

# **A WAREHOUSE DISTRICT FOR HAWAII?**

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## **FOREWORD**

This study was prepared in response to House Resolution No. 16, H.D. 1, adopted during the Regular Session of 1992. The resolution requested the Legislative Reference Bureau to study the feasibility of establishing a warehouse district in Hawaii, identify possible locations, and look for alternatives to a warehouse district.

The Bureau extends its appreciation to all who cooperated and assisted with its investigation. The Bureau wishes to extend specific thanks to Mike Wilson, President, Industrial Business Association; James M. Cayce, Director of AG, United States General Services Administration; and Janet Sena, Community Economic Development Consultant, State of Hawaii, Department of Business and Economic Development.

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# **Chapter 1**

## **INTRODUCTION**

### **Origin**

This report responds to House Resolution No. 16, H.D. 1, entitled "Requesting the Legislative Reference Bureau to Study the Feasibility of Establishing a Public "Warehouse District" for Businesses in Hawaii." The Resolution is set out in Appendix A. Concern in the industrial community over escalating warehouse costs and relocation of available warehouse sites caused the House of Representatives to adopt H.R. No. 16, H.D. 1. The study explores both the feasibility of establishing a "warehouse district" and other alternatives to assist in curtailing costs of essential goods and services vital to Hawaii's economy.

### **Purpose**

The purpose of the study is to determine the feasibility of establishing a "Warehouse District" for businesses in Hawaii. Additionally, the study also focuses on identifying other options, in the event the "Warehouse District" is not feasible or adequate to resolve the issues. The Resolution does not define the term "Warehouse District" and as a result, an ancillary purpose must include defining a "Warehouse District" including an examination of policy issues addressing the selection of a particular industry for this treatment.

### **Scope of the Study**

The geographic scope of the study covers issues as they relate to the entire State, with a strong emphasis on the Honolulu area. The scope of the study was specifically expanded before final adoption by the Committee on Planning and Economic Development to include "looking for available federal land and exploring various means of acquiring the land including land swaps and leases."<sup>1</sup>

The theoretical scope of the study was limited to the issues surrounding establishing a "Warehouse District". Clarification of this term is required because the title of the Resolution refers to establishing a "public 'Warehouse District'". In the warehousing industry, the term "public warehouse" refers to a particular type of warehouse. Public warehousing is an arrangement in which the title of the goods remains with the client and the owner of the public warehouse provides the storage facility, materials handling, labor and supervision, clerical and administrative support, and receiving, storage and shipping services.<sup>2</sup> By separating the word public and "Warehouse District" as is done in the title of the Resolution there is an implication that the title refers to a publicly, or state-owned and operated area of warehouses. Discussions with Chairperson Reb Bellinger of the Committee on Planning and Economic Development confirmed that the correct interpretation of the purpose and scope of the study did not include an analysis of a state-owned and operated area of warehouses.<sup>3</sup>

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It should be noted that Senate Concurrent Resolution No. 55, S.D. 1,<sup>4</sup> originated with very similar concerns as H.R. No. 16, H.D. 1, and contains similar themes. The main difference between the two is that S.C.R. No. 55, S.D. 1, does address the concept of publicly owned and operated warehousing. A comprehensive examination of the topic from a variety of perspectives would most likely be achieved by reviewing both this report and the report generated as a result of S.C.R. No. 55, S.D. 1, by the Department of Business, Economic Development and Tourism.

### Methodology

The information for this report was gathered through a variety of techniques. Both private companies and public agencies provided insight into the intricacies of this local dilemma. Their assistance and expertise is noted throughout the report. Other information was gathered from standard sources.

Chapter 2 provides a brief historical perspective of the industry and its significance to the State. It also discusses some of the elements that contributed to the current industrial market, and the future outlook for industrial real property throughout the State. Chapter 3 explores what is meant by the term "warehouse district" and examines different legal frameworks that could be attached to those ideas. Chapter 3 also includes a discussion on the policy issues involved in providing a "warehouse district." Chapter 4 reviews possible sites for a "warehouse district" including identifying possible federal land available for exchange, purchase or lease. Chapter 4 also lists several alternatives in the event a "warehouse district" is not feasible. Chapter 5 contains the findings and recommendations of this study.

### Endnotes

1. House Standing Committee Report No. 897-92 on H.R. No. 16, Sixteenth Legislature, 1992 Regular Session, State of Hawaii.
2. Supermarket News, October 31, 1983, p. 201; see also Kenneth B. Ackerman, The Practical Handbook of Warehousing, 2nd ed. (Washington, D.C.: Traffic Service Corporation), 1986, page 15.
3. Telephone interview with Reb Bellinger, Chairperson, Committee on Planning and Economic Development, House of Representatives, August 6, 1992.
4. Senate Concurrent Resolution No. 55, S.D. 1, Sixteenth Legislature, 1992 Regular Session, State of Hawaii.

## **Chapter 2**

### **DEFINING THE PROBLEM**

This study focuses on one of the many costs of doing business in Hawaii, warehousing. The warehousing industry has been concerned about the increasing costs of efficiently located sites for warehouses with convenient access to ports, highways, and airports. There are several issues to be addressed when examining whether or not these concerns are of significance. This chapter reviews the industrial property situation on Oahu from its historical as well as current perspectives. There is a review of the available industrial lands throughout the State along with a discussion on how the locations of the existing available industrial land can affect the future costs of living caused by the receipt, storage, assembly, distribution and maintenance of essential goods and services by the industrial businesses of the community.

#### **Historical Overview of Industrial Land**

Warehousing can be traced back as far as primeval times, with evidence that the humans during those periods would store food to prepare for long winters or famine. The Bible tells the story of how Joseph saved his countrymen by storing grain during the seven years of plenty so that in the seven years of famine that followed, the Egyptians would have food to eat. As trade routes developed with transportation advances, the warehousing industry also developed. The busiest cities were those that were strategically located on trade routes. The merchants of Venice are considered to be the first warehousemen to use warehouse receipts as negotiable instruments.<sup>1</sup> The settlement of North America and the development of ocean commerce brought these ancient, still viable commercial concepts to the Pacific Basin and Hawaii as early as the sixteenth century.<sup>2</sup> It is widely accepted that it was not until the latter part of the eighteenth century that the Hawaiian islands became a regular supply and trading post for the whaling industry and other European commercial traders.<sup>3</sup>

The commercial aspect of Honolulu Harbor was the main reason that Honolulu became the Hawaiian Islands' capitol city.<sup>4</sup> Previously, royalty resided in Lahaina, Maui, where most government meetings were held. Both Lahaina and Kealahou Bay competed for the role as the major port in the early 1800's.<sup>5</sup> Hawaiians were hesitant to settle on the barren land surrounding the port of Honolulu but the increasing activity of Honolulu Harbor caused chiefs in council on the island of Hawaii to move the official residence of the royalty to Oahu in 1821 and ultimately declare Honolulu as the capital in 1850.<sup>6</sup> While King Kamehameha II still preferred the beauty of Lahaina, the barren land around Honolulu Harbor was ideal to develop the necessary industrial structures that would support the thriving commercial trade that continues today.

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As the town of Honolulu grew from the edges of the Harbor, the Iwilei, Downtown, and Kalihi Kai districts naturally became the sites of the industrial development. For example, in 1921 the Theo H. Davies building was constructed in downtown Honolulu. The celebrated four-story ornate structure was described as a warehouse/office building.<sup>7</sup> The space where that building was built would be an indicator of the transition that the commercial and industrial business would undergo over the years.

A former residential neighborhood underwent a transition in the 1950's and Kakaako started its reign as one of the premier industrial areas in Honolulu.<sup>8</sup> About the same time the Mapunapuna industrial area was being developed. These two industrial areas were the focus of much of the industrial development post-World War II. Shortly thereafter, land developed on Oahu for industrial use declined from twenty percent of all land developed in the four year period of 1956-1960 to under ten percent over the three year period from 1961-1963.<sup>9</sup> In 1963, the Land Use Law was enacted and codified as Chapter 205, *Hawaii Revised Statutes*. Controlled development was now under the guidance of the state Land Use Commission. Industrial uses could be found only in urban designated areas. This was not a problem because in 1963 the downward turn in industrial development indicated little need for additional industrial acreage beyond that which was already designated.<sup>10</sup> As land prices started to increase the cost of maintaining low capacity structures became more difficult. High rise commercial office towers started to emerge. In 1972, the Davies Pacific Center, a high rise commercial office tower replaced the four-story warehouse/office building built in 1921.<sup>11</sup>

### Recent Developments

The 1980's saw dramatic increases in all land prices. House Resolution No. 16, H.D. 1, suggests that out-of-state buyers' desire for Honolulu real estate was one of the causes of that dramatic increase in land prices.<sup>12</sup> While a full analysis of this issue is beyond the scope of this study a dramatic increase in the flow of foreign investment into Hawaii does correspond with land price increases.<sup>13</sup> In 1989 land prices in traditionally industrial areas were selling for \$200 to \$400 a square foot causing Steve Sofos, President of Sofos Realty to predict, "there is no way any ordinary businessman or supernatural businessman can survive."<sup>14</sup> Honolulu's warehouse vacancy rate was one percent in December 1989, with increased rental rates from sixty-five cents per square foot at the beginning of 1988 to one dollar per square foot in December 1989.<sup>15</sup> Other sources claim industrial space leased for eighty-five cents to \$1.50 per square foot in June of 1990.<sup>16</sup> Comparable industrial space in Southern California was renting for thirty or forty cents per square foot.<sup>17</sup>

The current tight industrial market on Oahu can also be attributed to several development plans, particularly in the Kakaako Community Development District and the expansion of Honolulu International Airport towards Ualena Street. In compliance with the Honolulu Waterfront Master Plan, requirements for the integration of industrial and residential uses have been eliminated in the most recent Makai Area Plan of the Kakaako Community



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Development District.<sup>18</sup> Provisions for relocation of industrial uses that were to be integrated into the development are now being provided for at the Kapalama Military Reservation.<sup>19</sup> The 165 displaced business tenants on Ualena Street due to the expansion of the Airport will also be relocated to the Kapalama Military Reservation.<sup>20</sup> Industrial business owners realize that not all of the displaced tenants will be able to relocate to the Kapalama Military Reservation.<sup>21</sup> Relocation to more remote areas "is not sensible and would harm both the businesses and customers."<sup>22</sup> Landlords realize this too. Many industrial leases are due for renegotiation in 1992 and 1993 in the airport districts.<sup>23</sup> Without viable alternatives in the form of convenient, affordable, industrial space, many industrial businesses may be forced to pass their increased costs on to consumers. This additional increase in the "price of paradise" to both residents and visitors, has the potential to sabotage the economy by driving more and more residents and visitors away from Hawaii in lieu of a more affordable environment.

### Current Industrial Locations

The State has not abandoned the industrial business industry. Each development plan that provides for a change in the use of the land that dislocates a business is required to provide relocation assistance.<sup>24</sup> Some of the relocation sites have been in remote areas from the current metropolitan markets reducing efficient and expeditious delivery of goods and services. For example, Campbell Industrial Park in the Ewa district, is a developing industrial area that is projected to handle much of the industrial needs for Oahu through 2010.<sup>25</sup> Most businesses recognize that the development of the Ewa district will one day sustain a warehouse location in that area but at this time the market will not bear a warehouse location in Ewa. The location of the warehouse must be determined by the market.<sup>26</sup>

In addition to the relocation assistance provided by each development plan the Department of Business, Economic Development and Tourism published a Directory of Industrial and Technology Parks 1991. The Directory lists twenty industrial parks or areas on Oahu, seven on Hawaii, four on Maui, and three on Kauai that would allow warehousing. The advertised prices for renting warehouse space per square foot per month range from \$1.80 in Lahaina, to 55 cents per square foot in Campbell Industrial Park in Ewa. Most rental agreements are "triple net" which requires the lessee to pay any increase in real property taxes or other assessments made upon the property during their occupancy. The total acreage for the listed industrial parks and areas on Oahu is 4,030 acres, 884 acres on Hawaii, 296 acres on Maui, and 51.5 acres on Kauai. Although there are 4030 acres set aside for industrial uses on Oahu there is not an accurate figure about what percentage of that is actually used for warehousing. To get a "ballpark" figure the City and County of Honolulu assisted the Bureau by running a special computer printout listing of all the real property on Oahu that had a warehousing use category. Real property records show that 616 parcels covering 4715 acres on Oahu were being used for warehousing.<sup>27</sup> Of the 616 parcels listed under warehouse use only 231 parcels were at least one acre. Of the parcels larger than one acre, 366.6 acres are located in the tax map key zone 1 which incorporates the area from Nuuanu to Moanalua.<sup>28</sup> The industrial parks and areas listed in the same tax map key zone

in the DBEDT Directory amounted to 2,158 acres. Comparing the two figures it could be interpreted that of the possible 2,158 acres of industrial use land, almost seventeen percent were registered as in use for warehousing. Commercial realtors estimate the current warehouse vacancy rate on Oahu including the Primary Urban Center<sup>29</sup> and surrounding areas, at approximately 3.4 percent.<sup>30</sup> This situation differs widely from the many other cities where waterfront development projects have been initiated where the national warehouse vacancy rate is 8.6 percent.<sup>31</sup>

### **Geography as a Pebble in the Shoe of Standard Warehousing and Industrial Area Theories**

The State of Hawaii has a unique geography. As obvious as this seems it appears that this fact is not always considered when applying standard theories. All over the country cities are developing their waterfront areas. Many of these areas are former industrial areas and have become blighted with many abandoned buildings. The redevelopment of these areas and the surrounding waterfront areas is renewing the activity in these previously deserted areas. The Connecticut General Assembly studied what type of agencies regulated the development and managing of waterfront land.<sup>32</sup> That study examined five cities with waterfront facilities. The study found that San Diego was "faced with a deteriorating waterfront caused by the loss of cargo shipping."<sup>33</sup> Tacoma, Washington, was "once a major commercial shipping port, [and now] contained many vacant parcels, abandoned buildings, and deteriorated industrial plants whose operations did not require waterfront sites."<sup>34</sup> Inner Harbor, Baltimore had a "downtown office boom [that] created the critical mass of people essential for the harbor's rejuvenation."<sup>35</sup> Laclede's Landing, St. Louis, "once a viable manufacturing and warehousing area on the Mississippi River...was 75% vacant by 1974."<sup>36</sup> Freemason Harbor, Norfolk was a "25 acre, largely abandoned waterfront site."<sup>37</sup> These were the beginnings of successful waterfront development projects that focused on luring new business into previously abandoned areas. This is not the case in Honolulu today. Hawaii's geography still depends on its shipping industry. Eighty percent of the goods used in Hawaii are imported. Ninety-eight percent of the those goods are shipped in through Honolulu Harbor.<sup>38</sup> The surrounding areas are still thriving with business. The group of 165 businesses soon to be displaced by the Airport expansion development generated \$250 million dollars in annual sales in 1989.<sup>39</sup> Framed in these terms it is easier to understand the opposition that the industrial business is presenting.

### **Future Predictions of Industrial Area Requirements**

As part of a required land use boundary review an ancillary study produced the Industrial Area Requirements for each county in the years 1995-2010.<sup>40</sup> Copies of the tables setting forth this information are found in Appendix B. The predictions were based on employment per acre. The study projected that industrial use demands had a stronger relationship to land area rather than floor area as the commercial use needs were projected.<sup>41</sup>

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The projections for transportation and warehousing used the ratio of six employees per acre while projections for general industrial and construction were ten and fifty-four employees per acre, respectively. It is obvious that the transportation and warehousing industry will never be able to compete with other industries in terms of return when land is scarce and there is a focus on the creation of jobs. This gives economic credibility to industrial sentiment that "the dull-but-essential needs of a working harbor...can never hope to compete--for the public's attention, the Legislature's support or the planner's interest--with glitzy proposals to create condominiums and other 'people places' on prime waterfront real estate."<sup>42</sup>

Projections of industrial area requirements for 1995 included an additional 111 acres in the Primary Urban Center, with 182 acres needed in 2000, 211 acres needed in 2005 and an 239 acres needed in 2010. These projections calculate that in 1995 there will already be insufficient acreage of industrially zoned land in the Primary Urban Center. The County of Hawaii was the only county that did not project a deficit of industrial land by the year 2010. See the tables in Appendix C. These projections include all industrial needs not simply warehousing. Using the percentage developed earlier of seventeen percent of all industrial land used for warehousing it can be extrapolated to say that in the year 2000, working with a twenty-five percent flexibility factor, if there is a 77 acre industrial area deficit then that will mean a 13 to 32 acre deficit to the warehouse industry.

### Future Costs of Living

The effects of these industrial conditions cannot be accurately predicted. There are not a lot of data to make exact calculations, not just in Hawaii but in the entire warehousing industry.<sup>43</sup> There are several scenarios that can be easily imagined. If rents continue to increase and businesses stay in high rent, convenient locations to the market, harbor and airport areas, they will have to raise their prices to consumers. These businesses may lose some customers due to the increase in price of their goods, eventually forcing the business to close or worse, into bankruptcy. If the businesses refuse to pay the high lease and choose to operate from a location that requires additional time, labor and fuel to transport the goods to the market then the business will still have to raise the prices of the goods to the consumer. As a result the businesses may lose customers and eventually close down or file bankruptcy. The consumer is left paying higher prices either way. This will encourage the consumer to go elsewhere, for residents that may mean moving to the mainland and for tourists, finding a more affordable place to vacation.

