

HAWAIIAN HOMES COMMISSION
Minutes of March 17, 2014
Meeting Held in Kapolei, Oahu

Pursuant to proper call, the 649th Regular Meeting of the Hawaiian Homes Commission was held at the Department of Hawaiian Home Lands, 91-5420 Kapolei Parkway, Kapolei, Hawaii, beginning at 9:40 a.m.

PRESENT Jobie M. K. Masagatani, Chairman
Leimana DaMate, Commissioner, West Hawaii
Gene Ross K. Davis, Commissioner, Molokai
Doreen N. Gomes, Commissioner, Maui
J. Kama Hopkins, Commissioner, Oahu (ar: 9:55 a.m.)
Wallace A. Ishibashi, Commissioner, East Hawaii (ar: 9:55 a.m.)
Michael P. Kahikina, Commissioner, Oahu (ar: 9:55 a.m.)
Patricia W. Sheehan, Commissioner, Kauai
Renwick V. I. Tassill, Commissioner, Oahu

COUNSEL Craig Y. Iha, Deputy Attorney General

STAFF Darrell Young, Deputy to the Chairman
Derek Kimura, Executive Assistant
Linda Chinn, Administrator, Land Management Division
Rodney Lau, Administrative Services Officer
Dean Oshiro, Acting Administrator, Homestead Services Division
Niniau Simmons, NAHASDA Manager, Office of the Chair
Norman Sakamoto, Development Officer, Office of the Chair
Sandra Pfund, Administrator, Land Development Division
Darrell Ing, Real Estate Development Specialist, Land Development Division
Juan Garcia, Homestead District Supervisor, Homestead Services Division
Dre Kalili, Policy and Program Analyst, Office of the Chair
Julie Cachola, Planner, Planning Division
Kahana Albinio, Property Development Manager, Land Management Division
Jeremy Caneso-Bantolina, Mortgage Loan Specialist, Homestead Services Division
Warren Kasashima, Accountant, Fiscal Office
Bob Freitas, Planner, Planning Division
Nancy McPherson, Planner, Planning Division
John Peiper, Enforcement Officer
Elaine Searle, Secretary to the Commission

AGENDA Commissioner Gomes moved, seconded by Commissioner DaMate, to approve the agenda. Motion carried unanimously.

A - WORKSHOP PRESENTATIONS

ITEM A-1 HALE Program (Homebuyers Education and Loss Mitigation Services)

NAHASDA (Native American Housing Assistance and Self-Determination Act) Manager Niniau Simmons shared information on the new HALE Program, which resurrects a previous program called HOAP (Home Ownership Assistance Program), providing services and products to lessees who have difficulty with credit and financial skills. Two arms are provided to the program: (1) risk mitigation – for homebuyer education services, and (2) loss mitigation – preventing lease cancellation. The name HALE, which means “house,” was selected, based on the mission of the department, which is homesteading, including, in many cases, providing housing. The pilot program began in August 2013, when it was apparent that beneficiaries were having difficulty in qualifying for homes in Lai Opuu, in West Hawaii, Island of Hawaii. A decision was made to assess the risks and create a loan committee to provide support to a mortgage specialist enabling three beneficiaries to qualify for a loan. Partnerships were formed to provide intensive step-by-step services to qualify the families. N. Simmons listed three agencies that provide these types of services: Hawaiian Community Assets, Maui Habitat for Humanity, and Hawaii First Federal Credit Union. She also identified Undivided Interest (UI) families as the target areas for these types of assistance.

A delinquency committee, comprised of staff, convened to determine what was being offered in the mortgage loan industry with regard to loss mitigation. Wells Fargo conducted a HUD (U.S. Housing and Urban Development) foreclosure training workshop and assisted the department through its nationwide loss mitigation efforts. NAHASDA also provided loss mitigation products, in December 2013, for the East Hawaii delinquency portfolio, which had been singled out by the State Legislative Auditor in May. The department found that the high equity in this direct-loan portfolio mitigated the risk for these delinquent loans. Therefore, they were not high risk loans. Helen Wai was contracted along with five other local agencies to assist with 75 families in lease cancellation prevention efforts. The five local agencies received federal funds from the National Mortgage Settlement.

A directive from the state legislature encouraged several state agencies to compile a housing plan for the state, which N. Simmons supported. She compared this to other island nations, such as Singapore, Hong Kong, and Thailand that have finite lands and constructed multi-family and vertical-type housing. N. Simmons offered to meet with each commissioner to explain this process further. Commissioner Kahikina inquired whether mitigation efforts were afforded to families not living on homestead lands. N. Simmons said that an eligibility criterion would need to be established, first. Staffing in the Homestead Services Division Loans Branch would need to be addressed, as well as reaching out to the five local agencies to assist with the FHA 247 loans. All of the loans can potentially impact the trust, noted N. Simmons. She conveyed that some of the information will appear in today’s submittal Item No. C-2. The Chair said she is receptive to involving the department sooner when default notices are received, by enlisting the services of the five entities that have mortgage settlement monies. The department plans to work with the Department of the Attorney General (AG) in

determining where it can insert itself to bring these services to families while they are still engaged with the lender. Material was submitted as part of these minutes as Exhibit A for Item A-1.

