

**HAWAIIAN HOMES COMMISSION**  
**Minutes of September 17-18, 2012**  
**Meeting Held in Hilo and Kau, Hawaii**

Pursuant to proper call, the 631st Regular Meeting of the Hawaiian Homes Commission was held at the Department of Hawaiian Home Lands' East Hawaii District Office, 160 Baker Avenue, Hilo, Hawaii, beginning at 1:45 p.m.

**PRESENT**     Jobie M. K. Masagatani, Chairman Designate  
                  Imaikalani P. Aiu, Commissioner, Kauai  
                  Perry O. Artates, Commissioner, Maui  
                  Leimana DaMate, Commissioner, West Hawaii  
                  Gene Ross K. Davis, Commissioner, Molokai  
                  J. Kama Hopkins, Commissioner, Oahu  
                  Michael P. Kahikina, Commissioner, Oahu  
                  Ian B. Lee Loy, Commissioner, East Hawaii  
                  Renwick V. I. Tassill, Commissioner, Oahu

**COUNSEL**     S. Kalani Bush, Deputy Attorney General

**STAFF**        Michelle Kauhane, Deputy to the Chairman  
                  Linda Chinn, Administrator, Land Management Division  
                  Sandra Pfund, Administrator, Land Development Division  
                  Dean Oshiro, Acting Administrator, Homestead Services Division  
                  Rodney Lau, Administrative Services Officer  
                  Francis Apoliona, Compliance Officer  
                  Kaleo Manuel, Planner, Planning Division  
                  Kahana Albinio, Property Development Agent, Land Management Division  
                  John Peiper, Enforcement Officer  
                  Norman Sakamoto, Land Development Specialist  
                  Louis Hao, Acting District Manager, East Hawaii District Office  
                  Ellery Batino, Land Agent, Land Management Division  
                  Elaine Searle, Secretary to the Commission

**PULE**            Commissioner Hopkins

**AGENDA**        Moved by Commissioner DaMate, seconded by Commissioner Hopkins to approve the agenda. Motion carried unanimously.

**AMENDED AGENDA**

Upon recommendation by the Chair to convene Items No. F-1 and F-2 after Public Testimony, it was moved by Commissioner Hopkins, seconded by Commissioner Artates, to approve the amended agenda, followed by Items "C" and "J" at Tuesday's agenda in Kau.. Motion carried unanimously.

STATE OF HAWAII  
DEPARTMENT OF HAWAIIAN HOME LANDS

HAWAIIAN HOMES COMMISSION AGENDA  
East Hawai'i District Office, 160 Baker Avenue, Hilo Hawai'i  
September 17, 2012, 12:00 P.M.

**ORDER OF BUSINESS**

Roll Call  
Approval of Agenda  
Approval of Minutes of July & August, 2012

**B - PUBLIC TESTIMONY OF AGENDIZED ITEMS (for 9/17/12 Items)**

**H - ADMINISTRATIVE SERVICES OFFICE**

H-1 Transfer of Hawaiian Home Receipts Money at the End of the First Quarter  
FY 2013

**D - HOMESTEAD SERVICES DIVISION**

- D-1 HSD Status Reports  
Exhibits:  
A - Homestead Lease and Application Totals and Monthly Activity Reports  
B - Delinquency Report  
C - DHHL Guarantees for USDA-RD Mortgage Loans
- D-2 Approval of Various Lease Awards  
D-3 Rescission of Homestead Lease Award and Reinstatement of Application  
East Kapolei II B & C, Undivided Interest  
D-4 Rescission of Homestead Lease Award – **Moana Marie Kaua**  
D-5 Ratification of Loan Approvals  
D-6 Approval of Consent to Mortgage  
D-7 Refinance of Loans  
D-8 Schedule of Loan Delinquency Contested Case Hearings  
D-9 Homestead Application Transfers / Cancellations  
D-10 Commission Designation of Successors to Application Rights –  
Public Notice 2007, 2008, 2009, 2010, 2011  
D-11 Reinstatement of Deferred Applications  
D-12 Cancellation of Deceased Applicants from Waiting List – Public Notice 2011  
D-13 Substitution of Qualified Spouse – **Cynthia A. Moran-Mahiai**  
D-14 Ratification of Designation of Successors to Leasehold Interest and Designation of  
Persons to Receive Net Proceeds  
D-15 Approval of Assignment of Leasehold Interest

- D-16 Approval of Amendment of Leasehold Interest
- D-17 Designation of Successor – **Primrose L. Villanueva**
- D-18 Request to Authorize Contested Case Hearing for Alleged Lease Violation,  
Lease No. 2679B, Lot 12, Pu`ukapu Hawaii

**STATE OF HAWAII  
DEPARTMENT OF HAWAIIAN HOME LANDS  
(continuation)**

**HAWAIIAN HOMES COMMISSION AGENDA**

Na`alehu Community Center, 95-5635 Mamalahoa Hwy, Na`alehu, Hawai`i  
September 18, 2012, 9:30 a.m.

