Pursuant to proper call, the Public Meeting of the Hawaiian Homes Commission was held at the Hale Pono‘i, 91-5420 Kapolei Parkway, Kapolei, O‘ahu, Hawai‘i, beginning at 6:00 p.m.

PRESENT
William J. Aila Jr., Chairman
Randy K. Awo, Maui Commissioner
Zachary Z. Helm, Moloka‘i Commissioner
David B. Ka‘apu, West Hawai‘i Commissioner
Dennis L. Neves, Kaua‘i Commissioner
Patricia L. Teruya, O‘ahu Commissioner

EXCUSED
Pauline N. Namu‘o, O‘ahu Commissioner
Vacant, O‘ahu Commissioner
Vacant, East Hawai‘i Commissioner

COUNSEL
Ryan Kanaka‘ole, Deputy Attorney General

STAFF
Kahana Albinio, Acting Land Management Division Administrator
Dean Oshiro, Acting Homestead Services Division Administrator
Andrew Choy, Acting Planning Office Manager
Stewart Matsunaga, Acting Land Development Division Administrator
Leah Burrows-Nu‘uanu, Secretary to the Commission
Cedric Duarte, ICRO Information Officer
Allen Yanos, Property Development Agent

ORDER OF BUSINESS

CALL TO ORDER
Chair Aila called the public hearing to order at 6:12 p.m.
Six (6) members were present at roll call. The O‘ahu and East Hawai‘i seats were vacant.

APPROVAL OF AGENDA

MOTION/ACTION
Moved by Commissioner Ka‘apu, seconded by Commissioner Helm, to approve the agenda. Motion carried unanimously.

Chairman Aila convened Chapter 92 Hearing and stated that he was serving as the Hearing Officer. The hearing is to provide information and receive comments on a proposed solar energy project on DHHL lands in Kalaeloa, O‘ahu.
Innergex Renewables USA is requesting a right of entry permit for up to 5-years for due diligence purposes and a long-term general lease between 25 and 40 years to develop a utility-scale solar energy project generating up to 20 megawatts of energy through high-efficiency photovoltaic panels which will include battery storage.

There two parts to the meeting: (1) provide information on the purpose, background, and presentation of the proposed project. The Commission will have the opportunity to ask questions. (2) public testimony
PROPOSED KALAELOA SOLAR ENERGY PROJECT
Presentation of proposed solar energy project on Hawaiian home lands at Kalaeloa, Oahu, to be developed by Innergex Renewables USA LLC, TMK No. (1) 9-1-013:038 & 040. Following the presentation, DHHL staff and representatives of Innergex Renewables USA LLC will be responding to questions for clarification from the public related to the proposed project.

RECOMMENDED MOTION/ACTION
None. For information only. Planner Julie Cachola presented the information on the proposed solar energy project on Hawaiian Home Lands at Kalaeloa.

DISCUSSION
She stated that the State of Hawai‘i declared that it would be 100% renewable by the year 2045.

The Hawai‘i Revised Statute (HRS) Section 171-95.3 Allows Hawaiian Home Lands to lease public lands for renewable energy development without public auction, which means the terms can be negotiated. Before leasing DHHL lands, the Commission is required to conduct two public hearings on the island where the project is located. The hearings are to inform the public of the impending lease of DHHL land for renewable energy, to discuss/distribute an outline of the project, and to receive testimonies from interested parties. The Statute also requires any action taken on the project, on the lease, has to be done by the Commission on the island where the project is located. Tomorrow a Special Commission meeting is scheduled for this project.

The Kalaeloa lands are designated for industrial use. The Kalaeloa Solar II project does 5 megawatts of electricity. For the 2019 solicitation, the parcels being considered are parcel 38, which is 98-acres and parcel 40 which is 49-acres. There are 555-acres of Hawaiian home lands in Kalaeloa and the Department is considering 147-acres for renewable development. There are massively thick historic concrete structures that cannot be used with solar, which are called revetments, and they are located on 47-acres of parcel 38. These revetments have historic sites designation and protection and that is an issue when developing the lands. Parcel 38 is flat and open to the sun. Parcel 40, which has 49-acres contain bunker buildings that are also eligible for historic site designation.