These are grim scenarios and many may point out that a free market will bring about this kind of movement. Others will argue that it is a product of a lack of industrial policy.<sup>44</sup> Advocates encourage government intervention by nursing the industrial community back to health as it did when state and federal governments financed canals, turnpikes, railroads, nineteenth century agriculture, and the defense and aerospace industries after World War II.<sup>45</sup> It is believed that this action may balance the recent political policies that have supported only the capital investment side of industry during the past decade.<sup>46</sup>

## Summary

Industrial land on Oahu is already scarce. Warehouse vacancy rates are approximately 3.4 percent. Current relocation designations for displaced business and new industrial developments are located in remote locations to harbors, airports and the markets the businesses serve causing inefficient delivery of goods and services to the consumer, and ultimately price increases.

Predictions for all counties in the State except the County of Hawaii show a deficit in available industrial zoned land by the year 2010 and as early as 1995 for the Primary Urban Center on Oahu. The need to provide convenient, affordable warehousing is essential if businesses are to remain viable and consumer prices reasonable.

## Endnotes

1. Kenneth B. Ackerman, The Practical Handbook of Warehousing, 2nd edition (Washington, D.C.: The Traffic Service Corporation, 1986), p. 4.
2. Caroline Ralston, Grass Huts and Warehouses (Honolulu: The University Press of Hawaii, 1978), p. 4.
3. Ibid.
4. Ibid., p. 58
5. Ibid., pp. 50, 65.
6. Ibid., p. 58
7. Downtown Planet, September 28, 1992, p. 9.
8. Hawaii, Department of Business and Economic Development and Tourism, Directory of Industrial and Technology Parks, 1991 (Honolulu: 1991), p.27.
9. Louis A. Vargha, Urban Development on Oahu, 1962-1963, Land Study Bureau, University of Hawaii, p. 10
10. Ibid.
11. Downtown Planet, p. 9.
12. See ninth WHEREAS paragraph, House Resolution No. 16, H.D. 1, Sixteenth Legislature, 1992 Regular Session, State of Hawaii.
13. Hawaii, Trade and Industry Development Branch, Department of Business and Economic Development and Tourism, A Listing of Foreign Investments in Hawaii December 31, 1990 (Honolulu: May 1991), pp. 125-129, 134-136.
14. Steven Sofos, President of Sofos Realty, as quoted in Susan Essoyan, "A New Face For The Airport Area?", Hawaii Investor, December 1989, p. 35

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15. Ibid.
16. Diana Lomont, "Loosening Up The Markets," Hawaii Investor, June 1990, p. 24.
17. Ibid.
18. Hawaii, Hawaii Community Development Authority, Makai Area Plan Kakaako Community Development District (Honolulu: 1990), p. 5.
19. Ibid.
20. Diana Lomont, "Making Room for Airport Expansion," Hawaii Investor, June 1990, p. 31; and Hawaii, Office of State Planning, State Land Use District Boundary Review Oahu (Honolulu: March 1992), p. 24 (hereafter "Lomont, "Making Room...").
21. Susan Hooper, "Harboring Resentment," Hawaii Business, June 1990, p. 41.
22. Hooper, quoting A. A. Clark, Chairman, Maritime Affairs Committee, Hawaii Chamber of Commerce, p. 41.
23. Lomont, "Making Room..." p. 31.
24. Hawaii Rev. Stat., §206E-10.5.
25. Hooper, p. 45.
26. Ackerman, p. 17 and interview with Sam Slom, President, Small Business Hawaii, November 13, 1992.
27. Letter from Benjamin B. Lee, Chief Planning Officer, Department of General Planning, City and County of Honolulu, September 4, 1992, to Samuel B. K. Chang, Director, Legislative Reference Bureau. The letter made a disclaimer as to the accuracy of the information as it was obtained and updated on an irregular basis.
28. Hawaii, Department of Planning and Economic Development, Inventory of State/City Owned Land on Oahu, Honolulu, p. 3.
29. Hawaii's Thousand Friends and the League of Women Voters, A Citizens Guide to Oahu's Development Plans, Revised Edition, July 1984, p. 4, described the primary urban center as the area from Waialae/Kahala to Pearl City.
30. Telephone interview with Dr. Michael Sklars, Director of Research, Locations, Inc., December 21, 1992.
31. Ibid.
32. John Rapp, Waterfront Development, Connecticut General Assembly, State of Connecticut, Office of Legislative Research, OLR Selected Report 86-87, November 14, 1986.
33. Ibid., p. 12.
34. Ibid., p. 13.
35. Ibid., p. 15.
36. Ibid.

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37. Ibid., p. 17.
38. Hooper, p. 38.
39. Lomont, "Making Room...", p. 31.
40. Wilson Okamoto & Associates, State Land Use District Boundary Review Urban Land Requirements Study, prepared for Office of State Planning, October 1991.
41. Ibid., p. 4-3.
42. Hooper, p. 45.
43. Jay Gordon, "A Stake in the Ground," Distribution, July 1992, p. 79.
44. Kevin P. Phillips, "U.S. Industrial Policy: Inevitable and Ineffective," Harvard Business Review, July-August 1992, pp. 104-112.
45. Ibid., p. 109.
46. Ibid., p. 111.

## **Chapter 3**

### **WAREHOUSE DISTRICTS**

House Resolution No. 16, H.D. 1, requests a study of the feasibility of establishing a "warehouse district." The Resolution does not define a "warehouse district." This chapter explores the various meanings a "warehouse district" can take on and discusses which meanings are more feasible in terms of state policy and law.

#### **"Warehouse District"**

A "warehouse district" on its face obviously refers to an area of warehouses. The benefits and responsibilities of this designation have not been stated. Before the determination of whether or not a warehouse district is feasible the parameters of the designation must be defined. The definition of the warehouse district may determine its feasibility. For the purposes of this study, different issues of defining a warehouse district are explored. Some of the issues examined in this section may co-exist, others are mutually exclusive.

Several entities were asked to define the term warehouse district. The Industrial Business Association (hereafter "IBA") interprets the designation warehouse district as "protected industrial land."<sup>1</sup> The term "protected" is used in the sense that the land could not be re-zoned or condemned and that lease rents in the district could not be raised, or could not be raised unreasonably. This definition might be interpreted as a form of rent control. The Industrial Business Association is also concerned about the placement of a warehouse district. The IBA's opinion is that location of the district is equally important as its protected status. Summarizing, the IBA interprets "warehouse district" to be a protected area located conveniently to ports and airports.

Small Business Hawaii was also contacted to comment on the concept of a "warehouse district". Small Business Hawaii believes that a "warehouse district" is not incompatible with other industrial uses and does not support selecting warehousing out for special treatment.<sup>2</sup> They do support making more land available that is zoned for light industrial or mixed commercial use. The location of the land should be determined by the market. Currently, the market is the metropolitan Honolulu area. In the future there will be a market on the Ewa side of Oahu when Kapolei is built but right now it is not a viable location for distribution purposes.<sup>3</sup>

The Chamber of Commerce of Hawaii did not respond to an inquiry on this matter.

The Construction Industry Legislative Organization, Inc. (hereafter "CILO") testified in support of House Resolution No. 16, H.D. 1, and stated in their testimony that "Hawaii's economy is dependent upon a viable warehousing and freighting industry that is in close

proximity to the Honolulu Harbor and Honolulu International Airport."<sup>4</sup> The Legislative Liaison of CILO commented that the construction industry is indirectly affected by the warehousing situation. Big general contractors usually have the bulk of materials shipped from the mainland directly to the construction site, but the majority of general contractors purchase materials from local distributors. The warehousing of these materials dramatically affects the price of the materials. High lease rents are passed on to the consumer through higher bids for construction work that have to incorporate the higher costs of materials.<sup>5</sup> Height restrictions in building codes have limited the ability of warehousing operations to expand within the space available. CILO believes that the warehousing problem could be solved if the Department of Land and Natural Resources resolved to designate more land in suitable locations for industrial park uses.<sup>6</sup> Industrial parks are discussed in greater length below.

Extensive searching in electronic databases, both business oriented and legal oriented, yielded only two references to a "warehouse district." Both of these articles discussed industrial area developments.<sup>7</sup> These sources indicated that a "warehouse district" is most likely an industrial area with a focus on convenient location to transportation for the distribution of products. Many manufacturing businesses locate their manufacturing plants and warehouse on the same parcel and as a result the term "warehouse district" that is used in this report often has a broader interpretation than strictly warehousing.

Many of the articles reviewed concerning industrial areas discuss facilities with features such as access to rail transport and list financial benefits including income tax, sales tax, and property tax incentives. Other articles focus on capital expenditure issues for example, state and federally assisted compliance with environmental regulations. The most complete listing of these types of benefits can be found in an article published in the Journal of Corporation Law.<sup>8</sup>

While no other state had any laws directly related to "warehouse districts" many states had some form of an industrial area development law expressed for example in terms of enterprise zones, development authorities, and industrial parks. Broadly defined, a "warehouse district" is an area that would provide a convenient location for warehousing along with some financial benefits in terms of reduced costs that would afford businesses in the district some type of protection from the vagaries of the international real estate market. With these ideas in mind an examination of the current laws follows to see how these issues fit in the current legal scheme.

## **Legal Issues**

This section discusses the different jurisdictions of the federal, state and county government related to the development of real property, then analyzes the different methods the State can take in developing a "warehouse district".



### Jurisdictional Concerns

The Land Use Commission is responsible for planning and designating the general use of land for the State of Hawaii.<sup>9</sup> Within the boundaries of the four designated general uses, urban, agricultural, conservation and rural, set by the Land Use Commission it is the counties that decide what specific uses and regulations within those general uses that will be applied.<sup>10</sup> The land use category that is relevant to the placement of warehouses is "urban". There are currently 93,600 acres on Oahu categorized as urban land use districts.<sup>11</sup> The majority of this land is located around the shores of the Oahu. Most of the vacant and developable urban lands are in the Ewa, Central Oahu and Waianae areas.<sup>12</sup> The urban land use designation includes residential, commercial and industrial uses. It is the county land use zoning regulations that further limit the placement of warehouses within the urban districts. Warehouses are permissible uses in areas that the City and County of Honolulu has zoned I-1 (limited industrial), I-2 (intensive industrial), I-3 (waterfront industrial) and IMX-1 (industrial-commercial mixed use district).<sup>13</sup> Each county has similar codes for these activities. The majority of locations that most warehousing businesses believe to be good locations are already zoned for warehousing activity. There does not appear to be an issue with county zoning ordinances.

One area that used to be zoned for warehousing that is no longer zoned for warehousing is the Makai Area of the Kakaako Development District.<sup>14</sup> This area is under the jurisdiction of the Hawaii Community Development Authority.<sup>15</sup> Rules adopted by the Hawaii Community Development Authority do not include any zoning provisions that allow warehousing.<sup>16</sup> Displaced businesses from this area are scheduled to be relocated to the Kapalama Military Reservation. Warehousing has been excluded from this development area by state action and not county zoning rules.

The legal framework for a warehouse district can take several forms. Within the current law, a warehouse district can most likely fit into one of the following laws:

- (1) The Industrial Parks Law, sections 171-131 through 171-142, *Hawaii Revised Statutes*;
- (2) Hawaii Community Development Authority law, Chapter 206E, *Hawaii Revised Statutes*; or
- (3) State Enterprise Zone Law, Chapter 209E, *Hawaii Revised Statutes*.

### Industrial Parks

An industrial park is defined as an area of public lands which is designated an industrial park in accordance with the law.<sup>17</sup> The law says it must be a contiguous zone of at least five acres that is suitable and economically feasible for industrial use.<sup>18</sup> The particular area must be named in a resolution adopted by the board of land and natural resources and

approved by the Legislature by concurrent resolution or it can be designated by law.<sup>19</sup> Advantages of developing a warehouse district within the confines of the industrial park include the option of a joint venture with a private developer,<sup>20</sup> a possibility of exemption from statutes, ordinances and charter provisions concerning the planning, construction and improvements of the park,<sup>21</sup> and the access to any funds deposited in the industrial park special fund to be used towards the development of the park.<sup>22</sup> There is statutory preference for small business occupants in industrial parks.<sup>23</sup> The disadvantages are that the authority to plan, improve, develop, operate and maintain industrial parks is within the full jurisdiction of the board of land and natural resources.<sup>24</sup> This is viewed as a disadvantage because under the authority of the board the plan for an industrial park may have a broader scope than simply warehouses as opposed to a private development that could restrict the use as it would like. There are also no guarantees about the price of lease rents.

### **Hawaii Community Development Authority**

A warehouse district could be defined as a "commercial project" under the (HCDA) law meaning "a light industrial development, which includes a mixed use development where ...light industrial features may be built into, adjacent to, under or above residential units."<sup>25</sup> An immediate disadvantage of fitting the warehouse district into this framework is the requirement for residential units. If the intention is to develop an area that is exclusively industrial this would not be appropriate. A plan that incorporated some type of residential unit would be viable. Rezoning for residential units in an industrial area would not be an issue as the HCDA has that authority by statute (as discussed in the Kakaako Development Community above).

### **State Enterprise Zones**

A warehouse district could be fashioned within the framework of a state enterprise zone. The purpose of the law is "to stimulate business and industrial growth in areas which would result in neighborhood revitalization of those areas by means of regulatory flexibility and tax incentives."<sup>26</sup> To be declared an enterprise zone a county has to submit an application to the Department of Business, Economic Development and Tourism (DBEDT), who reviews it and makes a recommendation to the Governor as to whether the enterprise zone should be declared.<sup>27</sup> The enterprise zone must be located within one or two United States census tracts and the character of the tracts must meet at least one of the following criteria:

- (1) Twenty-five percent or more of the population shall have incomes below eighty percent of the median family income of the county, or
- (2) An unemployment rate 1.5 times the state average.<sup>28</sup>

## WAREHOUSE DISTRICTS

This may be a difficult hurdle that will ultimately depend on the actual location of the warehouse district. Another hoop that businesses would have to jump through to enjoy the financial benefits is to be designated a "qualified business".<sup>29</sup> The business must be actively engaged in business in the enterprise zone, with at least fifty percent of its gross receipts attributable to business conducted within the enterprise zone, increase the average number of employees by five percent annually with at least forty percent of those new employees prior to employment having an income of only eighty percent or less of the median income of the county, and increase the number of employees annually until at least forty percent of the employees were prior to employment earning only eighty percent or less of the median income in the county.<sup>30</sup>

Qualifying for the benefits of the state enterprise zone is not easy, but well worth it if possible. The state exempts all qualified businesses who are engaged in the manufacture of tangible personal property, the wholesale sale of tangible personal property or the engaging in a service business or calling in the state enterprise zone from the general excise tax for seven years.<sup>31</sup> There is also a credit against any other taxes equal to eighty percent of the tax due the first year, seventy percent in the second year and so on until twenty percent in the seventh year.

In addition to these state incentives when the county applies for an enterprise zone designation it can include county incentives for qualified businesses that can include a laundry list of items for example, a reduction of permit fees, a reduction of real property taxes, and proposals for regulatory flexibility.<sup>32</sup> The length of time that the enterprise zone is designated as such is part of the proposed plan and can vary from proposal to proposal.

Reviewing the three legal frameworks discussed above, the industrial park has the fewest requirements with some flexibility concerning development but not many guarantees on costs in the future. The HCDA law requires residential units to be included in the warehouse district which would require the most expansion to the concept of a warehouse district. The enterprise zones, while requiring the most hoops to jump through have the potential to offer the most financial benefits. A jurisdictional problem with the enterprise zone as the law is currently written requires the cooperation of the county for the designation. None of the laws included have any specific guarantees regarding rental rates, although the laws did not specifically exclude those items and could be included in all programs. However, the spirit of the enterprise zone law is essentially one of promoting economic development in underdeveloped areas through financial incentives and deregulation. Rent control would be contrary to this spirit and philosophy. Combining the industrial park law and the enterprise zone law, in effect creating an industrial park enterprise zone (IPEZ), may be an effective method to provide a warehouse district that provides both types of benefits in one location.

**Policy Issues in Developing  
Exclusively "Warehouse Districts"**

The determination of the feasibility of establishing "warehouse districts" necessarily includes a determination of whether or not it would be good state policy to afford the warehousing industry special advantages that would not be extended to other industrial businesses.

In Chapter 2 the historical growth of the warehouse industry was discussed. It is not the only industry with some historic significance to the State. There are some industries that have been assisted by both the state and the federal governments that have used their historic significance as a rationale. Those industries are the sugar and pineapple industries.

The unique geography of the State is another consideration when developing the policy concerning the warehouse industry. The geographic isolation of the State warrants a certain amount of stockpiling in warehousing. An event that would cut off the import of goods for only a short time would be more than a minor disruption without adequate warehousing facilities. While recent global developments indicate that a politically motivated embargo is an unlikely event, and legal safeguards protect against labor strikes that crippled the Islands in the past, all events can not be predicted.

House Resolution No. 16, H.D. 1, speaks about the essential goods and services for Hawaii. If the general warehousing industry does not warrant the State's adoption of special considerations then perhaps limiting the types of warehousing to those that do provide the essential goods and services that are the necessities of life, for example food and medicine, can be justified. Definitions of businesses in this capacity could be drawn by referring to tax law provisions exempting prescriptions and the like from the general excise tax and by referring to food items acceptable for purchase by food stamps.

Opponents of these theories would point out that the warehousing industry can co-exist with other industries that are suffering from the same conditions as those in the warehousing industry. If financial relief or state assistance is to be granted in any form to the warehousing industry it should be granted to a broad base of businesses in the affected industrial areas. If special consideration is granted to the warehousing industry providing essential goods and services then the policy must extend to all businesses that provide essential goods and services.

If the State accepts the policy that the warehousing industry should be offered special consideration then a new law written especially for warehouse districts may be more appropriate than massaging the warehouse district into the current appropriate legal frameworks.

