EXECUTIVE CHAMBERS

HONOLULU

LINDA LINGLE
GOVERNOR

July 12, 2006

The Honorable Calvin K. Y. Say, Speaker
and Members of the House of Representatives
Twenty-Third State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear Mr. Speaker and Members of the House:

Re: House Bill No. 2555 HD2 SD2 CD1

On July 11, 2006, House Bill No. 2555, entitled "A Bill for an Act Relating to the Hawaii Community Development Authority" became law without my signature, pursuant to Section 16 of Article III of the Constitution of the State of Hawaii.

This bill prohibits the sale or transfer of fee simple interest in State-owned land in the Kaka`ako community development district. The bill also prohibits approval of plans or proposals for any residential development makai of Ala Moana Boulevard between Kewalo basin and the foreign trade zone. These restrictions are broad in their impact on the planning process for the Kaka`ako area.

First, the prohibition on the sale or transfer of State-owned land causes difficulty for the Hawaii Community Development Authority (HCDA) to achieve its directives as originally set forth by the Legislature. Land exchanges, realignments, and sale of remnant parcels further the goals of the various District plans. HCDA will be prevented from executing buybacks of reserved housing units and reselling to qualified buyers. These transactions are used to prevent excessive profits in the sale and purchase of affordable housing units. Additionally, land exchanges would be prohibited under this bill.

This restriction in this bill applies to the entire Kaka`ako community development district, not just the Makai area, and may interfere with planning in other sectors of the District. It is not good policy to restrict sale or transfer of lands with such a broad stroke.

Second, the ban on residential development in the Makai area is restrictive and could be considered a taking of private property rights. This restriction applies to all landowners in the Makai area, not just the HCDA. Kamehameha Schools had planned to propose a development of workforce housing including up to 200 residential lofts in a life sciences research complex on its

land in the Makai area. It is unclear what legal recourse Kamehameha Schools may want to pursue given the imposition of the restriction on their private property.

Further, the prohibitions of this bill are inconsistent with several provisions in HCDA's enabling legislation (Chapter 206E, Hawaii Revised Statutes) that mandate a mixed-use of industrial, commercial, residential and public uses within the entire Kaka`ako District.

At its meeting on June 7, 2006, the HCDA Board terminated an outstanding request for proposal (RFP), effectively stopping all development in the Kaka`ako Makai area. It also agreed not to transfer, in fee, any State lands in the Makai area. In an effort to address the concern that the public did not have sufficient opportunity for input in the planning process, the HCDA Board also established a Makai Area Advisory Planning Committee consisting of members of the public. Its purpose is to provide input for a new waterfront development plan.

With the formation of the Advisory Committee and in light of the Board's termination of the RFP, I believe the prohibition of residential use in the Makai Area is premature. The Advisory Planning Committee should be given the flexibility to make a recommendation that might include residential development. It is unfortunate this bill will have a chilling or limiting effect on a process specifically designed for more public participation.

For the foregoing reasons, I allowed House Bill No. 2555 to become law as Act 317 without my signature.

Sincerely,

LINDA LINGLE