Renewable energy needs an energy resource. J. Cachola showed a solar radiation map showing the energy resource of the Kalaeloa parcels. Parcels 38 and 40 were viewed with the darkest color, which meant they have the highest energy resource.

The Legislature set standards that the utilities have to follow for renewable energy. Renewable Portfolio Standards were created, which is a mandate for the utilities that a certain amount of their electricity sales have to be from renewable energy sources. In 2010 the goal was 10% renewable energy, and O‘ahu did not make it. By 2045 100% of the electricity sales for the Hawaiian Electric Company (HECO) will have to be from renewable energy resources. Hawai‘i Island is making it at 44% and Maui is doing 38%, but O‘ahu is falling behind. The need is on O‘ahu and thus the renewable energy project in Kalaeloa.

The Competitive Bidding Process (CBP) is the process that will be used for the Kalaeloa project to reach the goal of 100% renewable energy. HECO sends out a Request for Proposal (RFP) stating they want a certain amount of energy on Oahu by a certain year, in this case, 100% energy by 2045. HECO did the first RFP and got 247 megawatts and is now going for the second round of RFP to get more megawatts. For O‘ahu, 73 megawatts of energy is needed for the second round RFP. HECO is also looking for storage for energy.
Innergex will be submitting a bid to HECO and will need to have site control of the land for its project. The Department is trying to position Innergex so they can write their proposal to HECO with everything in order. Through their CBP, HECO will review, select, and negotiate a Power Purchase Agreement (PPA), which is a contract stating HECO will buy the energy being produced at the given rate. The PPA has to go to the Public Utilities Commission (PUC) for final approval.

The need is to have projects online by June 1, 2022, because the AES project in Campbell Industrial Park is shutting down. It is providing stability for the power grid, but it has to be replaced.

The Department has a renewable energy policy that supports the leasing of Hawaiian home lands for renewable energy development. The project also is consistent with the O‘ahu Island Plan, and the plan states that the lands are ideal for commercial solar energy development. In December 2018, the Department put out a solicitation to renewable energy producers asking for proposals. In January, four proposals were received, and Innergex was the top pick. In March 2019, a Beneficiary Consultation meeting was conducted, and the reports were submitted in April to the Commission.

Innergex must meet the following conditions: approval of a PPA from HECO, approval from the PUC, approval of the site plan by the Commission, and when the environmental assessment is done, it will need approval from HCDA. When all of the conditions are met, Innergex can ask to convert the right of entry to a general lease. The start date of a general lease for 25-years would be when electricity is delivered to the grid. Until then, Innergex is on the right of entry and paying rent.

Note: Several members of the audience speak without being recognized by the Chairman. Discussion is indiscernible. Chairman Aila called a recess.

RECESS 7:20 p.m.

RECONVENE 7:36 p.m.

Note: Members of the audience continue to speak without being recognized by the Chairman. Discussion is indiscernible.

Chairman Aila stated he is confident that the Department has the legal jurisdiction to proceed. Should the Commission move forward, beneficiaries have the right to appeal.

Note: More audience discussion away from the microphones.

Chairman Aila stated the land in Kalaeloa was added to the inventory as part of the Recovery Act.

Innergex Representative Eddie Parks provided an introduction to the company as a renewable energy power producer. The company has offices in Canada, United States, France and Chile. They have 68 operating renewable energy plants around the world consisting of hydroelectric facilities, solar and wind. Their main office is in Montreal, Quebec. In the first round of the HECO RFPs, they had one project for Maui and the other for Hawaii Island.

Note: More audience discussion away from the microphones. Lots of people talking at once. Chairman Aila called a recess.

RECESS 7:50 p.m.

RECONVENE 7:58 p.m.
Chairman Aila asked the audience to keep questions for E. Parks focused on the Kalaeloa project Innergex is presenting. Mr. Parks is not an expert on the Hawaiian Homes Commission Act.

E. Parks stated the project would be similar to the ones that were developed on the other islands. It would include a battery storage component, which is important to take the solar power that is generated during the day for use during afternoon hours when the sun is not shining. If the project is approved by the Commission, Innergex wants to do due diligence over the next couple of years. The important initial step would be submitting a contract or proposal to HECO in the upcoming RFP. Over the next 2-3 years, Innergex will go over the different development stages; surveys, technical studies, and securing permit approvals. They hope to be in commercial operation by the end of December 2022.