## WAREHOUSE DISTRICTS

### Summary

The areas that have the potential to be designated as "warehouse districts" are already properly zoned for that activity. In that regard there would be no jurisdictional issues.

A warehouse district could be defined under several different legal frameworks including the Industrial Parks law, sections 171-131 through 171-142, *Hawaii Revised Statutes*, the Hawaii Community Development Authority law, Chapter 206E, *Hawaii Revised Statutes*, and the State Enterprise Zone law, Chapter 209E, *Hawaii Revised Statutes*. Each of these legal frameworks has advantages and disadvantages. A combination of the first and the latter may provide for a warehouse district in the form of an industrial park enterprise zone (IPEZ).

The State needs to determine if it would be good policy to pursue the concerns of the warehousing industry to the exclusion of other industrial businesses. The historic significance and the geography of the State that imposes isolation planning were two issues discussed. Limiting the special treatment of only those warehouses that provide essential goods and services such as food and medicine was also presented. In the event the State adopts a policy providing for the special consideration of the warehousing industry then a new law addressing these special concerns may be more appropriate than using existing legal frameworks.

### Endnotes

1. Interview with Mike Wilson, President, Industrial Business Association, October 7, 1992.
2. Telephone interview with Sam Slom, President, Small Business Hawaii, November 13, 1992.
3. Ibid.
4. Testimony of Dennis Toyomura, President, Construction Industry Legislative Organization, before the House Committee on Planning and Economic Development, March 10, 1992.
5. Interview with Ken Takenaka, Legislative Liaison, Construction Industry Legislative Organization, Inc., November 17, 1992.
6. Ibid.
7. Stan Bullard, "Warehouse District Still A Hard Sell," Crain's Cleveland Business, June 1, 1992, p. 13; Pat Rosen, "Warehouse District Draws Developers," Houston Business Journal, October 7, 1991, p. 1.
8. John C. Gray and Dean A. Spina, "State and Local Industrial Location Incentives--A Well-Stocked Candy Store," The Journal of Corporation Law, Spring 1980, pp. 517-687.
9. Hawaii Rev. Stat., §205-2.
10. Hawaii Rev. Stat., §46-4.
11. Wilson Okomoto & Associates, State Land Use District Boundary Review Urban Land Requirements Study, prepared for the Office of State Planning, October 1991, p. ii.

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12. It should be noted that vacant was defined as a parcel without improvements or a parcel where improvements were valued at less than ten percent of the assessed land value which were considered to be vacant due to underutilization. Ibid., pp. 3-2.
13. Land Use Ordinance, City and County of Honolulu, December 1991, pp. 5-75, 5-79, 5-81, 5-87
14. Hawaii, Hawaii Community Development Authority, Makai Area Rules, February 1990.
15. Hawaii Rev. Stat., §206E-31.
16. Sections 15-23-32, 15-23-34, 15-23-36, 15-23-38, 15-23-40 and 15-23-41, Hawaii Administrative Rules (1991).
17. Hawaii Rev. Stat., §171-131.
18. Hawaii Rev. Stat., §171-132.
19. Ibid.
20. Hawaii Rev. Stat., §171-135.
21. Hawaii Rev. Stat., §171-134.
22. Hawaii Rev. Stat., §171-138.
23. Hawaii Rev. Stat., §171-137.
24. Hawaii Rev. Stat., §171-133.
25. Hawaii Rev. Stat., §206E-2(4)(C).
26. Hawaii Rev. Stat., §209E-1.
27. Hawaii Rev. Stat., §209E-4.
28. Ibid.
29. Hawaii Rev. Stat., §209E-9.
30. Ibid.
31. Hawaii Rev. Stat., §209-11.
32. Hawaii Rev. Stat., §209E-12.

## **Chapter 4**

### **IDENTIFYING POSSIBLE LOCATIONS AND ALTERNATIVES**

This chapter explores possible locations for a warehouse district and the various means of acquiring the land. It also examines other remedies that might serve to address the issues in House Resolution No. 16, H.D. 1.

#### **Identifying Possible Locations**

House Resolution No. 16, H.D. 1, required that one of the elements used in determining possible locations for a warehouse district be efficiency to ports and markets.<sup>1</sup> This presumably means a location in the vicinity of both the port where the goods are received and the market that the business delivers them to. As discussed in Chapter 2, the current market for most businesses addressed by H.R. No. 16, H.D. 1, is the Primary Urban Center. Therefore the ideal location for the warehouse district that would be efficient to the market would be in the Primary Urban Center close to the harbor and airports. As pointed out in Chapter 2, there is very little developable industrial zoned land in the Primary Urban Center.

#### **State Owned**

Within the Primary Urban Center only one state-owned parcel could be identified as a possible site for the warehouse district. The parcel is approximately twenty-six acres in size and located on Sand Island. This twenty-six-acre parcel is currently the subject of Executive Order No. 3556 (a copy of which is attached as Appendix D). The Executive Order is issued under the authority of section 171-11, *Hawaii Revised Statutes*, that allows the Governor to set aside any public lands to any agency for public use. Executive Order No. 3556 authorizes the City and County of Honolulu to use the parcel for Honolulu Corporation Yard purposes.<sup>2</sup> The City and County access to the Sand Island area is subject to the City and County's clearing of all buildings and other facilities at its Kewalo Corporation Yard.<sup>3</sup> The Legislature has the authority to disapprove Executive Order No. 3556 by a two-thirds vote of either the Senate or the House of Representatives or by a majority vote of both.<sup>4</sup> This vote must take place in any regular or special session next following the date of the Executive Order.<sup>5</sup> The Executive Order was signed on June 17, 1992, so a proper vote of disapproval in the Regular Session of 1993, would be necessary in order to make the parcel available for use as a warehouse district, barring any other plans that might exist for the parcel. If the Executive Order is disapproved, the City and County of Honolulu could relocate the Corporation Yard to land in Pearl City the City and County intends to purchase as described in a recent *Honolulu Star Bulletin* article.<sup>6</sup>

The Sand Island parcel seems ideal for the warehouse district also because it fits into the legal framework described in Chapter 3. In terms of the Industrial Park Law it is already

state-owned land, so no condemnation proceedings would be required to proceed with an industrial park. Additionally, the parcel is located in an appropriate industrial area.

Examining the parcel from the perspective of having it declared a state enterprise zone, the parcel is compatible with the current requirements. The parcel is located in U.S. census tract 57. Relevant information concerning this tract includes income levels ranging from less than \$5,000 to \$150,000.<sup>7</sup> The state enterprise zone requirement is that twenty-five percent of incomes in the targeted area must be below eighty percent of the median family income in the county. The median family income in the City and County of Honolulu is \$45,313.<sup>8</sup> Eighty percent of the median family income is \$34,250. Twenty-eight percent of the median household income in U.S. census tract 57 is below \$34,250.<sup>9</sup> The unemployment rate for the employable population in U.S. tract 57 is sixteen percent.<sup>10</sup> The requirement for the enterprise zone as set forth in section 209E-9(b)(2), *Hawaii Revised Statutes*, is 1.5 times the state average, which, at the time of the 1990 Census was 3.6 percent.<sup>11</sup> If the unemployment rate in the census tract has not decreased since 1990, the state average unemployment figures would have to exceed ten percent for the census tract to no longer meet the 1.5 figure. The parcel meets both requirements even though only one is necessary.

### **Federal Land**

Determining the existence of available federally-owned land in the Primary Urban Center is a complicated task. This will not be the case for very long because the General Services Administration is in the process of collecting an inventory of federally-owned real property in the State of Hawaii. The inventory was conducted in two parts. The first part focused on land under the custody and accountability of federal civilian agencies (non-DOD). The second part inventories the Department of Defense (DOD) land. This inventory is still in draft stages and is scheduled for publication in February or March of 1993.<sup>12</sup> The writer was allowed to review the draft of the first part of the inventory. One parcel that was of any size was identified. It is not located in the Primary Urban Center.

The only parcel that was identified as available was a 37.762 acre parcel on the Waipio Peninsula.<sup>13</sup> The draft stated that a relocation of part of the Federal Communications Commission facilities may be needed to remedy technical electronic signal problems that developed between a privately owned local television station. Negotiations were underway between the General Services Administration and the State of Hawaii. The Office of State Planning is participating in those negotiations. No detailed information on the tax map key numbers were attainable so it was not possible to get enough specific information to apply the requirements of the legal frameworks to this area.

The Waipio Peninsula land is not ceded land. This is of particular importance in the acquisition of the land. Ceded land is land that is subject to Public Law 88-233.<sup>14</sup> A copy of P.L. 88-233, along with the legislative history is attached as Appendix E. Public Law 88-233



## IDENTIFYING POSSIBLE LOCATIONS AND ALTERNATIVES

provides that any ceded land that is determined by General Services Administration to be surplus shall be conveyed without monetary consideration to the State of Hawaii and considered a part of the public trust.<sup>15</sup> A large parcel of land on Sand Island is ceded land that is currently under the control and accountability of the federal government. The Sand Island U.S. Coast Guard facility is located on 40.76 acres of ceded land, but this land will not be declared surplus by the Coast Guard.<sup>16</sup> The draft copy of the non-DOD inventory of land referring to the Sand Island U.S. Coast Guard facility stated:<sup>17</sup>

All of the facilities are required to be located where they are to serve the public purpose. None occupy any more land area than absolutely necessary to accommodate each specific facility, together with access thereto.

### Private Land

No specific parcels of privately-owned land were identified as potential locations for a warehouse district. Private land may be obtained by exchange, direct purchase or eminent domain proceedings and is authorized for the purposes of establishing an industrial park under section 171-139, *Hawaii Revised Statutes*, and for the purposes of community development under the HCDA in section 206E-4, *Hawaii Revised Statutes*. Acquisition of land is not an issue in establishing state enterprise zones, under Chapter 209E, *Hawaii Revised Statutes*.

### Alternatives

If a warehouse district is not feasible because it is not within the legal framework, there are no available locations, or the State determines it is not good policy to exclude other industrial businesses there are alternatives the State can focus on to alleviate the tight industrial market in the Primary Urban Center. Some alternatives are set out below:

1. Current law could be amended to allow for incompatible warehouse district issues to be incorporated into the law. The industrial park law could be modified to provide expanded financial benefits for lessees in an industrial park. Benefits might include guaranteed reasonable rents, exemption from or reduced general excise tax rates, and corporate income tax credits. The community development law could be modified to allow for industrial development without residential units therefore making it possible to have the HCDA focus development on exclusively industrial areas. The state enterprise zone law could be amended to provide that in addition to counties designating areas as enterprise zones, the legislature could designate enterprise zones too. The enterprise zone law could also be amended to relax the requirements of the character of the zones and for a "qualified business." The impact any of these programs or benefits could have on state revenues will vary in proportion to the generosity of those benefits.

2. Development plans for the waterfront and airport expansion could be modified to incorporate more extensive, efficient warehouse facilities. Hong Kong has been cited as a

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place that has extensive, efficient warehouse facilities along the waterfront.<sup>18</sup> These warehouses are several stories high and may provide an adequate amount of square feet required until there is market growth in areas of the island where warehouse space and affordable rents are more easily obtainable. The drawback is that these facilities are expensive and take time to build. This may not be compatible with the immediate needs of the industry.

Along similar lines the Legislature could adopt a resolution requesting the City and County of Honolulu, and other counties, to adopt new ordinances that expand current building limits for warehousing that would allow the expansion of existing warehouses.

3. If no efficient locations exist in the Primary Urban Center for a warehouse district, incentives could be offered to businesses who operate from other more remote locations. A more remote location would cause an increase in time, labor and fuel for delivery of goods to the Primary Urban Center. Income tax credits could be offered to industries who purchase new equipment for delivery and hire new employees for that purpose. Reduced rates for or exemption from the general excise tax could be offered to businesses who provide delivery services from the remotely located warehouse district provided that those delivery businesses offer similar rates to those offered in the Primary Urban Center. Again, the impact of any such benefits or incentives on state revenues will depend upon the generosity of the benefits or incentives given.

4. The State could institute training and education programs for the industrial business community that focused on the elimination of the need for extensive warehousing by using kan ban Japanese techniques and advocating the moving of products rapidly from manufacturer to the customer. These theories are espoused in authoritative trade journals as the wave of the future.<sup>19</sup> Kan ban translates to "just in time" and refers to the concept of the deployment of inventory on strict schedules that reduces the need for warehouse space.<sup>20</sup> This concept is being developed in conjunction with the expansion of air freight carriers.<sup>21</sup> This concept may conflict with certain stockpiling issues related to the isolated geography of the State but may be compatible with future plans for the expanded air cargo facility at the airport.

5. The focus of the import market could be shifted from sea to air by offering air cargo incentives. Since eighty percent the goods used in this State are imported<sup>22</sup> and ninety-eight percent of those goods come by ship,<sup>23</sup> there is potential for some visible movement of the market. With a new air cargo facility on the drawing board and some Honolulu pier space in the process of conversion to non-industrial uses with little room for additional piers, providing incentives to alternative sources of delivery may improve importation schedules that would allow the new reduced warehousing techniques discussed above in paragraph 4.

This list of possible alternatives is suggested as means to provide immediate solutions in the event a warehousing district is not feasible for any number of reasons. Some

## IDENTIFYING POSSIBLE LOCATIONS AND ALTERNATIVES

alternatives are more immediate than others. These alternatives may be combined or may be modified to meet the needs and concerns of the situation.

Particularly in light of the State's financial situation, however, serious consideration must be given to any such benefits contemplated with respect to their likely impact upon state revenues. The fiscal implications of the myriad of possible benefits or incentives are beyond the scope of this study.

### Summary

There is very little industrial land available in the Primary Urban Center where the need for the warehouse district is greatest and most appropriate at this time. One state-owned parcel was identified that could become available if the Legislature timely disapproves the Executive Order that authorized its encumbrance. An inventory of federal land in the State of Hawaii is due to be published in February or March of 1993. The non-Department of Defense portion of the land inventory indicated that the possibility of obtaining conveniently located ceded land from the federal government is not likely. There is a possibility of purchasing land outside of the Primary Urban Center on the Waipio Peninsula. The Department of Defense land inventory was not completed at the time of this report so no information is available.

Alternatives to the warehouse district as described in this study included amendments to the existing law to incorporate incompatible issues. Offering incentives that would provide benefits to businesses who operate out of remote locations to the Primary Urban Center was also suggested in various forms. Finally, education and training programs were proposed to encourage alternate management techniques that would require less warehousing space. Any benefit or incentive proposed, however, would have to be considered in light of its revenue implications for the State.

### Endnotes

1. See paragraph (2) of first BE IT FURTHER RESOLVED clause of House Resolution No. 16, H.D. 1, Sixteenth Legislature, 1992 Regular Session, State of Hawaii.
2. Executive Order No. 3556, June 17, 1992.
3. Ibid., p. 2
4. Hawaii Rev. Stat., §171-11; Executive Order No. 3556, p. 2.
5. Ibid.
6. Mike Yuen "City Dealing with Navy for Land," Honolulu Star Bulletin, November 18, 1992, p. B2.
7. U.S., Department of Commerce, Bureau of Census, Data User Services, "1990 Census of Population and Housing, Summary Tape File 3A, CDROM CD90-3A-02", September, 1992.

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8. Ibid.
9. There are 1,943 people in tract 57; 560 of those people have incomes below \$32,499. Ibid.
10. There are 817 people in the labor market (excluding military and those under the age of sixteen) of which 131 are unemployed. Ibid.
11. Ibid.
12. Interview with James M. Cayce, Director of AG, U.S. General Services Administration, December 3, 1992.
13. U.S., General Services Administration, Office of Government Real Property Policy, "Draft Copy: Inventory of Real Property Owned or Controlled by the United States of America Under the Custody and Accountability of Federal Civilian Agencies and the Department of Defense in the State of Hawaii," September 30, 1992 (unpaginated).
14. P.L. No. 88-233, 77 Stat. 472 (1963).
15. Ibid.
16. General Services Administration, Draft (unpaginated).
17. Ibid.
18. Interview with Mike Wilson, President, Industrial Business Association, October 7, 1992.
19. Kenneth Ackerman, The Practical Handbook of Warehousing (Washington D.C.: Traffic Service Corporation, 1986), p. 83; Kenneth Ackerman "Warehousing Joins Value-Adding Alliance," Transportation and Distribution, March 1992, p. 64; and Jay Gordon, "In Warehousing Speed is King," Distribution, July 1992, p. 84.
20. Ackerman, Handbook on Warehousing, p. 83.
21. Ackerman, "Value Adding Alliance".
22. Susan Hooper, "Harboring Resentment," Hawaii Business, June 1990, p. 38.
23. Ibid.

## **Chapter 5**

### **FINDINGS AND RECOMMENDATIONS**

#### **Findings**

1. There is a serious shortage of industrial land in the Primary Urban Center of Oahu that has existed for several years. Studies show that this situation is not likely to improve. The counties of Kauai and Maui show a deficit in the amount of industrial zoned land by the year 2000. The County of Hawaii is the only county that is predicted to have an adequate supply of industrial land in the year 2005.

2. Development plans in Honolulu on the waterfront and around the airport have intensified the industrial land shortage in the Primary Urban Center on Oahu. Relocation of displaced businesses to outside the Primary Urban Center would be inefficient for delivery of goods and services to the markets. Remote locations to the markets will cause an increase in transportation expenses that will force the prices of goods and services to rise.

3. Hawaii's unique geography and limited land area present dissimilar situations for purposes of making comparisons with mainland waterfront development programs structured to bring business into abandoned areas. To the contrary, Honolulu Harbor and its surrounding industrial land is like the heart of the State pumping blood through the State. The State's efforts to maximize the potential for this choice industrial land by building larger more efficient facilities will take many years. In today's tight economic market displaced businesses may not be able to endure the wait.