RECESS Five (5) minutes

B - PUBLIC TESTIMONY ON AGENDIZED ITEMS

Item B-1 Doreene Kealohanui, Re: Item D-6,

D. Kealohanui read her testimony verbatim and expressed alarm that she is in jeopardy of her lease being cancelled today. The Chair clarified that the department is seeking authority from the commission to schedule a contested case hearing, due to Ms. Kealohanui's loan delinquency. Ms. Kealohanui expressed relief that this was not the case. She then stated that she was capable of clearing her delinquency immediately, to avoid further problems. The Chair thanked Ms. Kealohanui for taking the time to come before the commission and reconcile her outstanding debt with the department. Material was submitted as part of these minutes as Exhibit A for Item B-1.

Item B-2 – Kekoa Enomoto, Re: A-1,

K. Enomoto testified on Item A-1 workshop regarding the new HALE homebuyers program. She requested that 47 half-acre awards be given to Waiohuli Undivided Interest lessees, to qualify them to seek homeownership education classes. This award would empower beneficiaries to become credit worthy, advocate for completion of flood mitigation efforts, bond with the aina, participate in homestead association activities, and expand the community base. She encouraged approval of 2,300 homesteads on the 5,000 acres which is located makai of the Keokea-Waiohuli area. Material was submitted as part of these minutes as Exhibit A for Item B-2.

Item B-3 – Homelani Schaedel, Re: A-1,

H. Schaedel applauded the work presented by NAHASDA Manager Niniau Simmons on the HALE program by moving beneficiaries into their own homes. She shared her experiences as a veteran loans officer in a local bank, and the problems associated with identifying loan servicers when loans were transferred from bank to bank. She said that loan servers on the mainland lack the background in understanding the Hawaiian culture, where translation of information can sometimes be misconstrued; leaving homeowners embarrassed and helpless. She deems the informative workshops will greatly benefit homeowners.

Re: F-4 and F-5,

H. Schaedel expressed the difficulty that homestead organizations have to deal with within and outside of their community. She congratulated Nanakuli Homestead on its recent groundbreaking event and likened it to the Kapolei Community Annual Light Parade which promotes togetherness and "E Holomua Kakou" (moving forward together).

LAND MANAGEMENT DIVISION

ITEM F-4 Amendment to General Lease No. 281, Nanakuli Hawaiian Homestead Community Association, Nanakuli Village Center, Nanakuli, Oahu

RECOMMENDATION

Land Management Administrator Linda Chinn recommended approval of a second amendment to General Lease (GL) 281, issued to Nanakuli Hawaiian Homestead Community Association (NHHCA) for the use of an 11.96-acre parcel at the Nanakuli Village Center (NVC) and consent to the withdrawal of Unit 2 from GL 281. The lease premises under GL 281 will have Units 3 and 4 remaining, together with the Undivided Interest (UI) in the common elements. The annual base rent for the initial 25 years shall be revised to \$110,000 as compensation to the Trust for the commercial use of Hawaiian home lands, said L. Chinn. NHHCA is credited for the two health-related tenants located at NVC. This credit will be adjusted, if either of the two health-related tenants is no longer leasing space at the NVC. L. Chinn stipulated that no further discount shall be granted to any other tenant at the village center. The rent commencement date shall be the date the first tenant opens for business, or by January 1, 2016. NHHCA shall be relieved from any future obligation to building the Agnes K. Cope Hawaiian Cultural Center. Any other terms and conditions under GL 281 shall remain in full force and effect with the second amendment and any other conditions deemed appropriate by the commission. Part 2 of this recommended motion is to consent to the Proposed Development Agreement (PDA) between NHHCA and Kamehameha Schools (KS), and Part 3 is to authorize the Chair to execute all final documents related to these actions.

MOTION

Moved by Commissioner Gomes, seconded by Commissioner Ishibashi.

DISCUSSION

Project Manager Kali Watson thanked those who attended the Hale Makana dedication, the first phase of NHHCA's affordable rental-housing project for 48 families in the 30% to 40% area median income (AMI). He shared that NHHCA will own Hale Makana after 65 years, when the tax credits expire. The Cope Learning Center has been a financial challenge, and NHHCA is thankful to have KS build a \$20 million learning center, instead. The Commercial Health Center will cost \$10 million and provide services for pediatrics, family health, pharmacy, dental, and a dialysis center. The facility will house a Goodwill Industries Retail Center and a work-employment program, costing nearly \$9 million to build. The \$110,000 being proposed to the department shall consume 35% of the net revenue versus the original lease of 20% net revenue. K. Watson expressed that the fixed rent will be difficult for them, and deems it will consume 90% of NHHCA's revenue share. He proposed that the commission consider maintaining the original terms of the lease, which is 20% net over 25 years and convert to fair market value (FMV) after the 25th year with 10-year step-ups. He said the department used this approach with other non-profit Hawaiian homestead organizations in the state, thus supporting their community programs. NHHCA President Kamaki Kanahale said it took nearly seventeen (17) arduous years for NHHCA to get to this point and he supports K. Watson's proposal.

MOTION/ACTION

Moved by Commissioner Hopkins, seconded by Commissioner Davis, to adjourn to executive session to consult with counsel on this issue. Motion carried unanimously.

