

**HAWAIIAN HOMES COMMISSION**  
Minutes of March 18, 2019  
Meeting held at Hale Pono‘i, Kapolei, O‘ahu

Pursuant to proper call, the 709th Regular Meeting of the Hawaiian Homes Commission was held at Hale Pono‘i, 91-5420 Kapolei Parkway, Kapolei, O‘ahu, Hawai‘i, beginning at 9:30 a.m.

**PRESENT** Jobie M. K. Masagatani, Chairman  
Randy K. Awo, Maui Commissioner  
Zachary Z. Helm, Moloka‘i Commissioner  
Wallace A. Ishibashi, East Hawai‘i Commissioner  
David B. Ka‘apu, West Hawai‘i Commissioner  
Michael P. Kahikina, O‘ahu Commissioner (arrived 10:30 a.m.)  
Pauline N. Namu‘o, O‘ahu Commissioner

**EXCUSED** Wren Wescoatt, O‘ahu Commissioner  
Vacant, Kaua‘i Commissioner

**COUNSEL** Craig Iha, Deputy Attorney General

**STAFF** William Aila Jr., Deputy to the Chairman  
Paula Aila, Contact and Awards Division Manager  
Kahana Albinio, Acting Land Management Division Administrator  
Dean Oshiro, Acting Homestead Services Division Administrator  
Niniau Simmons, NAHASDA Manager  
Stewart Matsunaga, Acting Land Development Division Administrator  
Andrew Choy, Acting Planning Program Manager  
Leah Burrows-Nuuanu, Secretary to the Commission  
Cedric Duarte, ICRO Manager  
Debra Aliviado, Customer Service Manager  
Lehua Kinilau-Cano, Legislative Analyst

**ORDER OF BUSINESS**

**CALL TO ORDER**

Chair Masagatani called the meeting to order at 9:45 a.m.

Six (6) members were present at roll call. Commissioner Kahikina was on his way. The Kaua‘i seat was vacant.

**APPROVAL OF AGENDA**

**MOTION/ACTION**

Moved by Commissioner Awo, seconded by Commissioner Helm, to approve the agenda.

Motion carried unanimously.

**APPROVAL OF MINUTES**

Chair Masagatani asked if there were any changes to the March 2015 Minutes. There were none.

MOTION/ACTION

Moved by Commissioner Ka`apu, seconded by Commissioner Awo, to approve the March 2015 Minutes. Motion carried unanimously.

Chair Masagatani asked if there were any changes to the May 2018 Minutes. There were none.

MOTION/ACTION

Moved by Commissioner Ishibashi, seconded by Commissioner Ka`apu, to approve the May 2018 Minutes. Motion carried unanimously.

**PUBLIC TESTIMONY ON AGENDIZED ITEMS**

**ITEM A-1 Kekoa Enomoto Re: Items E-1, E-2, F-1**

K. Enomoto testified that Upcountry Maui is the preferred region for development for beneficiaries. Regarding F-1, she notes that the Department and its Land Development Division took three weeks to process Isemoto Contracting's land-use request. Pa`upena CDC has been waiting for 27-months for DHHL and LMD to process the Maui Group's land use application for a two-year due diligence right of entry to 4,128 Waiohuli/Kēōkea Makai acre. She is asking that the DHHL process Pa`upena's land-use request in three weeks.

**ITEM A-2 Blossom Feiteira Re: Executive Session #1, C-2, H-1**

B. Feiteira is the President of the Association of Hawaiians for Homestead Lands and the Maui Mokupuni Council, and a Board member for Kahikinui. Regarding Item C-1, the Department needs to look at the policies and the directives of the blood quantum strategies. She stated that there have been several lawsuits questioning the validity of the rules that govern blood quantum identification. By creating a stronger and precise strategy is a good thing for the Department in the long-term. She encourages the Commission to approve the establishment of this investigative committee to move that issue forward.

**ITEMS FOR DECISION MAKING**

**CONSENT AGENDA**

**HOMESTEAD SERVICES DIVISION**

RECOMMENDED MOTION/ACTION

Acting Homestead Services Division Administrator Dean Oshiro presented the following:  
To approve the Consent Agenda as listed in the submittal.

DISCUSSION

Chair Masagatani asked Commissioners if there were any Items from the Consent Agenda that they wanted to move to the Regular Agenda.

Commissioner Ka`apu asked to move Item D-2: Approval of Consent to Mortgage, and Item D-5: Approval of Homestead Application/Cancellations, to the Regular Agenda.