4. Land owners renegotiating leases in this market have a dramatic advantage over their business tenants. Businesses in long-term leases with renegotiation dates occurring in 1992 and 1993 may be subject to lease rents for the duration of the lease term that were unimaginable when entered into. These unpredictable costs could operate to make many businesses choose to shut down or be forced into bankruptcy.

5. There is no standard definition of a "warehouse district." Extensive computer research yielded many casual references to general vicinities that could be characterized as industrial. Two specific references to warehouse districts focused on local governments promoting specific locations that were in close proximity to a variety of transportation services.

6. For the purposes of this study, the term "warehouse district" is defined as:

- (1) An industrial area;
- (2) Conveniently located to the transportation industry as well as to the markets for goods;

## A WAREHOUSE DISTRICT FOR HAWAII?

- (3) Providing financial benefits that cause the reduction in the price of doing business; and
- (4) A place that is occupied by warehouses.

7. There are existing state laws to provide an appropriate legal framework for meeting the criteria of the definition of warehouse district in paragraph 6. State enterprise zone laws offer financial benefits that cause the reduction in the price of doing business by providing income tax credits and general excise tax exemptions. The industrial park laws provide the state authority to acquire, if necessary, industrial land convenient to both markets and transportation services. The industrial park laws also provide assistance with the development and construction of an industrial park which is a place that is occupied by warehouses.

8. Obtaining information on the status of state and federal land in Hawaii is a complicated task. The State has several different agencies that have authority over public lands including the Department of Land and Natural Resources, the Office of State Planning, the Department of Business, Economic Development and Tourism through the Hawaii Development Community Authority, and the Department of Transportation. While the Department of Land and Natural Resources keeps a computerized inventory of every single parcel of state land by tax map key number, the inventory is difficult for the general public to understand.

The federal government is in the process of completing an inventory of all land in the State of Hawaii under the control and accountability of the United States. At this time only a *partial draft of that report* was available. A 37-acre parcel on the Waipio peninsula was the *only property identified that would be available for acquisition*. The balance of the inventory is due to be published in February or March of 1993. A complete and clearer picture of federal land that may be available should be available at that time.

9. A 26-acre parcel on Sand Island was identified as a potential site for the warehouse district. This parcel is presently encumbered by Executive Order No. 3556 and scheduled to house the Honolulu Corporation Yard. This parcel has been identified as a potential site because the Legislature can take direct action to make the land available for a warehouse district if it deems appropriate. The Executive Order would have to be disapproved by the Legislature during the 1993 session. If the Executive Order is timely disapproved then the parcel could be a potential site for a warehouse district. The Honolulu Corporation Yard presently located in Kewalo could, at least in theory, be moved to property in Pearl City recently purchased by the City and County of Honolulu from the United States Navy.

10. The 26-acre parcel on Sand Island meets the criteria according to the 1990 United States census to qualify as an enterprise zone under the state enterprise zone law. It is also an appropriate parcel for the development of an industrial park.

## FINDINGS AND RECOMMENDATIONS

11. The state enterprise law currently requires that county authorities designate the areas for application as enterprise zones. Without an amendment to this law the designation of an enterprise zone will require the cooperation of the county.

12. The State needs to decide whether or not it is good public policy to provide assistance to the specific industry of warehousing or provide assistance to the industrial market on a narrower or broader scale. It is apparent that the warehousing enterprises in the Primary Urban Center need some assistance if they are to continue in their present form. Market forces alone do not appear likely to enable them to continue to operate in their existing locations. There are credible issues on both sides of the policy discussion.

13. It is feasible to establish a warehouse district in the Primary Urban Center on the 26-acre Sand Island parcel described in paragraph 9, provided that: (1) the 26-acre parcel becomes available by disapproval of Executive Order No. 3556; and (2) either the City and County of Honolulu designates the area as an enterprise zone or the enterprise zone law is amended to authorize the Legislature, in addition to the counties, to designate an enterprise zone. If the county chooses to participate in the enterprise zone the financial benefits to the businesses could include county-related incentives as well as those provided through the State.

14. The costs and benefits of relocating the Corporation Yard to another location is beyond the scope of this study. Accordingly, it is impossible to state what course of action would be superior as between the present course of action (Corporation Yard at Sand Island) or taking affirmative steps for the specific benefit of the warehousing industry.

### Recommendations

1. A "warehouse district" as defined for this report could be feasible under current laws. By using both the industrial park laws and the enterprise zone laws, a hybrid industrial park-enterprise zone (IPEZ) could be established that would provide the elements of a warehouse district. Planning documents could establish the nature of the specific type of businesses allowed in an IPEZ. This legal framework would be appropriate for any or all industrial businesses the State decided should be included.

2. An amendment to the enterprise zone law, section 209E-4, *Hawaii Revised Statutes*, could be made to authorize for the Legislature to act unilaterally to designate an enterprise zone for any parcel that meets the criteria. The 26-acre parcel on Sand Island meets the criteria.

3. The Legislature should determine the policy of any industrial park-enterprise zone that (IPEZ) would be created as described in paragraph 1. Policy considerations should include whether the IPEZ facilities should be offered exclusively for the warehousing industry

## A WAREHOUSE DISTRICT FOR HAWAII?

or if the scope should be more limited to only warehouses that provide essential goods and services or broader to incorporate all industrial business that otherwise qualify under the law.

4. If the State determines that warehousing should be the only type of authorized qualified business for the IPEZ then the law establishing the industrial park-enterprise zone should clearly state this policy and provide a definition of warehousing. If the State determines that it is not good policy to provide special assistance exclusively to the warehousing industry then an IPEZ could still be established to include all types of industrial business including warehousing.

5. The 26-acre parcel on Sand Island is the most desirable potentially available site but, if the 26-acre parcel does not become available, a warehouse district could still be established in other locations through the use of the industrial park and enterprise zone laws. The industrial park law provides for acquisition of real property through eminent domain proceedings, so that land that is not "available" but would be appropriate for an industrial park could be obtained from private holdings. Additional research would be required to determine what areas, other than Sand Island (outside United States census tract 57), would meet the criteria for the enterprise zone element of the hybrid approach.

6. If the Legislature deems it appropriate to establish industrial parks, enterprise zones, or industrial park-enterprise zones to assist warehousing and/or other industrial businesses, the Department of Business, Economic Development and Tourism and the Department of Land and Natural Resources should be directed to review the pending inventory of federally owned and controlled land in the State of Hawaii as soon it is available to identify any other possible land that the United States Department of Defense may classify as surplus and available for purchase, trade or return depending the character of the land.

7. The Department of Land and Natural Resources should be encouraged to simplify its method of inventorying and reporting the status of state land. The current method is cumbersome and difficult to interpret for both employees and laypersons.

8. The Legislature should work with the City and County of Honolulu to locate an alternate site for the Honolulu Corporation Yard, if Executive Order No. 3556 is disapproved. Possible sites could be identified in the forthcoming federal land inventory or on property recently purchased by the County in Pearl City.

9. The Legislature should resolve to suggest to the counties that the building codes and ordinances be modified to allow for more affordable expansion of existing warehouses. Modification of building codes to allow for more square footage per acre may provide a way for existing warehouses to find additional efficient space.

10. Any proposal to establish some form of warehouse district must be considered not only in terms of the needs of and benefits to the warehousing industry, but also from the standpoint of the impact of the action on public revenues, and the reasons why a particular



## FINDINGS AND RECOMMENDATIONS

benefit should be given to a particular segment of the business community when others are not similarly benefitted.



## Appendix A

HOUSE OF REPRESENTATIVES  
SIXTEENTH LEGISLATURE, 1992  
STATE OF HAWAII

H.R. NO. 16  
H.D. 1

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# HOUSE RESOLUTION

REQUESTING THE LEGISLATIVE REFERENCE BUREAU TO STUDY THE  
FEASIBILITY OF ESTABLISHING A PUBLIC "WAREHOUSE DISTRICT" FOR  
BUSINESSES IN HAWAII.

WHEREAS, while Hawaii depends upon the import of raw materials, goods, and services to provide for the needs of the people, many of the businesses that operate in our State --particularly in Honolulu--generate much of the goods and services that support this city, the statewide community, and Hawaii's vital economy; and

WHEREAS, it is a known fact that business costs in Hawaii are significantly greater than in the mainland United States, such as workers' compensation insurance, employment insurance, medical insurance, energy, transportation, and particularly housing; and

WHEREAS, exorbitant property costs and taxes, limited land space, and the high cost of living in Hawaii also contribute to business costs in the State; and

WHEREAS, in the past, location of these industrial sites were selected because of their convenient and efficient access to the ports, roadways, and skyways of the statewide and metropolitan markets; and

WHEREAS, the number of these ideally-located industrial sites have been, and continue to be, very limited to businesses in Hawaii; and

WHEREAS, moreover, these industrial sites continue to dwindle in number because of limited land space and high rental costs; and

WHEREAS, finding affordable industrial rental space puts undue hardship and stress on businesses in the State; and

WHEREAS, the replacements for these sites have been in remote areas that are considerably distanced from metropolitan markets and ports, thereby reducing efficient and expeditious delivery of goods and services and causing delivery costs of these goods and services to increase significantly; and

HR16 HD1

WHEREAS, out-of-state driven buyer demand for real estate statewide, especially in Honolulu, has caused an unprecedented and sudden increase in prices paid for industrially-zoned lands over the past few years; and

WHEREAS, the rise in costs of these industrially-zoned sites and property taxes of businesses are oftentimes passed on to the consumer; and

WHEREAS, opportunity for local industrial businesses to retain their operating space in the future is very limited because of the scarcity of alternative, cost-effective, and efficiently-located sites to relocate to; now, therefore,

BE IT RESOLVED by the House of Representatives of the Sixteenth Legislature of the State of Hawaii, Regular Session of 1992, that the Legislative Reference Bureau is requested to conduct a study to determine the feasibility of establishing a "Warehouse District" for businesses in Hawaii; and

BE IT FURTHER RESOLVED that the study include, but is not limited to:

- (1) Increased space effectiveness and availability for industrial businesses;
- (2) Continued site efficiency to ports and markets;
- (3) Provision of innovative site arrangements that do not impose the vagaries of the international real estate market on the costs of essential goods and services on the local consumer;
- (4) Future "costs of living" caused by the receipt, storage, assembly, distribution, and maintenance of essential goods and services by the industrial businesses of the community; and
- (5) Other remedies that may include extensions of ports to provide for the essential provision of goods and services at economical costs by qualified and experienced industrial businesses;
- (6) Looking for available federal land and exploring various means of acquiring the land, including land swaps and leases;

and

HR16 HD1

BE IT FURTHER RESOLVED that the Legislative Reference Bureau submit a report of its findings and recommendations to the Legislature at least twenty days prior to the convening of the 1993 Regular Session; and

BE IT FURTHER RESOLVED that certified copies of this Resolution be transmitted to the Legislative Reference Bureau; the Department of Business, Economic Development, and Tourism; the Chamber of Commerce of Hawaii; and Small Business Hawaii.

TABLE 4-6

PRIMARY URBAN CTR	70,593	1,151	111	1,877	182	2,183	211	2,470	239
EWA	6,211	3,190	101	4,686	183	10,113	299	13,332	418
CENTRAL OAHU	5,669	2,916	128	4,369	227	3,820	221	3,163	226
EAST HONOLULU	829	360	5	244	4	225	4	211	4
KOOLAUPOKO	2,433	23	2	33	3	40	4	65	6
KOOLAULOA	677	77	1	9	1	11	1	14	1
NORTH SHORE	1,179	4	0	6	1	8	1	15	1
WAIANAE	986	213	1	119	2	78	2	28	3

1/ Dept. of General Planning, employment projections by DP area.  
Includes Transportation/Warehousing, General Industrial and Construction employment.

2/ Increase from 1990 to 1995.

3/ Calculated from industrial absorption rates (John Childe & Company, 1988).

4/ Cumulative employment increases and additional acreage needs.

**TABLE 4-15**  
**INDUSTRIAL AREA REQUIREMENTS**  
**1995 - 2010**  
**COUNTY OF KAUAI**

	1988		1995		2000		2005		2010	
	INDUSTRIAL EMPLOYMENT 1/	INDUSTRIAL ACRES 2/	INDUSTRIAL EMPLOYMENT 3/	ACRES NEEDED 4/	INDUSTRIAL EMPLOYMENT	ACRES NEEDED 5/	INDUSTRIAL EMPLOYMENT	ACRES NEEDED 5/	INDUSTRIAL EMPLOYMENT 1/	ACRES NEEDED 5/
NORTH SHORE	400	41	508	11	585	19	663	27	740	35
KAPAA	740	76	937	20	1,078	34	1,219	48	1,360	63
LIHUE	2650	271	3,363	72	3,872	124	4,381	176	4,890	228
KOLOA	110	11	142	3	165	6	187	8	210	10
WAIMEA	400	41	508	11	585	19	663	27	740	35
<b>TOTAL</b>	<b>4300</b>	<b>440</b>	<b>5,458</b>	<b>117</b>	<b>6,285</b>	<b>201</b>	<b>7,113</b>	<b>286</b>	<b>7,940</b>	<b>370</b>

1/ Kaku Associates, Kauai County Highway Planning Study, Working Paper

2/ 9.8 employees per acre, based on 4,300 employees and 440 acres in industrial use.

3/ 1995, 2000, & 2005 employment derived from 2010 projections.

4/ Additional acres needed, using density factor.

5/ Acreage needs cumulative from 1995.

TABLE 4-24  
INDUSTRIAL AREA REQUIREMENTS  
1995-2010  
COUNTY OF MAUI

	1995		2000		2005		2010	
	INDUSTRIAL EMPLOYMENT	ACRES	INDUSTRIAL EMPLOYMENT	ACRES	INDUSTRIAL EMPLOYMENT	ACRES	INDUSTRIAL EMPLOYMENT	ACRES
WAILUKU-KAHULUI	7,664	690	8,805	103	9,518	167	10,115	221
KIHEI-MAKENA	27	2	1,470	130	2,372	211	3,450	308
LAHAINA	872	79	911	4	935	6	972	9
HANA	30	3	71	4	98	6	127	9
MAKAWAO-KULA	257	23	257	0	257	0	257	0
PAIA-HAIKU	381	34	531	13	624	22	734	32
MOLOKAI	515	46	573	5	608	8	638	11
LANAI	206	19	306	9	369	15	394	17
TOTAL	9,951	896	12,923	268	14,781	435	16,687	607
							18,594	779

1/ Auelin, Tautouri & Associates, Highway Plan for Maui.  
Mokai and Lanai estimated from land use data in Community Plans.  
2/ 11.1 employees per acre, based on 8,850 employees and 800 acres in industrial use.  
3/ 1995 and 2005 employment derived from 2010 projections.  
4/ Additional acres needed, using density factor.  
5/ Acres needs cumulative from 1995.



**TABLE 4-33**  
**INDUSTRIAL AREA REQUIREMENTS**  
**1995 - 2010**  
**COUNTY OF HAWAII**

	1990 INDUSTRIAL EMPLOYMENT 1/	1995 INDUSTRIAL EMPLOYMENT	ACRES NEEDED 2/	2000 INDUSTRIAL EMPLOYMENT 3/	ACRES NEEDED	2005 INDUSTRIAL EMPLOYMENT	ACRES NEEDED	2010 INDUSTRIAL EMPLOYMENT 3/	ACRES NEEDED
PUNA	2,524	2,725	20	2,926	40	3,126	60	3,326	80
SOUTH HILO	3,528	3,809	28	4,090	56	4,392	86	4,694	117
NORTH HILO	28	30	0	32	0	33	1	34	1
HAMAKUA	847	914	7	982	14	1,040	19	1,097	25
NORTH KOHALA	213	230	2	247	3	273	6	298	8
SOUTH KOHALA	1,355	1,463	11	1,571	22	1,729	37	1,887	53
NORTH KONA	3,317	3,582	26	3,846	53	4,282	96	4,718	140
SOUTH KONA	1,369	1,478	11	1,587	22	1,667	30	1,746	38
KAU	620	670	5	719	10	760	14	800	18
<b>TOTAL</b>	<b>13,800</b>	<b>14,900</b>	<b>110</b>	<b>16,000</b>	<b>220</b>	<b>17,300</b>	<b>350</b>	<b>18,600</b>	<b>480</b>

1/ 1990, 1995, and 2005 employment estimated from County of Hawaii projections.  
2/ 10 employees per acre assumed.  
3/ County of Hawaii Planning Department projections for Highway Planning Study.

