

HAWAIIAN HOMES COMMISSION
Minutes of December 12-13, 2011
Meeting Held in Kapolei, O`ahu, Hawai`i

Pursuant to proper call, the 622nd Regular Meeting of the Hawaiian Homes Commission was held at the Department of Hawaiian Home Lands, 91-5420 Kapolei Parkway, Kapolei, Hawai`i beginning at 10:00 a.m.

PRESENT Mr. Albert "Alapaki" Nahale-a, Chair
 Mr. Imaikalani Aiu, Commissioner, Kaua`i
 Mr. Perry O. Artates, Commissioner, Maui
 Ms. Leimana DaMate, Commissioner, West Hawai`i
 Mr. J. Kama Hopkins, Commissioner, O`ahu
 Mr. Michael P. Kahikina, Commissioner, O`ahu
 Mr. Ian B. Lee Loy, Commissioner, East Hawai`i
 Mr. Renwick V.I. Tassill, Commissioner, O`ahu

EXCUSED Mr. Henry K. Tancayo, Commissioner, Moloka`i

COUNSEL Deputy Attorneys General Kalani Bush

STAFF Michelle Ka`uhane Deputy to the Chair
 Wai`ale`ale Sarsona, Chief of Staff
 Linda Chinn, Administrator, Land Management Division
 Rodney Lau, Administrator, Administrative Services Office
 Darrell Yagodich, Administrator, Planning Office
 Dean Oshiro, Acting Administrator, Homestead Services Division
 Crystal Kua, Information & Community Relations Officer
 Sandy Pfund, Administrator, Land Development Division
 Norman Sakamoto, Land Development Officer
 Kamana`o Mills, Procurement & Special Assistant
 Dre Kalili, Legislative Policy Analyst
 Kala Enos, Land Issues Officer
 Juan Garcia, Supervisor, Homestead Services Division
 Don Aweau, Assistant to the Chair
 Kaleo Manuel, Planner, Planning Office
 Julie Cachola, Planner, Planning Office
 Gigi Cairel, Planner, Planning Office
 Blaine Fergerstrom, Information Specialist, ICRO
 James Kimo Kai, Special Assistant, Office of the Chair
 Elaine Searle, Secretary to the Commission

MELE & Commission Kama Hopkins
PULE Honoring Kalaniana`ole and the people of the land

AGENDA Commissioner K. Hopkins moved, seconded by Commissioner I. Aiu to approve the agenda. Motion carried unanimously.

MINUTES Commissioner M. Kahikina moved, seconded by Commissioner I. Aiu to approve the minutes of November 14-15, 2011 as circulated. Motion carried unanimously.

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS
HAWAIIAN HOMES COMMISSION WORKSHOP/AGENDA
91-5420 Kapolei Parkway, Kapolei, O`ahu, Hawai`i
Monday, December 12, 2011, 10:00 a.m., & December 13, 2011, 8:30 a.m.

ORDER OF BUSINESS

Roll Call
Approval of Agenda
Approval of Minutes of November 14 & 15, 2011

A - WORKSHOP PRESENTATIONS

- A-1 Project Kauhale - Ahonui
- A-2 Lending and Loan Products
- A-3 2012 Legislative Package

B - PUBLIC TESTIMONY ON AGENDIZED ITEMS

C - OFFICE OF THE CHAIRMAN

- C-1 Proposed Amendments to HAR Title 10
- C-2 Policy Development for Amendments to HAR Title 10
- C-3 Affordable Housing Credits Update
- C-4 Amendments to Affordable Housing Credits Policy
- C-5 Update on Strategic Goals and Objectives
- C-6 Resolution No. 259 - Support Notification of Notices
- C-7 Resolution No. 260 - Grant Decision Making Authority

D - HOMESTEAD SERVICES DIVISION

- D-1 HSD Status Reports
 - Exhibits:
 - A - Homestead Lease and Application Totals and Monthly Activity Reports
 - B - Delinquency Report and Status of Contested Case Hearings
 - C - DHHL Guarantees for USDA-RD Loans
 - D - DHHL Guarantees for FHA Construction Loans
- D-2 Notification of Various Lease Awards and Cancellation of Corresponding Applications
- D-3 Rescission of Homestead Lease Award and Reinstatement of Application - La`i`opua Villages 4 & 5, Undivided Interest
- D-4 Notification of Change of Lender to Consent of Mortgage Approved by HHC on August 15, 2011 - **Gaynelle P. Freitas**
- D-5 Approval of Consent to Mortgage

- D-5 Approval of Consent to Mortgage
- D-6 Refinance of Loans
- D-7 Schedule of Loan Delinquency Contested Case Hearings
- D-8 Homestead Application Transfers / Cancellations
- D-9 Commission Designation of Successors to Application Rights - Public Notice 2003
- D-10 Reinstatement of Deferred Applications
- D-11 Request to Set Aside Cancellation of Applications - **Frederick K.K. Kauhane**
- D-12 Ratification of Designation of Successors to Leasehold Interest and Designation of Persons to Receive Net Proceeds
- D-13 Approval of Exchange of Lease
- D-14 Approval of Assignments of Leasehold Interest
- D-15 Approval of Amendment of Leasehold Interest
- D-16 Request to Schedule Contested Case Hearing - **Lease Violations**
- D-17 Commission Designation of Successor - **Loreen K. Kahawai**
- D-18 Amend Prior Relocation Approval - **Jacqueline M. Hill**
- D-19 Implementation of Lease Cancellation - **Various**
- D-20 Request to Surrender Lease - **Salvatore K. Jordano, Sr.**

F- LAND MANAGEMENT DIVISION

- F-1 Finding of No Significant Impact, Ka Makana Ali'i Conceptual Master Plan, Hawai'i DeBartolo LLC, East Kapolei, O'ahu
- F-2 Ratification of Consents and Approvals by Chairman, Hawaiian Homes Commission
- F-3 Notices of Default and Revocations, Statewide

G - PLANNING OFFICE

- G-1 Hawaiian Homes Commission Scholarships Report

H - ADMINISTRATIVE SERVICES OFFICE

- H-1 Transfer of Hawaiian Home Receipts Money at the End of the Second Quarter, FY 2012
- H-2 Establish an Annual Expenditure Ceiling for Na Kupa'a Water Related and Wastewater Projects

I - INFORMATION AND COMMUNITY RELATIONS OFFICE

- I-1 DHHL Annual Reports, FY 2010 - 2011, 2011 - 2012

J- AGENDA

- J-1 Request to Address Commission - Mana Ka La Elua, LLC

EXECUTIVE SESSION


The Commission anticipates convening in executive meeting Pursuant to Section 92-5(a)(4), HRS, to consult with its attorney on questions and issues pertaining to the Commission's powers, duties, privileges, immunities and liabilities.

1. Richard Nelson, III, Kaliko Chun et al. vs HHC, Civil No. 09-1-161507
2. Honokaia `Ohana vs HHC & DHHL, Civil No. 09-00395
3. Honokaia `Ohana vs HHC & DHHL, Civil No. 09-101615-07
4. Kalima v. SOH, DHHL, Civil No. 99-04771-12 (EHH) (Class Action)
5. Petition for Certiorari to US Supreme Court, Corboy v Louie
6. Proposed Resolution of Property Tax Liability
7. Defect of Title Claims
8. June Aina v. Mark Development
9. Alternate Land Use for Pastoral & Agricultural Homestead Leases
10. Hiring Private Council for HHC and Trust
11. General Leasing Policy
12. Waiakea Center Community Benefit Donations
13. Contested Case Hearings Using Video Conference Technology
14. American Savings Bank Delinquencies Waiehu Kou

ANNOUNCEMENTS AND ADJOURNMENT

1. Next Meeting - January 23, 2012 Kapolei, Hawai'i
2. Other Announcements
3. Adjournment



 Albert "Alapaki" Nahale-a, Chairman
Hawaiian Homes Commission

COMMISSION MEMBERS

Imaikalani P. Aiu, Kaua'i
Perry O. Artates, Maui
Leimana DaMate, West Hawai'i
J. "Kama" Hopkins, O'ahu

Michael P. Kahikina, O'ahu
Ian B. Lee Loy, East Hawai'i
Henry K. Tancayo, Moloka'i
Renwick V.I. Tassill, O'ahu

No community meeting scheduled for January, 2012.

Special Accommodations (such as Sign Language interpreter, large print, taped materials) can be provided, if requested at least five (5) working days before the scheduled meeting on the respective island by calling (808) 620-9590.
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MOTION/ACTION

Moved by Commissioner K. Hopkins, seconded by Commissioner M. Kahikina to commence with Item No. G-1. Motion carried unanimously.

ITEM G-1

SUBJECT: Hawaiian Homes Commission Scholarships Report

DISCUSSION

Planning Administrator, Darrell Yagodich introduced Hawai'i Community Foundation vendor, Ronnie Hee who handles the processing and screening and verification of students applying for scholarships. Ms. Hee claims that under graduate and graduate students receive between \$1,500 – \$2,000 scholarship grants annually with 83% students attending in-state colleges and 17% out of state. Graduate students and juniors are the highest awardees of these grants. They are encouraged to contribute service time back to the community once they have accepted a grant, noted Darrell Yagodich. Ms. Hee indicated once students receive a grant, they generally continue to apply annually. Applications for next fall are due on March 1, 2012.

Three scholarship students appeared before the commission to share their experiences. Laurie Lee Dias said she attends Chaminade University in a Masters program in Psychology/Counseling and hopes to give back to the Hawaiian community. Noelani Agunoy attends West O`ahu University, majoring in Public Administration. She hopes to continue working with numerous community services, especially assisting homeless along the beaches. Keaka AhYee is an Oregon State University student in Industrial Engineering which allowed him to begin a new journey in life. He and the others expressed mahalo for their scholarships.

A - WORKSHOP PRESENTATIONS

I. Project Kauhale Ahonui – presented by Kaleo Manuel

Planner Kaleo Manuel announced the Kauhale team members: Norman Sakamoto, Office of the Chair; Sandy Pfund, Land Division Administrator; Julie Cachola and Kaleo Manuel, Planning Office and Dean Oshiro, Homestead Services Division. Kaleo Manuel expressed a desire to fulfill the hopes and dreams of beneficiaries on the waitlist. Sometimes, it is a mismatch, other times beneficiaries are not ready. He quoted "Hope deferred makes the heart sick, but a longing fulfilled is a tree of life." Proverbs 13:12.

Various attempts have been made to get people off the waitlist and on to the land, expressed Kaleo Manuel. Through research, the Kauhale concept of living was revealed in traditional homesteads which netted multiple dwellings providing a men's house, women's house and eating house which contributed to a larger community structure.

The department is introducing a pilot project on the island of Hawai`i. The goal is to plan a Kauhale by the end of 2012. Many families are living together, sharing single bedrooms. The department is attempting to create a similar type model that supports that type of living. This is an opportunity to better financial resources and affordability for those applicants who have been on the waitlist thirty to forty years. The department is also looking to provide the lending resources. Mr. Manuel presented material to be made a part of these minutes as Exhibit A on questions frequently asked. He presented a power point presentation and material to be made a part of these minutes as Exhibit "B".

Community meetings are scheduled in Waimea on Dec 14th at Kuhio Hale and Dec. 15th in Hilo to introduce this concept of `ohana living to the beneficiaries.

Chair Nahale-a announced that the Kauhale pilot project was featured at a press release this morning on the Hawai`i Island and KHON TV has scheduled a press coverage later today. The selection of Hawai`i island as its pilot project is due to the availability of larger lots of raw land. In addition, Hawai`i Island is the only island with a Memorandum of Understanding (MOU) between the County and the Department of Hawaiian Home Lands, claimed Chair Nahale-a.