**B - PUBLIC TESTIMONY ON AGENDIZED ITEMS (for 9/18/12 Items)**

**C - OFFICE OF THE CHAIRMAN**

- C-1 Authorization to Finalize Terms with Green Energy Team, LLC Working with  
Homestead Community Development Corporation, Anahola, Kaua`i

**F- LAND MANAGEMENT DIVISION**

- F-1 Issuance of Right-of-Entry Permit, Hawaiian Electric Company Inc., South  
Point, Hawai`i
- F-2 For Information Only; Land Requests for Land Known as "Camp Faith"  
Anahola, Kaua`i

**J - AGENDA**

- J-1 Request to Address Commission – Jeffrey Kekoa, President, Ka`u Hawaiian  
Home Lands Association
- J-2 Request to Address Commission – Paul Makuakane, Ka`u Beneficiary
- J-3 Request to Address Commission – Mel Davis, Ha`ao Spring and Mountain House  
Agriculture Water Co-op
- J-4 Request to Address Commission – Mele Spencer, Keaukaha-Panaewa Farmers  
Association
- J-5 Request to Address Commission – Robin Danner, Council for Native Hawaiian  
Advancement
- J-6 Request to Address Commission – Blossom Feiteira, Association of Hawaiians for  
Homestead Lands

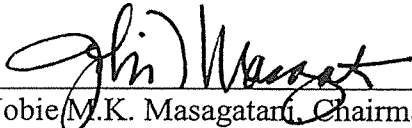
## **EXECUTIVE SESSION**

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

1. Honokaia 'Ohana et al v DHHL et al Civil No. 09-101615-07
2. Claim for Replacement of Septic System, Leonard Low, Lalamilo, Waimea, HI
3. Issues Relating to Lease Conditions

## **ANNOUNCEMENTS AND ADJOURNMENT**

1. Next Meeting – October 22, 2012, Lahaina, Hawai'i
2. Other Announcements
3. Adjournment



Jobie M.K. Masagatan, Chairman Designate  
Hawaiian Homes Commission

## **COMMISSION MEMBERS**

Imaikalani P. Aiu, Kaua'i  
Perry O. Artates, Maui  
Leimana DaMate, West Hawai'i  
Gene Ross K. Davis, Moloka'i

J. Kama Hopkins, O'ahu  
Michael P. Kahikina, O'ahu  
Ian B. Lee Loy, East Hawai'i  
Renwick V.I. Tassill, O'ahu

The next community meeting will be held on Monday, October 22, 2012  
6:00 p.m., Lahaina Civic Center, Lahaina, Hawai'i

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

**B - PUBLIC TESTIMONY ON AGENDIZED ITEMS**

**Blossom Feiteira** - Association of Hawaiians for Homestead Lands, re: Item H-1. Ms. Feiteira is requesting that the commission not approve the transfer of the entire receipts to the Hawaiian Home Operating Fund. Her premise is, when a lessee procures a loan from the department, the lessee is charged a 6% interest rate, while commercial lenders charge a 3% to 5 % interest rate. Ms. Feiteira expressed that it makes more sense for the department to utilize those funds to bring interest rates down, to lower monthly mortgage payments.

**ITEM NO: H-1**

**SUBJECT: Transfer of an Home Receipts Money at the End of the First Quarter  
FY 2013**

**RECOMMENDATION**

Administrative Services Officer Rodney Lau recommended that the commission approve the transfer of the entire receipts deposited in the Hawaiian Home Receipts Fund as of September 30, 2012, into the Hawaiian Home Operating Fund.

**MOTION**

Moved by Commissioner Artates, seconded by Commissioner DaMate.

**DISCUSSION**

Administrative Services Officer Rodney Lau noted that at the June meeting, a cash flow report was presented to the commission, representing projected transfers and revenues to various funds. This recommendation is in line with the projected cash flow. The interest charges are not directly linked to the cash transfer. The operating fund is utilized for consultants, engineers, architects, equipment purchases, and other various services provided to the homestead program. The Hawaiian Home General Loan Fund is used for construction and refinancing of loans. Approximately \$10,000,000 is available in the general loan fund. Chair inquired whether the 6% interest rate is set by statute, at which R. Lau responded that the commission sets the loan policy. He clarified that operational funds are utilized for exempt salary positions, as well as water systems on Molokai, Kawaihae, and Honolulu, and includes the debt service on the proposed USDA RD loan for Molokai.

The department is requesting \$12,000,000 from the legislature to be appropriated from the Hawaiian Home Lands Administration Account. Currently, the department receives no appropriations for general funding from the State. Due to the recent decision of the Nelson v. State of Hawaii lawsuit, requesting "sufficient funds" be available to this department for its operational use, this matter will be brought forth at this legislative session. R. Lau will provide information on the proportion of funding for consultants and exempt employees.

Commissioner Lee Loy was troubled by the department's inability to provide competitive loan rates for beneficiaries. Chair recommended a research be conducted on how the current interest rate was established. There was a budget provision that called for an audit of the department's loans and homestead services, which is currently ongoing. Perhaps, this would be an opportune time to review these interest rates, articulated Chair.

R. Lau noted that although the development portion and operating portion of the operating fund were merged in 1986, to become known as the operating fund, it still functions as two separate funds. A roll call vote was taken.

AE (5)

AIU  
ARTATES  
DAMATE  
DAVIS  
MASAGATANI

AOLE (4)

HOPKINS  
KAHIKINA  
LEE LOY  
TASSILL

ACTION

Motion carried.

## **D - HOMESTEAD SERVICES DIVISION**

**ITEM NO: D-1**

**SUBJECT: HSD Status Reports**

MOTION/ACTION

None, for information only.