# Appendix C

TABLE 5-2  
AVAILABLE URBAN LANDS TO MEET FUTURE DEMANDS  
CITY AND COUNTY OF HONOLULU  
1995  
(IN ACRES)

TABLE 5--2																		
AVAILABLE URBAN LANDS TO MEET FUTURE DEMANDS																		
CITY AND COUNTY OF HONOLULU																		
1995																		
(IN ACRES)																		
RESIDENTIAL	COMMERCIAL			INDUSTRIAL			RESORT			COUNTY-			PUBLIC AREA			TOTAL 1995 DEMAND	SURPLUS/ (DEFICIT) OF URBAN LANDS	
	ZONED DEV.	1995 DEMAND	SURPLUS/ (DEFICIT)	ZONED DEV.	1995 DEMAND	SURPLUS/ (DEFICIT)	ZONED DEV.	1995 DEMAND	SURPLUS/ (DEFICIT)	ZONED DEV.	1995 DEMAND	SURPLUS/ (DEFICIT)	ZONED DEV.	1995 DEMAND	SURPLUS/ (DEFICIT)			
PRIMARY URBAN CTR	345	288	57	55	40	15	105	111	(6)	0	34	(34)	505	30	535	24	487	38
EWA	793	980	(187)	78	98	(20)	352	101	251	82	25	57	1,305	1,330	2,635	81	1,285	1,350
CENTRAL OAHU	246	1,304	(1,058)	39	79	(40)	119	128	(9)	0	0	0	404	1,598	2,002	62	1,573	429
EAST HONOLULU	557	583	(26)	7	15	(8)	0	5	(5)	0	0	0	564	41	605	6	608	(4)
KOOLAUPOKO	281	1,586	(1,305)	11	16	(5)	0	2	(2)	0	0	0	292	379	671	3	1,607	(936)
KOOLAULOA	91	143	(52)	13	6	7	0	1	(1)	119	30	89	223	81	304	0	180	124
NORTH SHORE	67	96	(29)	8	4	4	0	0	0	0	0	0	75	192	267	2	102	165
WAIANAE	458	1,119	(661)	11	12	(1)	13	1	12	27	9	18	508	865	1,374	5	1,146	228
SUBTOTAL	2,838	6,099	(3,261)	222	270	(48)	589	349	240	228	96	130	3,877	4,516	8,393	183	6,999	1,394
25% FLEXIBILITY FACTOR		1,525			68			87		25						46	1,750	(1,750)
TOTAL	2,838	7,624	(3,261)	222	338	(48)	589	436	240	228	123	130	3,877	4,516	8,393	229	8,749	(356)
1/ Includes County-zoned agricultural and special districts, but excludes preservation districts.																		

1/ Includes County-zoned agricultural and special districts, but excludes preservation districts.

TABLE 5-3

AVAILABLE URBAN LANDS TO MEET FUTURE DEMANDS  
CITY AND COUNTY OF HONOLULU  
2000  
(IN ACRES)

	RESIDENTIAL			COMMERCIAL			INDUSTRIAL			RESORT			COUNTY-			PUBLIC AREA	TOTAL	SURPLUS/ (DEFICIT)
	ZONED	DEV.	2000	SURPLUS/ (DEFICIT)	ZONED	DEV.	2000	SURPLUS/ (DEFICIT)	ZONED	DEV.	2000	SURPLUS/ (DEFICIT)	ZONED	DEV.	2000			
	URBAN	DEMAND			URBAN	DEMAND			URBAN	DEMAND			URBAN LANDS	URBAN	DEMAND		DEMAND	OF URBAN LANDS
PRIMARY URBAN CTR	345	539	(194)	55	67	(12)	105	182	(77)	0	0	0	505	30	535	24	812	(277)
EWA	793	1,661	(868)	78	198	(120)	352	183	169	82	54	28	1,305	1,330	2,635	132	2,248	387
CENTRAL OAHU	246	1,806	(1,560)	39	151	(112)	119	227	(108)	0	0	0	404	1,598	2,002	94	2,278	(276)
EAST HONOLULU	657	733	(176)	7	26	(19)	0	4	(4)	0	0	0	564	41	605	8	771	(166)
KOOLAUPOKO	281	1,770	(1,489)	11	24	(13)	0	3	(3)	0	0	0	292	379	671	3	1,800	(1,129)
KOOLAULOA	91	102	(11)	13	11	2	0	1	(1)	119	61	58	223	81	304	0	175	129
NORTH SHORE	67	132	(65)	8	6	2	0	1	(1)	0	0	0	75	102	267	3	142	125
WAIANAE	458	1,392	(934)	11	20	(9)	13	2	11	27	16	11	509	865	1,374	6	1,436	(62)
SUBTOTAL	2,838	8,155	(5,317)	222	503	(281)	589	603	(14)	228	131	97	3,877	4,516	8,393	270	9,662	(1,269)
25% FLEXIBILITY FACTOR		2,039			126			151			33					68	2,416	(2,416)
TOTAL	2,838	10,194	(5,317)	222	629	(281)	589	754	(14)	228	164	97	3,877	4,516	8,393	338	12,078	(3,685)

1/ Includes County-zoned agricultural and special districts, but excludes preservation districts.

TABLE 5-4

**AVAILABLE URBAN LANDS TO MEET FUTURE DEMANDS  
CITY AND COUNTY OF HONOLULU  
2010  
(IN ACRES)**

	RESIDENTIAL		COMMERCIAL		INDUSTRIAL		RESORT		COUNTY-		OTHER	TOTAL		PUBLIC AREA	TOTAL	SURPLUS/ (DEFICIT)
	ZONED	DEV.	ZONED	DEV.	ZONED	DEV.	ZONED	DEV.	ZONED	DEV.		DEV.	DEV.			
	2010	2010	2010	2010	2010	2010	2010	2010	2010	2010	DEV.	DEV.	DEV.	2010	2010	OF URBAN LANDS
	DEMAND	DEMAND	DEMAND	DEMAND	DEMAND	DEMAND	DEMAND	DEMAND	DEMAND	DEMAND	URBAN	URBAN	URBAN	DEMAND	DEMAND	
<b>PRIMARY URBAN CTR</b>	345	881	55	98	105	239	134	0	48	505	30	535	24	1,290	(755)	
<b>EWA</b>	793	3,713	78	412	352	418	86	82	122	1,305	1,330	2,635	295	4,960	(2,325)	
<b>CENTRAL OAHU</b>	246	2,683	39	246	119	228	107	0	0	404	1,598	2,002	207	3,362	(1,360)	
<b>EAST HONOLULU</b>	557	978	7	39	0	4	4	0	0	564	41	605	13	1,034	(429)	
<b>KOOLAPOKO</b>	281	2,060	11	33	0	6	6	0	0	292	379	671	6	2,105	(1,434)	
<b>KOOLAULOA</b>	91	43	13	12	1	1	1	119	133	223	81	304	0	189	115	
<b>NORTH SHORE</b>	67	186	8	8	0	1	1	0	0	75	192	287	4	199	68	
<b>WAIANAE</b>	458	1,803	11	28	17	13	3	10	27	509	865	1,374	10	1,876	(502)	
<b>SUBTOTAL</b>	2,838	12,347	222	876	589	898	309	228	335	3,877	4,516	8,393	559	15,015	(6,822)	
<b>25% FLEXIBILITY FACTOR</b>		3,087		219		225		84					140	3,754	(3,754)	
<b>TOTAL</b>	2,838	15,434	222	1,095	589	1,123	309	228	419	3,877	4,516	8,393	699	18,769	(10,376)	

1/ Includes County-zoned agricultural and special districts, but excludes preservation districts.

TABLE 5-6

AVAILABLE URBAN LANDS TO MEET FUTURE DEMANDS  
COUNTY OF KAUAI  
1995  
(IN ACRES)

	RESIDENTIAL ZONED			COMMERCIAL ZONED			INDUSTRIAL ZONED			RESORT ZONED			COUNTY- ZONED	OTHER	TOTAL	PUBLIC AREA	TOTAL	SURPLUS/ (DEFICIT)
	DEV.	1995	SURPLUS/ (DEFICIT)	DEV.	1995	SURPLUS/ (DEFICIT)	DEV.	1995	SURPLUS/ (DEFICIT)	DEV.	1995	SURPLUS/ (DEFICIT)	DEV.	DEV.	DEV.	1995	1995	OF URBAN
	URBAN	DEMAND	(DEFICIT)	URBAN	DEMAND	(DEFICIT)	URBAN	DEMAND	(DEFICIT)	URBAN	DEMAND	(DEFICIT)	URBAN LANDS	URBAN	URBAN	DEMAND	DEMAND	LANDS
														1/				
NORTH SHORE	325	118	207	8	6	2	0	11	(11)	0	60	(54)	339	0	339	1	196	143
KAPAA	335	299	36	0	11	(11)	14	20	(6)	13	39	(26)	362	27	389	4	373	16
LIHUE	409	430	(21)	81	17	64	74	72	2	38	25	13	602	3	605	12	558	49
KOLOA	572	342	230	28	12	16	0	3	(3)	0	75	(75)	600	39	639	3	435	204
WAIMEA	317	126	191	0	2	(2)	7	11	(4)	0	2	(2)	324	7	331	1	142	189
SUBTOTAL	1,958	1,315	643	117	48	69	95	117	(22)	57	201	(144)	2,227	76	2,302	21	1,702	600
25% FLEXIBILITY FACTOR		329			12			29			50					5	426	(426)
TOTAL	1,958	1,644	643	117	60	69	95	146	(22)	57	251	(144)	2,227	76	2,302	26	2,128	175

1/ Includes County-zoned agricultural and rural districts, but excludes conservation districts.

AVAILABLE URBAN LANDS TO MEET FUTURE DEMANDS  
COUNTY OF KAUAI  
2000  
(IN ACRES)

	RESIDENTIAL			COMMERCIAL			INDUSTRIAL			RESORT			COUNTY-	OTHER	TOTAL	PUBLIC AREA	TOTAL	SURPLUS/
	ZONED			ZONED			ZONED			ZONED			ZONED	DEV.	DEV.	2000	2000	(DEFICIT)
	DEV.	2000	SURPLUS/	DEV.	2000	SURPLUS/	DEV.	2000	SURPLUS/	DEV.	2000	SURPLUS/	DEV.	DEV.	DEV.	2000	2000	OF URBAN
	URBAN	DEMAND	(DEFICIT)	URBAN	DEMAND	(DEFICIT)	URBAN	DEMAND	(DEFICIT)	URBAN	DEMAND	(DEFICIT)	URBAN LANDS	URBAN	URBAN	DEMAND	DEMAND	LANDS
														1/				
NORTH SHORE	325	189	156	8	10	(2)	0	19	(19)	6	128	(122)	339	0	339	2	328	11
KAPAA	335	440	(105)	0	20	(20)	14	34	(20)	13	83	(70)	362	27	389	14	591	(202)
LIHUE	409	700	(291)	81	29	52	74	124	(50)	38	52	(14)	602	3	605	18	923	(318)
KOLOA	572	487	85	28	20	8	0	6	(6)	0	159	(159)	600	39	639	12	684	(45)
WAI'MEA	317	189	148	0	3	(3)	7	19	(12)	0	4	(4)	324	7	331	2	197	134
SUBTOTAL	1,958	1,965	(7)	117	82	35	95	202	(107)	57	426	(369)	2,227	76	2,302	48	2,723	(421)
25% FLEXIBILITY FACTOR		491			21			51			107					12	681	(681)
TOTAL	1,958	2,456	(7)	117	103	35	95	253	(107)	57	533	(369)	2,227	76	2,302	60	3,404	(1,102)

1/ Includes County-zoned agricultural and rural districts, but excludes conservation districts.

TABLE 5-8

AVAILABLE URBAN LANDS TO MEET FUTURE DEMANDS  
COUNTY OF KAUAI  
2010  
(IN ACRES)

	RESIDENTIAL			COMMERCIAL			INDUSTRIAL			RESORT			COUNTY..						SURPLUS/
	ZONED			ZONED			ZONED			ZONED			ZONED	OTHER	TOTAL	PUBLIC AREA	TOTAL	(DEFICIT)	
	DEV.	2010	SURPLUS/	DEV.	2010	SURPLUS/	DEV.	2010	SURPLUS/	DEV.	2010	SURPLUS/	DEV.	DEV.	DEV.	2010	2010	OF URBAN	
	URBAN	DEMAND	(DEFICIT)	URBAN	DEMAND	(DEFICIT)	URBAN	DEMAND	(DEFICIT)	URBAN	DEMAND	(DEFICIT)	URBAN LANDS	URBAN	URBAN	DEMAND	DEMAND	LANDS	
														1/					
NORTH SHORE	325	269	56	8	17	(9)	0	35	(35)	6	255	(249)	339	0	339	12	588	(249)	
KAPAA	335	738	(403)	0	36	(36)	14	63	(49)	13	169	(156)	362	27	389	55	1,061	(672)	
LIHUE	409	1,349	(940)	81	53	28	74	228	(154)	38	102	(64)	602	3	605	71	1,803	(1,198)	
KOLOA	572	777	(205)	28	36	(8)	0	10	(10)	0	297	(297)	600	39	639	18	1,138	(499)	
WAIMEA	317	240	77	0	5	(5)	7	35	(28)	0	9	(9)	324	7	331	11	300	31	
SUBTOTAL	1,958	3,373	(1,415)	117	147	(30)	95	371	(276)	57	832	(775)	2,227	76	2,302	167	4,890	(2,588)	
25% FLEXIBILITY FACTOR		843			37			93			208					42	1,223	(1,223)	
TOTAL	1,958	4,216	(1,415)	117	184	(30)	95	464	(276)	57	1,040	(775)	2,227	76	2,302	209	6,113	(3,810)	

1/ Includes County-zoned agricultural and rural districts, but excludes conservation districts.

AVAILABLE URBAN LANDS TO MEET FUTURE DEMANDS  
COUNTY OF MAUI  
1995  
(IN ACRES)

// Includes County-zoned agricultural and rural districts, but excludes conservation districts.



TABLE 6-11  
 AVAILABLE URBAN LANDS TO MEET FUTURE DEMANDS  
 COUNTY OF MAUI  
 2000  
 (IN ACRES)

SURPLUS/ ZONED	RESIDENTIAL	COMMERCIAL	INDUSTRIAL	RESORT	COUNTY- ZONED	OTHER	TOTAL	PUBLIC AREA	2000 DEMAND	2000 DEMAND	TOTAL OF URBAN (DEFICIT)
	DEV.	2000 SURPLUS/ DEV.	2000 SURPLUS/ DEV.	2000 SURPLUS/ DEV.	DEV.	DEV.	DEV.	DEV.	DEV.	DEV.	DEV.

WAILUKU-KAHULUI	1,285	878	409	23	33	(10)	188	187	21	0	0	1,496	249	1,745	57	1,133	812
KIHEI-MAKENA	907	166	741	13	230	(217)	24	211	(187)	114	237	1,058	68	1,126	19	863	263
LAHAINA	109	385	(276)	16	141	(125)	35	6	29	96	169	256	2	258	22	723	(465)
HANA	44	43	1	0	1	(1)	0	6	(6)	0	8	44	0	44	1	59	(15)
MAKAWAO-KULA	463	235	228	0	2	(2)	0	0	0	0	0	463	0	463	3	240	223
PAIA-HAIKU	166	91	75	0	1	(1)	6	22	(16)	0	0	172	0	172	1	115	57
MAUI SUBTOTAL	2,974	1,786	1,176	52	408	(356)	253	412	(159)	210	414	3,489	319	3,808	103	3,133	875
MOLOKAI	247	54	193	0	3	(3)	117	8	109	121	13	485	152	637	2	80	557
LANAI	383	104	279	0	3	(3)	11	15	(4)	0	29	394	967	1,361	3	154	1,207
SUBTOTAL	3,905	1,954	1,951	52	414	(362)	381	435	(54)	331	456	4,368	1,438	5,806	108	3,367	2,439
25% FLEXIBILITY FACTOR	489			104			109				114				27	842	(842)
TOTAL	3,905	2,443	1,951	52	518	(362)	381	544	(54)	331	570	4,368	1,438	5,806	135	4,209	1,598

1/ Includes County-zoned agricultural and rural districts, but excludes conservation districts.

TABLE 5-12

**AVAILABLE URBAN LANDS TO MEET FUTURE DEMANDS  
COUNTY OF MAUI  
2010  
(IN ACRES)**

	RESIDENTIAL ZONED			COMMERCIAL ZONED			INDUSTRIAL ZONED			RESORT ZONED			COUNTY- ZONED		OTHER	TOTAL	PUBLIC AREA	TOTAL	SURPLUS/ (DEFICIT)
	DEV.	2010	SURPLUS/ (DEFICIT)	DEV.	2010	SURPLUS/ (DEFICIT)	DEV.	2010	SURPLUS/ (DEFICIT)	DEV.	2010	SURPLUS/ (DEFICIT)	DEV.	DEV.	DEV.	2010	2010	2010	OF URBAN LANDS
	URBAN	DEMAND		URBAN	DEMAND		URBAN	DEMAND		URBAN	DEMAND		URBAN LAND	URBAN	URBAN	DEMAND	DEMAND	DEMAND	
1/																			
WAILUKU-KAHULUI	1,285	1,356	(71)	23	33	(10)	188	275	(87)	0	1	(1)	1,496	249	1,745	79	1,744	1	
KIHEI-MAKENA	907	355	552	13	230	(217)	24	406	(382)	114	495	(381)	1,058	68	1,126	58	1,544	(418)	
LAHAINA	109	720	(611)	16	141	(125)	35	12	23	96	274	(178)	256	2	258	74	1,221	(963)	
HANA	44	58	(14)	0	1	(1)	0	11	(11)	0	17	(17)	44	0	44	1	88	(44)	
MAKAWAO-KULA	463	320	143	0	2	(2)	0	0	0	0	0	0	463	0	463	12	334	129	
PAIA-HAIKU	166	132	34	0	1	(1)	6	42	(36)	0	0	0	172	0	172	3	178	(6)	
MAUI SUBTOTAL	2,974	2,941	33	52	408	(356)	253	746	(493)	210	787	(577)	3,489	319	3,808	227	5,109	(1,301)	
MOLOKAI	247	98	149	0	3	(3)	117	14	103	121	19	102	485	152	637	3	137	500	
LANAI	383	139	244	0	3	(3)	11	19	(8)	0	40	(40)	394	967	1,361	4	205	1,156	
SUBTOTAL	3,605	3,178	427	52	414	(362)	381	779	(398)	331	846	(515)	4,368	1,438	5,806	234	5,451	355	
25% FLEXIBILITY FACTOR		795			104			195			212					59	1,363	(1,363)	
TOTAL	3,605	3,973	427	52	518	(362)	381	974	(398)	331	1,058	(515)	4,368	1,438	5,806	293	6,814	(1,007)	
1/ Includes County-zoned agricultural and rural districts, but excludes conservation districts.																			

