

Planning Office
Department of Hawaiian Home Lands

July 7, 2009

To: Micah A. Kane, Chairman
Hawaiian Homes Commission

Through: Kaulana Park, Deputy to the Chairman *K. Park*

From: Darrell Yagodich, Planning Program Manager *Darrell Yagodich*

Subject: DESIGNATION OF EWA DRUM SITE FOR SALE

RECOMMENDATION

As authorized under P.L. 104-42, the Hawaiian Home Lands Recovery Act of 1995, the Chairman of the Hawaiian Homes Commission:

- (1) Grants his approval to designate the Ewa Drum site (TMK Nos. 9-4-03:44 and 9-4-08:10) to be sold to the City and County of Honolulu; and
- (2) Authorizes sales proceeds to be deposited in the Hawaiian Homes Trust Fund to be used for purposes described in section 207(a) of the Hawaiian Homes Commission Act.

DISCUSSION

At its regular meeting on May 23, 2006, the Hawaiian Homes Commission approved and authorized the Chairman to carry out necessary actions to complete a land exchange with the City and County of Honolulu, exchanging the department's Ewa Drum site totaling 55.876 acres (surveyed) for the City's Varona Village site totaling approximately 52.717 acres. Necessary actions to complete the exchange include: finalize and execute an exchange agreement, complete appraisals for the exchange properties, determine additional consideration that may be required to ensure a value-for-value transaction, prepare an information package to be submitted to the U.S. Department of Interior, subdivide the Varona Village site, and record the exchange deed following approval by the U.S. Secretary of the Interior.

Micah A. Kane, Chairman
July 7, 2009
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According to Patrick Kubota, the department entered into a contract with John Child & Company in May 2008 to complete the appraisals of both properties. The City verbally agreed to pay one-half the cost of the appraisals when the exchange is completed. In April 2009, John Child & Company substantially completed the appraisals and in May 2009, verbally communicated to the department that Ewa Drum site was appraised between a market value range of \$14.40 to \$15.55 million and Varona Village was appraised between a market value range of \$13.54 to \$15.10 million. John Child & Company will complete the market value appraisals and issue their report after the department and City completes their negotiations to establish the values of each property.

In May 2009, during the exchange negotiations with the City, the City requested the department to consider the sale of the Ewa Drum site to the City and in return the City would sell the Varona Village site to the department. The City informed the department that they have federal funds available that can only be used to purchase land for transit purposes and would prefer to use these funds to purchase the Ewa Drum site. The City's planned use for the Ewa Drum site is for a transit corporation yard that is an essential element for their planned Honolulu rail transit system (Honolulu High-Capacity Transit Corridor Project). The City plans to break ground for the rail transit system in late 2009.

HHLRA CRITERIA MET

In May 2009, the State Attorney General's Office was requested to opine on whether the department could sell the Ewa Drum site to the City. On June 1, 2009, Clayton Lee Crowell of the State Attorney General's Office reported that he:

"remains of the opinion that DHHL is authorized under the Hawaiian Home Lands Recovery Act of 1995 to sell the Ewa Drum site to the City. Sale of Ewa Drum/purchase of Varona is worth pursuing because it is a straight-forward transaction that can be completed much quicker than the more cumbersome requirements to exchange Ewa Drum/Varona."

Criteria: Section 203(3) of the Hawaiian Home Lands Recovery Act of 1995, P.L. 104-42 (HHLRA), authorizes the department to sell lands designated as compensation for "lost use" of Hawaiian home lands. The term "lost use" is defined in the HHLRA, Section

202.(7), page 21, lines 10-16, as the value of the use of the land during the period when the Hawaiian Homes Commission was unable to use lands because of the use of such lands by the Federal Government after August 21, 1959.

Comment: The value of "lost use" of Hawaiian home lands after August 21, 1959 was determined to be about \$20 million as of 1998. See enclosed "DHHL - HHLRA Claims vs. Federal Lands", by John Child & Company, June 25, 1998. This amount of "lost use" value has increased between 1998 and 2009. Hence, the department is well within the threshold and can designate lands for sale up to \$20 million in value.

Criteria: HHLRA, Section 203(c)(3), page 27, lines 12-21, grants the Chairman of the Hawaiian Homes Commission with the authority to designate lands to be sold at the time that lands are conveyed to the Department of Hawaiian Home Lands as compensation for lost use under this Act.

Comment: The enclosed letter to Secretary of the Interior Salazar would accomplish this designation requirement.

Criteria: The Chairman is authorized to sell such land under terms and conditions that are in the best interest of the beneficiaries.

DHHL has been supportive of the rail transit project because it will provide mass transit services to over 500 acres of Hawaiian home lands in Kapolei with significant homestead (900 existing and 1,000 planned housing units), community, and commercial developments with the larger Kapolei region and island of Oahu. Regional amenities include shopping areas in Kapolei and Ewa, resort destinations at Ko Olina and Ewa Marina, and jobs at Campbell Industrial Park. A sale to the City is workable because federal rail transit funds are available now.