Over the course of the right of entry permit period, Innergex would be paying annual option payments to DHHL. The lease rent will be determined after surveys are done to determine the useable acreage for the project. The community benefits package would be 1% of gross revenues during the 25-year lease term. The amount will be donated to the Kapolei Community Development Corporation for the Heritage Center. The exact amount depends on what the contracted price for the power ends up being.

Note: the audience started talking loud all at once, and the conversations become indiscernible.

Chairman Aila stated there is a right of entry period and a general lease period. The right of entry annual fee is $40,000 the first year, $50,000 the next four years if it takes that long. The general lease rent, according to what was submitted, is $200,000 annually. The 1% is tied to the community benefits package. The amount would be donated to the Heritage Center, which will depend on the contracted price is, it could be approximately $35,000 annually.

Commissioner Teruya asked how the community benefits package came about, and who determined the package to be donated to this particular organization and the purpose. J. Cachola stated the Kapolei Community Development Corporation (KCDC) has representatives from all the Homestead Associations in Kapolei. The focus is on home rule. Waianae has theirs, Waimanalo has theirs. When it comes to renewable energy projects for Kahikinui, the Department isn’t going to ask Lei Aliʻi or Lahaina what they think; the home rule is to stick with Kahikinui. For renewable energy in Kapolei, DHHL talked with KCDC who represents all the Homestead Associations in Kapolei.

Commissioner Teruya stated there are four Hawaiian Homestead Associations in the area. She would like to see it be workable for homesteads and the beneficiaries. J. Cachola stated KCDC is a Homestead Association organization.

Note: More audience discussion away from the microphones. Lots of people talking at once. Chairman Aila called a recess.

RECESS 8:25 p.m.

RECONVENE 8:28 p.m.

KCDC President Scott Abrego stated that KCDC is a volunteer board that serves and represents all the homesteads in Kapolei which include Maluʻohai, Kaupeʻa, Kanehili, and the new Kauluokahai. There are almost a thousand homesteads in Kapolei and that is about 4,500 native Hawaiians in Kapolei alone. The KCDC Board services the homesteaders through the Heritage Center, which is a community center. In 2016 the first phase of the community center opened with two classrooms, a certified kitchen, some storage, and restrooms to serve all the beneficiaries of Kapolei. They have Alu Like’s Kupuna program, Keiki o ka ʻAina a keiki/parent program, in the evenings there are
workshops, and on the weekend, there is driving school and Church. The community Heritage Center is a well-used product of KCDC.

J. Cachola stated KCDC is the regional 501 3(c) non-profit that represents and serves the homesteads, and because this project is in the Kapolei Region the community benefit package came to KCDC and through KCDC the benefit package is distributed through the services programs, the maintenance, the operation of the Heritage Center. Phase 1 is finished and phase 2 is a larger open hall or halau which can hold up to 350 people. They anticipate hosting graduation parties, baby luaus, and other social events. Phase 3 will include offices for the Associations as well as a Prince Kuhio Gallery. The community package will help KCDC achieve those dreams.

All representatives on the KCDC Board are from the homesteads. When Kauluokahaʻi is done there will be almost 2,000 homesteads in Kapolei and about 9,500 to 10,000 native Hawaiians in Kapolei alone. KCDC’s kuleana is to service those homesteaders. The community benefits package is important to KCDC and its Associations.

E. Parks stated a large part of the company’s success over the last 29-years has been its partnership with First Nations. The representative showed a video of a project Innergex did in British Columbia with the Kanaka Bar Tribe.

RECESS 8:45 p.m.
RECONVENE 8:48 p.m.

PUBLIC TESTIMONY ON THE PROPOSED KALAELOA SOLAR ENERGY PROJECT

ITEM A-1 Robin Puanani Danner

R. Danner is the elected Chairman of the SCHHA. She is against any disposition of land under Section 204 of the Hawaiian Homes Commission Act. She supports dispositions of benefits under Section 207 of the Hawaiian Homes Commission Act. She stated Section 204, under which the proposed Innergex project is requesting benefits use of Hawaiian home lands, only allows the Trust lands to be issued to the general public and non-beneficiaries from available lands that are not required, it does not state not suitable. She asked DHHL for evidence that the 147-acres of land are not required for homesteading.