II. Lending and Loan Products – presented by Deputy M. Ka`uhane

Deputy Chair Michelle Ka`uhane provided an overview of lending basics on Hawaiian home lands and the challenges of financing loans. Due to the economy, those investments and purchasing of loans on Hawaiian home lands comes with challenges. What is secured in a mortgage is the vertical improvements. Trust lands cannot be encumbered because these lands stay in the Trust in perpetuity. In prior years only Trust funds were utilized as an original source of mortgage financing. In 1981 Farmers Home Loan (FHL) was introduced, in 1987, Federal Housing Administration (FHA) loans; then in 1997, Veterans Affairs (VA); in 2005 conventional loans were introduced, in 2006, HUD loans were added. Typically, loan terms are 30 year loans with minimum or no down payment required. Currently, 1200 mortgages are being serviced in-house with 102 mortgages as HUD buybacks. Buybacks are at \$12.2 million; 1055 loans total \$64.9 million which include prior HUD buybacks and DHHL issued mortgage loans. Homestead Loan programs have varying guarantees. The trust is ultimately responsible. Only the commission can cancel the lease through a contested case hearing process.

Deputy M. Ka`uhane explained the difference between Government insured loans such as FHA, VA and RD loans and private mortgage lenders. There are a limited number of loan products available with few lenders with trust land expertise and even fewer investors on the secondary market. Loans get bundled with other loans. There is a cumbersome foreclosure process which translates to lease cancellation, noted Deputy M. Ka`uhane. Lenders are unsure how long it will take to cancel a lease and the Hawaiian Homes Commission acts as an extension of a foreclosure department and requires us to

act on existing MOU's (Memorandum of Understanding). Private capital on homestead lands is the lifeblood in communities and allows beneficiaries to purchase, refinance, construct and renovate their homes. It allows the department to continue development, and it helps the department from being the direct lender due to limited capital. It is, nevertheless, a balancing act, added Deputy M. Ka`uhane.

One of the dangers of lowering the interest rate on buybacks is the department does not want to imply it is a refinance lender. If the buyback loan is at 7%, the department will honor it at the same interest rate. In some instances the commission has entertained lowering the interest rate but not until on-time payments have been procured.

Commissioner M. Kahikina inquired what happens to families that want to refinance to obtain lower interest rates? Refinancing is a challenge where a family is able to borrow up to 75% of its appraised value, noted Deputy M. Ka`uhane. Just to lower the interest rate without taking cash out is possible, but in order to access the equity, the property has to be at 75% loan to value or lower. The department continues to work in Congress to revise a Memorandum of Agreement (MOA). Materials submitted from this presentation to be made a part of these minutes as Exhibit "A".

II. 2012 Legislative Package – presented by Dre Kalili

Dre Kalili, Legislative Analyst, circulated the 2012 Administrative Package bills being proposed at this 26th Legislative Session and updated the commission on these proposals.

HHL-01 - appropriate \$1.5 million dollars to provide equipment and build a programmatic data to track applicants not part of the Administrative package. This will not be part of the Administrative package.

HHL-02 - Act 187 passed in 2010 allows the department to encumber contracts without having the full amount of costs available for the projects which has not been utilized. This bill would extend the repeal process.

HHL-03 - Proposal to exempt any expenditures made from Hawaiian Home Lands Trust as identified in HHCA Section 213(d) from the requirements of Chapter 103d, HRS. It allows the department to develop its own procurement requirements and rules without having to adhere to Chapter 103.

HHL-04 - This would require the governor to appoint members to the Hawaiian Homes Commission submitted by a 50% native Hawaiian, a lessee or his designated successors. Governor supports this measure to help build a more direct relationship with beneficiaries of the Trust. This would require Congressional consent and input by the Attorney General's office.

HHL-05 - Relating to the Native Hawaiian Rehabilitation Fund (NHRF) which funds grants and scholarships and other community programs. These are funded by deposits from water licenses and public lands cultivated by sugar cane which provides approximately 30% revenue. Amount of deposits has declined over the past 20 to 30 years. This identifies other proposed supplements to assist with the rehabilitation plan and to continue programs funded by NHRF. Sources include 20% royalties from geothermal energy collected by the state as well as 30% revenue of disposition that DLNR makes. Governor has deferred until both DHHL and DLNR agree on legislation.

HHL-06 - Relating to the HHCA, to allow Chair to suspend provisions of the Act for the purposes of awarding a beneficiary who has been on the waitlist for more than 20 years. This would require consensus by the entire commission.

HHL-07 - Proposal for establishing a discount card for revenue generating purposes where anyone wanting to participate can purchase discounts through vendors over a six month period where 40% revenues would be deposited for both DHHL and DLNR and 20% to operating costs. Coordinating efforts need to be formulated as a few versions are being submitted.

Dre. Kalili addressed concerns raised by Ad Hoc committee members regarding Congressional consent on the 4th proposal where Attorney General's opinion may not be required. Governor would probably not be inclined to include any piece of legislation that displays opposition between DHHL and DLNR. The Ad Hoc committee inquired about the waiving of rules in the HHCA to allow a 20-year waitlisted beneficiary to acquire a lease. Section 5 in Administrative Rules allows the commission to waive these rules but not all rules can be waived. Dre Kalili pointed out it would first require Legislative approval..

Funding for HHL -01 was not recommended for funding per the Budget and Finance Department. Commissioner K. Hopkins asked if another organization introduced this legislative effort, could the commission support this proposal. Ms. Kalili acknowledged there may be support but she would defer to the Chair. There is a companion bill that is in conference, added Dre Kalili asking for \$3 million dollars; \$1.5 million for each year. If it were to pass out of conference, it would achieve the same effect. If another version were introduced outside of the package, it would create another option. Material to be made a part of these minutes as Exhibit "A".

Comment - Robin Danner, CNHA Administrator, claimed to have drafted Act 187 which required 15% of general lease revenues be deposited into a NHRF fund and authorizing the commission to issue a 20 year extension, in lieu of a 99-year lease. Ms. Danner noted that some of the wording was misinterpreted and it should have been 15% of general lease revenues be deposited into the NHRF fund instead of 15% of extended revenue being deposited. According to Chair Nahale-a, this proposal would require legislative processing. Ms. Danner supports HHL-04 and requested additional language be inserted. "Homestead Associations defined by Act 302 recognize homestead associations as the governing and representative bodies of a homestead

association." She also recommended resubmitting Act 302 next year and eliminating the last sentence which requires congressional approval, thus allowing Act 302 to be considered by the Department of Interior in its entirety.

Dre Kalili announced these bills will be introduced on opening day of January 23, 2012, the same day as commission meeting. She recommended support from other communities and partners and encouraged the commission to inform others.

Commissioner L. DaMate suggested district offices provide "wiki wiki" forms for communities to sign up and participate and have commissioners take an active role in legislative matters. She commended Dre Kalili for her diligence in keeping abreast of legislative matters. Commissioners P. Artates and R. Tassill also shared encouragement and support of their community's involvement.

B - PUBLIC TESTIMONY ON AGENDIZED ITEMS

1: Item No. C-4 - Affordable Housing Credits Policy - Robin Danner

Ms. Danner urged clarification of language on the affordable housing credits policy to affirm the Hawaiian Homes Trust Fund deposits of up to 5% into the Hawaiian Homes Trust Fund (HHTF), be changed to a "minimum of 5%" into the HHTF for housing credits then placed into the NHRF (Native Hawaiian Rehabilitation Fund) fund to assure beneficiaries profit from this source. She claims beneficiaries fought for this legislation to empower the department to earn funding and the only way they can benefit from it is to have these funds placed into the NHRF or trust funds.

2. Item No. I-1 - DHHL Annual Reports – Robin Danner

Ms. Danner suggested reports on land uses be made available to beneficiaries. She provided a template to display information on an annual report to be made a part of these minutes as Exhibit "A."

3. Ref - Item No. 11 - Executive Session on General Leasing Policy - Robin Danner, CNHA

Ms. Danner submitted a five-page testimony on Executive Session Item 11 on a General Leasing Policy with recommendation to assist this commission on the nearly 67,000 acres of non-homestead lands. The recommendations include:

1. Require annual report of acreage and type of land use and beneficiary holdings.
2. Establish reasonable goals to issue land instruments to beneficiary organizations
3. Require annual reporting of land instruments issued in the previous 12 months
4. Identify which category of non-homesteading land use applies, public or commercial
5. Require use of standard forms by requesting entities
6. Require criteria of this form to be included in any procurement process
7. Require all the criteria be included in submittals to commission in a template form

8. Require distribution of land request forms be submitted to commission and community to allow a 30-day window period for beneficiary response.
9. Recommend the pricing priority to be market value or greater regardless of the type of organization.
- 10 Require every non-homesteading land instrument to have a homes benefit agreement in addition to market value
- 11 Have authority to request exceptions to pricing priority with justification with benefit to beneficiary
- 12 Require DHHL to prepare and distribute its annual operating budget and prior year expenses to the beneficiaries, the governor and senate president
- 13 Require DHHL to prepare and distribute an annual capital improvement projects (CIP) budget to the beneficiaries, the governor and senate president

To fulfill obligations to its beneficiaries, this commission should begin the precedence for all future commission to annually submit these to the governor and senate president, added Ms. Danner. Chair Nahale-a thanked Ms. Danner for her well-prepared presentation.

MOTION/ACTION

Moved by Commissioner M. Kahikina, seconded by Commissioner P. Artates to convene with agenda Item No. J-1. Motion carried unanimously.

COMMENT

Chair Nahale-a cautioned the commission about moving "J" agenda items to the forefront of these proceedings as it may create delays from the decision making agendas of the day.

ITEM NO J-1

SUBJECT: Request to Address Commission - Mana Ka La Elua, LLC

MOTION/ACTION

None. For Information Only

Executive Director Kali Watson appeared before the commission to present a proposal to develop a 5 to 15 megawatt photovoltaic (PV) project in Kalaeloa. Mr. Watson stated his company is looking at three sites within this area and is working with Land Management Administrator Linda Chinn to find a suitable parcel.

A 98-acre parcel adjacent to a site his company currently leases would be ideal. Partners in this venture include Ulupono Initiative, CNHA and Alaska Growth Capital. To gain access to this parcel, a right-of-entry permit through a 25 acre parcel, leased by Kiewit Company, is required.

This project proposes to pay market rent based on the actual cost of the project and contracted revenue received from Hawaiian Electric through a power purchase agreement. Partnering with CNHA and Alaska Growth Capital has provided new market tax credits which will not only reduce the cost of the project but would generate additional revenue for the department and community projects, claimed Kali Watson.

A benefits package would involve a native Hawaiian construction workforce which would manage and maintain this project. Some revenue may be utilized for projects similar to the Kauhale type project proposed by the department and generate an IT program that would link with different homestead associations to create scholarships in this particular area.

Dr. Gay of Infinity Energy introduced the pilot photovoltaic integrated greenhouse which would be married to a photovoltaic system and configured to have crops grown on the roof with hydroponic technology. Dr. Gay recently returned from Italy where this system is being utilized commercially. Less pesticides and less water creates more efficiency of the land.

Kalaeloa is an ideal location for this type of project, noted Kali Watson which would create a significant amount of revenue for the department and beneficiary projects. Hawaiian Electric recently approved a tier three, feed and tariff approach, which presents an ideal situation for them. Mr. Watson anticipates Kiewit Company will be relocated to another site closer to one of their other projects to afford Mana Ka La Elua an opportunity to commence with its new, innovative project.

MOTION/ACTION

Moved by Commissioner I Aiu, seconded by Commissioner K. Hopkins to commence with Item F-1. Motion carried unanimously.

ITEM NO: F-1

SUBJECT: Finding of No Significant Impact, Ka Makana Ali`i Conceptual Master Plan, Hawai`i DeBartolo LLC, East Kapolei, O`ahu

RECOMMENDATION

Land Management Administrator Linda Chinn presented the Final Environmental Assessment (FEA) of the proposed shopping center situated on a 67.7 acre parcel in Kapolei by developer Hawai`i DeBartolo LLC under the option agreement for the development of Ka Makana Ali`i Shopping Center dated November, 2011.

MOTION/ACTION

Moved by Commissioner I Aiu, seconded by Commissioner P Artates.

DISCUSSION

In 2006, 67 acres was offered for a shopping center across the DHHL offices. Hawai`i DeBartolo LLC was the successful bidder and discussion has progressed to this point, noted Ms. Chinn.