**ITEM NO: D-2**

**SUBJECT: Approval of Various Lease Awards**

MOTION/ACTION

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

**ITEM NO: D-3**

**SUBJECT: Rescission of Homestead Lease Award and Reinstatement of Application - East Kapolei II, B & C, Undivided Interest**

MOTION/ACTION

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

**ITEM NO: D-4**

**SUBJECT: Rescission of Homestead Lease Award - Moana Marie Kaua**

MOTION/ACTION

This item was withdrawn.

**ITEM NO: D-5**

**SUBJECT: Ratification of Loan Approvals**

MOTION

Moved by Commissioner Hopkins, seconded by Commissioner Artates.

DISCUSSION

Commissioner Lee Loy recommended a review of the current interest rates, to present more competitive options to beneficiaries. Chair informed commissioners that she is appointing Deputy Kauhane to review the department's entire loan portfolio, which is complex, and to provide her findings to the commission, to enlighten their understanding of these issues.

ACTION

Motion carried unanimously.

**ITEM NO: D-6**

**SUBJECT: Approval of Consent to Mortgage**

MOTION

Moved by Commissioner Artates, seconded by Commissioner Aiu.

DISCUSSION

Commissioner Lee Loy addressed concern on shared information between mortgage companies and the department, for lessees that default on their loan, and how the department should deal with loan delinquencies. According to Deputy AG Bush, a waiver would need to be signed by the lessee, releasing financial information of the terms and conditions of the loan. Deputy

Kauhane is conferring with the Attorney General's office to devise language for the request, which may be reviewed at a later date. She pointed out that the issue is much more complex than a borrower just signing off with a lender, as each loan is processed differently. Deputy Kauhane will provide monthly reports on each of the lender's endorsement requirements.

ACTION

Motion carried unanimously.

**ITEM NO: D-7**

**SUBJECT: Refinance of Loans**

MOTION/ACTION

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

**ITEM NO: D-8**

**SUBJECT: Schedule of Loan Delinquency Contested Case Hearings**

MOTION/ACTION

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

**ITEM NO: D-9**

**SUBJECT: Homestead Application Transfers / Cancellations**

MOTION/ACTION

Moved by Commissioner Tassill, seconded by Commissioner Artates. Motion carried unanimously.

**ITEM NO: D-10**

**SUBJECT: Commission Designation of Successors to Application Rights - Public Notice  
2007, 2008, 2009, 2010, 2011**

MOTION/ACTION

Moved by Commissioner DaMate, seconded by Commissioner Artates. Motion carried unanimously.



**ITEM NO: D-11**

**SUBJECT: Reinstatement of Deferred Applications**

**MOTION/ACTION**

Moved by Commissioner Tassill, seconded by Commissioner Artates. Motion carried unanimously.

**ITEM NO: D-12**

**SUBJECT: Cancellation of Deceased Applicants from Waiting List - Public Notice 2011**

**MOTION/ACTION**

Moved by Commissioner Tassill, seconded by Commissioner Aiu. Motion carried unanimously.

**ITEM NO: D-13**

**SUBJECT: Substitution of Qualified Spouse - Cynthia A. Moran-Mahiai**

**MOTION/ACTION**

This item was withdrawn.

**ITEM NO: D-14**

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

**MOTION/ACTION**

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

**ITEM NO: D-15**

**SUBJECT: Approval of Assignment of Leasehold Interest**

**MOTION/ACTION**

Moved by Commissioner Artates, seconded by Commissioner Hopkins. Motion carried.

**ITEM NO: D-16**

**SUBJECT: Approval of Amendment of Leasehold Interest**

MOTION/ACTION

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

**ITEM NO: D-17**

**SUBJECT: Designation of Successor - Primrose L. Villanueva**

MOTION/ACTION

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

**ITEM NO: D-18**

**SUBJECT: Request to Authorize Contested Case Hearing for Alleged Lease Violation, Lease No. 2679B, Lot 12, Puukapu, Hawaii**

MOTION/ACTION

Moved by Commissioner Hopkins, seconded by Commissioner Artates.

MOTION/ACTION

Moved by Commissioner DaMate, seconded by Commissioner Aiu to adjourn in executive session, to discuss the above subject matter. Motion carried unanimously.

RECESS 2:50 p.m.

EXECUTIVE SESSION

The commission convened in executive session pursuant to section 92-5 (a), HRS, to consult with its attorney on questions and issues pertaining to the Commission's powers, duties, privileges, immunities, and liabilities on the above-mentioned item.

MOTION/ACTION

Moved by Commissioner Hopkins, seconded by Commissioner Artates to reconvene the regular session. Motion carried unanimously.

RECONVENE 3:05 p.m.

ITEM NO: D-18 (cont)

SUBJECT: Request to Authorize Contested Case Hearing for Alleged Lease Violation,  
Lease No. 2679B, Lot 12, Puukapu, Hawaii

ACTION ON ORIGINAL MOTION

Commissioner DaMate recused from voting. Motion carried unanimously.

RECESS: 3:10 p.m.

Meeting to reconvene at 9:30 a.m. in Kau, September 18, 2012.

**HAWAIIAN HOMES COMMISSION**  
**Minutes of September 18, 2012**  
**Meeting Held at Naalehu Community Center, Kau, Hawaii**

RECONVENE 9:35 a.m.