EXECUTIVE SESSION IN **11:10 a.m.**

The Commission convened 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 on the above-subject matter.

EXECUTIVE SESSION OUT **11:47 a.m.**

MOTION/ACTION

Moved by Commissioner Hopkins, seconded by Commissioner Sheehan, to reconvene the regular meeting. Motion carried unanimously.

DISCUSSION

Commissioner Hopkins questioned how a decision was reached on the annual \$110,000 rental fee. L. Chinn explained that the original concept was to have (NVC) Nanakuli Village Center receive the ground lease rent income from the commercial side, to assist in paying for the development of the community center and housing project (2 projects to benefit the community). The removal of the housing project from GL 281 left one less community benefit project to benefit. Removing Unit 2 (the community center) would relieve NHHCA from the responsibility to build it. Based on this concept, only commercially based Units 3 and 4 remain. L. Chinn used real estate figures from the last five years in the Leeward Coast, and calculated that \$15.23 per square foot and a 6% return rate was an average figure used in determining a conservative market return. She said that NHHCA offered a reduced rent to entice the health agencies to be part of the center, thus, an 85% credit of \$84,000 was established by the department. She further explained that all communities are afforded both commercial and community pieces with the intent of having the commercial side generate sufficient revenue for the community segment. KCDC (Kapolei Community Development Corporation) and Lai Opua 2020 have similar components in place, and monies generated from their commercial projects will construct their community-based facility. In NHHCA's situation, the community-based segment is removed from its general lease. Deputy AG Iha indicated that he has yet to review the Proposed Development Agreement (PDA). Commissioner Hopkins proposed to defer the matter until Deputy AG Iha has reviewed the changes. K. Watson recanted his request and decided to accept the terms of the \$110,000 per annum, as the window of opportunity is fading for CDBG (Community Development Block Grant) funding. In its place, NHHCA will focus its efforts on leasing out the remaining spaces.

The Chair suggested amending Item 2, to authorize the Chair to consent to the review first by the Department of the Attorney General, or, to defer approval until next month's agenda. Commissioner Hopkins expressed concern should revenues match-up with the expenses, culminating into a net gain of "0" which would neither benefit the trust, nor its beneficiaries. K. Watson re-emphasized his acceptance of the \$110,000 annual rent.

The Chair queried K. Watson on how NHHCA obtained financing for the project. K. Watson explicated that the bulk of the funding was received through federal and state grants, as well as a grant from HECO (Hawaiian Electric Company) for the intersection portion. KS (Kamehameha Schools) provided \$300,000 for redesign and consultation work for the intersection and added another \$435,000 for infrastructure costs. The CDBG funding of \$1.2 million is being applied to the driveways.

AMENDED MOTION/ACTION

Moved by Commissioner Hopkins, seconded by Commissioner Tassill, to amend Item 2, page 2, and append, "subject to final review and approval of the Attorney General." Motion carried. Commissioner Kahikina was recused from voting.

ACTION

Motion carried, as amended. Commissioner Kahikina was recused from voting.

ITEM F-5 Approval to Issue General Lease to Kamehameha Schools, Nanakuli Village Center, Nanakuli, Oahu

RECOMMENDATION

Land Management Administrator Linda Chinn recommended approval to issue a general lease (GL) to Kamehameha Schools (KS) to develop Unit 2 at the Nanakuli Village Center (NVC) for a term of 65 years, limited to educational, community, recreational, and related uses.

DISCUSSION

L. Chinn introduced Kamehameha Schools (KS) Director Kalei Kailihiwa, Ka Pua initiative, who provided information on the Proposed General Lease (PGL). K. Kailihiwa stated that KS has been servicing the Leeward Coast for over 40 years and this PGL for Kamehameha Learning Center aligns with its vision to connect all children in the area, to succeed as future, local, and global leaders. Community learning centers anchor the educational aspirations and dreams for keiki and are vital to the mission, noted K. Kailihiwa. She conveyed that this proposal at NVC will allow KS to unite the legacy of our Alii, to serve the ahahui, and provide a place of educational excellence for its people.

MOTION

Moved by Commissioner Hopkins, seconded by Commissioner Ishibashi.

DISCUSSION

Commissioner Hopkins inquired whether the ground rent calculation, of the 2.651-acre unit, would satisfy the department's estimate or will it require another appraisal. Since KS calculations were deemed higher, it was not necessary to secure other appraisals, noted L. Chinn.

ACTION

Motion carried. Commissioner Kahikina recused from voting.

C - OFFICE OF THE CHAIRMAN

ITEM C-1 Monthly Legislative Update (For Information Only)

MOTION/ACTION

None, for information only.

DISCUSSION

Policy and Program Analyst Dre Kalili updated the commission on the four (4) proposals submitted in the Governor's package for this legislative session. Of the four proposals, an affordable housing credits bill, a bill for space leasing, and a bill to repeal Section 3 of the Native Hawaiian Roll Commission Act (NHRCA) that would entail an amendment, moved forward. D. Kalili noted that the legislature is halfway through its legislative session and the crossover commences the first week of March. Remaining bills must be heard in respective committees by April 4, 2014. A State Budget Bill was heard by the House Committee on Finance with a recommendation to appropriate \$10.1 million for DHHL, for operations and administrative costs. This appropriation is a slight increase from last year's \$9.6 million offering. The budget bill crossed over to the Senate and is scheduled for tomorrow's agenda. A number of resolutions were introduced last week and will be available later this week on the DHHL website.