The shopping center will be comprised of 1.4 million square feet of space at full build out and will include office buildings, cinema, hotel, and two or more retail anchor stores and eateries. It is designed as an open air development for the community to provide a variety of uses where people can work, live, shop, visit and play. Phase I of a two phase project consists of 19.72 acres along the western portion of the site and contain seven buildings, added Ms. Chinn. Groundbreaking is expected to begin in July, 2012 and will take approximately 15 months to complete. Phase II will consist of the balance of 47.5 acres and should be completed in 31 months.

The final environmental assessment (FEA) discusses the key elements of the project which the department is required to meet by determining the Finding of No Significant Impact (FONSI). Ms. Chinn listed 13 criteria items necessary to implement Department of Health guidelines.

Commissioner I. Aiu queried the number of times this project will appear before the commission. Chair Nahale-a clarified this project has expanded over previous administrations and therefore, would like commission to be mindful of what is being presented. The final option and lease agreement will come before the commission in March. Ms. Chinn added that the commission has granted authority to the Chair to review and approve construction plans and financing subject to ratification by the commission.

Commissioner L. DaMate claims no historical/oral traditional resources exist prior to its use as a cane field. She inquired whether local practitioners have been consulted. Hawai`i DeBartolo regional representative Lee Sichter claims cultural practitioners were sought out and a cultural impact assessment was conducted prior to the project being approved. Mr. Sichter assured Commissioner DaMate that community has been a big part of this project from its initial presentation.

Commissioner P. Artates queried as to the number of jobs will be necessary to complete this project. Approximately 4,000 jobs in construction and operations will be required, claimed Mr. Sichter. Commissioner P. Artates conveyed this will help native Hawaiians who have been in dire need to give back to the community. Chair Nahale-a verified community has been engaged from the onset and encourages the department to continue its involvement with community to provide primary benefits of this project. Commissioner K. Hopkins intends to keep abreast of this project and will save his comments for a later time. A Conceptual Master Plan for the Final Environmental Assessment was submitted as part of these minutes.

ACTION

Motion carried unanimously.

C - OFFICE OF THE CHAIR

ITEM NO: C-1

SUBJECT: Proposed Amendments to HAR Title 10

RECOMMENDATION

Proposed amendments to Hawaii Administrative Rules Title 10 are separate from the discussions with the Ad Hoc committee on Administrative Rules, noted Dre Kalili. This is the follow up of the action item of July 2011 where the commission approved proposed amendments to the Administrative Rules vetted by the previous commission which needs to be forwarded to the Attorney General's office for review then to governor's office.

MOTION

Moved by Commissioner K. Hopkins, seconded by Commissioner I. Aiu

DISCUSSION

Commissioner K. Hopkins recommended various changes to some of the proposed amendments, however, Dre Kalili recommended any changes by commission to these amendments be submitted to the Ad Hoc committee and channeled to staff to include in future changes. Dre Kalili stated the purpose of this section is to respond to the attorney general's (AG) request to move forward on items vetted and developed in 2005 with homestead leadership. To go back and begin over again from scratch would still require beneficiary consultation and delay the process, stated Chair Nahale-a.

Ms. Kalili conveyed to the commission these items being proposed are technical in nature. Commissioner I. Lee Loy recognized beneficiaries should have ample notice and meaningful responses to these amendments. Chair Nahale-a reiterated the issue today is whether items presented are moved forward and not reviewed again, or renew the process and have all these items placed back in the hopper for review.

Even after approval, there would still be an opportunity to amend changes later, noted Chair Nahale-a and adding "If there is skepticism in the ability to serving beneficiaries, then this should be voted down." The consequence of voting and the time and energy gone into this review means additional man hours. Chair Nahale-a asked if the commission wants to address substantial issues or technical issues?

Commissioner I. Aiu, would like to discuss substantial issues and is comfortable with seeing this portion completed today. He considers it too complex to comprehensively review an entire set of rules in one session. Commissioner Tassill is in agreement

ACTION

Seven "Aye" votes. Commissioner K. Hopkins voted "Nay". Motion carried.

ITEM NO: C-2

SUBJECT: Policy Development for Amendments to HAR Title 10

RECOMMENDATION

That the Hawaiian Homes Commission set a policy based on a recommendation from Hawaiian Homes Commission Ad Hoc Committee on Administrative Rules on:

1. New award for subsistence agriculture homesteading;
2. New opportunities for supplemental and commercial agriculture operations

MOTION

Moved by Commissioner L. Damate, seconded by Commissioner M. Kahikina.

DISCUSSION

Commissioner I. Aiu indicated the new method of awards of the subsistence lots in the agriculture awards still have some concerns with the awarding of large lots. He deferred to Commissioner K. Hopkins who then asked for clarification on the agricultural parks for supplemental acreage and whether Options 2 and 3 can both be included. Option 2 is – develop additional acreage adjacent to subsistence lots; and Option 3 is – develop an agricultural park program. Ms. Kalili clarified these are normal rules where additional acreage can be issued. The crux of the situation is to provide another option to supplement the lessees operations. The option of an ag park would allow a combination of ways to secure lands through a general lease policy.

Commission adopted the recommendation of the Task Force to consider a two to five acre agricultural subsistence lot but did not implement any recommendations until today, stated Bob Freitas, DHHL Planner. Commissioner I. Lee Loy would recommend the concerns of the Ag Task Force be fulfilled. According to Dre Kalili, there still needs to be a beneficiary consultation to complete this recommendation before final approval by the commission.

To not deter from fulfilling the recommendation by the Ad Hoc committee in moving this item forward, Commissioner I. Aiu clarified the recommendations being voted on are to 1) establish the subsistence lots and to 2) establish the ag park and reaffirm the additional awards of acreage

(cont Item No. C-2)

can continue. A recommendation by staff is to allow for ½ acre to 4 acre lots where the original recommendation by the Task Force was for two to five acres. The staff felt it more cost effective and feasible for the smaller size lots. The Task Force made their recommendation 10 years ago, but even today some of them have expressed a smaller lot award would be more realistic, noted Planner Bob Freitas.

AMENDED MOTION

Moved by Commissioner K. Hopkins to set policy and have staff create the rules for subsistence agriculture homesteading to include option No. 3 which is to develop an agriculture park program keeping in mind what current rules allow for extra land for homestead farming, and to approve the acreage subsistence agriculture parcel be ½ acre to 5 acres., seconded by Commissioner I. Aiu.

ACTION ON AMENDED MOTION

Motion carried unanimously.

ACTION

Motion passed on original motion.

ITEM NO. C-3

SUBJECT : Affordable Housing Credits Update

MOTION/ACTION

None. For Information Only

Norman Sakamoto stated each county has different requirements on issuing affordable housing credits. A list of the current status with each county is provided in this update.

ITEM NO. C-4.

SUBJECT: Amendments to Affordable Housing Credits Policy

COMMENT

According to Norman Sakamoto, Land Development Officer, the previous commission approved a affordable housing credits policy. At that time it was known as a living document. During

According to Norman Sakamoto, Land Development Officer, the previous commission approved a affordable housing credits policy. At that time it was known as a living document. During this time the department had not transacted anything on credits. Over the years new things were transpired and others improved.

MOTION

Moved by Commissioner K. Hopkins, seconded by Commissioner P. Artates.

DISCUSSION

Norman Sakamoto, Land Development Officer, noted the proposed changes which are listed in Nos.1 - 7 of this document. In clarifying Section V, a previous testifier had referred to an original policy amendment up to 5% be directed to a fund. It doesn't specifically say NHRF but that's the contention, noted Mr. Sakamoto. The fiscal and administrative personnel say up to 5%, be directed to a fund that shall be deposited into the Hawaiian Homes Trust Fund and to transfer into any other fund for public purposes deemed prudent by the commission to further the purpose of the Hawaiian Homes Commission Act.

Commissioner K. Hopkins asked Norman Sakamoto if the department would be comfortable changing the verbiage on the "up to 5% funding." It's a commission decision if they want to propose a policy or administrative decision, claimed Mr. Sakamoto.

AMENDED MOTION

Moved by Commissioner K. Hopkins to amend the motion to have 5% directed to a fund unless otherwise acted upon by the commission, seconded by Commissioner I. Aiu.

DISCUSSION

Commissioner I. Aiu claims it important to manage funds appropriately. His concern is the lack of a fiduciary picture of the Trust to be comfortable setting a set amount without flexibility in the administration to move funds around to carry out the mission of the Trust. Therefore, he would not feel comfortable supporting this motion as there may be other priorities which may require funding.

Administrative Services Officer, Rodney Lau stated that the broad language is part of the statute. The commission is given the flexibility of transferring the monies. The language of NHRF says the monies can be used for social, economic, cultural services and not be limited, which includes housing. The purpose of the community benefits was supported by SCHHA, noted Commissioner Kahikina because shared revenue was something they supported. There is a feeling these NHRF funds are insufficient and he favors maintaining those funds to make communities better. The question should be whether or not it should or should not go into the NHRF fund, added Commissioner I. Aiu.

ACTION ON AMENDED MOTION

6 – “AYE” votes, 2 -“NAY” votes. Motion carried.

ACTION ON ORIGINAL MOTION

Motion passed unanimously.

MOTION/ACTION

Moved by Commissioner K. Hopkins, seconded by Commissioner M. Kahikina to commence with Item H-2. Motion carried unanimously.

ITEM NO. H-2

SUBJECT: Establish an Annual Expenditure Ceiling for Na Kupa`a Water Related and Wastewater Projects

MOTION/ACTION

Moved by Commissioner P. Artates, seconded by Commissioner M. Kahikina.

The department has been in partnership with Na Kupa`a since 2006 and operates as a non-profit and separate legal entity to receive funding from USDA RD for water related projects, noted Administrative Services Officer Rodney Lau. This submittal sets a ceiling on optimum total. As each project closes there will be an estimate of lease fee costs that impact an expenditure ceiling.

Gigi Cairel, Planning Office introduced Na Kupa`a president, Thomas Contrades and Vice-President Dr. Michael Chun as guests.

Deputy Chair Michelle Ka`uhane articulated if the department is moving into a balanced budget it needs to be clear to this commission that whenever a grant dollar is provided there is a savings of trust dollar. There needs to be awareness of how much trust dollars can be placed in projects because there are not always qualified borrowers in those areas. There has to be a cap on the threshold the Trust can handle.

Chair Nahale-a is proposing the department reaffirm to meet the debt service on obligations already made which allows Na Kupa`a to move forward with confidence. Any new project going forward will be brought before this commission.

Commissioner L. DaMate pointed out that a new Ad Hoc Water Committee has been created by the commission since the Memorandum of Understanding (MOU) was signed in July 2010 between the department and Na Kupa`a. She claims this committee could decide on the future water policy of the department and likely engage in conversation with Na Kupa`a.

ACTION

Motion carried unanimously.

ITEM NO. C-5.

SUBJECT: Update on Strategic Goals and Objectives

MOTION/ACTION

None. For Information Only.

DISCUSSION

Chief of Staff Waialeale Sarsona reported that the Strategic plans are nearly half completed. Administrators have been assisting with formulating information to be added to these plans. The budget will be another area needing to be adjusted to meet the priorities of the department. It will identify those areas where we need to partner, noted Deputy M. Ka`uhane.

ITEM NO. C-6.

SUBJECT: Resolution No. 259 – Support Notification of Notices

MOTION

Moved by Commissioner M. Kahikina, seconded by Commissioner I. Aiu

DISCUSSION

Commissioner I. Lee Loy advocates commissioners are kept abreast of important issues and upcoming meetings on their respective islands so they can assess the matter and demonstrate support for beneficiaries. Commissioner L. DaMate shared an awkward experience involving a lessee and other state entities and had cause for concern of not being made aware of the situation. Chair recognizes the ills of not being informed and favors this resolution.

ACTION

Motion carried unanimously.

ITEM NO. C-7.

SUBJECT: Resolution No. 260- Grant Decision Making Authority

MOTION

Moved by Commissioner K. Hopkins, seconded by Commissioner M. Kahikina.