**ITEM D-2** Approval of Consent to Mortgage

**ITEM D-3** Approval of Streamline Refinance of Loans (see exhibit)

**ITEM D-4** Approval to Schedule Loan Delinquency Contested Case Hearings (see exhibit)

- ITEM D-5** Approval of Homestead Application/Cancellations  
**ITEM D-6** Approval of Designation of Successors to Leasehold Interest and Designation of Persons to Receive the Net Proceeds (see exhibit)  
**ITEM D-7** Approval of Assignment of Leasehold Interest (see exhibit)  
**ITEM D-8** Approval of Amendment of Leasehold Interest (see exhibit)  
**ITEM D-9** Approval to Issue Non-Exclusive Licenses for Rooftop Photovoltaic Systems for Certain Lessees (see exhibit)  
**ITEM D-10** Request to Schedule Contested Case Hearing – Authorization to Proceed to Public Notice Under Section 209, HHCA, Due to Nonresponsive Designated Successor(s) (see exhibit)  
**ITEM D-11** Request to Schedule Contested Case Hearing – Lease Violation, **SANDRA I. BALDWIN**, Lease No. 5161, Lot No. 12, Nanakuli, Oahu  
**ITEM D-12** Request to Surrender Lease – **CHADWICK K. THOMAS**, Agricultural Lot Lease No. 5105-A, Lot No. 156-B, Pana'ewa, Hawai'i

MOTION/ACTION

Moved by Commissioner Kahikina, seconded by Commissioner Ishibashi to approve the Consent Agenda, except for Items D-2 and D-5. Motion carried unanimously.

**REGULAR AGENDA**

**HOMESTEAD SERVICES DIVISION**

- ITEM D-2** Approval of Consent to Mortgage (see exhibit)

RECOMMENDED MOTION/ACTION

Acting Homestead Services Division Administrator Dean Oshiro recommended the following: Recommends that the Hawaiian Homes Commission approve the consent to mortgages.

MOTION

Moved by Commissioner Ka`apu, seconded by Commissioner Awo, to approve the motion as stated in the submittal.

DISCUSSION

Commissioner Ka`apu questioned mortgages that are in the \$561,000 range. He stated there are quite a few, and the trust is on the hook to pay these loans off. He wants to know whether these are secured. D. Oshiro stated that these mortgages are based on appraisals and done by FHA approved appraisers who are qualified. As long the beneficiaries fit the parameters of the program, the Department will not hold back any beneficiary from qualifying and getting a home.

ACTION

Motion carried unanimously.

- ITEM D-5** Approval of Homestead Application / Cancellations (see exhibit)

RECOMMENDED MOTION/ACTION

Acting Homestead Services Division Administrator Dean Oshiro recommended the following: Recommends that the Hawaiian Homes Commission approve the homestead application transfers and cancellations.

MOTION

Moved by Commissioner Helm, seconded by Commissioner Namu‘o, to approve the motion as stated in the submittal.

DISCUSSION

Commissioner Ka`apu asked if these were new leases or assignments of old leases. D. Oshiro stated that the area would have to be considered, Princess Kahanu is a transfer, it's not a new area. New leases are areas like Kanehili or Kauluokahai.

Commissioner Ka`apu said that there were very few assignments where older wait listers were getting an award. He stated that people who have been on the waitlist for a long time are not getting awards, and yet people who applied in 2017, 2010 are getting awards. D. Oshiro stated that these individuals are technically purchasing leases. It does include successorships.

ACTION

Motion carried unanimously.

**ITEMS FOR INFORMATION/DISCUSSION**

**REGULAR AGENDA**

**OFFICE OF THE CHAIRMAN**

**ITEM C-1 Appointment of the investigative committee pursuant to HRS section 92-2.5 and HAR section 10-2-16(b)(1), to study and recommend DHHL Native Hawaiian Qualification strategies**

Chair Masagatani stated that, for the audience, on Item C-1, she appointed an investigative committee. For the staff, it is intended to be a deep dive by the Commission in understanding our native Hawaiian qualification process. The investigative committee includes Commissioner Awo, Commissioner Ka`apu, Commissioner Namu‘o, and Chair Masagatani. Deputy Aila will be staffing the committee out of the Chair's office. It's an opportunity for the Commission to get a deeper understanding of the process that staff goes through, like a confirmation that an applicant is qualified as a beneficiary. There may be discussions in terms of adjustments from a policy level in order to make it easier for beneficiaries who are applicants who may have less clear documentation to be able to certify their blood quantum. It's not a perfect process, but it is more an art than a science. Chair encourages the staff to be honest as to what they experience and the challenges they face and their concerns so there can be a good outcome. The time and energy the committee uses to focus on this, if there need to be policy changes, it will be brought back to the Commission for discussion, amongst the full Commission, and agendaized for decision making, probably on the subsequent meeting. Chair Masagatani thanked the Commissioners for their time. Chair noted that whatever recommendations come forth will be done in open session and open to discussion with the whole Commission.