TABLE 5-14  
AVAILABLE URBAN LANDS TO MEET FUTURE DEMANDS  
COUNTY OF HAWAII  
1995  
(IN ACRES)

	RESIDENTIAL		COMMERCIAL		INDUSTRIAL		RESORT		COUNTY		TOTAL DEV. URBAN	PUBLIC AREA 1995 DEMAND	TOTAL 1995 DEMAND	SURPLUS/ (DEFICIT) OF URBAN LANDS
	ZONED DEV. URBAN	1995 SURPLUS/ (DEFICIT) DEMAND	ZONED DEV. URBAN	1995 SURPLUS/ (DEFICIT) DEMAND	ZONED DEV. URBAN	1995 SURPLUS/ (DEFICIT) DEMAND	ZONED DEV. URBAN	1995 SURPLUS/ (DEFICIT) DEMAND	ZONED DEV. URBAN	1995 SURPLUS/ (DEFICIT) DEMAND				
PUNA	1,704	426	16	12	4	463	20	443	0	0	0	15	473	3,550
SOUTH HILO	1,912	1,087	825	18	474	383	28	355	55	8	47	13	1,154	2,214
NORTH HILO	47	0	47	2	0	0	0	0	0	0	0	0	0	61
HAMAKUA	157	190	(33)	7	4	3	7	(7)	0	0	0	1	202	29
NORTH KOHALA	220	183	57	10	3	7	0	(2)	0	0	0	2	170	109
SOUTH KOHALA	3,402	340	3,082	187	48	139	123	11	112	200	0	12	411	4,441
NORTH KONA	2,183	230	1,953	219	53	188	1,372	28	1,346	309	106	18	433	4,926
SOUTH KONA	126	198	(70)	23	4	19	0	11	(11)	0	0	1	214	79
KAU	380	114	266	21	3	18	0	5	(5)	42	42	1	123	482
SUBTOTAL	10,113	2,748	7,365	977	145	832	2,341	110	2,231	906	114	63	3,180	15,891
25% FLEXIBILITY FACTOR	687				36			28			29	16	795	(795)
TOTAL	10,113	3,435	7,365	977	181	832	2,341	138	2,231	906	143	79	3,975	15,096

1/ Includes County-zoned agricultural, rural and unplanned districts, but excludes open zones.

TABLE 5-15  
AVAILABLE URBAN LANDS TO MEET FUTURE DEMANDS  
COUNTY OF HAWAII  
2000  
(IN ACRES)

	RESIDENTIAL		COMMERCIAL		INDUSTRIAL		RESORT		COUNTY-		OTHER	TOTAL	PUBLIC AREA	TOTAL	SURPLUS/ (DEFICIT)
	ZONED DEV.	2000 URBAN	ZONED DEV.	2000 URBAN	ZONED DEV.	2000 URBAN	ZONED DEV.	2000 URBAN	ZONED DEV.	2000 URBAN					
	DEMAND	DEMAND (DEFICIT)	DEMAND	DEMAND (DEFICIT)	DEMAND	DEMAND (DEFICIT)	DEMAND	DEMAND (DEFICIT)	DEMAND	DEMAND (DEFICIT)	DEV.	DEV.	DEMAND	DEMAND	OF URBAN LANDS
											1/				
PUNA	1,704	678	1,026	16	20	(4)	463	40	423	0	2,183	1,840	23	761	3,262
SOUTH HILO	1,912	1,425	487	492	30	462	383	56	327	55	2,842	526	16	1,527	1,841
NORTH HILO	47	0	47	2	0	2	0	0	0	0	49	12	0	0	61
HAMAKUA	157	259	(102)	7	7	0	0	14	(14)	0	164	67	2	282	(51)
NORTH KOHALA	220	260	(40)	10	4	6	0	3	(3)	0	230	49	4	280	(1)
SOUTH KOHALA	3,402	647	2,755	187	78	109	123	22	101	200	3,912	940	18	1,087	3,765
NORTH KONA	2,163	521	1,642	219	86	133	1,372	53	1,319	309	4,063	1,296	63	873	4,486
SOUTH KONA	128	237	(109)	23	7	16	0	22	(22)	0	151	142	3	269	24
KAU	380	178	202	21	5	16	0	10	(10)	42	443	162	2	195	410
SUBTOTAL	10,113	4,214	5,899	977	237	740	2,341	220	2,121	606	14,037	5,034	131	5,274	13,787
25% FLEXIBILITY FACTOR		1,054		59				55		118			33	1,319	(1,319)
TOTAL	10,113	5,268	5,899	977	296	740	2,341	275	2,121	606	14,037	5,034	164	6,593	12,478

1/ Includes County-zoned agricultural, rural and unplanned districts, but excludes open zones.

**AVAILABLE URBAN LANDS TO MEET FUTURE DEMANDS  
COUNTY OF HAWAII  
2010  
(IN ACRES)**

	RESIDENTIAL			COMMERCIAL			INDUSTRIAL			RESORT			COUNTY-			OTHER	TOTAL	PUBLIC AREA	TOTAL	SURPLUS/
	ZONED			ZONED			ZONED			ZONED			ZONED			DEV.	DEV.	2010	2010	(DEFICIT)
	DEV.	2010	SURPLUS/	DEV.	2010	SURPLUS/	DEV.	2010	SURPLUS/	DEV.	2010	SURPLUS/	DEV.	2010	SURPLUS/	DEV.	DEV.	2010	2010	OF URBAN
	URBAN	DEMAND	(DEFICIT)	URBAN	DEMAND	(DEFICIT)	URBAN	DEMAND	(DEFICIT)	URBAN	DEMAND	(DEFICIT)	URBAN LANDS	URBAN	URBAN	URBAN	URBAN	DEMAND	DEMAND	LANDS
																1/				
PUNA	1,704	1,330	374	18	37	(21)	463	80	383	0	0	0	2,183	1,840	4,023			83	1,530	2,493
SOUTH HILO	1,912	2,023	(111)	492	91	401	383	117	266	55	0	55	2,842	526	3,368			55	2,286	1,082
NORTH HILO	47	0	47	2	0	2	0	1	(1)	0	0	0	49	12	61			0	1	60
HAMAKUA	157	421	(264)	7	14	(7)	0	25	(25)	0	0	0	164	67	231			12	472	(241)
NORTH KOHALA	220	549	(329)	10	9	1	0	8	(8)	0	0	0	230	49	279			16	582	(303)
SOUTH KOHALA	3,402	1,484	1,918	187	116	71	123	53	70	200	514	(314)	3,912	940	4,852			74	2,241	2,611
NORTH KONA	2,183	1,296	865	219	190	29	1,372	140	1,232	309	454	(145)	4,063	1,296	5,359			118	2,200	3,159
SOUTH KONA	128	327	(199)	23	19	4	0	38	(38)	0	0	0	151	142	293			13	397	(104)
KAU	380	325	55	21	12	9	0	18	(18)	42	6	36	443	162	605			4	365	240
SUBTOTAL	10,113	7,757	2,356	977	488	489	2,341	480	1,861	606	974	(368)	14,037	5,034	19,071			375	10,074	8,997
25% FLEXIBILITY FACTOR	1,939				122			120			244							94	2,519	(2,519)
TOTAL	10,113	9,696	2,356	977	610	489	2,341	600	1,861	606	1,218	(368)	14,037	5,034	19,071			469	12,593	6,479

1/ Includes County-zoned agricultural, rural and unplanned districts, but excludes open zones.

## Appendix D

3556

Executive Order No. \_\_\_\_\_

### Setting Aside Land for Public Purposes

---

By this Executive Order, I, the undersigned, Governor of the State of Hawaii, by virtue of the authority in me vested by Section 171-11, Hawaii Revised Statutes, and every other authority me hereunto enabling, do hereby order that the public land hereinafter described be, and the same is, hereby set aside for the following public purposes:

FOR HONOLULU CORPORATION YARD PURPOSES, to be under the control and management of the City and County of Honolulu, a municipal corporation of the State of Hawaii, being that parcel of land situate at Mokauea and Kaholaloe, Sand Island, Honolulu, Oahu, Hawaii, and identified as "Honolulu Corporation Yard," containing an area of 25.678 acres, more or less, SUBJECT, HOWEVER, to the condition that vehicle access will not be permitted into and from Sand Island Parkway over and across Courses 1, 2 and 3 of the above-described Honolulu Corporation Yard; SUBJECT, FURTHER, to the following:

1. An easement in favor of the United States of America for the twenty-four inch pressure sewer line and any other existing utility lines over, under and across the above-described Honolulu Corporation Yard appurtenant to the remaining lands owned by the United States of America, RESERVING, HOWEVER, unto the State of Hawaii, the right to relocate and remove any and all such existing utilities to more convenient or practical locations; and
2. A perpetual non-exclusive sewer easement, Sand Island Outfall, Parcel 1 in favor of the City and County of Honolulu; and
3. An aviation easement in addition to rules and regulations as set forth by the State of Hawaii Department of Transportation, Airports Division (formerly known as the Hawaii Aeronautics Commission),

all more particularly described in Exhibit "A" and delineated on Exhibit "B," both of which are attached hereto and made parts hereof, said exhibits being, respectively, a survey description and survey map prepared by the Survey Division, Department of Accounting and General Services, both being designated as C.S.F. No. 21,479 and dated March 20, 1991.

SUBJECT, HOWEVER, that the City and County of Honolulu, State of Hawaii, shall at its own expense develop the remaining undeveloped area of the Sand Island State Park in accordance with the Sand Island State Park Master Plan dated June 30, 1973 concurrent with the development of the new corporation baseyard.

SUBJECT, ALSO, that the City and County of Honolulu, State of Hawaii, shall consult with the community, in particular, with the Kalihi-Palama Community Council, in the planning and development of the remaining undeveloped area of the Sand Island State Park.

SUBJECT, ALSO, that in the event that the City and County of Honolulu, State of Hawaii, fails to demolish and clear all buildings and other facilities at Kewalo, Honolulu, Oahu, Hawaii, in addition to demolishing the incinerator and clearing the area at the Kapalama Incinerator Site (on Kokea Street), and restore those areas to a condition satisfactory and acceptable to the Department of Land and Natural Resources, State of Hawaii, within two (2) years from the date of issuance of this Executive Order, the premises described in Exhibit "A" and delineated on Exhibit "B" attached hereto shall revert to the Department of Land and Natural Resources, State of Hawaii.

SUBJECT, FURTHER, that upon cancellation of this executive order and/or in the event of non-use or abandonment of the premises or any portion thereof for a continuous period of one (1) year, or upon abandonment of the premises for corporation yard purposes, the City and County of Honolulu, State of Hawaii, shall, within a reasonable time, restore the premises to a condition satisfactory and acceptable to the Department of Land and Natural Resources, State of Hawaii.

SUBJECT, further, to disapproval by the Legislature by two-thirds vote of either the Senate or the House of Representatives or by majority vote of both, in any regular or special session next following the date of this Executive Order.

In Witness Whereof, I have hereunto set my hand and caused the Great Seal of the State of Hawaii to be affixed.  
Done at the Capitol at Honolulu this 17<sup>th</sup> day of June, Nineteen Hundred and 92.

9965E

Approved as to form.

*John A. Burns*  
Governor of the State of Hawaii

*James H. King*  
Deputy Attorney General

Dated: June 4, 1992

-2-



STATE OF HAWAII

SURVEY DIVISION

DEPT. OF ACCOUNTING AND GENERAL SERVICES  
HONOLULU

C.S.F. No. 21,479

March 20, 1991

HONOLULU CORPORATION YARD

Mokauea and Kaholaloe, Sand Island, Honolulu, Oahu, Hawaii

Comprising the following:-

1. Portion of the Former Mokauea Fishery covered by the following:
  - A. Judgement dated July 11, 1961, Law No. 16,696 in favor of the State of Hawaii and covered by Quitclaim Deed, Parcel 2: Hawaiian Dredging Company, Limited to the Territory of Hawaii dated August 6, 1952 and recorded in Liber 2613, Pages 27-40 (Land Office Deed 10605).
  - B. Tract "G" of Quitclaim Deed: United States of America to the State of Hawaii dated July 23, 1965 and recorded in Liber 5334, Page 226 (Land Office Deed S-24133).
2. Portion of the Former Sand Island and Quarantine Military Reservation transferred to the Territory of Hawaii by Presidential Executive Order 10833 dated August 20, 1959.
3. Portion of the land restored to the Territory of Hawaii by Presidential Executive Order 9752 dated July 16, 1946.
4. Portion of Parcel 2 of Quitclaim Deed: United States of America to the State of Hawaii dated July 23, 1965 and recorded in Liber 5334, Page 226 (Land Office Deed S-24133).

Beginning at the northwest corner of this parcel of land and on the southerly side of Sand Island Parkway, the coordinates of said point of beginning referred to Government Survey Triangulation Station "U.S.E. NORTH BASE" being 2074.15 feet North and 4940.52 feet West, thence running by azimuths measured clockwise from True South:-

1. 341° 42' 73.60 feet along the southerly side of Sand Island Parkway;
2. Thence along the southerly side of Sand Island Parkway on a curve to the left with a radius of 624.07 feet, the chord azimuth and distance being: 301° 34' 804.51 feet;

-1-

EXHIBIT \*\*



March 20, 1991

3. 261° 26' 62.45 feet along the southerly side of Sand Island Parkway;
4. 261° 26' 30.00 feet along the southerly side of Sand Island Parkway;
5. 4° 21' 30" 639.32 feet along Sand Island Sewage Treatment Plant Site;
6. 334° 00' 10" 920.00 feet along Sand Island Sewage Treatment Plant Site;
7. 284° 43' 300.00 feet along Sand Island Sewage Treatment Plant Site;
8. 64° 00' 471.64 feet along Sand Island State Recreational Area, Governor's Executive Order 2704;
9. Thence along Sand Island State Recreational Area, Governor's Executive Order 2704 on a curve to the right with a radius of 200.00 feet, the chord azimuth and distance being:  
109° 00' 282.84 feet;
10. 154° 00' 2292.39 feet along Sand Island State Recreational Area, Governor's Executive Order 2704;
11. 244° 00' 20" 217.98 feet along the remainder of Sand Island;
12. Thence along the remainder of Sand Island on a curve to the right with a radius of 40.00 feet, the chord azimuth and distance being:  
292° 51' 10" 60.24 feet  
to the point of beginning and  
containing an AREA OF 25.878 ACRES.

Vehicle access into and from Sand Island Parkway shall not be permitted over and across Courses 1, 2 and 3 of the above-described Honolulu Corporation Yard.

SUBJECT, however, to the following as shown on plan attached hereto and made a part hereof:-

- A. Easement in favor of the United States of America for the 24-inch pressure sewer line and any other existing utility lines over, under and across the above-described Honolulu Corporation Yard appurtenant to the remaining lands owned by the United States of America, reserving, however, unto the State of Hawaii, the right to relocate and remove any and all such existing utilities to more convenient or practical locations.
- B. Perpetual Non-Exclusive Sewer Easement, Sand Island Outfall, Parcel 1 in favor of the City and County of Honolulu.

C.S.F. No. 21,479

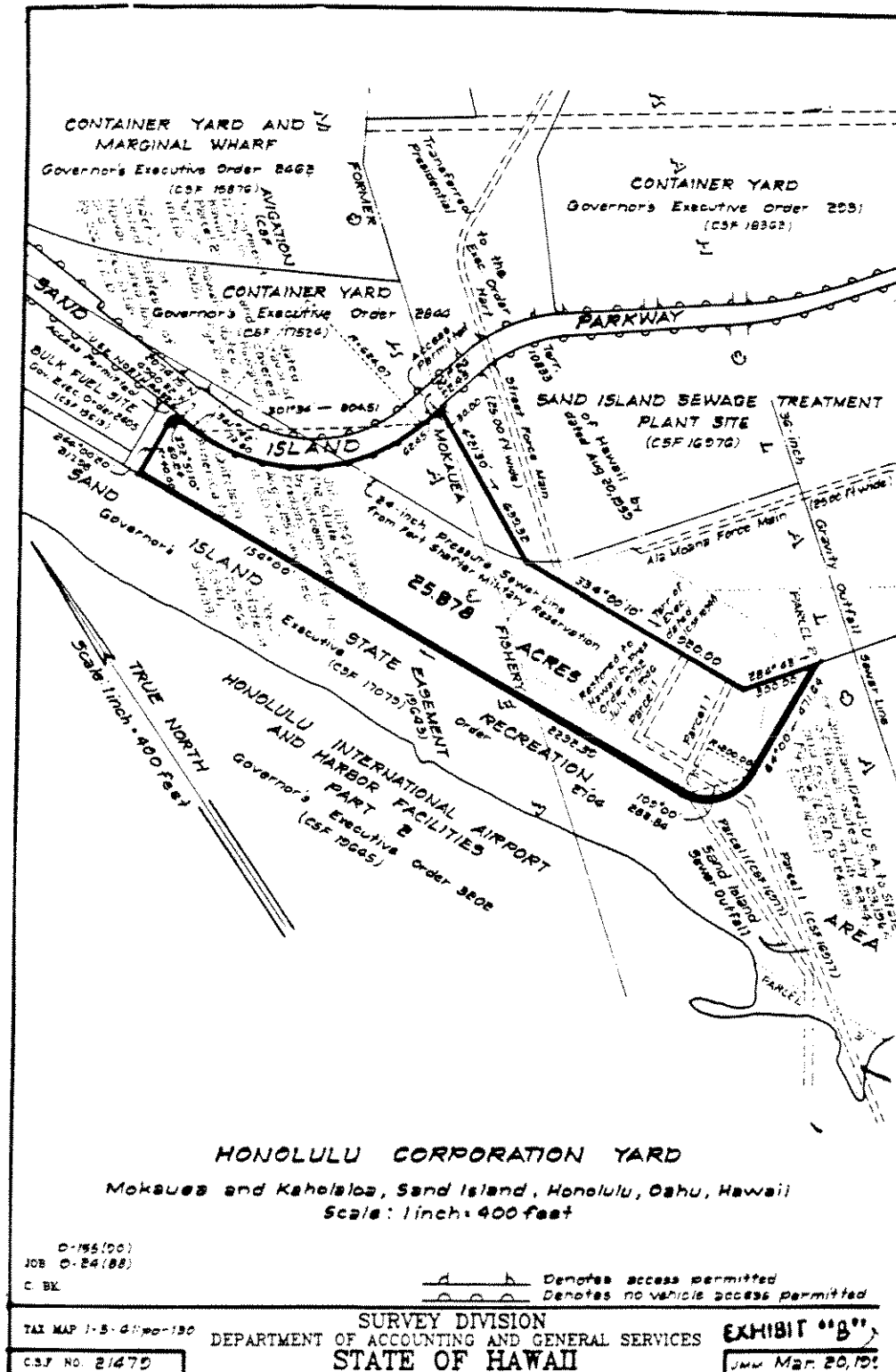
March 20, 1991

C. Avigation Easement and other rules and regulations as set forth by Hawaii Aeronautics Commission.

SURVEY DIVISION  
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES  
STATE OF HAWAII

By: Joseph M. Matsuno  
Joseph M. Matsuno  
Land Surveyor gm

Compiled from R-O-W map,  
Project No. 64A-02-82, Unit 2,  
CSFs 16,976, 16,977, 17,079,  
map furn. by R. M. Towill Corp.  
and Govt. Survey Records.



