

THE NELSON CASE

- Article XII, Section I of the Hawaii State Constitution states:

“The legislature shall make sufficient sums available for the following purposes: (1) development of home, agriculture, farm and ranch lots; (2) home, agriculture, aquaculture, farm and ranch loans; (3) rehabilitation projects to include, but not limited to, educational, economic, political, social and cultural processes by which the general welfare and conditions of native Hawaiians are thereby improved; (4) the administration and operating budget of the department of Hawaiian home lands; in furtherance of (1), (2), (3) and (4) herein, by appropriating the same in the manner provided by law.”

- On October 19, 2007, plaintiffs Richard Nelson III, Kaliko Chun, James Akiona, Sr., et. al. filed a lawsuit against the State and the Hawaiian Homes Commission claiming that the State violated its constitutional duty to sufficiently fund the Department of Hawaiian Home Lands.
- On May 9, 2012, the Supreme Court of the State of Hawaii affirmed the Intermediate Court of Appeals judgment in part. The court opined that it could determine what is “sufficient sums” for DHHL’s administrative and operating expenses to carry out the purposes of the Hawaiian Homes Commission Act. The case is still ongoing and the definition of what is “sufficient sums” for DHHL’s administrative and operating expenses is still to be judicially determined.
- The Supreme Court also determined that sufficient sums for (1) lots, (2) loans, and (3) programs are political in nature and could not be judicially determined.
- Based on the advice of our attorneys in this case, the Hawaiian Homes Commission, the head of the Department of Hawaiian Home Lands, has a fiduciary responsibility to ask for the amounts the Commission considers “sufficient” to accomplish the four purposes outlined in the constitution.
- While the DHHL can ask for sufficient sums, it is still up to the legislature to appropriate these resources.
- The DHHL budget is included in the Governor’s Executive Budget which is prepared by the Department of Budget and Finance. On December 17, 2012, the Governor submitted the Executive Budget to the legislature that included a request of \$14.68 million for DHHL.

HOW CAN YOU KOKUA?

- Keep in touch with DHHL to stay up to date on what is happening with the DHHL budget request as it moves through the legislature.
- Speak to all the state Representatives and Senators that you know to support sufficient funding for DHHL’s administrative and operating expenses.
- Encourage your family, friends, and community to also lend support.

