City and County of Honolulu ("City"), which serves as an important reminder of Prince Kūhiō's legacy and provides the ongoing benefits of local governance to the City's residents; and

RESOLUTION

WHEREAS, following the creation of the county governments, Prince Kūhiō continued to advocate for the people of Hawai'i and the betterment of the Territory and its counties by securing a funding appropriation for the dredging and construction of Pearl Harbor, sponsoring the first bill to attain Hawai'i's statehood in 1919, and, as perhaps his most renowned accomplishment, introducing and championing a bill that culminated in the enactment of the Hawaiian Homes Commission Act ("Act"), which was signed into law by then-President Warren G. Harding on July 9, 1921; and

WHEREAS, the Act, which was later incorporated as a provision in the State of Hawai'i ("State") Constitution as a condition of statehood, was intended to provide native Hawaiians with homesteads through leases of residential, pastoral, and agricultural lots, as well as other supportive assistance to promote the rehabilitation of the native Hawaiian people; and

WHEREAS, in 1990, the State adopted an amendment recognizing that the purpose of the Act is to "enable native Hawaiians to return to their lands in order to fully support self-sufficiency for native Hawaiians and the self-determination of native Hawaiians . . . and the preservation of the values, traditions, and culture of native Hawaiians"; and

WHEREAS, historically and continuing through the present day, there have been issues relating to the administration of the Act, including resource limitations, a lack of infrastructure and access to water, and improper and uncompensated use of Hawaiian Home Lands by the State and federal governments; and

WHEREAS, in 1995, Congress passed the Hawaiian Home Lands Recovery Act and the State passed Act 14 to help settle longstanding claims against the federal and State governments for unauthorized and uncompensated use of Hawaiian Home Lands, and some of the commitments to compensate the trust remain unfulfilled; and

WHEREAS, by Resolution 21-147, CD1, the City Council ("Council") recognized and affirmed that because the State accepted the responsibility to administer the Act as a condition of its statehood, the City, as an instrumentality of the State, is committed to and has a role to further the intent of the Act to provide native Hawaiians with homesteads; and

RESOLUTION

WHEREAS, by Resolution 21-147, CD1, the Council recognized that while the native Hawaiian people and the larger community have benefited substantially from the Act, there is much more that may be done to ensure the future viability and fulfillment of the Act; and

WHEREAS, the Act served as the legal basis for the establishment of the State of Hawai'i Department of Hawaiian Home Lands ("DHHL"), which is headed by the nine-member Hawaiian Homes Commission and currently manages over 200,000 acres of Hawaiian Home Lands; and

WHEREAS, there are over 46,000 lease applications for over 29,000 individuals still awaiting residential, agricultural, and pastoral DHHL homesteads, including over 11,000 applications for residential homesteads on O'ahu; and

WHEREAS, the Council has repeatedly recognized that the City has an affordable housing crisis and is continuously striving to alleviate this crisis in various ways by enacting countless measures in recent years that encourage the development of affordable housing for City residents, providing funding and grants for the construction of affordable housing, relaxing development standards to allow for increased density in certain areas, and prohibiting the short-term rental of housing units and rooms in residential districts in favor of long-term rentals for local residents; and

WHEREAS, in furtherance of the City's commitment to the intent of the Act to provide native Hawaiians with homesteads, and to honor Prince Kūhiō, who was deeply committed to the Act's intent and without whom the City may not have achieved its independence and right to self-governance that is critical to the representation of the voices of City residents within the State, the Council desires to convey City real property to the DHHL to facilitate the creation of affordable housing to address the needs of the City's residents, including the thousands of applicants awaiting DHHL residential homestead leases on O'ahu; and

WHEREAS, the City owns in fee the former Kalaheo Elementary School property (the "Kalaheo Site"), which is a 10.038-acre vacant parcel located on Iliaina Street in Kailua, O'ahu, that is zoned R-7.5 Residential District and P-1 Restricted Preservation District with a 2024 assessed value of $10,455,000, and is identified as Tax Map Key 4-4-033:018, depicted on the map designated as Exhibit A, attached hereto and incorporated by reference herein; and

RESOLUTION

WHEREAS, Section 46-1.5(16), Hawaii Revised Statutes ("HRS"), authorizes the counties, under certain conditions, to dispose of real property as the interests of the inhabitants of the county may require, except that any property held for school purposes may not be disposed of without the consent of the Superintendent of Education; and

WHEREAS, the Superintendent of Education has previously consented to the return of the Kalaheo Site to the jurisdiction of the City for disposal; and

WHEREAS, by Departmental Communication 557 (2024), the Director of Budget and Fiscal Services ("BFS Director") has determined that the Kalaheo Site is surplus City real property, and with the concurrence of the Department of the Corporation Counsel, has recommended the disposal of the Kalaheo Site pursuant to Section 37-1.2, Revised Ordinances of Honolulu 2021, subject to the City retaining its ownership of portions of the Kalaheo Site, to be designated as roadways; and