With regard to CIP (Capital Improvement Plan) budget requests, \$5 million was appropriated for a sewer slope project in Papakolea, \$3 million was appropriated for dam repairs on the island of Kauai, and \$4 million was added for Pulehunui planning on the island of Maui. Currently, DHHL provided substantial information to the decision makers, and will engage in further conversations when appropriate, noted Chair.

ITEM C-2 Approval of Draft 2014 Native Hawaiian Housing Block Grant Annual Housing Plan

RECOMMENDATION

NAHASDA (Native American Housing and Self-Determination Act) Manager Niniau Simmons recommended approval of a Draft 2014 Native Hawaiian Housing Block Grant (NHHBG) Annual Housing Plan. Each year, the department is required to file a housing plan to inform HUD (U.S. Department of Housing and Urban Development) on how monies are spent from the NHHBG monies received from NAHASDA. N. Simmons noted that there is a new format being initiated with a new deadline of April 17, 2014. She said that an extension request for April 25, 2014, will likely be approved.

MOTION

Moved by Commissioner Hopkins, seconded by Commissioner Kahikina.

DISCUSSION

The information will be disseminated to the listed partners of the Department of Interior (DOI), State and County agencies, sub-recipients, community associations, and the DHHL website, once the draft is approved. A final version will be presented in April and

submitted to HUD by April 25, 2014. The new version will include all program activities within a twelve-month period. ONAP (Office of Native American Programs) reports to Congress on the NHHBG program and where monies are being disbursed. HUD is encouraging DHHL to utilize all monies issued under NAHASDA; however, the department has been limiting its resources to single-family homeownership usage, based on supporting homesteading. Also, a 1996 HRS (Hawaii Revised Statutes) requires DHHL to put in Administrative Rules for rental housing.

The HUD counsel questioned why DHHL offered only one segment of the housing activities (homeownership). N. Simmons said the plan includes affordable rental units as part of the rent-to-own program and is hopeful that the rent-to-own perspective is deemed acceptable to HUD. The Chair informed the commission that a contractor is looking at the feasibility of kupuna housing in Kapolei. She also indicated that the department provides a subsidy to the Waimanalo kupuna project on Oahu.

ACTION

Motion carried unanimously.

D - HOMESTEAD SERVICES DIVISION

ITEM D-1 HSD Status Reports

Exhibits:

A - Homestead Lease and Application Totals and Monthly Activity Reports

B - Delinquency Report

MOTION/ACTION

None, for information only.

MOTION/ACTION

Moved by Commissioner Hopkins, seconded by Commissioner Kahikina, to adjourn to executive session to consult with its counsel on Item D-1, Exhibit B. Motion carried unanimously.

EXECUTIVE SESSION IN 12:45 p.m.

The Commission convened 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 on the above-subject matter.

EXECUTIVE SESSION OUT 1:15 p.m.

ITEM D-2 Ratification of Loan Approvals (see exhibit)

MOTION/ACTION

Moved by Commissioner Hopkins, seconded by Commissioner Kahikina. Motion carried unanimously.

ITEM D-3 Approval of Consent to Mortgage (see exhibit)

MOTION/ACTION

Moved by Commissioner Hopkins, seconded by Commissioner Gomes. Motion carried unanimously.

ITEM D-4 Approval of Refinance of Loans (see exhibit)

MOTION/ACTION

Moved by Commissioner Hopkins, seconded by Commissioner Kahikina. Motion carried unanimously.

ITEM D-5 Approval of Streamline Refinance of Loans (see exhibit)

MOTION/ACTION

Moved by Commissioner Hopkins, seconded by Commissioner Kahikina. Motion carried unanimously.

ITEM D-6 Approval to Schedule Loan Delinquency Contested Case Hearings (see exhibit)

AMENDED RECOMMENDATION

Acting Homestead Administrator Dean Oshiro recommended removing Doreen Kealohanui's name from the loan delinquency listing, as she has met her loan obligation and is now current with her mortgage payments to February 2014.

MOTION/ACTION

Moved by Commissioner Hopkins, seconded by Commissioner Kahikina. Motion carried unanimously.

ITEM D-7 Approval of Homestead Application Transfers/Cancellations (see exhibit)

MOTION/ACTION

Moved by Commissioner Hopkins, seconded by Commissioner Kahikina. Motion carried unanimously.

ITEM D-8 Commission Designation of Successors to Application Rights – Public Notice 2011, 2012, 2013 (see exhibit)

MOTION/ACTION

Moved by Commissioner Hopkins, seconded by Commissioner Kahikina. Motion carried unanimously.

ITEM D-9 Reinstatement of Deferred Applications (see exhibit)

MOTION/ACTION

Moved by Commissioner Hopkins, seconded by Commissioner Kahikina. Motion carried unanimously.

ITEM D-10 Ratification of Designation of Successor to Leasehold Interest and Designation of Person to Receive Net Proceed (see exhibit)

MOTION/ACTION

Moved by Commissioner Hopkins, seconded by Commissioner Kahikina. Motion carried unanimously.