ITEM A-2 James Gay

J. Gay is a resident of Kaupea and used to live on a Nanakuli homestead since 1936. He is concerned about the destiny of the Hawaiian Homestead. He stated that he is against dispositions to non-beneficiaries until things are clearer to him.

ITEM A-3 DeMont Conner

D. Conner is the President of Hoomana Pono Political Action Committee operating out of Waianae. He questioned whether Innergex did research on the Hawaiian Homes Commission Act before they attempted to gain access to Hawaiian Home lands. He is against the Innergex project.

ITEM A-4 Evelyn & Franklin Souza

E. Souza stated she was hellbent on talking about the land use in Kalaeoloa and how it was negotiated without the beneficiaries knowing. F. Souza stated that they are one of the lessees on the parcel 38 land, the only lessees on that parcel 38 land and have been there for about 8-years. The land is nothing but kiawe bush and coral and because of the land structure it is not suited for
residential properties, but it is suited for commercial property. He was against the solar project and felt Hawaiians should have access to the land.

ITEM A-5  Sharon Freitas

S. Freitas is on the waitlist and still waiting. She feels the solar project should be on hold until all wait listers have a say.

ITEM A-6  Asela Kanahele

A. Kanahele testified he has been on the waiting list for a long time and wonders whether he will ever have a homestead to pass on to his children. (he did not testify for or against)

ITEM A-7  Kalakaua Ehu Kalailea

K. Kalailea stated she attended to listen to the information about the Kalaeloa land. (she did not testify for or against)

RECESS  9:15 p.m.

RECONVENE  9:18 p.m.

ITEM A-8  Louella Leonardi

L. Leonardi grew up on Hawaiian homestead in Waimanalo. She was not in favor of the Innergex solar project and asked that they take their business back to Quebec.

ITEM A-9  Vanessa Garcia Phillips

V. Garcia Phillips is a waitlister. She stated renewable energy, she understands but she wants the Commission to work out a plan to look for resources in the islands.

ITEM A-10  Kaululehua

Kaululehua stated there are a lot of options to the land and the Department should be open to all options. (he did not specifically testify for or against)

RECESS  9:37 p.m.
Pursuant to proper call, the Public Hearing of the Hawaiian Homes Commission was held at the Hale Pono‘i, 91-5420 Kapolei Parkway, Kapolei, O‘ahu, Hawai‘i, beginning at 10:00 a.m.

**PRESENT**
William J. Aila Jr., Chairman
Randy K. Awo, Maui Commissioner
Zachary Z. Helm, Moloka‘i Commissioner
David B. Ka‘apu, West Hawai‘i Commissioner
Dennis L. Neves, Kaua‘i Commissioner
Patricia L. Teruya, O‘ahu Commissioner

**EXCUSED**
Pauline N. Namu‘o, O‘ahu Commissioner
Vacant, O‘ahu Commissioner
Vacant, East Hawai‘i Commissioner

**COUNSEL**
Ryan Kanaka‘ole, Deputy Attorney General

**STAFF**
Kahana Albinio, Acting Land Management Division Administrator
Dean Oshiro, Acting Homestead Services Division Administrator
Andrew Choy, Acting Planning Office Manager
Stewart Matsunaga, Acting Land Development Division Administrator
Leah Burrows-Nu‘uanu, Secretary to the Commission
Cedric Duarte, ICRO Information Officer
Allen Yanos, Property Development Agent

**ORDER OF BUSINESS**

**CALL TO ORDER**
Chair Aila called the public hearing to order at 9:12 am
Six (6) members were present at roll call. The O‘ahu and East Hawai‘i seats were vacant.

**APPROVAL OF AGENDA**

**MOTION/ACTION**
Moved by Commissioner Ka‘apu, seconded by Commissioner Awo, to approve the agenda.
Motion carried unanimously.