PRESENT Jobie M. K. Masagatani, Chairman Designate  
Imaikalani P. Aiu, Commissioner, Kauai  
Perry O. Artates, Commissioner, Maui  
Leimana DaMate, Commissioner, West Hawaii  
Gene Ross K. Davis, Commissioner, Molokai  
J. Kama Hopkins, Commissioner, Oahu  
Michael P. Kahikina, Commissioner, Oahu  
Ian B. Lee Loy, Commissioner, East Hawaii  
Renwick V. I. Tassill, Commissioner, Oahu

COUNSEL S. Kalani Bush, Deputy Attorney General

PULE Commissioner Tassill

**F - LAND MANAGEMENT DIVISION**

**ITEM NO: F-1**

**SUBJECT: Issuance of Right-of-Entry, an Electric Company Inc., South Point, Hawaii**

**RECOMMENDATION**

Kahana Albinio, Acting Property Development Supervisor, recommended approval to issue a Right-Of-Entry (ROE) to Hawaiian Electric Company, Inc. (HECO), as permittee, to site a state-of-the-art remote wind monitoring device on Hawaiian home lands at Kamaoa-Puueo, Hawaii island, subject to the terms and conditions of the document for a period of five years, effective the date the ROE is fully executed. K. Albinio, presented a list of 15 terms and conditions which are deemed prudent in establishing a working and justified agreement with HECO.

**MOTION**

Moved by Commissioner DaMate, seconded by Commissioner Hopkins.

**DISCUSSION**

A discussion ensued regarding a community benefits package offering to Kau beneficiaries. A five-bullet point proposal was presented by HECO, to assist the community in job opportunities, wind energy opportunities, and environmental benefits. Commissioner Lee Loy was pleased with the addition of job opportunities and hands-on-training for beneficiaries. Although in agreement with two of the five concessions HECO was offering, Commissioner DaMate was disappointed that HECO was unable to offer reduced electrical rates and waterline installations. She suggested a community benefits package proposal for Kamaoa beneficiaries.

HECO Renewable Planner Thomas Aukai addressed the commission saying that HECO and HELCO (Hawaiian Electric Light Company) partnered on a first-of-its-kind project to place a 10 ft. x 10 ft. device on a DHHL site in Kamaoa. With the utilization of a forecasting tool, HECO will be able to decipher wind conditions ramping up, and initiate ways to eliminate blackouts in the area. They found that the best area to collect data is at South Point, Hawaii. HECO partnered with an independent wind farm, providing them invaluable forecast information, which should aid in complying with a State of Hawaii initiative to lessen fossil fuel dependency by the year 2030, noted T. Aukai.

Commissioner Lee Loy is seeking ways to partner for resources, to take the value of the land footprint, and transfer it to something more tangible. The electric companies are regulated by PUC, thus, restrictions are placed on them in offering special consideration for electricity rates, noted T. Aukai. Commissioner Aiu inquired how the value-in-service, to sustain power, would become more efficient. T. Aukai said these types of units need to be added to the grid because of State's goal to pursue alternative energy, and utilizing this type of forecast will aid in the management and availability of service to customers on the grid.

Commissioner Hopkins inquired about the fee charges on this revocable permit (RP). Minimum monthly fees are \$20 per month and are determined by a tax assessed value, less a 50% discount due to the fact that RP's are month-to-month permits, noted Administrator Linda Chinn. She conveyed that HECO is engaged in a similar project with a private rancher in Naalehu and compensates the rancher \$100, monthly. Commissioner DaMate inquired whether a community package could be considered for the community and cultural center expected to be built in the next two years, to which T. Aukai responded that he would need to consult with his superiors. Commissioner Kahikina pointed out that a report was submitted by the "Energy Ad Hoc Committee" addressing such matters. Chair noted that the submittal will be addressed at the regular October meeting. She inquired if DHHL has a legal right to own data collected from this site to which Deputy AG Bush responded "not without an agreement."

#### 1<sup>st</sup> AMENDED MOTION

Moved by Commissioner Lee Loy to adjust the ROE from a five-year to a two-year ROE, seconded by Commissioner Kahikina.

#### DISCUSSION

Commissioner Aiu supported the proposal with some consideration be given to add \$100 for fair market value. Commissioner DaMate spoke against the proposal for the two-year plan. She

maintained that HECO needs a five-year plan to commit to a community benefits package for both the planned community and cultural centers. The community is moving forward to formulate plans and disruption may not be in the best interest of the homestead community. She agreed with a recommendation to begin the process of fee-for-service, hands-on-training, and other benefits, to be included in the five-year plan, and to have HECO consult with the homestead community in any upcoming activities. Commissioner Lee Loy clarified that the purpose in reducing the ROE to a two-year project is to assess how this technique would work, and whether it would warrant changes. T. Aukai agreed to provide yearly updates. A roll call vote was taken.

AE (8)AOLE (1)

AIU	HOPKINS	TASSILL	DAMATE
ARTATES	KAHIKINA	MASAGATANI	
DAVIS	LEE LOY		

ACTION

Motion carried.

2<sup>nd</sup> AMENDED MOTION

Moved by Commissioner Aiu, seconded by Commissioner Hopkins, to increase the annual rent to \$1,200.

DISCUSSION

T. Aukai will inform DHHL staff once HECO has reviewed the commission's request to adjust the annual rent. Chair announced that the commission will revisit the issue once a decision has been reached. She further clarified that this addresses only the annual rent, not the community benefits package.