DISCUSSION

The purpose of this resolution is to ensure authority was clear that the committee was not only allowed to discuss and deliberate but to make decisions on legislative bills that may affect the Hawaiian Homes Commission Act. 2) Because it is a governing body, it was determined this body is empowered to authorize it.

MOTION

Moved by Commission K. Hopkins to adjourn to Executive Session to consult with its attorney on questions and issues pertaining to this resolution, seconded by Commissioner I. Aiu. Motion carried unanimously.

RECESS 2:40 P.M.

EXECUTIVE SESSION

The Commission convened in executive meeting Pursuant to Section 92-5(a), HRS, to consult with its attorney on issues pertaining to Item No. C-7, Resolution No. 260 - Grant Decision Making Authority.

RECONVENE 2:55 P.M.

Moved by Commissioner K. Hopkins, seconded by Commissioner M. Kahikina to reconvene in regular session. Motion carried unanimously.

Item No. C-7 (cont)

SUBJECT: Resolution No. 260 – Grant Decision Making Authority

MOTION/ACTION

This motion was deferred until January, 2012.

ITEM NO: D-1
SUBJECT: HSD Status Reports

MOTION/ACTION

None, for information only.

ITEM NO: D-2
SUBJECT: Notification of Various Lease Awards and Cancellation of Corresponding Applications

MOTION/ACTION

Moved by Commissioner I. Aiu, seconded by Commissioner P. Artates. Motion carried unanimously.

ITEM NO: D-3
SUBJECT: Rescission of Homestead Lease Award and Reinstatement of Application – La`i`opua Villages 4 & 5, Undivided Interest

MOTION/ACTION

Moved by Commissioner K. Hopkins, seconded by Commissioner P. Artates. Motion carried unanimously.

ITEM NO: D-4
SUBJECT: Notification of Change of Lender to Consent of Mortgage Approved by HHC on August 15, 2011 – Gaynelle P. Freitas

MOTION/ACTION

Moved by Commissioner P. Artates, seconded by Commissioner K. Hopkins. Motion carried unanimously.

ITEM NO: D-5
SUBJECT: Approval of Consent to Mortgage

MOTION/ACTION

Moved by Commissioner P. Artates, seconded by Commissioner M. Kahikina. Motion carried unanimously.

ITEM NO: D-6
SUBJECT: Refinance of Loans

MOTION/ACTION

Moved by Commissioner P. Artates, seconded by Commissioner M. Kahikina. Motion carried unanimously.

ITEM NO: D-7
SUBJECT: Schedule of Loan Delinquency Contested Case Hearings

MOTION/ACTION

Moved by Commissioner P. Artates, seconded by Commissioner M. Kahikina. Motion carried unanimously.

ITEM NO: D-8
SUBJECT: Homestead Application Transfers / Cancellations

MOTION/ACTION

Moved by Commissioner P. Artates, seconded by Commissioner M. Kahikina. Motion carried unanimously.

ITEM NO: D-9
SUBJECT: Commission Designation of Successors to Application Rights – Public Notice
2003

MOTION/ACTION

Moved by Commissioner P. Artates, seconded by Commissioner M. Kahikina. Motion carried unanimously.

ITEM NO: D-10
SUBJECT: Reinstatement of Deferred Applications

MOTION/ACTION

Moved by Commissioner P. Artates, seconded by Commissioner M. Kahikina. Motion carried unanimously.

ITEM NO: D-11

SUBJECT: Request to Set Aside Cancellation of Applications – Frederick K.K. Kauhane

MOTION/ACTION

Moved by Commissioner P. Artates, seconded by Commissioner M. Kahikina. Motion carried unanimously.

COMMENT

Homestead Services Administrator D. Oshiro noted that each of the applicant's four children submitted an application for homestead, however, none initially inquired to be considered for their father's lease.

ITEM NO: D-12

SUBJECT: Ratification of Designation of Successors to Leasehold Interest and Designation of Persons to Receive Net Proceeds

MOTION/ACTION

Moved by Commissioner P. Artates, seconded by Commissioner M. Kahikina. Motion carried unanimously.

ITEM NO: D-13

SUBJECT: Approval of Exchange of Lease

MOTION/ACTION

Moved by Commissioner P. Artates, seconded by Commissioner M. Kahikina. Motion carried unanimously.

ITEM NO: D-14

SUBJECT: Approval of Assignments of Leasehold Interest

MOTION/ACTION

Moved by Commissioner P. Artates, seconded by Commissioner M. Kahikina. Motion carried unanimously.

ITEM NO: D-15

SUBJECT: Approval of Amendment of Leasehold Interest

MOTION/ACTION

Moved by Commissioner P. Artates, seconded by Commissioner M. Kahikina. Motion carried unanimously.

ITEM NO: D-16

SUBJECT: Request to Schedule Contested Case Hearing – Lease Violations

MOTION/ACTION

Moved by Commissioner P. Artates, seconded by Commissioner M. Kahikina. Motion carried unanimously.

ITEM NO: D-17

SUBJECT: Commission Designation of Successor – Loreen K. Kahawai

MOTION/ACTION

Moved by Commissioner P. Artates, seconded by Commissioner M. Kahikina. Motion carried unanimously.

ITEM NO: D-18

SUBJECT: Amend Prior Relocation Approval – Jacqueline M. Hill

MOTION/ACTION

Moved by Commissioner P. Artates, seconded by Commissioner M. Kahikina. Motion carried unanimously.

ITEM NO: D-19

SUBJECT: Implementation of Lease Cancellation - Various

MOTION

Moved by Commissioner P. Artates, seconded by Commissioner M. Kahikina.

MOTION/ACTION

Moved by Commissioner I. Aiu, seconded by Commissioner K. Hopkins to defer this item to Executive Session. Motion carried unanimously.

ITEM NO: D-20

SUBJECT: Request to Surrender Lease – Salvatore K. Jordano, Sr.

MOTION/ACTION

Moved by Commissioner P. Artates, seconded by Commissioner M. Kahikina. Motion carried unanimously.

ITEM NO: I-1

SUBJECT: DHHL Annual Reports, FY 2009-2010, 2010 - 2011

MOTION/ACTION

Moved by Commissioner K. Hopkins, seconded by Commissioner M. Kahikina to approve the 2009 – 2010 annual report. Motion carried unanimously

MOTION/ACTION

Moved by Commissioner M. Kahikina, seconded by Commissioner L. DaMate to approve the Final Draft of the Annual Report for FY 2010 – 2011. Annual Report 2010-2011 submitted as part of these minutes.

COMMENT

Information and Community Relations Administrator Crystal Kua noted that the financial statement for 2010 will be available soon.

ITEM NO: F-2

SUBJECT: Ratification of Consents and Approvals by Chair, Hawaiian Homes Commission

MOTION/ACTION

Moved by Commissioner K. Hopkins, seconded by Commissioner L. DaMate. Motion carried unanimously.

ITEM NO: F-3

SUBJECT: Notices of Default and Revocations, Statewide

MOTION/ACTION

None. For Information Only.

ITEM NO: H-1

SUBJECT: Transfer of Hawaiian Home Receipts Money at the End of the Second Quarter, FY 2012

MOTION/ACTION

Moved by Commissioner P. Artates, seconded by Commissioner M. Kahikina. Motion carried unanimously

RECESS: 3:35 P.M.

MOTION/ACTION

Moved by Commissioner I. Aiu, seconded by Commissioner K. Hopkins to adjourn to Executive Session to consult with its attorney on Item No. F-1. Motion carried unanimously.

RECONVENE: 3:50 P.M.

MOTION/ACTION

Moved by Commissioner M. Kahikina, seconded by Commissioner K. Hopkins to reconvene in regular meeting. Motion carried unanimously.

MOTION/ACTION

Moved by Commissioner M. Kahikina, seconded by Commissioner K. Hopkins to readdress Item No. D-19. Motion carried unanimously.

RECESS: 3:52 P.M.

MOTION/ACTION

Moved by Commissioner I. Lee Loy, seconded by Commissioner L. DaMate to defer Item D-19 until after Executive Session. Motion carried unanimously.

RECESS: 3:52 P.M.

RECONVENE: 3:58 P.M.

Moved by Commissioner K. Hopkins, seconded by Commissioner L. Lee Loy to adjourn to regular Executive Session to address Item 12. Motion carried unanimously.

EXECUTIVE SESSION.

The Commission convened in executive meeting Pursuant to Section 92-5(a)(4), HRS, to consult with its attorney on questions and issues pertaining to the Commission's powers, duties, privileges, immunities and liabilities to address Item 12 listed in Executive Session..

12. Waiakea Center Community Benefit Donations

RECESS 4:15 P.M.

MOTION/ACTION

Moved by Commissioner P. Artates, seconded by Commissioner K. Hopkins to reconvene to regular meeting. Motion carried unanimously.

MOTION/ACTION

Moved by Commissioner K. Hopkins, seconded by Commissioner P. Artates to recess until tomorrow morning, at 8:30 a.m. Motion carried unanimously.

HAWAIIAN HOMES COMMISSION
Minutes of December 13, 2011
Meeting Held in Kapolei, O`ahu, Hawai`i

EXCUSED: Commissioner L. Lee Loy
Commissioner H. Tancayo

RECONVENE 8:35 A.M.

MOTION/ACTION

Moved by Commissioner K. Hopkins, seconded by Commissioner I. Aiu to convene in regular session. Motion carried unanimously.

RECOMMENDATION:

Deputy Attorney General Kalani Bush recommended conversations regarding Item No. D-19 discussed outside of executive session be stricken from the record.

MOTION/ACTION

Moved by Commissioner R. Tassill, seconded by Commissioner L. DaMate to strike these discussions. Motion carried unanimously.

AMENDED MOTION/ACTION

Moved by Commissioner K. Hopkins, seconded by Commissioner I. Aiu to reconvene in Executive Session to include Item D-19. Motion carried unanimously

EXECUTIVE SESSION

The Commission convened in Executive Session Pursuant to Section 92-5 (a), HRS, to consult with its attorney on questions and issues pertaining to the Commission's powers, duties, privileges, immunities and liabilities of the following items.

2. Richard Nelson, III, Kaliko Chun et al. v HHC, Civil No. 09-1-161507
3. Honokaia `Ohana v HHC & DHHL, Civil No. 09-00395
4. Petition of Certiorari to US Supreme Court, Corboy v Louie

5. Proposed Resolution of Property Tax Liability
6. Defect of Title Claims
7. June Aina v Mark Development
8. Alternate Land Use for Pastoral and Agricultural Homestead Leases
9. Hiring Private Council for HHC and Trust
10. General Leasing Policy
11. Contested Case Hearings Using Video Conference Technology

RECESS 9:55 A.M.

MOTION/ACTION

Moved by Commissioner I. Aiu, seconded by Commissioner K. Hopkins to commence with a contested case hearing scheduled for teleconferencing. Motion carried unanimously.

RECONVENE 11:05 A.M.

MOTION/ACTION

Moved by Commission I. Lee Loy, seconded by Commission P. Artates to reconvene in Executive Session. Motion carried unanimously.

RECESS: 2:35 P.M.

MOTION/ACTION

Moved by Commissioner I. Aiu, seconded by Commissioner M. Kahikina to convene in regular meeting and to readdress Item No. D-19. Motion carried unanimously.

ITEM NO. D-19 (cont)

SUBJECT: Implementation of Lease Cancellation - Various

MOTION/ACTION

A motion is on the floor to implement the lease cancellations. A vote was taken. There were "6" Yes votes and "1" No vote cast by Commissioner K. Hopkins.

ANNOUNCEMENT

The next meeting will be a "special" meeting to be held on January 17, 2012 on Maui for hearings.

Chairman Nahale-a acknowledged with appreciation and sincerity this commission's dedication to pursue an active role in the success of this membership. He commended the Deputy Attorneys General Kalani Bush and Craig. Iha for the tremendous input and for everyone involved in challenging in keeping up the pace to complete the tasks at hand.

MOTION/ACTION

Moved by Commissioner K. Hopkins, seconded by Commissioner I Aiu to address the matter of Mr. Chad Kala for further proceedings. Motion carried unanimously.