Chairman Aila opened the Chapter 92 Hearing:

Chairman Aila stated he is serving as the Hearing Officer. He stated the hearing is to provide information and receive comments on a proposed solar energy project on DHHL lands in Kalaeloa, O‘ahu. Innergex Renewables USA is requesting a right of entry permit for up to 5-years for due diligence purposes and a long-term general lease between 25 and 40 years to develop a utility scale solar energy project generating up to 20 megawatts of energy through high efficiency photovoltaic panels which will include battery storage.
Chairman Aila stated there two parts to the meeting: (1) provide information on the purpose, background and presentation of the proposed project. The Commission will have the opportunity to ask it questions. (2) public testimony

COMMISSIONER’S QUESTIONS AND COMMENTS

Commissioner Ka‘apu stated he was disappointed and offended by some of the attendees last night due to the lack of respect for the Commission. The Commissioners listen to the beneficiaries and the Commissioners expect the same respect from the beneficiaries as it is given to them.

There was no opportunity for Commissioners to ask questions because the time was hijacked by people who were arguing, trying to ask their own questions, and over-talking the next person. His last comment was if people want to be disruptive and show no respect to the Commission, he feels no obligation to listen to that person when he/she wants to give testimony.

Commissioner Ka‘apu asked E. Parks if he expects about $.08 or more from this project since it is a larger project. E. Parks stated in previous years, there were seven projects contracted and only one moved forward. In the latest round the PUC and HECO made a commitment toward the goals Hawai‘i has set. This has attracted phenomenal prices and it has become competitive. E. Parks stated if the rate is unsustainable or uncompetitive, ultimately none of the projects will be successful. A project needs to deliver a long-term stable revenue source, or it will not be profitable and everything is back to square one.

Commissioner Ka‘apu understands the sensitivity, but the term sheet is not clear as to what the percentage escalators are or if there are any renegotiation dates or timeframes, so if Innergex is successful, then the benefits would flow to the Department and the beneficiaries proportionally. E. Parks stated he believes the escalator is 1.5% per year. The intent is to contract at the highest price possible which depends on how competitive the market is, and the price it’ll take to be successful. As for the actual lease rate, $200,000 was a fee that Innergex felt it was a point Innergex could be successful on the project. The competition has brought the rates down to a historic low.

Chairman Aila informed Commissioners that the Commission will go into executive session before decision making. The Department’s energy consultant is available to answer questions regarding what the price should be.

Commissioner Ka‘apu stated he would object to that site preparation credit clause. To some extent Innergex is going to be working around the revetments. It is important to know what the total cost would be before it is approved. E. Parks stated they are obligated to take down every structure that is put up and the other leases have the same obligations.

Commissioner Teruya asked if there will be another EIS comment period and what is the timeline. J. Cachola stated it is an environmental assessment EA rather than a full on EIS. They have to do a due diligence study to figure out the resource and the lay of the land. Once they have that site plan, then they can look at the impacts which would be part of the EA. The 343 process is a requirement for the general lease; you cannot general without the 343 in place.
QUESTIONS FROM THE AUDIENCE

DeMont Conner asked if the project was driven by the Department or the Commission. Commissioner Kaʻapu stated his understanding is the policy was developed in 2009 under Micah Kane. The Commission at that time developed the energy policy which is still in place.

H. Schaedd asked if Innergex is not successful with their HECO bid, when would the ROE be terminated. Chairman Aila stated ROEs are good for one year.

Sonny Gay asked why Hawaiian Electric selected land that belongs to beneficiaries. Chairman Aila stated the HECO hasn’t selected the project yet.

Carlene Maria asked how long it has been since the decision of the site location to now. J. Cachola stated the parcels were determined to be a resource for renewable energy 5-years ago. In December 2018 a solicitation went out in the newspaper regarding renewable energy at the certain parcel and to submit a proposal by the deadline in January 2019.

Samuel Spencer asked how much more Hawaiian Home Lands is there on Oʻahu. Chairman Aila stated on the website is a map of all the properties that the Department has. Some are designated for residential, some for commercial/industrial, some for special area use and some for agriculture.

Evelyn Franklin Souza asked if the people living on the lands have to have solar or do, they put them up themselves. Chairman Aila stated in the newer developments, if they purchased a turn-key house, normally solar is part of the package. If lessees don’t have solar, they have to put up their own and they incur the cost.

Alika Watts asked if the Kalaeloa property can be used for joint purposes for small businesses like his. Chairman Aila stated the Commission will look at other opportunities via RFPs.

Iwalani McBrayer asked what the process is for designating the home lands. J. Cachola stated the Planning Office is responsible for the Island Plans process. The Department invites everyone to come to the Island Planning Process. The Commission approves the Island Plans.