ACTION

Motion carried unanimously.

3<sup>rd</sup> AMENDED MOTION

Moved by Commissioner DaMate, seconded by Commissioner Kahikina, to amend Item No. 15 to include all of the terms and conditions and append "**including the benefits package outlined on Page 3,**" seconded by Commissioner Hopkins.

ACTION

Motion carried unanimously.

4<sup>TH</sup> AMENDED MOTION

Moved by Commissioner DaMate to add a 6<sup>th</sup> bullet point on page 3...**"Provide energy services to infrastructure, such as a community center, cultural center or community-based entity, anticipated to be built in the near future in Kamaoa-Puueo."** There was no second to the motion.

DISCUSSION

T. Aukai clarified the purpose of this project is to keep the grid stable because of added resources to the Kau area. Commissioner Lee Loy favored tying in the resources, but felt it premature to place HECO in a position to provide these benefits to the community, not knowing where they intend to be after two years. Commissioner DaMate preferred that HECO uphold its commitment to the people of Kau. L. Chinn suggested adding verbiage in the terms of this ROE that HECO will work with the department to ensure commitments are still in place. Commissioner Kahikina agreed with Commissioner Lee Loy and would like to see promulgation of policies and procedures in place, and allow community associations to work in partnership with the department. Deputy AG Bush emphasized, however, that if HECO steps away from this two-year ROE deal, there is nothing to be enforced. Chair empathized with Commissioner DaMate's dedication to serve the people of Kau, but in this particular matter, only data is being collected from a small space, in a short time frame. Mr. Aukai re-emphasized that PUC restrictions prevent them from providing water and electricity. A roll call vote was taken.

AE (3)

AIU  
DAMATE  
KAHIKINA

AOLE (6)

ARTATES  
DAVIS  
HOPKINS

LEE LOY  
TASSILL  
MASAGATANI

ACTION

Motion failed.

DISCUSSION

Chair reviewed the three amended motions:

- 1) to adjust the ROE from a five-year to a two-year ROE;
- 2) to increase the annual rent to \$1,200;
- 3) to amend Item No. 15 to include all the terms and conditions and append **"including the benefits package outlined on Page 3."**

Commissioner Hopkins thanked everyone involved for supporting the fee terms and providing good discussion on the community benefits package. He commended staff for taking the commission's comments to heart, by including the requests in this project. Commissioner DaMate urged HECO to meet with the community on ways to improve their lots.

#### ACTION ON ORIGINAL MOTION

Motion carried unanimously. Commissioner DaMate was excused.

#### ITEM NO: F-2

#### SUBJECT: For Information Only; Land Request for Land Known as "Camp Faith" Anahola, Kauai

#### MOTION/ACTION

None, for information only.

#### DISCUSSION

LMD Administrator L. Chinn stated that three land request forms were received for issuance of a Right-of-Entry (ROE) or Revocable Permit (RP) for land known as "Camp Faith" in Anahola. Staff will complete its due diligence by addressing these requests before finalizing plans. Updates were completed after the initial presentation was made to the commission in August that addressed shoreline and potential natural hazards, environmental review of SMA (Shoreline Management Act), the Coastal Zone Management Act (CZMA), and archaeological sites for community development. L. Chinn provided a history of this property which was canceled as a general lease in the 70's and offered as an RP (month-to-month) due to plans for developing the site. Plans then changed, yet the RP continued. During this time, property conditions declined, and letters were sent to Lihue First Church urging them to maintain the upkeep of the premises. Commissioner Hopkins questioned why it took so long to remove the tenants as they were clearly in violation of the permit. L. Chinn explained there was concern of potential squatting and illegal dumping once the tenants were evicted; consequently, the department attempted to work it out with them.

Anahola homestead board members, Robin Danner and Sherry Cummings-Yokotake presented a request to become stewards of this parcel through an ROE or RP. They are seeking access to another adjacent parcel to build a parking lot to service their "Kumu Youth Academy" operation, which they plan to build. Ms. Danner outlined her plans for these two parcels, which she said she vetted in the community. Ms. Cummings-Yokotake expressed dismay at the lack of care for this property. She is hopeful the commission will grant them the RP.

Commissioner Aiu said his primary responsibility is to the Trust, and this parcel has incredible revenue possibilities for the future. In support of the Kumu Youth Academy, he would like to



see development of synergy between a resort and cultural tourism. Commissioner Hopkins supported Commissioner Aiu's idea on generating revenue. He wants further discussion on developing this parcel, once the department completes its due diligence. HCDC (Homestead Community Development Corporation) is agreeable to discussing the matter with the department.

Commissioner Kahikina excused himself from the meeting.

**ITEM NO: C-1**

**SUBJECT: Authorization to Finalize Terms with Green Energy Team LLC Working with Homestead Community Development Corporation, Anahola, Kauai**

**RECOMMENDATION**

Authorize DHHL to finalize terms with Green Energy Team LLC, (Green Energy) working with Homestead Community Development Corporation (HCDC), Anahola, Kauai. Land Development Special Assistant, Norman Sakamoto provided a timeline of events leading up to negotiations and proposals, in drafting an agreement among the entities involved.

**MOTION/ACTION**

Moved by Commissioner Lee Loy, seconded by Commissioner Aiu.