DISCUSSION

This is to clarify the commission's intent to cancel Chad Kala's lease at the meeting held October 18, 2011 on Maui, said Chair Nahale-a. Deputy Attorney General Craig Iha stated a notice was inadvertently mailed to a prior address. Notice was therefore resent and receipt of confirmation was affirmed.

ADJOURNMENT 2:40 P.M.

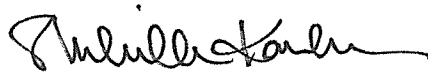
ANNOUNCEMENTS AND ADJOURNMENT


NEXT MEETING The next regular monthly meeting will be held on January 23, 2012,
Kapolei, O`ahu

ANNOUNCEMENT No community meeting scheduled for January, 2012.

ADJOURNMENT 2:40 p.m.

Respectfully submitted,



 Albert "Alapaki" Nahale-a, Chairman
Hawaiian Homes Commission


Prepared by:



Elaine G. Searle
Secretary to the Commission

APPROVED BY:
The Hawaiian Homes Commission
At Its Regular Monthly Meeting Of
February 21, 2012



 Albert "Alapaki" Nahale-a, Chairman
Hawaiian Homes Commission

HAWAIIAN HOMES COMMISSION

SIGN IN SHEET TESTIMONY

Date & Time: DEC 12 2011
 Re: _____
 Location: _____

FULL NAME (PLEASE SIGN)	ADDRESS (STREET, CITY, ZIP)	E-MAIL	BUSINESS / MOBILE
1. Karla Napuehua-Ah-ye	91-1066 Ulatapu St. Kapolei, 96707	karlanapuehua@yahoo.com	808-220-0117
2. Andrew Ah-ye			
3. Kenneth Carruths			
4. Christine Ah-ye			
5. ROBIN DAWDER			
6.			
7.			
8.			
9.			
10.			
11.			
12.			

Nānākuli Hula

Kaulana mai nei a‘o Nānākuli
Ha‘aheo nō ‘oe e Kalaniana‘ole

‘Āina kaulana ho‘opulapula
Ho‘olaha nō ‘oe e ka lāhui

Ho‘okahi mea nani o ka ‘āina
‘O nā pua laha ‘ole o Hawai‘i nei

Ha‘ina ‘ia mai ana ka puana
E ō mai ‘oe e Kalaniana‘ole

Nānākuli is famous
We are proud of you, Kalaniana‘ole

Famous is the homestead land
Be fruitful and multiply

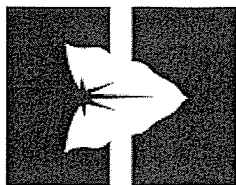
There is one precious thing on the land
It is the rare blossom of Hawai‘i (the people)

Here is the refrain
Respond to us Kalaniana‘ole

Hawaiian Commission Meeting
December 12, 2011
10:00 a.m.
Hale Pono'i

<u>Recipient Name (NEW)</u>	<u>Year in School</u>	<u>School</u>	<u>Grant</u>
Noelani Agunoy (with husband) (2)	Freshman	U of Hi Manoa	\$1,150
Keaka Napuelua-Ah Yee Residence of Maluohai Homestead (with parents Andrew & Christine and girlfriend _____)(4)	Freshman	Oregon State U	\$1,000
Laurie Ann Lee-Zidek	Graduate	Chaminade University	\$2,600
	Graduate	John A. Burns School of Medicine	\$2,200

HHC Item No. G-1
Exhibit A
Date 12-12-11



HAWAIIAN HOME LANDS TRUST



BENEFICIARY CONSULTATION

Kaua'i District Office
3060 'Ewa Street, Room 203
Lihu'e, Hawai'i 96766
808-274-3131

Moloka'i District Office
P.O. Box 2009
Kaunakakai, Hawai'i 96748
808-560-6104

Maui District Office
655 Kaunualii Street, Suite 1
Wailuku, Hawai'i 96793
808-760-5120

O'ahu District Office
P.O. Box 1879
Honolulu, Hawai'i 96805
808-620-9250

West Hawai'i District Office
P.O. Box 125
Kamuela, Hawai'i 96743
808-887-6053

East Hawai'i District Office
160 Baker Avenue
Hilo, Hawai'i 96720
808-974-4250

STAY CONNECTED

hawaiianhomelands.org



Kauhale Pilot Project

Frequently Asked Questions

1. *What is Kauhale?*

Kauhale were traditional homesteads that consisted of multiple structures (houses) that served specific purposes. For example, Kauhale included hale noa (*house free from kapu*) where all slept together, hale kuke (*cooking house*) and other needed dwellings. Kauhale embraced the integrity and meaning of the home to native Hawaiians. This way of living brought orderliness to the 'ohana relationship on which the social and economic functions of the community were built.

2. *What is DHHL's Kauhale Pilot Project?*

DHHL's Kauhale Project is a pilot being developed on Hawaii Island. The project is based on the concepts of the traditional Kauhale where families reside together in dwellings with common areas (kitchen) as well as separate living quarters. Basically, the Kauhale Pilot Project will assist DHHL in assessing beneficiary demand to reside in multi-family residential unit(s) that incorporates common living areas to be shared among a family.

3. *What is the benefit in implementing a Kauhale Model?*

DHHL is committed to meeting beneficiaries where they are. Currently, multi-generational families are attempting to reside in single-family homes. The Kauhale Model allows DHHL to meet the needs of multiple applicants on the waitlist with a single offering. In addition, families are afforded more flexibility in financing a larger dwelling with multiple beneficiaries.

4. *How do I qualify if my family is interested in the Kauhale Model?*

To participate in the Kauhale Pilot Project, interested applicants must have at least two family members currently on the applicant waitlist that will participate in the project. These applicants will become co-lessees on the new lease and will both be required to financially qualify for the loan.

5. *Is there a limit to the number of lessees that can be listed on the lease?*

For this particular pilot project, we are not limiting the number of eligible beneficiaries to hold interest in the lease. However, keep in mind that each lessee must be an applicant on the mortgage loan.

6. *How long will I have to wait?*

DHHL is trying to have families into this new model by end of 2012.

7. *Who can we speak with at DHHL to get more information about the Kauhale Pilot Project?*

Please direct all inquiries to your District Office.

HHC Item No. A-1

Exhibit A

Date 12-12-11



**“Hope deferred makes the heart sick,
but a longing fulfilled is a tree of life.”**

Proverbs 13:12

HHC Item No. A-1
Exhibit B
Date 12-12-11

Why on the waitlist so long?

- ⊙ Affordability and Personal Finances
- ⊙ Timing and Location of Offering
- ⊙ Offered but Deferred
- ⊙ Outdate Beneficiary Information

Attempts....

- ⊙ Accelerated Awards
- ⊙ Self-Help Products
- ⊙ Undivided Interest Awards



Strategic Goals & Objectives 2012 - 2017

Vision: To build vibrant homesteading communities that flourish from the solid foundation of the Hawaiian Home Lands Trust. A trust grounded in commitment for serving and partnering with beneficiaries, implementing sound policies and procedures, following a long term sustainable financial plan, and practicing an organizational culture that honors the spirit of its founder, Prince Jonah Kūhiō Kalanianaʻōle.

deliver serve protect assert

Reaffirm & Assert TRUST Status

- Objective 1: Demonstrate & commit to meeting the TRUST Mission
- Objective 2: Promote the TRUST
- Objective 3: Advocate for Hawaiian Home Commission Act

The Hawaiian Home Lands Trust was created by the Hawaiian Home Commission Act of 1921. Over decades, the Trust of Hawaii continued to fulfill the mission of the trust and created the Department of Hawaiian Home Lands to meet that mission. Each the trust and the department must work to determine that Hawaii includes providing income to homesteading and managing trust resources.

Ensuring the Financial Well-Being of the Trust

- Objective 1: Improve Efficiency And Effectiveness Of Internal Operations
- Objective 2: Diversify Income Revenue Sources
- Objective 3: Diversify Income Revenue Sources

The trust has a long history of land and resource work as an HHO current operations. The trust is expected to provide "home" homesteaders for its growing market which is expected to serve the rising 10,000 houses with repair and maintenance of utilities, water, waste, water and wastewater systems, and health and safety requirements. The trust must also use its funds to generate revenue to financially support its work of serving beneficiaries. The current economic environment impacts the development of new programs that require capital expenditures of the trust. Developing partnerships and alliances that provide mutual benefits will enhance the opportunities for success. The trust must also consider alternative revenue streams that will help to meet the ever growing needs. The more successful we are, the longer the social gains.

Provide Excellent Customer Service

- Objective 1: Increase Communications And Access to Information
- Objective 2: Develop Transparent Policies, Procedures and Practice
- Objective 3: Provide Professional Development Opportunities and Support For All Staff Members

Having staff that beneficiary and staff members, requires continual staff training and support. Beneficiaries and employees, their commitment to the trust is a key to success. "Good customer service benefits both beneficiaries and employees alike." Group programs also improved the ability for customers and their phone. Beneficiaries and staff must understand the changing of the administrative role. Through the employee union, the trust will focus on setting the foundation for customer service, providing compensation and training programs for beneficiaries, staff and the broader public to access information. Further, the trust will provide for staff professional development support which leads to strong customer service and high performance while incorporating new Hawaiian values and understandings.

Deliver Diverse Homesteading Opportunities

- Objective 1: Expand The Variety Of Residential Homesteading Opportunities
- Objective 2: Implement Agricultural Homesteading Opportunities
- Objective 3: Implement Pastoral Homesteading Opportunities
- Objective 4: Implement Aquaculture Homesteading Opportunities
- Objective 5: Seek Alternative Financing For Homesteading Opportunities

The trust has primarily focused on delivering single-family homes over its history. (Driven by beneficiary needs and the economic times, the trust must seek to expand the breadth and depth of its homesteading opportunities overall). The trust has over 40,000 applications for families waiting to be returned to the state. Expanding residential homesteading opportunities that serve such as Habitat, mobile family homes, town and commercial units will provide relief to applicants who continue to wait for a home to meet their needs. The trust will also strive to implement agricultural, pastoral and aquaculture homesteading opportunities to its today's family. Consideration will be given to future low, intermediate and high end homesteading. To support these objectives, the department must step out of the box to create alternative financing models to service these beneficiaries.

Deliver Diverse Homesteading Opportunities



- Objective 1: Expand The Variety Of Residential Homesteading Opportunities
- Objective 2: Implement Agricultural Homesteading Opportunities
- Objective 3: Implement Pastoral Homesteading Opportunities
- Objective 4: Implement Aquaculture Homesteading Opportunities
- Objective 5: Seek Alternative Financing For Homesteading Opportunities

Mary Kawena Pukui

“...it would certainly be instructive to consider the possibility of carrying the ‘ohana principle into the recent and current homesteading movement. Up to this time homesteading has been planned and attempted, not too successfully, on the individual basis.”

The Polynesian Family System in Ka‘ū (1935)

KAUHALE PILOT PROJECT



KAUHALE PILOT PROJECT

- ⊙ “Kauhale” definition: Kauhale were traditional homesteads that consisted of multiple structures that served specific purposes dwellings.
- ⊙ DHHL’s Kauhale Project is a pilot being developed on Hawaii Island in Keaukaha and/or Waimea. Kauhale.
- ⊙ Pilot Project will assist DHHL in assessing beneficiary demand to reside in multi-family residential units that incorporate common living areas to be shared among a family.
- ⊙ Goal is to move family in by the end of 2012.
- ⊙ Contract Architect for Design of Kauhale

KAUHALE PILOT PROJECT

- ⊙ Cultural Context
- ⊙ Already Living This Way
- ⊙ Leverage Financial Resources
- ⊙ Chance to Assist Multiple Families on the Wait List
- ⊙ Control Over Barriers: lending, etc.
- ⊙ Product for the top 100

COMMUNITY MEETINGS

Hawai'i Island

◉ **Wednesday, December 14, 2011**

Hawaiian Home Lands Kūhiō Hale

64-756 Mamālahoa Hwy.

Kamuela, Hawai'i Island

6:00 p.m. – 8:00 p.m.