**RECESS 10:50 a.m.**

**RECONVENED 11:00 a.m.**

**ITEMS FOR DECISION MAKING**

**LAND MANAGEMENT DIVISION**

**ITEM F-1 Approval to Issue Right of Entry Permit – Not to Exceed December 31, 2019, to Isemoto Contracting Ltd., Kealakehe, Hawaii, TMK No. (3) 7-4-020:003 (por.)**

**RECOMMENDED MOTION/ACTION**

Acting Administrator, Land Management Division, Kahana Albinio, presented the following: Motion that the Hawaiian Homes Commission approves the issue of the right of entry permit, not to exceed December 31, 2019, to Isemoto Contracting Ltd., Kealakehe, Hawai`i TMK No. (3) 7-4-020:003 (por.)

**MOTION**

Moved by Commissioner Awo, seconded by Commissioner Namu`o, to approve the motion as stated in the submittal.

**DISCUSSION**

K. Albinio stated that the request is from Isemoto Contracting, who has been using the property 9-months prior. They requested, through Jim Du Pont, to use the property for storage purposes with no trucks on the property. It is construction materials that are being stored, and the County of Hawai`i is building their prosecuting attorney’s office, which is adjacent to the property. The construction is almost completed.

**ACTION**

Moved by Commissioner Awo: that the Hawaiian Homes Commission approves the issue of the right of entry permit, not to exceed December 31, 2019, to Isemoto Contracting Ltd., Kealakehe, Hawai`i TMK No. (3) 7-4-020:003 (por.)						
Seconded by Commissioner Namu`o						
Commissioner	1	2	‘AE (YES)	A’OLE (NO)	KANALUA	EXCUSED
Commissioner Awo	X		X			
Commissioner Helm			X			
Commissioner Ishibashi				X		
Commissioner Ka’apu				X		
Commissioner Kahikina				X		
Commissioner Namuo		X	X			
Commissioner Wescoatt						X
Chair Masagatani			X			
<b>TOTAL VOTE COUNT</b>			<b>4</b>	<b>3</b>		<b>1</b>
MOTION: [ ] UNANIMOUS [ ] PASSED [ ] DEFERRED [ X ] FAILED						
Motion passes with four (4) ‘Ae, three (3) A’ole, one (1) Excused. Vacant: Kauai						

## **ADMINISTRATIVE SERVICES OFFICE**

### **ITEM H-1      Transfer of Hawaiian Home Receipts Money at the End of the Third Quarter, FY 2019**

#### RECOMMENDED MOTION/ACTION

Administrative Services Officer, Rodney Lau, presented the following:  
Recommends that the Hawaiian Homes Commission approve the transfer of the entire receipts deposited in the Hawaiian Homes Receipts Fund as of March 31, 2019, to the Hawaiian Homes General Loan Fund.

#### MOTION

Moved by Commissioner Kahikina, seconded by Commissioner Namu‘o, to approve the motion as stated in the submittal.

#### DISCUSSION

None.

#### ACTION

Motion carried unanimously.

## **ITEMS FOR INFORMATION/DISCUSSION**

### **GENERAL AGENDA**

### **REQUESTS TO ADDRESS THE COMMISSION**

#### **ITEM J-1      Blossom Feiteira – Ka ‘Ohana O Kahikinui**

B. Feiteira introduced her son, Ed Ramos, who has played an integral role in the forward movement of the ‘ohana in terms of reforestation efforts and recruiting volunteers to help do the work needed. He has reopened a fire emergency exit road which has been overgrown for many years, reinforced the fence line makai of the highway which restricts access to makai through the identified gate areas and is in the process of repairing the roads that go from the highway down makai. They did firebreak work along the homestead and cleaned out Hale pili and expanded the area to twice its size. B. Feiteira stated that they are looking to make the Hale pili area as the economic center, which was part of the original management plan and is part of the original priority grant plan. The compost toilets are being replaced by porta toilets, and an outside vendor is willing to service the porta toilets. To launch this economic plan, it will cost about \$25,000. It cost \$10,000 per day for helicopter time for ungulate removal.

#### **ITEM J-3      Diane Kanealii – Kailapa Community Association**

D. Kanealii is the Executive Director of the Kailapa Community Association (KCA). Assisting her is KCA’s Project Manager, Jordan Hollister, and Jose Dizon, Water & Energy Consultant. J. Hollister presented the Commissioners with an update of the KCA Resiliency Plan, which started early 2018 and was completed in January 2019. The purpose of the plan is to create a road map for future land use development and is a framework for future planning efforts. All efforts for the plan rely on the Commission to allow the association a long-term lease/license. The first request is for a 2-year limited right of entry, to allow the association to take the next steps to get on the land and learn what the land needs, and then where to begin implementation. At the end of the 2-

years, the association would then request for a long-term lease with the Department. There are six values that express the association's vision throughout the plan, but three are highlighted for the project as a way to help frame the process and guide the planning efforts. The three highlights are Malama `Āina, resource management, Noho Ku`oko` self-sufficiency, and Laulima, community cohesiveness.