## Appendix E

Dec. 23

LAND CONVEYANCE—HAWAII

P.L. 88-233

### LAND CONVEYANCE—HAWAII

*For Legislative History of Act, see p. 1362*

PUBLIC LAW 88-233; 77 STAT. 472

[S. 2275]

An Act to revise the procedures established by the Hawaii Statehood Act, Public Law 86-3, for the conveyance of certain lands to the State of Hawaii, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That:*

(a) (i) Whenever after August 21, 1964, any of the public lands and other public property as defined in section 5(g) of Public Law 86-3 (73 Stat. 4, 6), or any lands acquired by the Territory of Hawaii and its subdivisions, which are the property of the United States pursuant to section 5(c) or become the property of the United States pursuant to section 5(d) of Public Law 86-3, except the lands administered pursuant to the Act of August 25, 1916 (39 Stat. 535), as amended, and (ii) whenever any of the lands of the United States on Sand Island, including the reef lands in connection therewith, in the city and county of Honolulu, are determined to be surplus property by the Administrator of General Services (hereinafter referred to as the "Administrator") with the concurrence of the head of the department or agency exercising administration or control over such lands and property, they shall be conveyed to the State of Hawaii by the Administrator subject to the provisions of this Act.

(b) Such lands and property shall be conveyed without monetary consideration, but subject to such other terms and conditions as the Administrator may prescribe: *Provided, That*, as a condition precedent to the conveyance of such lands, the Administrator shall require payment by the State of Hawaii of the estimated fair market value, as determined by the Administrator, of any buildings, structures, and other improvements erected and made on such lands after they were set aside. In the event that the State of Hawaii does not agree to any payment prescribed by the Administrator, he may remove, relocate, and otherwise dispose of any such buildings, structures, and other improvements under other applicable laws, or if the Administrator determines that they cannot be removed without substantial damage to them or the lands containing them, he may dispose of them and the lands involved under other applicable laws, but, in such cases he shall pay to the State of Hawaii that portion of any proceeds from such disposal which he estimates to be equal to the value of the lands involved. Nothing in this section shall prevent the disposal by the Administrator under other applicable laws of the lands subject to conveyance to the State of Hawaii under this section if the State of Hawaii so chooses.

Sec. 2. Any lands, property, improvements, and proceeds conveyed or paid to the State of Hawaii under section 1 of this Act shall be considered a part of public trust established by section 5(f) of Public Law 86-3, and shall be subject to the terms and conditions of that trust.

Approved December 23, 1963.

## LEGISLATIVE HISTORY

The Department believes that the proposed legislation is in the best interest of the banking industry and the Nation and urges its enactment. It would be appreciated if you would lay the draft bill before the House. A similar proposed bill has been transmitted to the President of the Senate.

The Department has been advised by the Bureau of the Budget that there is no objection from the standpoint of the administration's program to the submission of this proposed legislation to the Congress.

Sincerely yours,

DOUGLAS DILLON.

## LAND CONVEYANCE—HAWAII

*For text of Act see p. 519*

Senate Report No. 675, Dec. 3, 1963 [To accompany S. 2275]

House Report No. 972, Dec. 4, 1963 [To accompany H.R. 8970]

The Senate bill was passed in lieu of the House bill.

The Senate Report is set out.

### Senate Report No. 675

THE Committee on Interior and Insular Affairs, to whom was referred the bill (S. 2275) to revise the procedures established by the Hawaii Statehood Act, Public Law 86-3, for the conveyance of certain lands to the State of Hawaii, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

The committee held public hearings on S. 2275, and no objections were received. Committee action in ordering the measure reported favorably was unanimous.

No expenditure of public funds is involved in nor contemplated by S. 2275. The bill has the bipartisan sponsorship of the two Senators from Hawaii, Hon. Daniel K. Inouye and Hon. Hiram L. Fong.

### PURPOSE OF THE BILL

The major purpose of S. 2275 is to provide a procedure for the conveyance to the State of Hawaii of certain Federal lands at such time as those lands become surplus to the needs of the Federal Government. Included are the lands ceded to the United States by the Republic of Hawaii at the time of its annexation in 1898, lands exchanged for ceded lands, and lands of the Territory of Hawaii which were set aside for Federal use when Hawaii became a State and which have consequently remained in Federal ownership. The provisions of the bill also apply to any ceded lands which were controlled by, but not set aside for, the United States at the time of statehood and which may, until August 21, 1964, be set aside for Federal use under the provisions of section 5 of the Hawaii Statehood Act. In addition, the bill provides a procedure for the conveyance of surplus Federal lands on Sand Island, Honolulu Harbor, the precise status of which is in some doubt.

If S. 2275 is not enacted, the above-described lands, which the Federal Government received by the voluntary cession and donation of the people of Hawaii and for which it paid no compensation, would become subject to

## LAND CONVEYANCE—HAWAII

disposal under the Federal property laws after August 21, 1964, when they become surplus. Under the terms of the statehood act, Hawaii would thus lose its long-recognized residual interest in such lands, and the 60-year practice of returning such lands to Hawaii when they are no longer needed would be terminated. Such a result would in effect be a "reverse land grant" that would be highly inequitable in view of the history of the subject lands and the spirit and intent of the statehood act.

The bill would in no way affect lands acquired by the United States in Hawaii by purchase or condemnation, nor would it provide for the conveyance of any national park lands. The procedure involved also insures that the United States would receive fair compensation for any improvements it has made on the lands that might be conveyed to the State.

## BACKGROUND OF LEGISLATION

The text of S. 2275 was drafted by the administration and submitted to the Congress by an executive communication, the text of which is set forth in full below. The situation it was designed to remedy grows out of the provisions of section 5 of the statehood act, Public Law 86-3 (73 Stat. 4, 6). The section granted to the new State the title of the United States—

\* \* \* to all the public lands and other public property within the boundaries of the State of Hawaii; title to which is held by the United States immediately prior to its admission into the Union. The grant hereby made shall be in lieu of any and all grants provided for new States by provisions of law other than this Act, and such grants shall not extend to the State of Hawaii.

Exceptions to this grant are found in subsections (c) and (d) of section 5, the text of which is set forth in full at the end of this report. In substance, these exceptions embrace lands which on the date of Hawaii's admission as a State, August 21, 1959, had been set aside for use of a Federal agency, and lands controlled on that date by the Federal Government pursuant to permission from the territory. The latter may be set aside for Federal use until August 21, 1964. Subsection (e) of section 5 provides that within 5 years from admission, each Federal agency shall report to the President as to its continuing need for such property under its jurisdiction, and, if the President determines the property is no longer needed, it shall be conveyed to the State.

However, no provision is made in the statehood act for conveyance of such property which becomes surplus to the needs of the Federal Government after the termination of the 5-year period; that is, after August 21, 1964. Absent this proposed legislation, the State could not obtain title to such property, with certain very limited exceptions, except through purchase at market value from the Federal Government.

Testimony at the hearings by the two Senators from Hawaii, both Hawaii Congressmen, officials of the State, and officers of the Bureau of the Budget established the fact that this deadline is unrealistic. As stated, the subject lands were given to the United States without cost, and the Federal Government has had the use of them without compensation to the people of Hawaii for up to 60 years.

## HISTORY OF LANDS

The Hawaiian Islands became a part of the United States by the voluntary action of its citizens, the then Republic ceding sovereignty to the United

## LEGISLATIVE HISTORY

States. By the Newlands resolution of July 7, 1898 (No. 55, 55th Cong.; 30 Stat. 750) the United States accepted the cession, including "the absolute fee and ownership of all public, Government, or Crown lands \* \* \*." The resolution of annexation went on to provide that—

the existing laws of the United States relative to public lands shall not apply to such lands in the Hawaiian Islands; but the Congress of the United States shall enact special laws for their management and disposition: *Provided*, That all revenue from or proceeds of the same, except as regards such part thereof as may be used or occupied for the civil, military, or naval purposes of the United States, or may be assigned for the use of the local government, shall be used solely for the benefit of the inhabitants of the Hawaiian Islands for educational and other public purposes (30 Stat. 750).

Congress quickly carried out the mandate of the 55th Congress with respect to enacting special laws for the management and disposition of the ceded lands. The Hawaii Organic Act of April 30, 1900, provided that:

Sec. 91. That the public property ceded and transferred to the United States by the Republic of Hawaii under the joint resolution of annexation, approved July seventh, eighteen hundred and ninety-eight, shall be and remain in the possession, use, and control of the government of the Territory of Hawaii, and shall be maintained, managed, and cared for by it, at its own expense, until otherwise provided for by Congress, or taken for the uses and purposes of the United States by direction of the President or of the governor of Hawaii. And all moneys in the Hawaiian treasury, and all the revenues and other property acquired by the Republic of Hawaii since said cession shall be and remain the property of the Territory of Hawaii.

Thus it will be seen that the ceded lands of Hawaii were, as held by the Attorney General of the United States (22 Op.Atty.Gen. 574), in fact a "special trust," the naked title to them being held by the Federal Government for the benefit of the people of Hawaii.

The hearings established the fact that there are some 410,000 acres of ceded lands to which title or use remains in the Federal Government. Of these, approximately 230,000 acres are in national parks and such park lands are in no way affected by this proposed legislation. They are and will remain federally owned.

Of the remaining 180,000 acres, the roughly 60,000 acres which were set aside as of the date of statehood would be affected by this bill, if and as any part of this land became surplus to the Federal needs. The approximately 120,000 acres presently under license or permit would be affected by this legislation if, prior to August 21, 1964, all or any part of them were set aside in accordance with section 5(d) of the statehood act.

Title and control of such lands will pass from the Federal Government to the State only when and if they are declared surplus to the needs of the Federal Government.

### SAND ISLAND

Sand Island consists of approximately 550 acres of land in Honolulu Harbor, most of which have been created by natural and artificial accretion since annexation. About 125 of these acres never have been claimed by the United

## LAND CONVEYANCE—HAWAII

States and are now controlled by the Hawaiian Aeronautics Commission. Another 202 acres were transferred to the then Territory of Hawaii pursuant to authority granted by the 85th Congress in 1958 (72 Stat. 850). About 196 acres of land above water and 65 acres of submerged land are under the Department of the Army. It is these submerged lands to which the term "reef lands" is primarily applied in S. 2275. The remaining 27 acres above water under Federal control constitute the Sand Island Coast Guard Base.

The Coast Guard has a continuing requirement for this base and an additional requirement for about 19 acres of land in the military reservation. None of the lands needed by the Coast Guard would be subject to transfer to the State under the terms of this bill as they would not be surplus to Federal needs. However, the remaining area of the Army reservation is excess to Army needs, and no other Federal need has developed for this area, nor to any other part of Sand Island nor its connected reef areas.

An Attorney General's opinion of July 18, 1940 (30 Op.Atty.Gen. 460), relative to Sand Island, states that it appears probable that Executive Order No. 3358 of November 24, 1920, setting aside lands on Sand Island and Quarantine Island for military purposes—

\* \* \* was issued under the theory that the lands set aside by it were a part of the public lands which belonged to the Hawaiian Government and which passed to the United States under the joint resolution of annexation \* \* \*.

While no authority for action was cited in the 1920 Executive order, the Attorney General stated that it is probable that section 91 of the Hawaiian Organic Act was the basis for action.

If it were certain that Sand Island does consist of ceded land set aside for Federal use, it would be possible to convey to the State that portion of the land which is no longer needed by the United States under section 5(e) of the statehood act.

Two factors, however, have cast doubt on the legality of such a conveyance. First, two private corporations claimed title to the Sand Island area at the time of annexation as successor to the interests therein of the William Sumner estate. The private claims to the area were never recognized by the United States nor by the Territory of Hawaii, but were settled in a compromise agreement in 1902, wherein the corporations quitclaimed their interests in the area to the United States in return for receipt of a land patent from the Territorial Governor confirming their title to the remainder of the Sumner estate, which was granted by King Kamehameha III for a farm.

Second, as a result of dredging and filling, as well as from natural accretions, the fast land in the area has increased from less than 10 acres at the time of annexation to the present size of about 550 acres.

The former, now extinguished, private claim to the area casts some doubt on the fact that the Sand Island was acquired as part of the cession from the Republic of Hawaii. Further, section 5(i) of the statehood act, which applies the Submerged Lands Act of 1953 (67 Stat. 29) to the State of Hawaii, casts doubt on the authority to convey filled lands to Hawaii under section 5(e) of the statehood act.

Because of those factors, the Department of Justice has concluded that the remaining filled land on Sand Island is not susceptible to conveyance to Hawaii as ceded land under section 5(e) of the Statehood Act. This



## LEGISLATIVE HISTORY

same doubt resulted in the 1958 act to clarify the authority to convey another part of Sand Island.

The committee believes that any doubt as to the status of Sand Island or any of its connected reef areas should be resolved in favor of the State of Hawaii. Under the terms of this bill the State of Hawaii would be able to clarify and perfect its claim to any and all parts of Sand Island, and its connected reef areas, which are surplus to the Federal needs.

## EXECUTIVE COMMUNICATION

The executive communication from the Director of the Bureau of the Budget to the Honorable Lyndon B. Johnson, then President of the Senate, transmitting the text of the proposed legislation that became S. 2275, is set forth below:

EXECUTIVE OFFICE OF THE PRESIDENT,  
BUREAU OF THE BUDGET,  
Washington, D. C., October 28, 1963.

HON. LYNDON B. JOHNSON,  
President of the Senate,  
Washington, D. C.

DEAR MR. PRESIDENT: There is forwarded herewith a draft of legislation to revise the procedures established by the Hawaii Statehood Act, Public Law 86-3, for the conveyance of certain lands to the State of Hawaii, and for other purposes. The proposal would provide an equitable means for eventually returning to the State of Hawaii certain surplus Federal lands which it would otherwise be unable to receive because of the provisions of the Hawaii Statehood Act (Public Law 86-3; 73 Stat. 4).

We believe that Hawaii has a unique claim on the lands and property involved since they were originally given to the United States by the Republic or the Territory of Hawaii. That claim and the special status of those lands and property have been recognized by the United States for many years. In essence, the proposal would provide for the continuation of a 60-year practice of returning those lands and property when they were no longer needed by the United States.

### Ceded lands

Section 1 of the draft mainly concerns three types of land and property controlled by the Federal Government in the State of Hawaii: (1) the public lands and public property ceded to the United States by the Republic of Hawaii under the joint resolution of annexation of July 7, 1898 (30 Stat. 750); (2) lands and properties acquired in exchange for such ceded lands and properties; and (3) lands of the Territory of Hawaii and its subdivisions. Those lands and properties were all at one time the public property of the people of Hawaii or were exchanged for such lands and properties.

The bulk of the lands involved, which were ceded at the time of annexation, have always been treated differently than the other public lands of the United States. History clearly indicates that those lands were regarded as having been held in a special trust status by the United States for the benefit of the Hawaiian people. The resolution of annexation barred the extension of Federal public land laws to Hawaii and provided that the revenues from the ceded land, except for those used by the United States, were to be used solely for the benefit of the inhabitants of Hawaii.

Subsequently, the Congress provided in section 91 of the Hawaiian Organic Act of April 30, 1900 (31 Stat. 141, 159), that the ceded lands were to remain in the "possession, use, and control of the government of the Territory of Hawaii, and shall be maintained, managed, and cared for by it, at its own expense, until otherwise provided for by the Congress, or taken for the uses and purposes of the United States by direction of the

## LAND CONVEYANCE—HAWAII

President or of the Governor of Hawaii." Provision was made in the same section for the return to Hawaii of ceded lands taken for United States use and for the actual transfer of title to the Territory in certain cases. The special trust status of those lands was further made clear in that there was no provision for their sale by the United States and in that any revenues secured by the United States from the rental of those lands taken for Federal use had to be returned to the Territory. On the other hand, sale of ceded lands by the Territory was authorized.