**DISCUSSION**

Mr. Sakamoto said there are five land dispositions being considered:

- 1) **license to a mercantile establishment** - HHCA Section 207 (c) 1 B: Lands leased under these provisions refer to: a) churches, hospitals, public schools, post office, and other improvements for public purposes; and b) theaters, garages, service stations, markets, stores, and other mercantile establishments - all of which are to be owned by Native Hawaiians, formed or controlled by Native Hawaiians. This particular project does not appear to be a mercantile establishment similar to the others, added N. Sakamoto.
- 2) **lease to a native Hawaiian entity** - HHCA Section 204 (a) 2: The department is expressly authorized to negotiate, prior to negotiations with the general public for the disposition of these lands. However, it is for commercial, industrial, or other business purposes in accordance with procedures set forth in Chapter 171, HRS to include public notice and other requirements, allowing other native Hawaiians to apply for the property as well.
- 3) **lease to a eleemosynary organization** - HRS 171-43.1: The Board may lease, at a nominal consideration, by direct negotiation without recourse to public auction, public lands to an eleemosynary organization. This is a charitable organization. Further information and analysis would need to be determined. The intent of the statute refers to a charitable organization as opposed to a business transaction.

4) **land license at public auction** - HRS 171-54: If it was not a public auction, there are provisions that the land can be disposed of by a land license without recourse to public auction if the best interest of the public is served. Intent of this statute does not refer to the beneficiary public but the general public.

5) **lease to energy producer** - HRS 171-95: The Board may lease to a renewable energy producer without public auction, only, pursuant to a public process, this includes a public notice as well as two public hearings. Green Energy does qualify as a producer of renewable energy. Two public hearings may be done on two separate days. Of all the items, this item would be the least likely to be challenged, and would appear to be the one recommended by this department.

Other issues that need addressing include fair market rent and community benefits. The homestead benefits draft was transmitted to the department on September 6, 2012, which is under review. Withdrawal of land would address lands being available for future homestead use. Water issues, such as dams, reservoirs, ditches, water restoration, hydro-electric production, water rights, all need addressing. In addition, kuleana land, time frame on environmental reviews, phasing, infrastructure, and maintenance, all need addressing. Because it is critical, as it sets the process, the intent is to identify the various options and analyze them going forward, noted Chair. The department recommended land disposition option No. 5 as the most suitable option.

Green Energy representative, Eric Knutzen, testified that financing has been extended to September 24, 2013. Chair asked E. Knutzen whether today's discussion would have an impact on financing, as it may take months to finalize terms. An affirmative action would display a positive effect, expressed E. Knutzen. R. Danner noted that a \$6.5 million additional loan would be added as capital for removal of the 1,200 acres of albizia.

R. Danner asserted that HCDC qualifies in all five categories listed above, and affirmed they are a Hawaiian-only mercantile entity. She purported they are an eleemosynary organization; therefore, no public auction is necessary, and negotiations may commence immediately as an eleemosynary organization, under HRS 171-54.

R. Danner added information of previous discussions held, but not mentioned here:

1) 20-year license; 2) collaborative project to include HCDC; 3) GEI (Green Energy Incorporated) and HCDC create advisory committee to update HHC annually on project; 4) require that land improvements not be funded with Trust funds; 5) homestead access and picnic area (draft by GEI) and project signage; 6) GEI be directed to employ locally and offer job fairs and contract outreach, including initial removal and operation and maintenance over 20 years; 7) provide internships and fellowships, and require school curriculum and technologies; 8) GEI to share on overall projects to allow others to learn about biomass projects; and 9) decommission and rejuvenate soil for homestead agriculture leases. The deal put together would include reimbursement for pre-development costs incurred, up to \$45,000 for the next two years. GEI and HCDC would share a development fee of \$32,500 to set up an office.

Proposal is for revenue sharing with DHHL to pay for fair market value of 100%, with 80% (\$800,000) to DHHL, and 20% (200,000) to HCDC, to be in compliance with monitoring; then, hire a staff member which equates to \$12,000 to \$15,000 annually. For energy revenue sharing, Green Energy would pay to the homestead association 2%, of gross value (\$39,000) of energy, produced from feedstock that comes from the land and farmers on property. Deputy AG Bush recommended adjourning to executive session to discuss this matter further.

#### MOTION/ACTION

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

RECESS 12:45 p.m.

#### EXECUTIVE SESSION

The Commission convened in executive session pursuant to Section 92-5 (a), HRS, to consult with its attorney on questions and issues pertaining to the Commission's powers, duties, privileges, immunities, and liabilities on the above-mentioned item.

#### MOTION/ACTION

Moved by Commissioner Lee Loy, seconded by Commissioner Hopkins, to reconvene in regular session. Motion carried unanimously.

RECONVENE 1:40 p.m.

#### ITEM NO: C-1 (cont)

SUBJECT: Authorization to Finalize Terms with Green Energy Team LLC Working with Homestead Community Development Corporation, Anahola, Kauai

#### DISCUSSION

Chair enlightened everyone that discussions (executive session) addressed the various options and the commission received guidance from counsel relating to those issues. Commissioner Hopkins then put forth his request to amend the motion.

#### AMENDED MOTION

Moved by Commissioner Hopkins, "Hawaiian Homes Commission authorizes the Department of Hawaiian Home Lands to finalize terms with Green Energy Team LLC, working with Homestead Community Development Corporation, and bring back to the commission, a proposal, at its November 2012 meeting," seconded by Commissioner Aiu.