#### MOTION/ACTION

Moved by Commissioner Helm, seconded by Commissioner Namu`o, to convene in executive session 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. Motion carried unanimously.

#### **EXECUTIVE SESSION IN**

**12:47 p.m.**

The Commission anticipates convening in an 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 on these matters.

1. RFP-HHL-19-004 Land Acquisition, Island of Maui
2. Landowner and Developer Roles in DHHL Turn-Key Projects

#### **EXECUTIVE SESSION OUT**

**2:26 p.m.**

#### **PUBLIC TESTIMONY ON AGENDIZED ITEMS**

##### **ITEM A-3 Robin Danner Re: HCDC related Status Reports**

R. Danner is the CEO of the Homestead Community Development Corporation (HCDC), Homestead Housing Authority, and the elected Chair of the Sovereign Council of Hawaiian Homestead Associations. HCDC is about to launch the homestead loan fund and starting to do development services in the area of financial literacy. She is asking that the Commission schedule a debate, deliberation, and discussion for April to contemplate acting on a moratorium of lease cancellations and foreclosures to allow the Department staff to put together a comprehensive lease cancellation/foreclosure prevention process.

#### **ITEMS FOR INFORMATION/DISCUSSION**

##### **REGULAR AGENDA**

##### **PLANNING OFFICE**

##### **ITEM G-2 For Information Only -- Waikupanaha Subsistence Agriculture Homestead Lot Development Draft Environmental Assessment, Waimanalo, O`ahu**

#### RECOMMENDED MOTION/ACTION

None. For information only. Acting Planning Manager Andrew Choy presented the following:

#### DISCUSSION

A. Choy stated that the presentation is an informational briefing of the draft environmental assessment (DEA) and anticipated finding of no significant impact (AFONSI) for the Waikupanaha agricultural lots for Waimanalo, Koolaupoko, O`ahu, TMK 1-4-1-008: 002 (por),

093, 094, 095 and 096. A. Choy stated that the Commission adopted the O`ahu Island Plan in 2014, designating the portions of land in Waimanalo for subsistence agricultural homestead. The reasons were:

1. The demand for waitlist applicants on the Ag Applicant list for O`ahu indicated that Koolaupoko was highly desirable for agricultural homesteading.
2. The land on O`ahu makes up only 3% of our Trust lands across the state.

The lands are very valuable, and the recommendation was that the lands be put into a homestead for subsistence agriculture. The O`ahu Plan identifies the Commission's land-use policy for lands on O`ahu, be it residential or agricultural homesteading, commercial use, community use, and areas for development. A. Choy introduced Claire Oshiro of the Limtiaco Consulting Group (LCG).

C. Oshiro stated that LCG prepared a working draft of the environmental assessment (EA), which would consolidate and re-subdivide a 30-acre project site consisting of contiguous parcels. Currently, the parcels are in use on a month-to-month right of entry for equestrian and agricultural uses. The lot sizes will be re-subdivided between half-acre to .75 acres, which has been determined to be sufficient for subsistence agriculture. The project will involve some roadway improvements to Waikupanaha Street. The parcels have been altered on the southern side by some quarry activities, and portions of the site are being used. Waikupanaha Street has a 40-foot right of way, but portions of it go into DHHL's parcels. The opportunities of the project allow the Department to address some environmental concerns that are part of the history of the parcel of past usage. It presents the opportunity to site the roadway back to the County's right of way, pave Waikupanaha Street, install the required infrastructure, and include drainage facilities. The EA addresses the proper mitigation of removal and disposal of the solid wastes concerns. There are no protected species or important species that overfly the area, which includes bats, owls, and protected seabirds

**RECESS** **3:33 p.m.**

**RECONVENED** **3:38 p.m.**

**LAND MANAGEMENT DIVISION**

**ITEM F-2 For Information Only – Amendment to License Easement No. 484, Board of Water Supply, City & County of Honolulu, Kalawahine Streamside Subdivision, Oahu, TMK No. : (1) 2-4-043: 090 (por.)**

RECOMMENDED MOTION/ACTION

None. For information only. Acting Land Management Division Administrator Kahana Albinio presented the following:

DISCUSSION

K. Albinio stated that LMD would be requesting an amendment to an existing license under License No. 484, easement with the Board of Water Supply (BWS). Currently, the BWS has an easement that covers 3,138 sq. feet for water purposes. The tenant is here along with his team of consultants, who will explain why they are requesting an expansion of the easement.