◉ **Thursday, December 15, 2011**

Keaukaha Elementary School Cafeteria

240 Desha Avenue

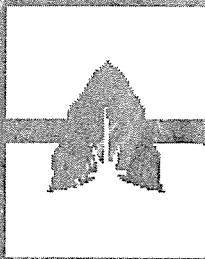
Hilo, Hawai'i Island

6:00 p.m. – 8:00 p.m.

PURPOSE

◉ Seeking mana'o of "Top 100" applicants on Hawai'i Island waitlist

◉ Unveil details of "Kauhale Pilot Project."

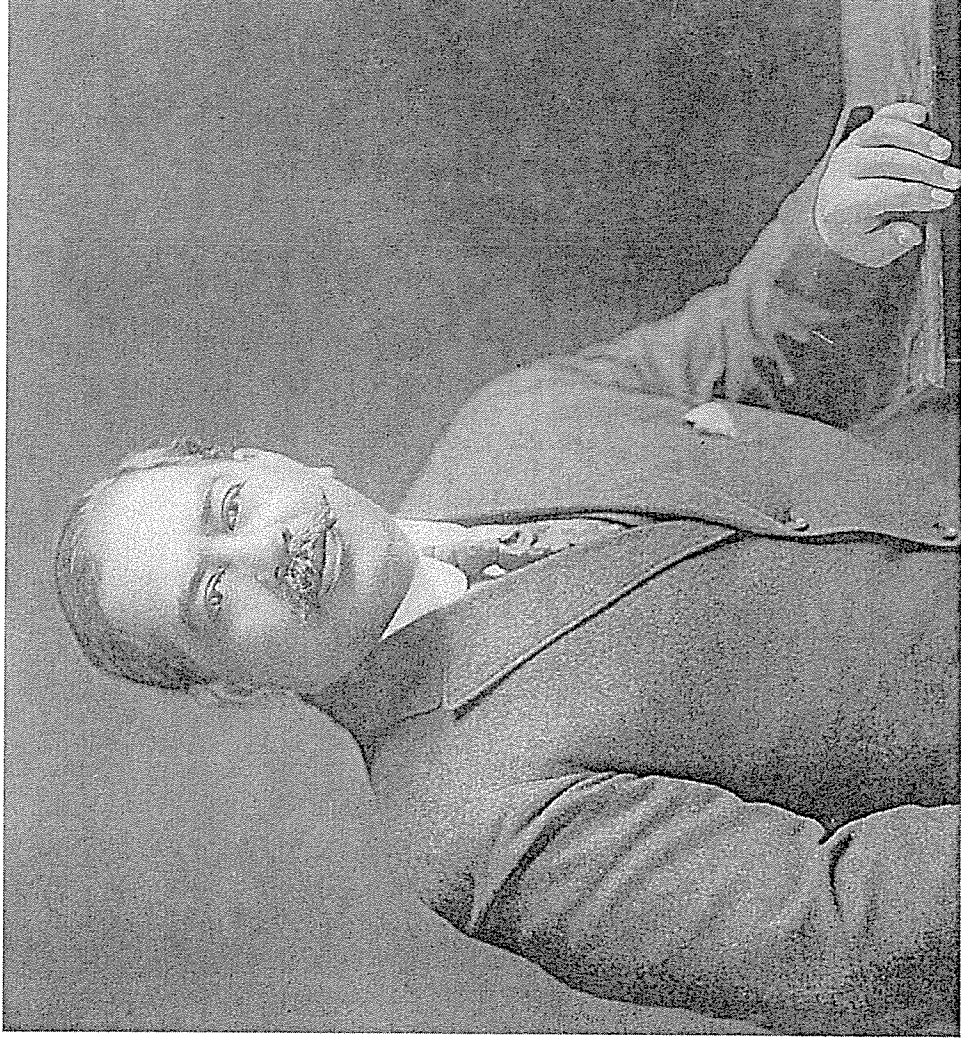


HAWAIIAN HOME LANDS TRUST
DEPARTMENT OF HAWAIIAN HOME LANDS

Lending on Trust Lands
HHC Workshop
December 12, 2011

HHC Item No. A-2
Exhibit A
Date 12-12-11

Prince Jonah Kūhiō Kalanianaʻole Piʻikoi

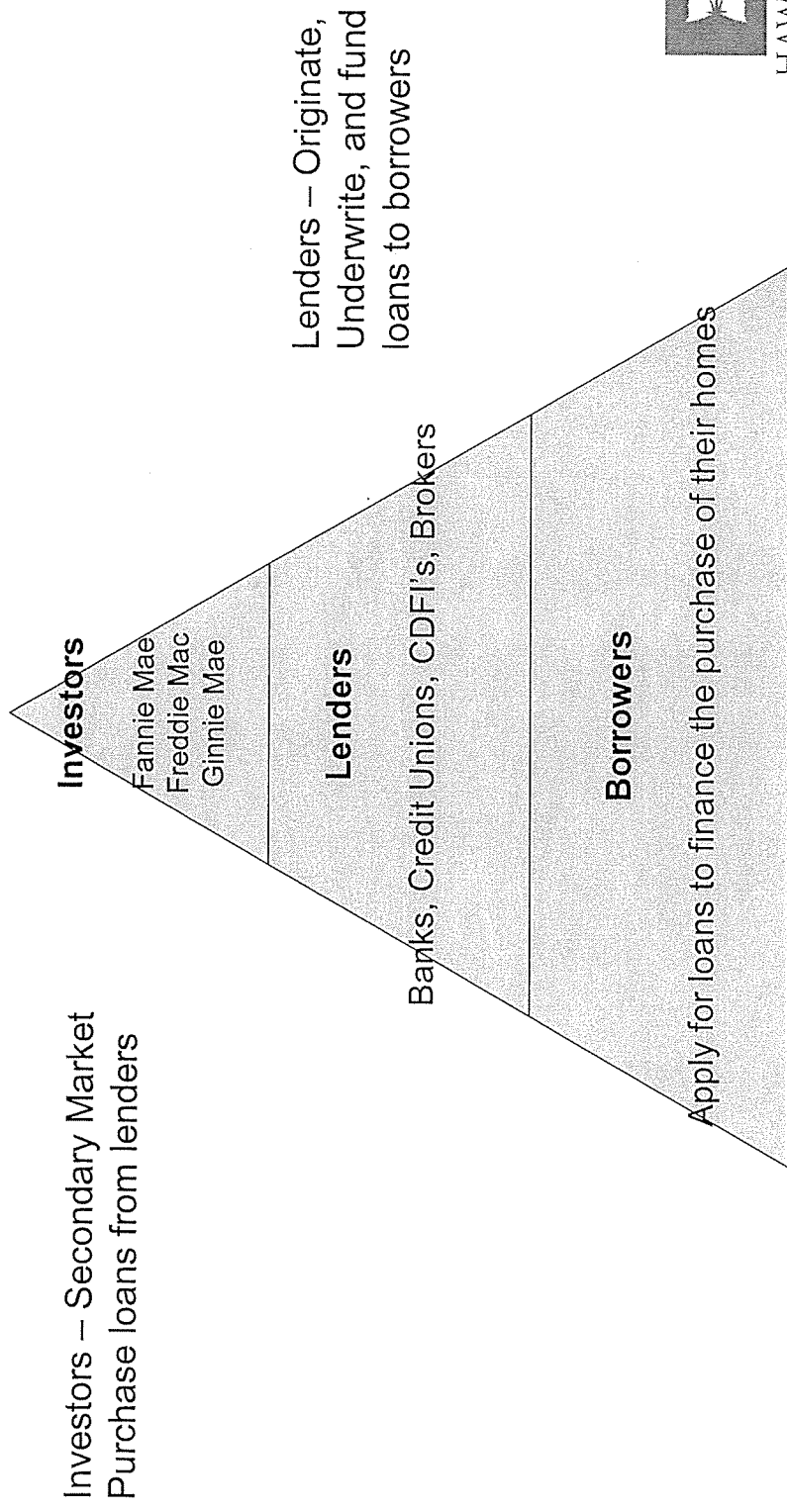


His concern about the future of the Native Hawaiian people led to the passage of the Hawaiian Homes Commission Act.

Purpose for today:

- Provide the Commission with an overview of lending on Hawaiian Home Lands
 - Understand lending basics
 - Review the history of lending on HHL
 - Review homestead loan programs
 - Share the challenges of homestead financing
- Q & A

Understanding Lending Basics



Lending Basics - Terminology

- Mortgage = Security Instrument
 - Pledges property as security against debt
 - Trust Lands secured by improvements
- Note = promise to repay debt made to purchase a home

Lending Basics - Terminology

- Mortgage = Security Instrument
 - Pledges property as security against debt
 - Trust Lands secured by improvements
- Note = promise to repay debt made to purchase a home

History of Lending on HHL

- HHCA section 213 – Hawaiian Home Lands Trust Fund
 - original source of mortgage financing
- 1981 – Farmers Home Loan (FMHA/RD)
- 1987 – Federal Housing Administration (FHA 247)
- 1997 – Veterans Affairs (VA)
- 2005 – Conventional Loans using PMI
- 2006 – HUD 184A

Loan Volume Today

- Trust Portfolio - \$77 million
- FHA 247 - \$400 million
- Conventional – \$86.5 million
- USDA/RD – \$31.1 million
- HUD 184A – \$33 million

Typical Homestead Loan Programs

- 30 year loan term
- Fixed Rates
- Minimum or NO Down Payment requirements
- Government Insured or Guarantee Products
- Privately Mortgage Insured

Department Loans

- Currently servicing 1200 mortgages
- 102 of the existing mortgages are HUD buybacks
- Buybacks total \$12.2 million
- 1055 loans total \$64.9 million which include prior buybacks + DHHL issued

Homestead Loan Programs

- FHA 247 – 3.8% Up Front MI
- HUD 184A – 1% Guarantee Fee
- USDA/RD Direct Loan – DHHHL Guarantee
- USDA/RHS – Gov. Guarantee
- VA – Gov. Guarantee
- Regardless of Guarantee – The trust is ultimately responsible. Only the Commission can cancel a lease.



HAWAIIAN
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What is a Government Insured Loan?

- FHA – VA – RD
- Government agrees to pay if home owners stops making payments
- This Insurance protects a lender from loss
- Product designed for low-mod income families
- On HHL – Trust is ultimately responsible

Private Mortgage Insurance

- Insurance required by lenders when down payment is less than 20%
- Added to the monthly mortgage payment
- Sometimes paid with higher interest rate
- PMI on HHL did not require 20% but offered local servicing

Homestead Financing Challenges

- Limited number of loan products/options to families
- Few lenders with trust land expertise
- Few investors on the secondary market
- Lenders misunderstand “risk”
- Cumbersome foreclosure/lease cancellation process
(i.e. contested case hearings)

Importance of Private Capital

- Lifeline in any community
- Allows beneficiaries to purchase, refinance, construct, and renovate homes
- Pathway to infuse capital and economic recovery
- Allows for continued development of our lands
- Moves us from being direct lenders to guarantors

Trust Kuleana

- Balancing Act
 - Providing beneficiaries with adequate access to sufficient capital for home loan financing
 - Managing risk of the growing portfolios
 - Q & A

DHHL Legislative Package - Summary and Status

December 12, 2011

Below is a list of the bills in our package along with a description, background information on the issue and the Governor's position as of December 9.

HHL-01 (12) - RELATING TO THE DEPARTMENT OF HAWAIIAN HOME LANDS

Description:

Appropriates funds to the Department of Hawaiian Home Lands to assess and track programmatic needs of applicants on its waitlists to determine the funding required for the purposes of lot development, issuing loans, rehabilitation projects, and administration.

Governor's position:

Not approved; this will not be part of the Administrative Package

HHL-02 (12) - RELATING TO THE DEPARTMENT OF HAWAIIAN HOME LANDS

Description:

Extends the repeal date in Act 187, Session Laws of Hawaii 2010, to continue the pilot program that enables the Department of Hawaiian Home Lands to begin housing and other projects without having the full amount of the cost of the projects on hand at the start of the project.