DISCUSSION

Deal points would likely be articulated in November, authorizing the department to execute the disposition with guidance from counsel, expressed Chair. Eric Knutzen shared that they are upbeat in partnering with HCDC because of its knowledge of the land, and familiarity with the community. He inquired whether the department is comfortable with the terms. Terms will need to be vetted, noted Chair, and many of the issues brought forward have been addressed. She is optimistic an agreement can be reached by the November meeting. Commissioners Tassill and Lee Loy encouraged everyone to achieve this timeline. Commissioner Aiu expressed gratitude to all involved in the proceedings, and thanked Eric Knutzen for his commitment to the project.

ACTION

Motion carried unanimously.

**J - GENERAL AGENDA**

Chair announced that the commission does not confer action in this portion of the agenda; as it represents an opportunity for individuals to convey their concerns to the commission. The commission may direct the department, through the Chairman, to address the matter, for action, at a future date.

**ITEM NO: J-1****SUBJECT: Request to Address the Commission – Jeffrey Kekoa, President, Kau HHLA**MOTION/ACTION

None, For Information Only.

DISCUSSION

Kau Homestead Association President, Jeff Kekoa, expressed mahalo in scheduling this meeting in Kau. Kau Homestead Association was formed after the Kau Regional Plans were completed in May 2011. He requested that DHHL acquire lands from DLNR (Department of Land and Natural Resources) in Waiohinu for agricultural use, that provisions of water be included for Kamaoa-Puueo agricultural and pastoral lots. He additionally noted that a portion of the road was bulldozed, which prevents entry. Meetings were held with the county, state entities, and others, to address a larger potable waterline with storage facilities to help support the agricultural and pastoral communities in Kamaoa. In addition, the community is seeking assistance from DHHL for a curator in Kamaoa, due to significant archaeological and cultural sites that need protection. Kau beneficiaries are also interested in a self-help homestead project which could offer opportunities for homeowners, added J. Kekoa.

J. Kekoa asked that road and water issues be addressed in Puueo, and suggested a waterline be added from Discovery Bay, with a water storage system built to support the agricultural lots. He asked that DHHL assert its Native Hawaiian water rights and encourage the County of Hawaii to lift the moratorium on the waterline. Signage to designate important historical significance may also be useful for those not familiar with the area; and he offered his assistance to help install them. He supports Paul Makuakane in his quest to have DHHL acquire lands from DLNR. J. Kekoa said the Kau homestead community will strive to maintain its regional goals. He concluded by saying: "'Aohe hana nui ke alu ia" (no task is too big, when done by all).

Commissioner DaMate indicated she met with DLNR Director, Bill Aila, who agreed to transfer 25 acres of land in Waiohinu to DHHL. She conversed with Administrator, L. Chinn, who agreed to follow-up on the issues. J. Kekoa plans to submit a letter to the department, addressing these matters.

**ITEM NO: J-2**

**SUBJECT: Request to Address the Commission – Paul Makuakane**

**MOTION/ACTION**

None, for information only.

**DISCUSSION**

Paul Makuakane is a beneficiary on the waitlist and dispatched letters to both Homestead Services Division and Land Management Division in 2008, requesting DHHL to acquire DLNR lands for agricultural use. Commissioner Lee Loy asked Mr. Makuakane to enlighten the department regarding the water co-op. P. Makuakane says there are eight different co-ops and Mel Davis serves as president of Mountain House Agriculture Water Co-op; whom he works with, to acquire water for Kamaoa-Puueo. He is seeking lands closer to the water source, as Kamaoa is 15 miles away. According to Jeff Kekoa, Agribusiness Development Corporation is part of the DOA (Department of Agriculture), and works with the co-op from Kau. He said they want to control the water source for large developers and ranchers. He questioned why the Kau homesteaders could not control the ground water system as paying members. In meetings with the co-op, J. Kekoa noted that Kau homesteaders asserted themselves as overseers of Haao Spring, and bucked heads with anyone who challenged them. Thus, anyone interested in hooking up to the water from Haao Springs is told to "see the Hawaiians." J. Kekoa recommended the department contact the co-op to address these concerns. Chair was unaware of this issue, and is thankful at having it addressed now, as water rights is a critical issue for this commission. Chair pointed out that Kau is not a water management area and may not have the same water rights as other areas, but it does not dissuade the fact that it exists, and the department should pursue this aggressively.

**ITEM NO: J-3****SUBJECT: Request to Address the Commission – Mel Davis, Haao Springs and Mountain House Agriculture Water Co-op**  
-**MOTION/ACTION**

None, for information only.

**DISCUSSION**

Mel Davis, committee chairman of agriculture and president of Haao Springs and Mountain House Agriculture Water Co-op agreed with J. Kekoa that the problem stems from the road, which blocks entry to overgrown lands. He recommended bulldozing the area, to clear a path or that a fire lane be built over the lava field. Another suggestion was to relocate homesteaders to Waiohinu, which would then resolve all of their water issues, as water would be available from Haao Springs. In addition, the water overflow could then be allocated for other beneficiaries by constructing a water storage tank. M. Davis spoke with other organizations and individuals to seek a remedy to this situation. One possible suggestion involved the Air National Guard's Innovative Readiness Program, which takes on projects such as road and irrigation repairs that extend from five or more years.