Dominique Diaz of BWS stated that the project is in the Kalawahine Streamside development area, which is off Anianiku Street. BWS used to own 6-acres of land in the area that was given by



executive order from the State, and years later BWS gave the State 4.5 acres for the development of the Kalawahine Streamside homes. BWS retained 1.5 acres for the purpose of building a water storage tank, and this is the project that BWS is currently taking into construction and the project that is related to the easement that is being requested. The easements are in three parts. One easement gives wider access to the site and allows proper ingress and egress by the vehicles that would be needed to maintain the reservoir. The second easement is located on Ha`alelea Street.

In order to build the tank, excavation work needs to be done, and a retaining wall built. To make sure the retaining wall is structurally sound, there are anchors that tie back into the road to make sure that the wall will be able to support the land above, and there is no issues failure there. The third portion of the easement request allows BWS to bring the water line from the tank and tie it into BWS's existing system on Anianiku Street. The overall reason for the project is that the BWS currently has a deficit in storage of about 50 million gallons of water, so they are actively seeking areas across the Metropolitan 180, which spans from Diamond Head to Pearl City.

## **GENERAL AGENDA**

### **REQUESTS TO ADDRESS THE COMMISSION**

#### **ITEM J-2 Aaron Adolpho – Cancelled Lease**

A. Adolpho testified about the cancellation of his lease. He sent a letter of reconsideration about in June and received a letter from the Commission stating that it was canceled. He is asking is the chance to make it right and continue; if there is a way to reconsider his lease cancellation. He said he can guarantee that he can fulfill his obligations now and not fall back again. He said all the shortfalls are his fault because he was not employed. He now works and is asking the Commission to reconsider reinstating his lease.

#### **ITEM J-4 Keoni Fox – Ka Lae Resources Management Plan**

K. Fox testified about the South Point or Ka Lae Resource Management Plan. He stated that since 2016, the Department's reluctance to take immediate action as recommended in the plan. The Department's 2012 Ka`u Regional Plan identified the need to protect and preserve the natural and cultural sites in Kamaoa. In 2015 the Department hired Townscape to work with the community to prepare a management plan for Ka Lae. The South Point Management Plan was finalized in October 2016, but the Ka`u communities' call to protect Ka Lae was recorded as early as 1983. During the development of the Kamaoa-Pueo Management Plan by PBR Hawai`i. For almost 40-years, the community has waited for the Department to step up and embrace this kuleana.

#### **ITEM J-5 DeMont Connor – Homestead Association Leadership Issues**

D. Connor was joined by Sybil Lopez of Moloka`i. They asked that the Commission holds a beneficiary consultation. He stated that the associations do not operate at a level that warrants them to be considered the voice of the people. Andrew Choy says Planning Office maintains a record of associations that self-identify as beneficiary organizations as having representing beneficiaries. The Department does not certify them or double-check; they just come and say we represent a constituency of beneficiaries.

S. Lopez stated the homestead association violated her right of due process according to the HRS of Chapter 91. She stated that associations should hold themselves accountable and at a standard.

S. Lopez stated that they are requesting to be on the agenda so the Commission can hear all sides of the story regarding the association's leadership issues.

**ITEM J-8 Iwalani McBrayer – Kaupe‘a Homestead**

I. McBrayer stated that she asked to address the Commission to focus on two things, her home and the license agreement with HHFDC. The situation with her home seems to get more out of control. She showed the Commission pictures of water and sewer drainage on her property. She stated that Partition Creative Systems is part of Shioi Construction, S&M Sakamoto. She also stated that her daughter had had pneumonia for three weeks. Regarding the license, she stated that she talked with LDD, the license was not turned over City & County. I. McBrayer wants the Department to relocate her and her family.

**RECESS**

**5:41 p.m.**

DRAFT

**HAWAIIAN HOMES COMMISSION**  
Minutes of March 19, 2019  
Meeting held at Hale Pono‘i, Kapolei, O‘ahu

**PRESENT** Jobie M. K. Masagatani, Chairman  
Randy K. Awo, Maui Commissioner  
Zachary Z. Helm, Moloka‘i Commissioner  
Wallace A. Ishibashi, East Hawai‘i Commissioner  
David B. Ka‘apu, West Hawai‘i Commissioner  
Michael P. Kahikina, O‘ahu Commissioner  
Pauline N. Namu‘o, O‘ahu Commissioner