Governor's position:

Approved

HHL-03 (12) - RELATING TO THE DEPARTMENT OF HAWAIIAN HOME LANDS

Description:

Exempts expenditures from trust funds identified in section 213(d), Hawaiian Homes Commission Act, 1920, as amended, from the requirements of chapter 103D, Hawaii Revised Statutes.

Governor's position:

Approved

HHL-04 (12) - RELATING TO THE HAWAIIAN HOMES COMMISSION

Description:

Requires the Governor to appoint members of the Hawaiian Homes Commission from nominations submitted by native Hawaiians and lessees of Hawaiian Home Lands.

Governor's position:

Pending approval; input required from Office of the Attorney General

HHL-05 (12) - RELATING TO THE DEPARTMENT OF HAWAIIAN HOME LANDS NATIVE HAWAIIAN REHABILITATION FUND

Description:

Identifies geothermal royalties and revenue from public land dispositions to renewable energy producers as supplemental sources of revenue for the Native Hawaiian Rehabilitation Fund.

HHC Item No. A-3
Exhibit 12-12-11
Date A

Governor's position:

Pending approval; input required from Department of Land and Natural Resources

HHL-06 (12) - RELATING TO THE HAWAIIAN HOMES COMMISSION ACT

Description:

Allows the chairman, with unanimous consent of the commission, to suspend provisions of the Hawaiian Homes Commission Act and administrative rules for the purpose of awarding a lease to a native Hawaiian who has been on the waitlist for at least twenty years.

Governor's position:

Approval pending amendments

HHL-07 (12) - RELATING TO AN INTERAGENCY DISCOUNT AND SAVINGS PROGRAM

Description:

Establishes an interagency discount card to generate revenue for the department of Hawaiian home lands and the department of land and natural resources for the purpose of maintaining public lands and trust lands.

Governor's position:

Pending approval; input required from Department of Land and Natural Resources

8.4.
A
-01-01

Department of Hawaiian Home Lands Affordable Housing Credits Policy

I. Background

The Department of Hawaiian Home Lands (Department) has become one of the largest developers of affordable housing throughout the state of Hawaii. The Department's homestead projects are often developed in phases and increments due to the size of, and financing required for, such projects. The Hawaiian Homes Commission Act of 1920, as amended (HHCA), authorizes the Department to enter into project developer agreements to develop available lands for homestead projects. Developer-financed projects allow the Department to award and deliver homesteads to beneficiaries at an accelerated rate. The Department will utilize affordable housing credits to attract more affordable homestead development opportunities.

II. Purpose

The following policies have been established to provide guidelines for determining the value of credits, clarifying terms and conditions under which affordable housing credits will be applied and subsequently transferred to other entities pursuant to Act 141, Session Laws of Hawai'i (SLH) 2009, which will be codified into the Hawaii Revised Statutes (HRS) under section 46-15.1 (b). Act 141 is effective from July 1, 2009, until June 30, 2015.

Under Act 141, counties are directed to issue credits on a one-for-one basis to DHHL for existing and future projects. Under the law, the credits are transferable and can be applied anywhere within the same county in which the credits were earned.

III. Effective Date

These Policies shall take effect immediately upon approval and authorization by the Hawaiian Homes Commission.

IV. Definitions

- A. "Credits" are affordable housing credits.
- B. "Homestead projects" are projects undertaken by the Department, where a "project" is as defined in HHCA §220.5(g).
- C. "Existing projects" are projects that were on-going at the time Act 141 became effective on July 1, 2009, and shall include:
 - 1. All contiguous phases and increments of construction within the project;
 - 2. All infrastructure construction for the benefit of the housing units within the project; and
 - 3. All types of house construction for which the Department has provided on-site infrastructure in an effort to make the house construction affordable.
- D. "Affordable housing credits" are credits issued by the various counties that may be applied toward the respective county's affordable or residential workforce housing requirements for a development.

Department of Hawaiian Home Lands Affordable Housing Credits Policy

- E. "First Option" is defined as developer may have the opportunity to meet the terms set forth by the Department before the credits are made available to others.

V. **Authority Granted to the Chairman; Ratification by the Commission**

The Commission authorizes the Chairman of the Hawaiian Homes Commission (also the Director of the Department) to implement these policies and further authorizes the Chairman to enter into negotiations with public and private entities in furtherance of these policy objectives. The Commission authorizes the Chairman to deposit AHC cash payments in to the Hawaiian Homes Trust Fund (T-901-I) and to transfer into any other fund for public purposes deemed by the Commission to further the purposes of the Hawaiian Homes Commission Act. Five percent (5%), unless otherwise determined by the Commission, of cash deposits shall be transferred for the purposes stated in VI.E. Agreements are subject to ratification by the Hawaiian Homes Commission and the Department will provide the Commission with periodic reports.

VI. **Policies**

The following policies establish fair and transparent methods by which the Department will request affordable housing credits from the counties and by which the Department will award and transfer such credits to other entities.

A. Requests to Counties for Affordable Housing Credits

The Department shall request affordable housing credits for the completed phases and/or increments (as of the date of enactment of Act 141) of existing projects and projects planned, designed or in construction during the effective period of Act 141.

B. Award and Transfer of Affordable Housing Credits

Activities Eligible for Requests for Affordable Housing Credits:

1. Development of Housing Units for the Department. A developer who assumes the risk of financing, designing, marketing, and constructing the housing units within a project may, at the option of the Chairman, be afforded the first option to negotiate with the Department for award and transfer to such developer affordable housing credits on a one-for-one basis for each housing unit.
2. Conveyance of Unimproved Land Suitable for Residential Homestead Purposes. A landowner who conveys to the Department at least one hundred (100) contiguous acres of land which is suitable for residential homestead purposes may be afforded the first option to negotiate with the Department for award and transfer to the landowner affordable housing credits, provided that the land area conveyed can be designed and subdivided to provide at least 1.5 times more lots than the amount of credits requested, with the number of lots determined according to the corresponding minimum lot size for each respective county as follows:
 - i. Kauai. 10,000.0 sq. ft.;

<p style="text-align: center;">Department of Hawaiian Home Lands Affordable Housing Credits Policy</p>
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- ii. Oahu 5,000.0 sq. ft.;
- iii. Maui 7,500.0 sq. ft.;
- iv. Hawaii 7,500.0 sq. ft.,

provided that if the respective county's sewer system is not available to service the future lots, the minimum lot size shall be 10,000 sq. ft.

- 3. Conveyance of Fully Improved Lots. A landowner who conveys to the Department at least twenty-five (25) fully improved lots; provided that such lots have received final subdivision approval by the county, and the lots are free and clear of all liens, impact fees, and utility fees, may be afforded the first option to negotiate with the Department for award and transfer to the landowner affordable housing credits on a one-for-one basis for each lot which meets the corresponding minimum lot size for each respective county as follows:

- v. Kauai. 10,000.0 sq. ft.;
- vi. Oahu 5,000.0 sq. ft.;
- vii. Maui 7,500.0 sq. ft.;
- viii. Hawaii 7,500.0 sq. ft.,

C. Consideration for Award and Transfer of Affordable Housing Credits

- 1. Valuation of credits: The value of the credits shall be determined on a project-by-project basis.

The valuation of credits is affected by the economic cycle, housing demand, developer's inventories, county requirements for affordable or workforce units, county 'fee in lieu' formula's, availability of credits from other sources, availability of future credits and other factors such as the adjusted median income levels for the area.

The negotiations with the developer for a specific project may include shared risks for financing, marketing, cost fluctuations, infrastructure construction, land acquisition and development and buyer capacity.

- 2. Commission May Establish Additional Factors. The Commission may establish additional factors that may be considered in adjusting the consideration to be received by the Department for the award and transfer of affordable housing credits.

D. Public Auction of Department Credits.

- 1. Any and all affordable housing credits may be disposed of by public auction through competitive sealed proposals to obtain the best offer.
- 2. Notwithstanding the above provisions of this section, the Department may hold Department credits in a reserve to be used for consideration as well as awards for land conveyances and other activities that will generate affordable housing units for the Department. Such credits held in reserve shall no be subject to disposition

<p>Department of Hawaiian Home Lands Affordable Housing Credits Policy</p>
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by public auction.

E. Community Benefits

Five percent (5%) of the cash payments, unless otherwise determined by the Commission, deposited by the Department for affordable housing credits shall be transferred for purposes of supporting activities relating to educational, economic, political, social and cultural processes by which the general welfare and conditions of native Hawaiians are thereby improved and perpetuated. Under Act 141, the credits are transferable and can be applied anywhere within the same county in which the credits were earned, this same rule will apply to the 'Community Benefits' payments.

F. Conditions of Awards and Transfers of Affordable Housing Credits

Any agreement between the Department and a third party to transfer affordable housing credits shall be subject to the Department receiving the necessary number of credits from the respective county. Developer shall be solely responsible to execute agreements with the respective county on the applicability and use of such credits.



COUNCIL FOR NATIVE HAWAIIAN ADVANCEMENT

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Testimony of Robin Puanani Danner, President
Council for Native Hawaiian Advancement
December 12, 2011

Policy for Use of Trust Lands for Non-Homesteading Purposes

Aloha Chairman and Members of the Hawaiian Homes Commission.

For the record, my name is Robin Puanani Danner, and I am the President of the Council for Native Hawaiian Advancement (CNHA), a 10-year old Native Hawaiian serving non-profit with over 160 Native Hawaiian member organizations. We are governed by a 21-member, all-Native Hawaiian board of directors, representing some of the most active Native Hawaiian businesses and organizations serving the beneficiaries of the Hawaiian Home Land Trust and the Ceded Lands Trust.

About CNHA Programs & Policy Center

In addition to community development programs and projects, CNHA operates the Native Hawaiian Policy Center to convene our non-governmental member organizations around public policy, administrative policy and program solutions that improve the lives of our Native people. Over the last decade, we have developed numerous community development solutions, and championed landmark legislative strategies to bring increased accountability, resources, and self determination practices to the public trusts mandated to serve Native Hawaiian beneficiaries.

We select the Policy Center priorities through a series of convenings with our member organizations, our leadership, and our stakeholder partners. Each year, these priorities are published at the Annual Native Hawaiian Convention. In addition, the Policy Center has a sub-category for HHCA specific policy discussions with our Homestead Working Group consisting of homestead association leaders and subject matter experts.

Policy Recommendations for Use of Non-Homesteading Trust Lands

The use of trust lands established under the Hawaiian Homes Commission Act for non-homesteading uses remains one of our priority areas from the 9th Annual Native Hawaiian Convention held in 2010 and the 10th Annual Native Hawaiian Convention held in 2011. As such, CNHA has completed the following activities and makes 13 total recommendations as a result:

- A. Desktop Reference Guide.** Researched and produced a Desktop Reference Guide on Non-Homesteading Lands based on the DHHL 2009 Annual Report. This guide discloses that approximately 60,000+ acres of the total 200,000 acres in the trust, has been issued under a land instrument for non-homesteading purposes. Moreover, the guide clearly identifies that the vast majority of these lands have been issued to non-beneficiaries of the HHCA. This is an interesting trend, given the HHCA is clear about its purpose and the opportunities to be provided to beneficiaries of the HHCA for non-homesteading uses.

And finally, it is clear from the guide and DHHL's own data, that revenues generated by these land instruments are haphazardly priced and applied to various individuals and organizations. In short, there is no standard practice well understood by beneficiaries or Commissioners on how, why or at what price land is issued for non-homesteading purposes.

Recommendation #1: HHC direct DHHL to require inclusion in any DHHL annual report, the percentage of lands currently in homesteading use, the percentage of lands currently in non-

Ref.
HHC Item No. Exec Sess
Exhibit A #9

3. **About the Purpose and Use** – to describe the type of land instrument, term, use of the lands, how it directly or indirectly benefits beneficiaries of the HHCA, and how if at all, the applicant is partnering with or is a beneficiary organization with democratically elected beneficiary leaders;
4. **About Which Section of the HHCA Relates** – to identify which category of non-homesteading land use applies, whether public or commercial purpose;
5. **Policy Information Provided to Applicants** – to notify that Beneficiary Consultation, Applicant Capacity and Land Use Benefit Analysis are all part of the deliberative process.