ITEM D-11 Approval of Assignment of Leasehold Interest (see exhibit)

MOTION

Moved by Commissioner Kahikina, seconded by Commissioner Ishibashi. Commissioner Hopkins was recused from voting. Motion carried unanimously.

ITEM D-12 Approval of Amendment of Leasehold Interest (see exhibit)

MOTION/ACTION

Moved by Commissioner Hopkins, seconded by Commissioner Kahikina. Motion carried unanimously.

ITEM D-13 Request to Approve Third Party Agreement – Spencer N. Akana for Pastoral Lot Lease No. 03541, Lot No. 8, Puukapu, Kamuela, Hawaii

MOTION

Moved by Commissioner Hopkins, seconded by Commissioner Kahikina.

DISCUSSION

Deputy AG Iha explained how Third-Party Agreements (TPA) generally apply to pastoral leases. The agreement allows another native Hawaiian an opportunity to work the land which is currently leased. Deputy AG Iha recalled a case in the Hawaii Supreme Court on Molokai, where Third-Party Agreements with non-native Hawaiians are deemed illegal under the Hawaiian Homes Commission Act (HHCA) Section 208. Commissioner DaMate inquired as to how information of this nature can be shared with the department. The Chair explained that the matter should be reported to the respective District Manager. The Enforcement Team will then investigate which may lead to a lease cancellation through a contested case process. The Chair recommended deferral of this matter, to determine if other TPA individuals exist on this agreement.

AMENDED MOTION/ACTION

Moved by Commissioner Hopkins, seconded by Commissioner Kahikina, to defer Item D-13 until the end of the agenda. Motion carried unanimously.

ITEM D-14 Request for Relocation – Donald Waipa Kaanapu, Sr., Residential Lease No. 8930, Lot No. 117, Waiānāc, Island of Oahu

MOTION

Moved by Commissioner DaMate, seconded by Commissioner Ishibashi.

DISCUSSION

Commissioner Hopkins recommended reversing a request, to deny relocation for Donald Kaanapu. He expressed the challenges that the lessee must face in maintaining the health and safety of his family. Commissioner Hopkins is aware of an option for the lessee to sell his lease, but is uneasy that the matter will escalate into something far greater than a misdemeanor. DHHL Enforcement Officer John Peiper said he initially responded to Mr. Kaanapu's complaint in 2008. Mr. Kaanapu related how a neighbor was remiss in maintaining his yard by allowing seedlings to fall onto his yard. There were no corrective measures taken. Enforcement Officer J. Peiper spoke to the neighbor in question about the upkeep of his yard. He also noted that Mr. Kaanapu's yard was impeccable. Acting Homestead Administrator Dean Oshiro said that the department perceived this matter to be a harassment issue rather than a safety issue, thus the department's recommendation is to deny relocation. He also pointed out that there are nine (9) relocation requests ahead of Mr. Kaanapu. He explained how an inventoried home is offered to a lessee. If the lessee accepts the appraised value of the home, the lessee then needs to qualify for a mortgage loan. The department facilitates the entire transaction, allowing the family to move from their existing home into their new home. The process may take several months to a few years, as families may turn down what is being re-awarded. Staff is in the process of consulting with the Department of the Attorney General (AG) to limit the number of attempts staff takes to satisfy a lessee's relocation efforts. He indicated that the Kaanapus have expressed a desire to move to Kapolei. A roll call vote was taken.

AE (6)

DAMATE

DAVIS

GOMES

ISHIBASHI

KAHIKINA

MASAGATANI

AOLE (3)

HOPKINS

SHEEHAN

TASSILL

ACTION

Motion carried.

F - LAND MANAGEMENT DIVISION

ITEM F-1 Authorization to General Lease, Statewide

RECOMMENDATION

Land Management Administrator Linda Chinn recommended authorizing LMD to advertise and conduct long-term lease dispositions to four (4) parcels identified in the submittal, to set all terms and conditions to be approved by the Chairman, to expend budgeted funds for conducting due diligence, and retain outside counsel, if necessary, in the negotiations of the final transactions of a lease agreement. L. Chinn listed the four parcels: one (1) in Hilo, one (1) in Kawaihae, one (1) in Shafter Flats, and one (1) in Waianae.

MOTION

Moved by Commissioner Hopkins, seconded by Commissioner DaMate.

DISCUSSION

Commissioner Hopkins thought there was a lack of qualified bidders for these parcels. Administrator Linda Chinn expressed that recently, the department received substantial inquiries for all of these properties. She noted that the 20,000-sq. ft. Hilo parcel has been vacant since the late 1990's, with no improvements made. The Kawaihae parcel has potential usage and collected rent was at \$15,000, annually. Three tenants utilize the Shafter Flats parcel and generate more revenue than a general lease ground rent; major improvements need to be made to the building. The Waianae Courtyard has five buildings which are depreciating rapidly. This property has limited industrial usage and limited access where the initial value of the buildings was listed at \$600,000, which may be a possible deterrent to leasing the property.

ACTION

Motion carried unanimously.

ITEM F-2 Approval to Issue Right-of-Entry Permit, NextEra Energy, Kahikinui, Maui

RECOMMENDATION

Administrator Linda Chinn recommended issuing a Right-of-Entry to NextEra Energy Hawaii, LLC for placing a SODAR (Sonic Detection and Ranging) wind-detection equipment at Kahikinui, subject to conditions listed.