**EXCUSED** Wren Wescoatt, O‘ahu Commissioner  
Vacant, Kaua‘i Commissioner

**COUNSEL** Craig Iha, Deputy Attorney General

**STAFF** William Aila Jr., Deputy to the Chairman  
Paula Aila, Contact and Awards Division Manager  
Kahana Albinio, Acting Land Management Division Administrator  
Dean Oshiro, Acting Homestead Services Division Administrator  
Stewart Matsunaga, Acting Land Development Division Administrator  
Andrew Choy, Acting Planning Program Manager  
Leah Burrows-Nuuanu, Secretary to the Commission  
Niniau Simmons, NAHASDA Manager  
Cedric Duarte, ICRO Manager  
Debra Aliviado, Customer Service Manager  
Lehua Kinilau-Cano, Legislative Analyst

**ORDER OF BUSINESS**

**CALL TO ORDER**

Chair Masagatani called the meeting to order at 9:26 a.m.  
Seven (7) members were present at roll call. The Kaua‘i seat was vacant.

**ITEMS FOR INFORMATION/DISCUSSION**

**WORKSHOP**

**LAND DEVELOPMENT DIVISION**

**ITEM E-1      Implementation of Act 227, 2014 Related to Sewer Systems Servicing  
Hawaiian Home Lands**

**RECOMMENDED MOTION/ACTION**

None. For information only. Acting Land Development Division Administrator Stewart Matsunaga presented the following:

## DISCUSSION

S. Matsunaga provided a presentation on the implementation of Act 227, enacted by the State Legislature in 2014, related to sewer systems servicing Hawaiian Home Lands. Act 227 clarifies and confirms the County's obligations and responsibilities to operate, maintain, improve, and replace sewer systems on Hawaiian Home Lands. It requires the counties to accept dedications or licenses, and responsibilities upon the Department meeting certain conditions.

In 1994, LDD was constructing subdivisions, and at the time, working on Princess Kahanu Estates in Lualualei and constructing the sewer collector systems within the subdivision. County code was followed, inspections were done; however, the city, at that time, did not accept the license for the sewer lines, to maintain it. Since 1994, the Department has had other subdivisions that the County refused to accept, even though it was constructed to County standards.

In 2010, the City & County stopped providing services within Hawaiian Home Lands to address sewer spills or blockages. Since then, DHHL has had to contract its own private company to address sewer spills and blockages within subdivisions, making an impact on the Department's operating budget. Act 227 provides the Department to implement certain conveyance documents to transfer the ownership and rights to the City to enter Hawaiian Home Lands.

## **ITEMS FOR DECISION MAKING**

### **REGULAR AGENDA**

#### **LAND DEVELOPMENT DIVISION**

#### **ITEM E-1 Authorization to the Chairman to undertake the Actions Required for Implementation of Act 227, 2014 Related to Sewer Systems Servicing Hawaiian Home Lands**

#### **RECOMMENDED MOTION/ACTION**

Acting Land Development Division Administrator Stewart Matsunaga presented the following: Motion that the Hawaiian Homes Commission authorize the Chairman to undertake the actions required to implement Act 227, 2014, and to implement and execute the issuance of the following items for existing sewer systems that meet the conditions outlined in Act 227, 2014:

- a. "Bill of Sale," and
- b. "License as Easement"

#### **MOTION**

Moved by Commissioner Awo, seconded by Commissioner Helm, to approve the motion as stated in the submittal.

#### **DISCUSSION**

S. Matsunaga stated that the two documents are consistent with what Act 227 provides and has been agreed to by the City. With your approval, that will go forward, and the Department is poised to submit Kaupuni Village as the "test or guinea pig" going through.

#### **ACTION**

Motion carried unanimously.

## **ITEMS FOR INFORMATION/DISCUSSION**

### **REGULAR AGENDA**

#### **OFFICE OF THE CHAIRMAN**

##### **ITEM C-2 For Information Only - 2019-2020 Draft Native Hawaiian Housing Block Grant Annual Housing Plan**

###### **RECOMMENDED MOTION/ACTION**

None. For information only. NAHASDA Manager Niniau Simmons presented the following:

###### **DISCUSSION**

N. Simmons stated that Item C-2 opens for public comment on the 2019-2020 draft Native Hawaiian Housing Block Grant Annual Housing Plan. Under Title 8 of NAHASDA, the Department must submit a housing plan that is accepted and approved by the US Department of Housing and Urban Development in order to use the federal block grant monies that come from Congress. The draft will be disseminated to the Department of Interior Native Hawaiian Organization's email list as well as the Department's beneficiary associations.