Criteria: The proceeds of such a sale may only be used for purposes described in section 207(a) of the Hawaiian Homes Commission Act."

Comment: Section 207(a) of the HHCA deals with native Hawaiian homestead residential, agricultural, aquaculture, and pastoral leases. Therefore, proceeds from the sale of

Micah A. Kane, Chairman

July 7, 2009

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the Ewa Drum site can only be used for these types of purposes. It is suggested that these proceeds be deposited into the Hawaiian Homes Trust Fund with the proviso that these funds be "used for purposes described in section 207(a) of the Hawaiian Homes Commission Act."

In accordance with HHLRA, the Federal Government conveyed Ewa Drum site to the department on June 29, 2009 and the deed will be recorded at the State Bureau of Conveyances shortly. Therefore, the Chairman may designate Ewa Drum site to be sold.

JUSTIFICATION TO DESIGNATE LANDS TO BE SOLD

There are several key points which justify the department's recommendation to sell the Ewa Drum site to the City:

- The sale of the Ewa Drum site is authorized under HHLRA and the proceeds from the sale will not exceed the \$20 million threshold.
- A proposed sale of the Ewa Drum site gives the department a negotiating alternate to an exchange. The sale of the Ewa Drum site will be subject to HHLRA requirements that proceeds be used for Section 207(a) HHCA purposes only.
- The separate sales of Ewa Drum (to the City) and Varona Village (to DHHL) are straight-forward transactions that can be completed much quicker than the cumbersome (and expensive) requirements to exchange properties.
- The department has testified in favor of the City's Honolulu Rail Transit System which will provide service to department lands in Kapolei with significant homestead, community, and commercial developments. Sale of the Ewa Drum Site to the City in a timely manner is essential to maintain its transit system financing plan.

RECOMMENDATION

We respectfully request that the Chairman of the Hawaiian Homes Commission grant his approval to designate the Ewa Drum site to be sold to the City and County of Honolulu as allowed under the Hawaiian Home Lands Recovery Act of 1995. A letter to that

Micah A. Kane, Chairman

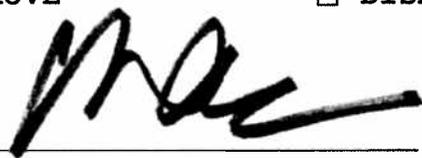
July 7, 2009

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effect to the Secretary of the Interior is enclosed for your review and approval.

APPROVE

DISAPPROVE



Micah A. Kane, Chairman
Hawaiian Homes Commission

July 9, 2009

Date

Enclosures

c: Robert Hall, Executive Assistant
Linda Chinn, Administrator, Land Management Division
Patrick Kubota, Finance and Development Specialist, OCH

**COMPARISON OF MARKET VALUES
ASSUMING WAIVERS AND INFRASTRUCTURE**

Properties/claims	Value of HHLRA Claims		
	Low	Middle	High
Lualualei exchange value	\$49,200,000	\$49,200,000	\$49,200,000
Lualualei compensation	18,800,000	19,600,000	20,400,000
Section 208 compensation	5,140,000	6,935,000	8,730,000
Section 203 exchange value	1,210,000	1,380,000	1,550,000
Section 203 compensation	570,000	590,000	610,000
Total claims, rounded	\$74,900,000	\$77,700,000	\$80,500,000
BPNAS lands			
Reuse Commission inventory	[1][2] \$30,600,000	\$34,750,000	\$38,900,000
Headquarters (3 acres)	[2] 1,430,000	1,545,000	1,660,000
Affordable Housing (60 acres)	1,800,000	2,070,000	2,340,000
Raceway Track expansion (16 acres)	160,000	240,000	320,000
Life Safety Academy & Park (9 acres)	[2] 4,020,000	4,310,000	4,600,000
Subtotal BPNAS lands	38,010,000	42,915,000	47,820,000
Navy lands			
Ewa Drum site	14,600,000	15,600,000	16,600,000
Halawa Laundry site	1,720,000	1,815,000	1,910,000
Subtotal Navy lands	16,320,000	17,415,000	18,510,000
GSA lands			
Waipahu Monitoring site	15,900,000	16,800,000	17,700,000
Manana Marine Housing site	1,520,000	1,675,000	1,830,000
Upolu Point site	950,000	1,005,000	1,060,000
Omega site	3,200,000	4,200,000	5,200,000
Subtotal GSA lands	21,570,000	23,680,000	25,790,000
Total federal lands, rounded	\$75,900,000	\$84,000,000	\$92,100,000

[1] Assumes no disutility caused by potential avigation easements on the BPNAS parcels.

[2] Assumes the Navy permits use of existing infrastructure to downtown BPNAS properties.

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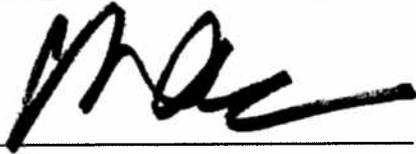
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