MOTION

Moved by Commissioner Gomes, seconded by Commissioner Kahikina.

DISCUSSION

In prior years, the department offered these types of uses as "gratis." However, in recent times, the commission established a minimum monthly fee of \$20. NextEra Energy representative Jody Allione communicated that a request payment of \$1,200 was to be made to the department, and another \$1,200 to the community association, making it \$2,400 for a two-year period.

MOTION/ACTION

Moved by Commission Hopkins, seconded by Commissioner Gomes, to adjourn to executive session, to consult with counsel on the matter. Motion carried unanimously.

EXECUTIVE SESSION IN 2:00 p.m.

The Commission convened 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 on the above-subject matter.

EXECUTIVE SESSION OUT 2:15 p.m.

DISCUSSION

Staff will need to clarify information regarding the fees on Item F-2; therefore, the matter is deferred to next month's agenda.

MOTION/ACTION

Moved by Commissioner Hopkins, seconded by Commissioner Gomes, to defer this matter to next month's meeting in April. Motion carried unanimously.

ITEM F-3 Approval to Issue Right-of-Entry Permit, Paniolo Preservation Society, Humu'ula, Hawai'i

RECOMMENDATION

Land Management Administrator Linda Chinn recommended a Right-of-Entry (ROE) permit to Paniolo Preservation Society (PPS) for the use of the Humuula Sheep Station for restoring and maintaining buildings and grounds, encompassing approximately fifteen (15) acres.

MOTION

Moved by Commissioner Hopkins, seconded by Commissioner Ishibashi.

DISCUSSION

Administrator L. Chinn emphasized that this is month-to-month permit to PPS is not a long-term agreement, as the department could make a decision to develop the sheep station at any given time. This ROE is extended for one year from the date of execution.

ACTION

Motion carried. Commissioner Tassill voted no.

E - LAND DEVELOPMENT DIVISION

**ITEM E-1 Rescission of Homestead Lease Award and Reinstatement of Application –
Kauai Undivided Interest – Dennis L Neves**

RECOMMENDED

Land Development Administrator Sandra Pfund recommended rescission of one (1) residential lease award.

MOTION/ACTION

Moved by Commissioner Hopkins, seconded by Commissioner Kahikina. Motion carried unanimously.

H - ADMINISTRATION SERVICES DIVISION

**ITEM H-1 Transfer of Hawaiian Home Receipts Money at the End of the Third
Quarter, FY 2014**

RECOMMENDATION

Administrative Services Officer Rodney Lau recommended approval to transfer receipts deposited in the Hawaiian Home Receipts Fund, as of March 31, 2014, to the Hawaiian Home Trust Fund.

MOTION

Moved by Commissioner DaMate, seconded by Commissioner Gomes.

DISCUSSION

R. Lau informed the commission that the Hawaiian Home Trust Fund is authorized to receive deposits for the 247 FHA loan program. There is currently \$6.6 million in the account. HUD (U.S. Department of Housing and Urban Development) notified DHHL that they will be receiving demand letters, within a \$2 to \$4 million range. To prepare for this, the department would like to augment the reserve account to satisfy this demand. R. Lau explained that through the mortgage insurance provided by HUD, HUD will make the lenders whole, and HUD, in turn, will require the department to make them whole. R. Lau suggested that the department retain \$10 million in its reserve account.

ACTION

Motion carried. Commissioner Hopkins voted no.

**ITEM D-13 (cont.) Request to Approve Third Party Agreement - Spencer N. Akana, for
Pastoral Lot Lease No. 03541, Lot No. 8, Puukapu, Kamuela, Hawaii**

MOTION/ACTION

This item was withdrawn.

J - GENERAL AGENDA

ITEM J-1 Request to Address the Commission – Kalani Kama'ano

MOTION/ACTION

None, for information only.

DISCUSSION

Kalani Kamanao requested verification that the Hawaiian Homes Commission Act (HHCA) permits commercial activities at his home as he was told otherwise by staff -- that he is unable to operate a business from his dwelling. A nuisance complaint was filed with the department regarding his business activities. The Department of Health issued him a warning to cease operations, due to lack of a certified kitchen. He inquired whether having a certified kitchen would bring him into compliance and the Chair pointed out that his operation appears to be in violation of Section 10-3-33 of the Administrative Rules, which state "no homestead leasehold or portion thereof shall be used for commercial activities of such a nature as to constitute a nuisance." Chair suggested that Mr. Kamanao correspond, in writing, clarifying the specific items he wants addressed. Once department staff and the Department of the Attorney General's office review the specific rules that apply, a response will be forthcoming. K. Kamanao pointed out that other homesteaders should conduct similar activities. The Chair pointed out that the department does not have the capacity to search each home for violators, but when a complaint is lodged, the department has an obligation to perform due diligence and investigate the matter. K. Kamanao expressed his interpretation of the HHCA (Hawaiian Homes Commission Act), which is to promote self-sufficiency and self-determination. His son added that Hawaii is one of the worst places to get a job, and being a Hawaiian minority makes it even tougher. He stated that Hawaiians are hard-working and can be just as successful in various business ventures.