This Standard Land Use Request Form, as structured, obtains all of the most basic information that is needed to contemplate the placement of trust lands into a non-homesteading purpose. It does not indicate what the result will be of any deliberation, and seeks only to obtain the information that would be required to inform beneficiaries, solicit input and feedback on the request, to identify the lawful ways under which such a land request may be procured and to contemplate beyond revenues, how such a land use will directly or indirectly impact beneficiaries of the trust.

Recommendation #5: HHC direct DHHL to use a standard land use form with the criteria developed by the Policy Center, as a required form to be completed by any inquiring party seeking trust lands for non-homesteading use.

Recommendation #6: HHC direct DHHL that when public procurement is required to dispose of trust lands for non-homesteading purposes, the procurement must contain the basic request for information found in the Standard Land Use Request Form.

Recommendation #7: HHC direct DHHL that any submission by DHHL requesting approval by the HHC of a non-homesteading land instrument, must include all of the vital information contained in the Standard Land Use Request Form in the actual submission document.

- D. Act 187 Beneficiary Consultation.** In section V of our Standard Land Use Request Form, we disclose to any applicant or inquiry about non-homesteading lands, that the request should be distributed to the established homestead associations democratically elected and governed by beneficiaries to receive comment.

In 2010, Act 187, was passed by the Hawaii State Legislature, and signed by Governor Lingle after first placing it on her veto list. Act 187 is an amendment to the HHCA, which requires disclosure and beneficiary consultation on any commercial land use prior to execution of a land instrument. It also allows the HHC to extend commercial leases limited at 65 years, an additional 20 years, when certain criteria is met and the HHC is so inclined to do so. And it requires that 15% of any extended lease revenue is dedicated to Community and Cultural Fund programming of beneficiaries. It should be noted that the original intent was for 15% of all commercial lease revenue to be directed by DHHL to a Community and Cultural Fund.

This legislation was advocated by leaders that brought the land use priority to the CNHA Policy Center. It was a specific initiative to address the insufficient benefit to the land trust, and the lack of transparency of many administrations in the past 50 years, of allocating lands for non-homesteading purposes without any consultation with the beneficiaries of the HHCA.

Section V of our Standard Land Use Request Form promotes the intent of Act 187, and fully informs the inquirer that beneficiary consultation is an important tenet of the HHC.

Recommendation #8: HHC direct DHHL to distribute to beneficiary homestead organizations for a 30-day comment period, any request for trust lands for non-homesteading use.

E. Pricing Policy for Non-Homesteading Lands. The CNHA Policy Center has dedicated more than a year of research, review and deliberation on solutions to addressing non-homesteading land use policy, and as a result, pricing. Although not all inclusive, the following areas were deliberated on in making our Pricing Policy recommendation:

1. **Percentage of Beneficiaries with Non-Homesteading Land Instruments.** We analyzed the most common reasons for the extremely low percentage of non-homesteading land instruments in the hands of beneficiaries, and the extraordinary high percentage of non-homesteading and commercial land instruments in the hands of entities completely unrelated to homestead beneficiary organizations.
2. **Homestead Benefit Agreements.** We analyzed the variety, approach and originators of community benefits or indirect benefits when a non-homesteading land instrument has been executed by DHHL. It is woefully under-utilized, and when it is, the benefits are haphazard, and many times, directed toward nonprofits with no beneficiary homestead governance.
3. **Reliance by State Government on Revenue Generation to Administer the Trust.** Although contrary to the most common and standard practices of federal oversight and administration of Native land trusts, the State of Hawaii has never adequately funded its Department of Hawaiian Home Lands, established in 1961 as required by the Hawaii Statehood Act, when Congress required that state government would receive millions of acres of ceded lands, subject to the administration of the 200 acre Hawaiian Home Land Trust. Instead, for the past 50 years, Administration after Administration, Governor after Governor, Legislature after Legislature and Hawaiian Homes Commission after Commission, has reneged on the requirement to properly and adequately fund or to even request proper funding for the administration of the trust, to pay for its own state government employees.

This reality has created a fiscal dilemma and even, a fiscal crisis. The dilemma has resulted in a conflict in land use practices and priorities. State government (DHHL), began a practice of land disposition for commercial revenue over land disposition for the HHCA homesteading program or beneficiary access to non-homesteading lands. This practice was considerably accelerated by Governor Lingle between 2002 and 2010. Moreover, under the Lingle Administration, the practice of providing general funding to DHHL, like any other state department, even in the tiniest amounts of between \$2 million a year to a high of \$7 million over the previous Administrations was eliminated, and brought to -0-.

This policy of zero tolerance for state government to fund its own state employees and government agency, charged under the Hawaii Statehood Act to administer the Hawaiian Home Land Trust resulted in a complete reliance on beneficiary trust funds, beneficiary lands and beneficiary resources to be used to support state government employees and the operation of DHHL. It is a policy reality, and it is a fiscal reality, that is an important component to the review conducted by the CNHA Policy in deliberating on immediate solutions for a Pricing Policy for non-homesteading lands.

Recommendation #9: With all of these factors, and others considered over the last year, we recommend that the HHC direct DHHL to implement a priority pricing policy of any lands requested for non-homesteading use, **to be at or greater than market value**, regardless of non-profit, for-profit or government agency request.

Recommendation #10: HHC direct DHHL that every issuance of non-homesteading land instruments must have a Homestead Benefits Agreement addendum.

Recommendation #11: The HHC direct DHHL that any exception to the Pricing Priority that results in less than market value rates or a land instrument that does not contain a Homestead Benefits Agreement, must be approved by the HHC with specific justifications that must at a minimum, benefit beneficiaries.

Recommendation #12: Given the total reliance on the beneficiary's trust funds to pay for state government operations and employees of DHHL, the HHC directs DHHL, in consultation with beneficiaries, to prepare a comprehensive annual budget for all Operating Costs regardless of revenue source, to be disclosed annually, along with the previous fiscal year's actual expenditures and revenue sources.

In addition, the HHC directs DHHL to submit the Operating Budget regardless of revenue sources identified, to the Governor and to the Senate President. This action ensures that the Commission, on behalf of the beneficiaries is requesting adequate operating funds from General Funds, leaving the politics of the results to the Director, the Governor and the Legislature.

Recommendation #13: The HHC directs DHHL, in consultation with beneficiaries, to prepare a comprehensive annual budget for Capital Improvements Project needs regardless of revenue source, to be disclosed annually, along with the previous fiscal year's actual expenditures on Capital Improvement Projects and funding sources.

In addition, the HHC directs DHHL to submit the Capital Improvements Project Budget regardless of funding sources identified, to the Governor and to the Senate President. This action ensures that the Commission, on behalf of the beneficiaries is requesting adequate capital improvement project funding or General Obligation Bonding, leaving the politics of the results to the Director, the Governor and the Legislature.

Summary

Land use practices and priorities are vitally important to the trust and to the beneficiaries, perhaps more so given the fiscal standing of the trust left by the last Administration at the end of 2010. A greater number of beneficiaries and their democratically elected homestead associations are far more engaged and knowledgeable about the HHCA, the structure and internal workings of DHHL, as well as the realization that accountability to beneficiaries must be required when trust funds are spent to cover the operating costs of DHHL and state government, and when trust funds are spent on direct expenditures and capital improvements that may or may not facilitate beneficiary use of trust lands through homesteading and non-homesteading purposes.

As shown by the various areas reviewed by the CNHA Policy Center and described in this testimony, non-homesteading land use is not a singular issue. It must be contemplated in the context of the fiscal reality of the trust, the requirements of beneficiary consultation, the priority of the HHCA to distribute homestead leases to beneficiaries, the clear priority of the HHCA to provide non-homesteading and mercantile uses to beneficiaries, and the current reality that the vast majority of non-homesteading land instruments have little to no benefit to the trust or its people beyond lease values.

The recommendations put forward today, are holistic, connected to the other, and each strengthen the trust's ability to balance specific and proper goals, including revenue generation and maximum placement of lands into beneficiary hands. We believe that the trust can achieve both, and that unlike the sentiment practiced by prior administrations, beneficiaries can and should be looked to, to not only generate revenue with non-homesteading lands, but should be positioned to do so as defined in the HHCA.

Mahalo for the opportunity to present this testimony.

Hawaiian Homes Commission Act – Land Use Categories

Type of Land Instrument	Type of Land Use	Eligible Land Use Holders
207(a) Homestead Lease	<u>Homesteading</u> Residential, Agriculture, Pastoral & Aquaculture	Beneficiaries: Acres/%:
Total Homesteading Lands		Acres:
207(c)(1) License/RP	<u>Easements</u> Railroads, phone lines, electric power, gas mains, etc	Beneficiaries: Others: Acres/%:
207(c)(1)(A) License/RP	<u>Public Purpose</u> Churches, hospitals, public schools, post offices, etc	Beneficiaries: Others: Acres/%:
207(c)(1)(B) License/RP	<u>Commerce</u> Theaters, garages, service stations, markets, stores, and other mercantile establishments (<i>all of which shall be owned by native Hawaiians or by organizations formed and controlled by native Hawaiians</i>)	Beneficiaries: Acres/%:
207(c)(2) License/RP	<u>Federal Government</u> Roads, rights of way, water storage, facilities, target ranges	Federal Government Acres/%:
204(a)(2) General Lease/RP • Requires Bid-HRS 171 • Unless Exempted (such as energy, nonprofit, etc)	<u>Business, Industrial, Commercial</u> Lands not required for homesteading may be disposed of to the public (<i>subject to HRS 171</i>), provided that DHHL is expressly authorized to negotiate prior to negotiations with the general public, with a native Hawaiian, or organization or association owned or controlled by native Hawaiians.	Beneficiaries: Others: Acres/%:
Total Non-Homesteading Lands to Beneficiaries		Acres/%:
Total Non-Homesteading Lands to All Others		Acres/%:

Data from 2009 DHHL Annual Report

Type of Land Instrument	# Issued	Total Acreage	Revenue
Revocable Permits	182	28,444	\$2,677,279
Licenses	403	26,195	\$1,459,418
General Leases	117	13,097	\$7,506,356
	702	67,736	\$11,643,053

*Note: Number of Instruments Issued to Beneficiaries not Reported

Summary of Relevant Land Use Components & Recommendations

Component	Primary Issue	Recommendation
Homesteading VS Non-Homesteading Land Use	Land Inventory Data Insufficient	#1 Require annual report of acreage & percentage by type of land use, and beneficiary holdings #2 Establish reasonable goal to issue land instruments to beneficiary orgs
Beneficiary Consultation	Lack of standard form or process Lack of Land Disposition Data Year by Year	#3 Require annual reporting of land instruments issued in prior year, and beneficiary land requests not taken to commission #4 Require annual reporting of beneficiary land requests not presented to HHC for action
Standard Land Use Form	Insufficient Data provided to HHC	#5 Require use of standard form with criteria, by all requesting entities #6 Require criteria to be included in any required procurement actions #7 Require all criteria to be included in any land approval submission to the HHC
Act 187	Lack of understanding by land requestors about HHCA & Primary Purpose Lack of standard opportunity for beneficiary notification and comment period	#8 Require distribution of land request forms submitted to DHHL by requesting entities to beneficiary homestead organizations for a 30-day notice and comment period.
Pricing Priority	Low % of beneficiaries holding non-homesteading land instruments Insufficient Homestead Benefit Agreement content 100% of revenues funds state govt employees instead of trust activities of beneficiaries – increase accountability Require HHC to annually request sufficient dollars from state govt to pay for DHHL employees and operating costs. Require HHC to annually request CIP dollars from state govt to pay for infrastructure and projects	#9 Require the Pricing Priority for all non-homesteading land use instruments to be Market Value, regardless of requesting organization #10 Require every non-homesteading land instrument to have a Homestead Benefits Agreement addendum #11 Require exceptions to the Pricing Priority or HBA to be approved by HHC with specific justifications that must include at a minimum, benefit to beneficiaries. #12 Require DHHL to comprehensively prepare and distribute its annual operating budget, and prior fiscal year actual expenditures #13 Require DHHL to comprehensively prepare and distribute an annual CIP budget