During the almost 60 years that Hawaii remained a Territory of the United States, the President and the Governor frequently set ceded lands aside for the use of the United States. Lands were taken for military bases, the national park, lighthouses, and a variety of other purposes by Executive orders and proclamations. Provision was also made, in section 73(q) of the organic act for the Governor to set aside for United States use other lands belonging to the Territory of Hawaii.

The Hawaii Statehood Act (Public Law 86-3; 73 Stat. 4) again recognized Hawaii's special claim to the ceded land and, in section 5(b), provided for the granting to Hawaii of the U. S. title to all such lands and lands acquired in exchange for ceded lands except insofar as they were set aside for U. S. use on the date Hawaii became a State. Section 5(e) of the statehood act provides for a review of those lands which were set aside, as well as any lands of the Territory and its subdivisions which were set aside, during the 5 years ending on August 21, 1964. Section 5(e) authorizes the President to determine whether the set-aside lands are no longer needed by the United States and to convey to the State those which are not needed.

However, after the conclusion of the current 5-year review, it appears that Hawaii will no longer be entitled to the return of the lands it originally gave to the United States. Thus, absent new legislation, the State of Hawaii will be denied those lands to which the territory was entitled during its 60 years of existence, and there will be a significant departure from the heretofore accepted concept of the special trust status of those lands.

Section 1 of the draft legislation is intended to correct this inequity and, in effect, to provide a procedure whereby the ceded and other lands and properties which are set aside may continue to be returned to the State of Hawaii whenever they become surplus to Federal needs. We believe such action is fully justified in keeping with the manner in which the lands and properties were acquired and the history of the special trust status in which they have been held.

Section 1 of the draft would authorize the Administrator of General Services to determine when the lands and properties involved are surplus, thus terminating, at the close of the 5-year period specified in the Hawaii Statehood Act, the special Presidential review and providing for the processing of the lands involved in much the same manner as other Federal lands are processed for disposal. The Administrator would be able to transfer such lands among other Federal agencies when they become excess to the needs of the controlling agencies and otherwise treat them in the same manner as other Federal lands until he determines them to be surplus.

While the lands would generally be returned to the State without monetary consideration, section 1 of the draft does authorize the Administrator to make such conveyances subject to any terms and conditions he may prescribe. It is anticipated that that authority would be used primarily to preserve utility easements and to protect Federal interests in other properties which it retains. Provision is also made for safeguarding the U. S. interests in buildings, structures, and other improvements made on the lands after they were set aside. In the event that the surplus lands contain such improvements which have an estimable fair market value, under section 1 of the draft, the Administrator must require the State to pay such fair market value before the lands and improvements

## LEGISLATIVE HISTORY

are conveyed. In the event the State does not agree to the payment, the Administrator may remove the improvements and dispose of them under other applicable laws or, if they cannot be removed without substantial damage, he may dispose of both the improvements and the lands involved under other applicable laws. In the latter case, in keeping with Hawaii's claim to the land, the Administrator would be required to pay over to the State that portion of any proceeds equal to the value of the land involved.

There would be one exception from the lands otherwise subject to conveyance to Hawaii under the terms of the draft legislation. No ceded or other lands administered pursuant to the act of August 25, 1916, providing for national parks, could be conveyed under the proposal. That exception would be in keeping with the special status accorded national park lands by the Congress in excluding them from the current 5-year review of Federal lands in Hawaii and in keeping with the Congress long-established practice of disposing of park lands by special congressional action.

At present, about 410,000 acres under Federal control in Hawaii consist of set-aside ceded and territorial lands. About 230,000 acres of that total are located in the national parks and most of the remainder in various military installations. As noted above, these lands—except for the national park lands—could only be returned to the State in the event they become surplus.

### Sand Island

Section 1 of the draft bill would also authorize the Administrator of General Services to convey to the State of Hawaii without reimbursement any Federal lands on Sand Island and the reef lands connected therewith in the vicinity of Honolulu Harbor which he determines to be surplus. Any conveyances of those lands would be subject to the same procedures applicable to surplus ceded lands.

The State's claim to the land on Sand Island, including the reef lands connected therewith, is based on the contention that the United States acquired title to all of the area through the joint resolution of July 7, 1898, providing for the annexation of the Republic of Hawaii. That resolution, among other things, ceded and transferred to the United States all the public lands, buildings, ports, and other property belonging to the Government of Hawaii. Honolulu Harbor and the adjacent reef lands in which Sand Island is located were generally considered to have been part of that cession.

As noted above, we believe there is full justification for the return to Hawaii of surplus ceded lands.

Sand Island consists of about 550 acres of fast land, the large bulk of which was created by natural and artificial accretion since the annexation of Hawaii. About 125 of those acres have never been claimed by the United States and are now controlled by the Hawaiian Aeronautics Commission pursuant to an executive order of the Governor. Another 202 acres were transferred to the then Territory of Hawaii by the President in Executive Order No. 10833 of August 20, 1959. That conveyance was authorized by the act of August 25, 1958 (72 Stat. 850), which provided that the transfer be without monetary consideration and that the proceeds from the use or disposal of the land be used for the support of the University of Hawaii.

The United States continues to control the remainder of Sand Island and certain adjacent submerged lands. About 261 acres, of which about one-third are submerged, are controlled by the Department of the Army and constitute the Sand Island Military Reservation. The remaining 27 acres under Federal control constitute the Sand Island Coast Guard Base. The Coast Guard has a continuing requirement for its base and an additional requirement for about 19 acres of land currently controlled by the Department of the Army. The remaining 242 acres of the Army reservation are excess to Army needs, and no other Federal need has developed for this area to date.

## LAND CONVEYANCE—HAWAII

An Attorney General's opinion of July 18, 1940 (30 Op. Atty. Gen. 460), relative to Sand Island states that it appears probable that Executive Order No. 3358 of November 24, 1920, setting aside lands on Sand Island and Quarantine Island for military purposes, "was issued under the theory that the lands set aside by it were a part of the public lands which belong to the Hawaiian government and which passed to the United States under the joint resolution of annexation . . . ." While no authority for action was cited in the 1920 Executive order, the Attorney General stated that it is probable that section 91 of the Hawaiian Organic Act was the basis for action.

If it were certain that Sand Island does consist of ceded lands set aside for Federal use, it would be possible now to convey to the State that portion of the land which is no longer needed by the United States. That conveyance could be effected under section 5(e) of the Hawaii Statehood Act which authorizes the return to the State without reimbursement, until August 21, 1964, of ceded lands under Federal control which are determined to be no longer needed by the United States.

Two factors, however, have cast doubt on the possibility of conveying any land on Sand Island to Hawaii under the authority of section 5(e) of the statehood act. First, two private corporations claimed title to the Sand Island area at the time of annexation as successors to the interests therein of the William Sumner estate. The private claims to the area were never recognized by the United States or the Territory of Hawaii but were settled in a compromise agreement in 1902 wherein the corporations quitclaimed their interests in the area to the United States in return for receipt of a land patent from the Territorial Governor confirming their title to the remainder of the Sumner estate. The United States was named grantee in the quitclaim deed because an Assistant U. S. Attorney General had taken the position that in an exchange of ceded land with private parties in Hawaii, for other than street or road widening or other local purposes, the conveyance should run to the United States rather than the Territory of Hawaii though equitable title to ceded land was in the Territory. Second, by means of dredging and filling as well as natural accretions, the fast land in the area has increased from less than 10 acres at the time of annexation to the present size of about 550 acres.

The private claim to the area casts some doubt on the fact that the Sand Island was acquired as part of the cession from the Republic of Hawaii. Further, section 5(i) of the statehood act, which applies the Submerged Lands Act of 1953 (67 Stat. 29) to the State of Hawaii, casts doubt on the authority to convey filled lands to Hawaii under section 5(e) of the statehood act. Because of those factors, the Department of Justice has concluded that the remaining filled land on Sand Island is not susceptible to conveyance to Hawaii as ceded land under section 5(e) of the statehood act. This same doubt resulted in the 1958 act to clarify the authority to convey another part of Sand Island.

We believe that the doubt as to Sand Island's status should be resolved in favor of the State of Hawaii.

### Public trust

Section 2 of the draft legislation provides that any conveyances to the State of Hawaii under section 1 shall be considered part of, and subject to the terms and conditions of, the public trust established by section 5(f) of the Hawaii Statehood Act. That trust, which already applies to all the ceded lands returned to Hawaii under provisions of the statehood act, requires that the lands involved and the proceeds therefrom shall be held by the State for the support of public schools, betterment of the conditions of native Hawaiians, making of public improvements and other limited public purposes.

The Bureau of the Budget urges early and favorable consideration of the proposed legislation.

Sincerely,

KERMIT GORDON, *Director*.

## LEGISLATIVE HISTORY

EXECUTIVE OFFICE OF THE PRESIDENT,  
BUREAU OF THE BUDGET,  
Washington, D. C., November 19, 1963.

HON. ALAN BIBLE,  
*Chairman, Subcommittee on Public Lands,  
Committee on Interior and Insular Affairs,  
U. S. Senate, Washington, D. C.*

DEAR MR. CHAIRMAN: During the course of the hearing on November 13 on S. 2275, a bill to revise the procedures established by the Hawaii Statehood Act, Public Law 86-3, for the conveyance of certain lands to the State of Hawaii, and for other purposes, I was asked to furnish data on the character, use, location, time of acquisition, and value of the lands covered by the bill.

The enclosed chart on Federal lands in Hawaii contains most of the information requested. In it Federal lands are broken down into four categories. The bill deals with the lands listed in columns 2 and 3—"Ceded lands" and "Permit lands, State"—except for those in the national parks. Column 2 covers the lands acquired by cession in 1898 or subsequently acquired in exchange for ceded lands and territorial lands which have been set aside for Federal use. Column 3 covers the State-owned lands which were controlled by the United States by permit or license from the Territory of Hawaii on the date Hawaii was admitted to statehood. Under section 5(d) of the statehood act, those permit lands may be set aside for Federal use prior to August 21, 1964.

The ceded, set-aside lands and permit lands are broken down by island location and controlling or occupying agency, and the major installations and uses are shown. As noted in my testimony, 230,000 acres (the actual figure shown in the chart is about 227,530 acres) of the ceded, set-aside lands are controlled by the Department of the Interior for national park purposes and are excepted from the provisions of the bill.

The remaining 59,525 acres of ceded, set-aside land are covered by the bill. Title to the bulk of this land was acquired by the United States under the resolution annexing the Hawaiian Islands in 1898. The second step in the process—the setting aside of the ceded land for Federal use—was accomplished by Presidential and gubernatorial order at various times during the period from 1898 until Hawaii became a State in 1959. We have no complete records regarding the times at which properties were set aside, but the bulk of the lands in the major installations consisting of ceded lands were set aside at the following times:

Bonham Air Force Base .....	1940-41
Kahoolawe Navy target area .....	1953
Bellows Air Force Station .....	1917
Wheeler Air Force Base .....	1918
Fort Shafter .....	1917
Schofield Barracks .....	1917
Lualualei Naval Ammunition Depot .....	1930
Lualualei Naval Radio Station .....	1933
Hawaiian Islands National Wildlife Refuge .....	1909

As the chart indicates, almost all of the State land used under permit—referred to as 120,000 acres in my testimony, but which upon further checking is closer to 126,000 acres—is located on the islands of Hawaii and Oahu and is used by the Army for training and maneuvers.

No useful or realistic figures are available on the value of the lands covered by the bill, particularly since the United States has not paid for those lands either at the time of their acquisition or subsequently. The General Services Administration, in its 1962 Inventory Report on Real Property Owned by the United States Throughout the World, estimated that 233,035 acres of Federal land in Hawaii covered in its inventory at that time to have a cost of about \$21.7 million. That would average out to about \$93 per acre. The GSA report states the cost of properties—

## LAND CONVEYANCE—HAWAII

such as the ceded lands—acquired through donation is estimated for purposes of its inventory at amounts the Government would have had to pay for the properties at the date of acquisition.

Of course, the Federal lands on the island of Oahu are worth a great deal more today than when they were ceded or set aside. It is very difficult now to find any usable land on the island worth less than \$1 per square foot. Good land anywhere in the urban or suburban area on Oahu probably now averages at least \$100,000 per acre, and choice lands in downtown Honolulu or at Waikiki are worth much more. However, lands on the other islands are worth less, and the major ceded tract on Kahoolawe Island is probably of very little value because it has been heavily contaminated as a target area.

It must be stressed that the bill does not automatically convey any of the above lands to the State. They would be conveyed only upon a finding that they are surplus to the United States. The Federal need for the bulk of the lands is expected to continue for the foreseeable future.

Mention was also made during the hearing of rental payments on Federal lands in Hawaii. It should be made clear that the United States has never paid any rental to the State or the Territory of Hawaii for the ceded and other lands which have been set aside for Federal use. However, on occasion it has leased or rented out to private parties lands which were set aside for Federal use. In those cases, under section 91 of the Hawaii Organic Act (46 Stat. 789), the proceeds were covered into the territorial treasury. Rentals from private parties—which now amount to about \$100,000 a year—will continue to be turned over to the State until August 21, 1964, pursuant to section 42 of the Hawaii Omnibus Act (Public Law 86-624).

If I can be of further assistance, please let me know.

Sincerely,

HAROLD SEIDMAN,

*Acting Assistant Director for Management and Organization.*

## FEDERAL LANDS IN HAWAII

The table indicates the acres of land owned or controlled by the Federal Government on each of the major islands in the State of Hawaii. Column 1 shows the major controlling agencies and installations. Column 2, headed "Ceded lands," shows the acreage acquired through the setting aside of lands ceded by the Republic of Hawaii, lands exchanged for ceded lands and lands of the Territory of Hawaii. (Sand Island lands appear in col. 2 even though there is doubt as to their ceded status.) Column 3, headed "Permit lands, State," shows the acreage of State and locally owned lands which are controlled or used by the Federal Government under permit, license, lease, or easement. Column 4, headed "Permit lands, private," shows the acreage of privately owned lands which are similarly controlled or used by the Federal Government. (Data on such lands are not complete.) Column 5, "Fee-owned lands," shows the acreage acquired by the United States by purchase or condemnation.

Data are based on reports furnished to the Bureau of the Budget under its Circular No. A-52. In some cases figures are approximations, and in a few cases, because of incomplete data, lands have been arbitrarily assigned to a category even though some questions exist about their status. The table does not include the 435 acres of land already conveyed to Hawaii under section 5(e). It does include lands which have been found excess or no longer needed but which have not yet been disposed of.

# LEGISLATIVE HISTORY

Agencies and installations	Ceded lands	Permit lands, State	Permit lands, private	Fee-owned lands
(1)	(2)	(3)	(4)	(5)
<b>Hawaii:</b>				
Interior, national park.....	210,400			
Federal Aviation Agency.....	55			
Army Pohakuloa training area.....	755	114,569		
Other .....	38	3		
<b>Navy:</b>				
Kauna Point target area.....			2,198	
Other .....	4			
Coast Guard, lighthouses.....	20			
General Services Administration.....	2			
Subtotal, Hawaii.....	211,277	114,582	2,198	
<b>Maui:</b>				
Interior, national park.....	17,130			
Other agencies.....	7			20
Subtotal, Maui.....	17,137			20
<b>Kauai:</b>				
Air Force, Bonham Air Force Base.....	1,830	200		
Other agencies.....	240			
Subtotal, Kauai.....	2,070	200		
<b>Kahoolawe:</b>				
Navy, target area.....	28,800			
Coast Guard, lighthouse.....	23			
Subtotal, Kahoolawe.....	28,823			
<b>Oahu:</b>				
<b>Air Force:</b>				
Bellows Air Force Station.....	1,534			36
Dillingham Air Force Base.....	110			631
Hickam Air Force Base.....	158			2,231
Wheeler Air Force Base.....	1,404			
Other .....	68	118	34	90
<b>Army:</b>				
Fort DeRussy.....	2			70
Fort Shafter.....	1,388			47
Sand Island Military Reservation.....	231			
Tripler Hospital.....				308
Fort Kamehameha.....				629
Makua training area.....		4,615	2,134	170
Kahuku training area.....		1,225	10,751	
Kawailoa training area.....		4,390	18,450	
Schofield Barracks.....	13,512	427		254
Other .....	544	262	34	1,619
<b>Navy:</b>				
Kaneohe Marine Corps Air Station.....	609			2,280
Lualualei Ammunition Depot.....	3,801			4,338
West Loch Ammunition Depot.....	1			1,749
Waikele Ammunition Depot.....				520
Lualualei Radio Station.....	1,745			
Haiku Radio Station.....	29	495		166
Wahiawa Radio Station.....				695
Barbers Point Air Station.....				3,679
Ford Island Air Station.....				444
Waipio Peninsula.....				1,533
Waikane-Kapaa Marine training areas.....			1,819	
Other (mainly in Pearl Harbor complex) .....	185			8,897

Agencies and installations	Ceded lands	Permit lands, State	Permit lands, private	Fee-owned lands
(1)	(2)	(3)	(4)	(5)
Coast Guard:				
Sand Island Base.....	27			
Other .....	18			
Other agencies.....	20	6		279
Subtotal, Oahu.....	25,539	11,741	33,222	30,975
Other islands:				
Interior, wildlife refuge.....	1,765			
Coast Guard, lighthouses.....	430			556
Navy, Homestead Field, Molokai.....	14			
Subtotal, other islands.....	2,209			556
Grand total.....	287,055	126,533	35,420	31,531