ITEM J-2 Request to Address the Commission – Jeff Gilbreath, Hawaiian Community Assets

MOTION/ACTION

None, for information only.

DISCUSSION

Hawaiian Community Assets (HCA) Executive Director Jeff Gilbreath, and Program Director Desiree Vea, shared recent successes of a program serving homeless individuals in transitional shelters in Waianae. J. Gilbreath said HCA expanded its homeownership services in 2010 to provide rental type of services for people to qualify for housing. He provided an outline of a three-year project that was conducted in 2010 through 2013 whereby HCA served 382 homeless families with financial education and rental counseling, and assisted 142 families from transitional to rental housing. Funding was provided by OHA (Office of Hawaiian Affairs) and another federal Native American entity. Desiree Vea said 57% of the intake people identified themselves as Hawaiians, and 10% were Hawaiian home lands beneficiaries. The monthly income for three-quarters (3/4) of the families was at 50% AMI (area median income) averaging \$1,118 per month. Market housing would require them to make 20% more than their income. The HCA program introduced participants to renter education, savings, using credit and various types of rental qualifications, lease agreements, etc. One-on-one counseling allowed them to create budgets, assess their credit report, thus guiding them to succeed.

MOTION/ACTION

None, for information only.

DISCUSSION

Kalani Kamaano requested verification that the Hawaiian Homes Commission Act (HHCA) permits commercial activities at his home as he was told otherwise by staff -- that he is unable to operate a business from his dwelling. A nuisance complaint was filed with the department regarding his business activities. The Department of Health issued him a warning to cease operations, due to lack of a certified kitchen. He inquired whether having a certified kitchen would bring him into compliance and the Chair pointed out that his operation appears to be in violation of Section 10-3-33 of the Administrative Rules, which state "no homestead leasehold or portion thereof shall be used for commercial activities of such a nature as to constitute a nuisance." Chair suggested that Mr. Kamaano correspond, in writing, clarifying the specific items he wants addressed. Once department staff and the Department of the Attorney General's office review the specific rules that apply, a response will be forthcoming. K. Kamaano pointed out that other homesteaders should conduct similar activities. The Chair pointed out that the department does not have the capacity to search each home for violators, but when a complaint is lodged, the department has an obligation to perform due diligence and investigate the matter. K. Kamaano expressed his interpretation of the HHCA (Hawaiian Homes Commission Act), which is to promote self-sufficiency and self-determination. His son added that Hawaii is one of the worst places to get a job, and being a Hawaiian minority makes it even tougher. He stated that Hawaiians are hard-working and can be just as successful in various business ventures.

ITEM J-2 Request to Address the Commission – Jeff Gilbreath, Hawaiian Community Assets

MOTION/ACTION

None, for information only.

DISCUSSION

Hawaiian Community Assets (HCA) Executive Director Jeff Gilbreath, and Program Director Desiree Vea, shared recent successes of a program serving homeless individuals in transitional shelters in Waianae. J. Gilbreath said HCA expanded its homeownership services in 2010 to provide rental type of services for people to qualify for housing. He provided an outline of a three-year project that was conducted in 2010 through 2013 whereby HCA served 382 homeless families with financial education and rental counseling, and assisted 142 families from transitional to rental housing. Funding was provided by OHA (Office of Hawaiian Affairs) and another federal Native American entity. Desiree Vea said 57% of the intake people identified themselves as Hawaiians, and 10% were Hawaiian home lands beneficiaries. The monthly income for three-quarters (3/4) of the families was at 50% AMI (area median income) averaging \$1,118 per month. Market housing would require them to make 20% more than their income. The HCA program introduced participants to renter education, savings, using credit and various types of rental qualifications, lease agreements, etc. One-on-one counseling allowed them to create budgets, assess their credit report, thus guiding them to succeed.

OHA matched savings by 4 to 1; if they save \$500, OHA matched it by \$2,000 for a combined savings of \$2,500, which qualified them for a possible down payment.

Through a credit-builder account, there were 15 borrowers that qualified for a 6 to 12-month terms. The repayment rate was at 100%. Borrowers without a credit score increased their credit scores by 633 points, while borrowers with credit increased their rates by 63 points on average, said J. Gilbreath. This project assisted 38 families living on the beach. As a native community development financial institution, HCA contributed \$322,000, in capital, for families to pay rent, utility deposit, and savings for their emergency accounts. He shared information of a native Hawaiian veteran who was able to qualify and purchase a home after 30 years. He shared testimony of Alice Amina, who was subsisting on a monthly fixed income living in a public housing rental. Through the renters-match product with OHA, an additional 100 families will be aided through permanent housing. HCA's recent project at Hale Makana in Nanakuli provided similar group workshops to 31 residents and 215 individualized renter-counseling meetings. A total of \$5,740 was raised and helped deploy \$11,861 to cover rent, utility, and deposits.

No one agency can do it alone, said Commissioner Kahikina. He thanked Jeff Gilbreath for stepping forward to target the homeless population. J. Gilbreath testified that the renter's match is HCA's creation and CDFI (Community Development Financial Institution) funding is from an OHA grant. Material submitted was made a part of these minutes as Exhibit A for Item J-2.