#### **PLANNING OFFICE**

##### **ITEM G-3 For information only – DHHL Beneficiary Consultation Policy**

###### **RECOMMENDED MOTION/ACTION**

None. For information only. Acting Planning Office Manager Andrew Choy presented the following:

###### **DISCUSSION**

A. Choy presented a presentation to inform the Commission on the DHHL Beneficiary Consultation Policy. He stated that the Beneficiary Consultation Policy was adopted by the Hawaiian Homes Commission in 2009. The presentation will inform the Commission of subsequent updates since the adoption of the policy, and when the beneficiary consultation is required. The Commission recognized the importance of timely, meaningful, and informative beneficiary consultation for the successful formulation and implementation of its policies, programs, and projects. And so, the Commission adopted the Beneficiary Consultation Policy in 2009 to ensure that the appropriate beneficiary consultation processes and activities are incorporated into DHHL's planning and decision making. Per the policy, a beneficiary consultation is required for four types of proposals:

1. Statewide policy issues. Proposals that could affect all beneficiaries inclusive of revisions to the Hawaiian Homes Commission Act, Legislation policy, and rules at the federal, state, and county levels that affect native Hawaiian rights.
2. Amendments to land use designations. Proposals that involve a change from an existing land use designation to another land use designation. Amendments involve a comprehensive, consistent community-based planning process to ensure appropriate land uses.
3. Development proposals. These are proposals from external entities that want to develop DHHL lands, which require a long-term disposition of the land. These proposals could generate revenue for the Department and benefits for the homestead community.

4. Development of DHHL plans. Beneficiary consultation is required in the development and revision of DHHL's plans. It is important to include beneficiary input as they guide implementing actions that directly affect beneficiaries and involve the use of trust resources.

The Beneficiary Consultation Policy also allows for informational meetings, when a decision has been made, and communication is required to ensure knowledge and compliance with that decision. The 2009 Beneficiary Consultation Policy involves seven action steps:

1. Identification of the proposed issues. The proposed action or issue must be consistent with the four types of proposals.
2. Notification. Lessees and applicants affected by the issue will be notified via direct mail-outs, DHHL website, and or through homestead associations and given at least two weeks' notice before the consultation.
3. Presentation and feedback. The HHL Planning Office conducts the beneficiary consultation meeting in which questions and comments from the beneficiaries are collected.
4. Draft Beneficiary Consultation Report with comments received. The Planning Office develops the draft beneficiary consultation report identifying all the proposals brought to the beneficiaries for consultation.
5. Review Period. There will be a review period of 30-days for all participants to submit any corrections to their statements. The Planning Office will collect all comments/corrections.
6. Final Beneficiary Consultation Report. Finalization of the report.
7. Decision-making. The report is forwarded to the Commission for decision-making.

Since 2009, changes have been made to the policy, which includes:

- When the beneficiary consultation policy is conducted. Per HRS 171-58, through the advocacy of the Department, DLNR is now required to consult with beneficiaries, along with DHHL's assistance, regarding leasing of water. The Department is entitled to 30% of water as well as making sure that the leasing of water does not affect the Department's ability to utilize the water for its purposes.
- DHHL beneficiary consultation has also been conducted in assessing policy-decisions regarding water billing rates for DHHL owned systems.
- There have been changes to the process. The changes deal with the comment period. Instead of having a comment period on the draft report, there is a comment period allowing others who have not been able to participate in the meeting, an opportunity to comment on the issue for up to 30-days.
- The Commission now must approve acceptance of the beneficiary consultation report as the official record of beneficiary input and comments on the issue. Acceptance by the Commission is required prior to the HHC acting on the subject matter.

The Governor has adopted the administrative rules with regards to the Department's planning system. The rules touch upon beneficiary consultation, specifically on HAR 10-4-60 which identifies three types of consultations: comprehensive statewide policies and programs, placed-based consultation is given to beneficiaries of a specific geographic area, and ad hoc consultations which consist of the formation of an advisory body to provide input to DHHL for the preparation and amendment of any plan or implementing action. The Chairman may select the

advisory body subject to the consultation and ratification by the Commission. This was meant to supplement and not to replace comprehensive or place-based consultation.

A. Choy stated that the Department has over 50 consultation topics that it has consulted on over the last 10-years consisting of over 120 meetings. A record of the consultation meetings is being kept on the DHHL website. Chair Masagatani stated that maybe the one change, from an operational standpoint, is the informational meetings that the Department have done has occurred before a decision is made, and that is a practice that she has asked staff to implement, especially on land use designations that are for more than five years.