WHEREAS, the BFS Director has further recommended that the fee simple interest in the Kalaheo Site, except for portions of the Kalaheo Site to be designated as roadways, be conveyed to the DHHL for purposes of providing native Hawaiians with homesteads; and

WHEREAS, the Council finds that conveyance of the Kalaheo Site to the DHHL for the development of affordable single-family housing consistent with the character of the surrounding neighborhood serves a public purpose and is in the interest of the residents of the City, because it will put the vacant property to productive use; demonstrate the City's commitment to furthering the intent of the Act to provide homesteads to native Hawaiians, including the over 11,000 applicants for residential homestead leases on O'ahu; provide housing for the City's residents while addressing the City's affordable housing crisis; and reduce the City's liability and maintenance costs for the property; and

WHEREAS, the conveyance by the City to the DHHL of the Kalaheo Site, except for portions of the Kalaheo Site to be designated as roadways, will be considered a gift of City real property to the DHHL; and

WHEREAS, the portions of the Kalaheo Site that are being conveyed will be conveyed in an "as-is," "where-is" condition, and the DHHL will need to conduct due diligence prior to the conveyance to determine the suitability of the Kalaheo Site for the proposed development, including preparation of a Preliminary Engineering Report

detailing utility and infrastructure availability, topography, soils, physical constraints and access restrictions, and other pertinent information; and

WHEREAS, the City will also need to conduct due diligence prior to the conveyance, including evaluation of the potential impacts of the proposed development to the surrounding neighborhood, such as impacts to traffic and infrastructure, as well as a survey of any existing soil-related damage to the homes abutting the Kalaheo Site; now, therefore,

BE IT RESOLVED by the Council of the City and County of Honolulu that it approves and authorizes the conveyance of surplus City real property described as the former Kalaheo Elementary School property in Kailua, O'ahu, identified as Tax Map Key 4-4-033:018, and depicted on the map attached hereto as Exhibit A, and incorporated by reference herein, except for portions of the property to be designated as roadways, over which the City will retain its ownership (the "Property"), to the State of Hawai'i Department of Hawaiian Home Lands to provide native Hawaiians with homesteads, thereby furthering the intent of the Hawaiian Homes Commission Act ("Act") and the City's commitment to advancing the Act; providing housing for the City's residents and addressing the City's affordable housing crisis; and honoring the legacy of Prince Jonah Kūhiō Kalaniana'ole, without whom the City may not have achieved its independence and right to self-governance; and

BE IT FURTHER RESOLVED that the conveyance of the Property by the City to the State of Hawai'i Department of Hawaiian Home Lands is considered a gift of City real property that serves a public purpose by putting the currently vacant Property to productive use; demonstrating the City's commitment to furthering the intent of the Act to provide homesteads to native Hawaiians, including the over 11,000 applicants for residential homestead leases on O'ahu; providing housing for the City's residents while addressing the City's affordable housing crisis; and reducing the City's liability and maintenance costs for the Property; and

BE IT FURTHER RESOLVED that the Director of Budget and Fiscal Services, or the Director's designee, is authorized to execute the deed and other documents necessary or incident to the conveyance of the Property as authorized and described herein, and to agree to reasonable terms and conditions to effectuate the conveyance thereof; and

BE IT FURTHER RESOLVED that the conveyance of the Property must be in accordance with all applicable laws, rules, and regulations; and

HONOLULU CITY COUNCIL

KE KANIHELA O KE KALANA O HONOLULU

CITY AND COUNTY OF HONOLULU

No. **24-151, CD1**

RESOLUTION

BE IT FINALLY RESOLVED that copies of this resolution be transmitted to the Director of Budget and Fiscal Services, the Director of Land Management, and the Chair of the State of Hawai'i Hawaiian Homes Commission.

INTRODUCED BY:

Esther Kia'āina

Tommy Waters

DATE OF INTRODUCTION:

June 4, 2024
Honolulu, Hawai'i

Councilmembers

EXHIBIT A


Site
SITE
44033018
ILIKUPONO ST
TO MCBH
ILIAINA ST
MOKAPU BLVD
KAINUI DR
ILIPILO ST
KAHA ST
KAHA PL
KALAHEO
PLAYGROUND
ONEAWA ST
KALAHEO
HIGH SCHOOL
MOKAPU SADDLE RD

Report Title:
City Real Property; Surplus; Disposal; Conveyance; Gift; Public Purpose; Hawaiian Homes Commission Act; Prince Jonah Kūhiō Kalaniana'ole ("Prince Kūhiō"); State of Hawai'i Department of Hawaiian Home Lands ("DHHL"); Department of Budget and Fiscal Services ("BFS"); Department of Land Management ("DLM")

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.