ITEM J-3 Request to Address the Commission -- Mahealani K. Kahanaoi

MOTION/ACTION

None, for information only.

Ms. Kahanaoi did not appear.

ITEM J-4 Request to Address the Commission -- Chad Soares

MOTION/ACTION

None, for information only.

DISCUSSION

Chad Soares and Attorney Randall Harakal appeared before the commission to appeal for C. Soares to continue his community work in Kalaeloa. Attorney R. Harakal expressed that C. Soares made an appeal to the department for a Revocable Permit (RP) and was told by Supervising Land Agent Kalei Young that if he cleaned an area in Kalaeloa, he would be granted an RP. In the meantime, a stolen container and stolen vehicles were brought on property by family members of a lessee who had the prior lease and who had moved to Nevada. According to R. Harakal, C. Soares reported the stolen items to police. R. Harakal expressed that C. Soares helps youths at risk, teaching them tractor-trailer skills. In addition, he expended \$150,000 to maintain the property. He transported wrecked autos to the property for storage. Although his goal is to maintain the property, he was advised that he needed to leave the premises, as the commission never officially

acted on his former plea for an RP. Attorney Harakal said he is considering filing a “stay,” to ward off a trespass issue until the matter can be resolved. He explained that C. Soares is willing to have a hearings officer listen to the facts. According to Deputy to the Chair Darrell Young, C. Soares currently has no disposition with the department. The department is currently completing its due diligence based on reports received of potential sub-leasing. Records reveal that the department was working with C. Soares on acquiring a month-to-month RP. However, when a police report revealed there was allegation of a chop-shop and stolen vehicles, the department determined it needed to investigate further, explained L. Chinn. C. Soares received a hand-delivered notice informing him he has 30 days to remove himself from the property.

Commissioner Sheehan inquired whether C. Soares had a Right-of-Entry (ROE) prior to his notice of infractions. According to L. Chinn, the department was working towards establishing an RP with C. Soares; however, the agreement was never executed because of the alleged reports of illegal activity. R. Harakal said that C. Soares was told that if he signed the letter of conditions, he could receive the property. According to L. Chinn, signing a letter of conditions does not imply that the matter is complete, as it only covers the agreeable terms and conditions of the RP. A signed RP acknowledges that an agreement is final. Staff helped C. Soares by granting him permission to settle in earlier. Subsequently, illegal activities were reported on the property. R. Harakal attested that C. Soares did not transport stolen vehicles on property nor did he have anything to do with stolen goods, as he was not arrested. He did, in fact, haul the vehicles away, contacted Matson about the stolen container, and filed TRO’s (temporary restraining order) against those who allegedly were responsible, said R. Harakal. The Chair clarified that C. Soares lacks official permission to be on the property. Currently, there are no means to issue RP’s as all existing RP’s were converted to ROE’s. Although C. Soares may be qualified, staff is unable to recommend short-term usage until the new RP program is vetted by the commission and the public.

MOTION/ACTION

Moved by Commissioner Sheehan, seconded by Commissioner Tassill, to adjourn to executive session, to consult with counsel on the matter. Motion carried unanimously.

EXECUTIVE SESSION IN

3:20 p.m.

The Commission convened in executive session pursuant to Section 92-5(a)(4), to consult with its attorney on questions and issues pertaining to the commission’s powers, duties, privileges, immunities, and liabilities on the above-subject matter.

EXECUTIVE SESSION OUT

3:55 p.m.

DISCUSSION

The Chair thanked C. Soares and Counsel Harakal for appearing today. R. Harakal asked whether the commission would consider a temporary stay to afford C. Soares an opportunity to continue on the property. Chair conveyed that the matter would be taken under advisement.

EXECUTIVE SESSION

MOTION/ACTION

Moved by Commissioner Hopkins, seconded by Commissioner Davis, to adjourn to executive session. Motion carried unanimously.

EXECUTIVE SESSION IN

3:57 p.m.

The Commission convened 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 on the following-subject matter.

1. Maui Alternative Energy Update

EXECUTIVE SESSION OUT

4:30 p.m.

MOTION/ACTION

Moved by Commissioner Hopkins, seconded by Commissioner Sheehan, to adjourn the regular meeting. Motion carried unanimously.

ANNOUNCEMENTS AND ADJOURNMENT

NEXT MEETING

April 21, 2014, Kalamaula, Molokai

ANNOUNCEMENT

Next community meeting to be held April 21, 2014, Kalaniana'ole Hall, Kalamaula, Molokai.

ADJOURNMENT

4:30 p.m.

Respectfully submitted:



Jobie M. K. Masagatani, Chairman
Hawaiian Homes Commission

Prepared by:

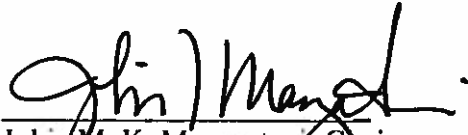


Elaine G. Searle, Secretary
Hawaiian Homes Commission

APPROVED BY:

The Hawaiian Homes Commission
At Its Regular Monthly Meeting On

Aug 23, 2016

A handwritten signature in black ink, appearing to read "Jobie M. K. Masagatani". The signature is written in a cursive style with a large initial "J" and "M".

Jobie M. K. Masagatani, Chairman
Hawaiian Homes Commission