#### **ITEM G-4 Unsolicited Proposals from Non-Profit Organizations for Long Term Use of DHHL Lands**

##### RECOMMENDED MOTION/ACTION

None. For information only. Acting Planning Office Manager Andrew Choy presented the following:

##### DISCUSSION

The purpose of the presentation was to bring clarity to the internal reviews regarding the unsolicited proposals. The Hawaiian Homes Commission Act, Section 204-2, and 207-c authorizes the Department to dispose of lands for non-homesteading purposes on the same terms, conditions, restrictions and uses applicable to the disposition of public lands as provided in HRS Chapter 171. HRS Chapter 171-43.1 authorizes Hawaiian Home Lands to dispose of lands to eleemosynary organizations by direct negotiation without requiring a competitive solicitation process. Per HRS 171-43.1, eleemosynary organizations must be certified to be tax exempted under Sections 501 c1, or 501 c3, of the IRS code of 1986 as amended. The land must be used for the purposes for which their charter was issued and for which they were certified by the IRS. The application process is for non-profit organizations, and it is not meant for for-profit entities or for-profit purposes. It is not meant for individual use of Hawaiian Home Lands, so it is not for individuals to apply for non-homesteading use. The application is also not for non-homesteading use on a short-term basis, less than 30-days, and the use is for programmatic purposes, not commercial purposes. Some of the issues from beneficiaries are:

- The application process has been unclear and not standardized
- The expectations about application requirements haven't been clearly and consistently communicated
- Unclear expectations regarding DHHL response times to submitted applications
- Unclear expectations regarding the level of assistance or resources that the Department can apply or spend on proposals for Hawaiian Home Lands

A. Choy said that Planning Office wants to create a transparent and fair process by identifying and communicating who is applying, what is the applicant's project idea, why is it needed, how is it going to be managed, utilized, and maintained for the benefit of the beneficiaries and the trust.

#### **LAND DEVELOPMENT DIVISION**

#### **ITEM E-2 Request for Proposals: RFP-19-HHL-004 Land Acquisition, Island of Maui**

##### RECOMMENDED MOTION/ACTION

None. For information only. Acting Land Development Division Administrator Stewart Matsunaga, presented the following:

DISCUSSION

Chair Masagatani stated that Acting Land Development Division Administrator Stewart Matsunaga briefed the Commission on the confidential matters in an executive session, but the public needs to be aware of this potential opportunity in Maui.

**PLANNING OFFICE**

**ITEM G-1 For information only. Waimanalo Regional Plan Priority Project Update**

RECOMMENDED MOTION/ACTION

None. For information only. Acting Planning Office Manager Andrew Choy and Legislative Analyst Lehua Kinilau-Cano presented the following:

DISCUSSION

L. Kinilau-Cano stated that 13% of the land designated for residential is in the Waimanalo regions. There is subsistence agriculture land as well as general ag land. 55% of the Waimanalo lands along all the cliffs are conservation land. A substantial amount of land is community use land, 39%, which includes Waimanalo Beach Park. The City is the licensee, but it is Hawaiian Home Lands. The other Divisions have covered the other relative areas like the Waikupanaha parcel, and the subsistence ag that is being planned for that area. Waimanalo is recognized as completing the Hawai`i Hazardous Awareness and Resilience Program. The Hawaiian Cultural Learning Center has not started yet because of the rockfall mitigation measures.

**HOMESTEAD SERVICES DIVISION**

**D-1 HSD Status Reports**

**A - Homestead Lease and Application Totals and Monthly Activity Reports**

**B - Delinquency Report**

**C - DHHL Guarantees for Habitat for Humanity Loans**

**D - DHHL Guarantees for FHA Construction Loans**

RECOMMENDED MOTION/ACTION

None. For information only. Acting Homestead Services Division Administrator Dean Oshiro presented the following:

DISCUSSION

Chair Masagatani stated the Department's financial audit is complete, and hard copies will be sent out. The major comment was the time frames in which the Department takes properties before re-awarding them.

D. Oshiro stated that when the Department gets some of these homesteads back, it is so dilapidated, and it's not worth the costs of rehabbing. It is sometimes more cost-efficient to have it torn down and re-awarded as a vacant lot.



**ANNOUNCEMENTS AND ADJOURNMENT**

**NEXT MEETING**

The next regular meeting will be held on April 15 & 16, 2019, at Kalama‘ula, Moloka‘i, Hawai‘i.

**MOTION/ACTION**

Moved by Commissioner Namu`o, seconded by Commissioner Ishibashi, to adjourn the meeting.  
Motion carried unanimously.

**ADJOURNMENT**

**12:32 p.m.**

Respectfully submitted:

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Jobie M. K. Masagatani, Chairman  
Hawaiian Homes Commission

Prepared by:

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Leah Burrows-Nuuanu, Commission Secretary  
Hawaiian Homes Commission

APPROVED BY:

The Hawaiian Homes Commission at its regular monthly meeting on:

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Jobie M.K. Masagatani, Chairman