



DEPARTMENT OF THE ATTORNEY GENERAL

News Release

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News Release 2011-28

**THE STATE OF HAWAII AND THE OFFICE OF HAWAIIAN AFFAIRS DISCUSS
SETTLEMENT REGARDING CEDED LANDS**

HONOLULU – Governor Abercrombie announced today that the State and the Office of Hawaiian Affairs (“OHA”) are discussing an agreement in principle, subject to Legislative approval, relating to ceded lands. This is the first important step in a long process of community and legislative meetings so that the public will have the opportunity to provide input. If ultimately approved, this agreement will finally and completely resolve any and all claims relating to OHA’s share of ceded land receipts under article XII, sections 4 and 6 of the State Constitution, from November 7, 1978 to July 1, 2012.

Governor Abercrombie said of this development: “My administration has been working with the Office of Hawaiian Affairs for months to reach an agreement that is pono, that benefits native Hawaiians, and that is the right thing for the State. The Legislature must still properly consider and vet this proposal and give its final approval, and I look forward to working with the Legislature during that process. So while we are pleased that the State and OHA have reached this agreement in principle, there is still a long way to go. We are optimistic that we’ll get there.”

OHA Chairperson Colette Machado said: “OHA will hold many community meetings for the public to provide its input. OHA’s Board of Trustees agreed to move forward with this proposal because we believe it is good for native Hawaiians. We are grateful to the Governor for working hard to make this happen.”

Settlement Terms

The State and OHA agree that a \$200 million approximate settlement amount represents a reasonable compromise of the disputed claims. To satisfy that \$200 million amount, the State is conveying contiguous and adjacent parcels in Kaka’ako Makai. The parcels are near Kaka’ako Waterfront Park, including Fisherman’s Wharf.

The lands are and will remain under the jurisdiction of the Hawaii Community Development Authority (“HCDA”), and will continue to be subject to HCDA’s zoning and other land use conditions. The lands will be conveyed “as is”, “where is”. OHA will do due diligence investigations on the lands, and can walk away prior to Legislative approval.

The State is not giving up any mineral, surface or ground water rights to this land. The State will also have access rights and easements as reasonably necessary for the benefit and use of its adjoining properties. Additionally, all current leases are still valid and will pass to OHA. Once those leases expire, OHA will decide how to proceed, consistent with HCDA’s master plans and rules.

In exchange for the land, OHA will release, waive and discharge any and all claims that it, and any other person or entity, might make to ceded lands receipts under article XII, sections 4 and 6 of the Constitution, or any related statute or law, for the period from 1978 to July 1, 2012.

The settlement has no effect on claims that might be made related to overthrow or sovereignty, or claims related to ceded lands receipts for future periods, which are currently governed by Act 178 (2006). Pursuant to that Act, OHA’s current annual share of ceded lands receipts is \$15.1 Million. The settlement only applies to claims for ceded lands receipts that the State collected between 1978 and 2012.

Background

Article XII, section 4 of the State Constitution, provides that certain lands ceded by the United States to the State of Hawaii as part of the Admission Act (section 5(f)), are held by the State as a public trust for native Hawaiians and the general public. These are known as the ceded lands.

Under article XII, section 6 of the State Constitution, a portion of the income and proceeds derived from the ceded lands are to be used by OHA to better the conditions of native Hawaiians. Since 1978, OHA has made certain claims for payments for ceded lands income and proceeds, and has filed several lawsuits to assert these claims. All lawsuits have been dismissed on grounds that it is up to the Legislature to determine what constitutes the appropriate portion of the income and proceeds derived from ceded lands that are to be given to OHA to administer.

In 2008, a settlement agreement was reached between the Lingle Administration and OHA contingent upon passage of implementing legislation, which did not pass.

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State's 2nd Proposal (Complete)
November 14, 2011

TMK	Address	Land Area*	HCDA		Heigh Limit	Fee Simple PerSq.Ft.	Land Value** Total
			Zoning	Density			
A 2-1-58-95; 2-1-58-125	1011 Ala Moana Blvd and Kewalo Basin	221,363	WC	1.50	65	\$158.00	34,980,000
B 2-1-58-2; 2-1-58-35	123 & 113 Ahui St.	137,213	WC	1.50	65	\$129.35	17,750,000
C 1-2-58-124; 1-2-58-126	59 Ahui St./Ahui St.	88,916	WC	1.50	65	\$155.30	13,820,000
D 2-1-58-48; 2-1-60-13	45 & 53 Ahui St.	40,841	WC	1.50	65	\$181.20	7,400,000
E 2-1-58-6	919 Ala Moana Blvd (AFES)	95,832	MUZ	2.50	400***	\$179.10	17,160,000
F 2-1-60-5	160 Ahui St.	200,942	MUZ	2.00	200	\$152.60	30,660,000
G 2-1-60-6	160 Koula St.	110,904	MUZ	2.00	200	\$166.55	18,470,000
J 2-1-15-52	Ilalo St.	240,059	MUZ	1.50	100	\$103.70	24,890,000
K 2-1-60-1	End of Ahui St. Point Panic	69,000	WC	1.50	65	\$165.55	11,420,000
L 2-1-15-51	End of Keawe St.	227,645	MUZ	.60	45	\$96.35	<u>21,930,000</u> \$198,480,000

* In Sq. Ft.

** Preliminary Valuations Only, Not Full Appraisals

*** Assumes Height Limit Change to 400'