Scott Abrego asked what happened to the community benefit package when Kalaeloa Solar 1 transitioned to the sub-lessee? A. Yanos stated the community benefit package was with Kalaeloa Solar 1 who failed to pay DHHL and went out of business. The sub-lessee paid Kalaeloa Solar 1 and went out of business.

Robert Kakalia asked the Innergex representative why he pursued 207 leases instead of 204. E. Parks stated he is not familiar with 204 and 207.

Kim Freitas asked why the benefits package is only going to benefit the Kapolei community. Chairman Aila stated the Department invites the community to the meeting and whoever attends, attends.
PUBLIC TESTIMONY ON AGENDIZED ITEMS

ITEM A-1    Eddie Ho'ohuli Re: Innergex

E. Ho'ohuli testified he waited 8-years for a commercial property and was told to call in a year, after the third year he had no return calls, so he gave up. He is renting a 1-acre lot and pays $200,000 per year. When he learned how much the Kalaeloa acreage was being rented for he couldn’t believe it. He thinks the Department is getting ripped-off. They have trucking company friends who can only get month-to-month ROEs but Innergex gets 25-years and paying far less.

ITEM A-2    DeMont Conner Re: Innergex

D. Conner put the Commission on notice that what is happening is a breach of the Trust. Native Hawaiians on month-to-month leases and non-native Hawaiians having a long-term lease of 25-years.

ITEM A-3    Iwalani McBrayer Re: Innergex

I. McBrayer read a letter from Michelle Kauhane, President of the Kaupe‘a Homestead Association (KHA) who was not aware of the benefits agreement. Based on issues among waitlist beneficiaries and the historical issuance of homestead lands to non-beneficiaries, KHA requested the Commission require a partnership between the proposed solar operate and KHA to honor the tenants of the Hawaiian Homes Commission Act. KHA requested a copy of the proposed land disposition document that outlines any benefit the project has to HHC beneficiaries.

ITEM A-4    Homelani Schaedel Re:

H. Schaedel stated she is testifying as an individual and not as the President of the Malu‘ohai Homestead Association. She read an excerpt from the June 16, 1994, Committee of Energy and Natural Resources meeting presided over by Senator Akaka. Senator Akaka asked Mr. Hayman what the greatest obstacle is facing the Hawaiian Home Lands program. Mr. Hayman stated it is the same obstacle that affects many government programs which the scarcity of resources is. Mr. Hayman’s response was it was the most practical form of relief that could be provided. One of the problems that besets Hawaiian Home Lands is lack of cash to build infrastructure, and to do the other kinds of things that are necessary to help the Commission and the Department make the land useable for its very purposes. Perhaps land transfers would be sufficient depending upon the land that is transferred in terms of being able to convert largely through rentals, a cash flow for those purposes.

ITEM A-5    Sharon Freitas Re: Innergex

S. Freitas testified she has a Department of the Interior booklet and is learning about sections 207 and 204.

ITEM A-6    Scott Abrego Re: Innergex

S. Abrego testified that KCDC supports the proposed solar project, the issuance of the right of entry permit and the long-term general lease to develop a 20-megawatt solar project. The project would provide DHHL with needed revenue to build new homesteads throughout the
It is consistent with the 2009 Hoʻomalu Energy Policy. The DHHL Kapolei Regional Plan states that the land will be used to generate revenue. KCDC also supports the project because it will provide KCDC with the resources for a sustainable future, which is the 1%.

**ITEM A-7 Robert Kakaua Re: 204 leases versus a 207 lease**

R. Kakaua testified that a section 204 lease one gets what is presented. Section 207, using the market rate of $200,000 x 143 acres is $28.6 million. Not all 143 acres are useable so conservatively, $14 million loss if a 204 is done.

Chairman Aila closed the Chapter 92 Hearing.

**ANNOUNCEMENTS AND ADJOURNMENT**

**ADJOURNMENT** 12:48 p.m.

Respectfully submitted:

________________________________
William J. Aila Jr., Chairman
Hawaiian Homes Commission

Prepared by:

________________________________
Leah Burrows-Nuuanu, Commission Secretary
Hawaiian Homes Commission

**APPROVED BY:**
The Hawaiian Homes Commission at its regular monthly meeting on:

________________________________
William J. Aila Jr., Chairman