Planner Kaleo Manuel stated that since February, opportunities have been initiated to transfer 32 tunnels from DOA (Department of Agriculture) to Agribusiness Development Corporation, which formed co-ops or subsidiaries, to manage and operate these irrigation systems. He noted that Kauai also has a number of co-ops. This may be an opportunity for the department to leverage, partner, or take over these irrigation systems, to provide water for agriculture lands and potable water. The Air National Guard opportunity will provide CIP (capital improvement) money on the ground. Chair articulated that a councilwoman from the Big Island spoke to her about the Air National Guard concept, and she anticipates more information to be forthcoming. The first step is to meet with the association to assess the water situation and review the master plan for the area, articulated K. Manuel. Chair posed a question on whether any lessees are utilizing their lots. M. Davis responded with a "no." Commissioner Lee Loy praised K. Manuel, as a planner, for his knowledge of the area and ties to the community. He noted that this community has come a long way in a short time, and he wants them to continue to assert their rights. Chair thanked the community members for sharing their manao with the commission. She will ensure the department follows up on actions regarding the water and relocation issues, the infrastructure, the potential collaboration with the County of Hawaii and the Air National Guard, as well as P. Makuakane's request for DNLR lands.

**RECESS**                      2:55 p.m.

**RECONVENE**                3:10 p.m.

**ITEM NO: J-4**

**SUBJECT: Request to Address the Commission – Mele Spencer, Keaukaha-Panaewa Farmers Association**

**MOTION/ACTION**

None, for information only.

**DISCUSSION**

President Mele Spencer, Keaukaha-Panaewa Farmers Association (KPFA) read verbatim her testimony, to be submitted as part of these minutes, as Exhibit "A," for Item J-4, conveying KPFA as an independent, autonomous association, supportive of other homestead associations and the department. She thanked the chairman and staff for their continuous support of an MOA (memorandum of agreement) with Hawaii Community College (HCC), to provide support and training on agricultural techniques, improvements, and the well-being of their lands. She added this is a critical incentive program for agricultural and pastoral lessees who are not utilizing their lands on island. She will advocate for the continuation to develop agricultural programs, and assist with placing more Hawaiians on the lands.

Chair noted there were issues regarding the services provided by CTAHR (College of Tropical and Agriculture and Human Resources), as the contract was not renewed. She encouraged the department to review those issues and rebuild and improve relationships with CTAHR. Chair added this matter will be addressed, again, for a funding adjustment.

**ITEM NO: J-5**

**SUBJECT: Request to Address the Commission - Robin Danner, Council for Native Hawaiian Advancement**

**MOTION/ACTION**

None, for information only.

**DISCUSSION**

Due to time constraints, R. Danner requested to address the commission at next month's meeting, on Maui. R. Danner is seeking resolution in collecting payment on a number of invoices submitted to the department. Chair noted that a meeting is scheduled for staff to address these contractual issues.

**ITEM NO: J-6**

**SUBJECT: Request to Address the Commission – Blossom Feiteira, Association of  
Hawaiians for Homestead Lands**

MOTION/ACTION

None, for information only.

DISCUSSION

B. Feiteira noted that MOU (Memorandum of Understanding) Resolution 265 was submitted to the department in May, for approval, by the commission, regarding a project in Waimea and Anahola, Kauai, which has yet to appear on the agenda. She requested to appear at next month's agenda to seek resolution on the matter. Chair recommended that B. Feiteira resubmit her request to the Office of the Chairman, regarding this matter.

MOTION/ACTION

Moved by Commissioner Hopkins, seconded by Commissioner Aiu to adjourn to executive session to address the following issues. Motion carried unanimously.

RECESS 3:10 p.m.

EXECUTIVE SESSION

The Commission convened in executive session pursuant to Section 92-5 (a), HRS, to consult with its attorney on questions and issues pertaining to the Commission's powers, duties, privileges, immunities, and liabilities on the following matters.

1. Honokaia Ohana et al, v DHHL, et al, Civil No. 09-101615-07
2. Claim for Replacement of Septic System, Leonard Low, Lalamilo, Waimea, Hawaii
3. Issues Relating to Lease Conditions

MOTION/ACTION

Moved by Commissioner Hopkins, seconded by Commissioner Lee Loy to reconvene to regular session. Motion carried unanimously.

RECONVENE 4:05 p.m.

ADJOURNMENT 4:10 p.m.



**ANNOUNCEMENTS AND ADJOURNMENT**

**NEXT MEETING**

October 22, 2012, Leialii, Maui

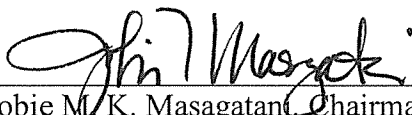
**ANNOUNCEMENTS**

The next community meeting will be held at Lahaina Community Center, 1840 Honoapiilani Highway, Lahaina, HI 96761, 6:30p.m.

**ADJOURNMENT**

4:10 p.m.

Respectfully submitted,



Jobie M. K. Masagatani, Chairman Designate  
Hawaiian Homes Commission

Prepared by:



Elaine G. Searle  
Secretary to the Commission

APPROVED BY:

The Hawaiian Homes Commission  
At Its Regular Monthly Meeting Of  
June 17, 2013



Jobie M. K. Masagatani, Chairman  
Hawaiian Homes Commission