

HAWAIIAN HOMES COMMISSION
Minutes of December 17-18, 2012
Meeting Held in Kapolei, Oahu

Pursuant to proper call, the 634th Regular Meeting of the Hawaiian Homes Commission was held at the Department of Hawaiian Home Lands, 91-5420 Kapolei Parkway, Kapolei, Hawaii, beginning at 9:30 a.m.

PRESENT Jobie M. K. Masagatani, Chairman Designate
Imaikalani 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, Oahu

COUNSEL S. Kalani Bush, Deputy Attorney General.

STAFF

Derek Kimura, Executive Assistant, Office of the Chair
Kahana Albinio, Acting Property Development Supervisor, Land
Management Division
Francis Apoliona, Compliance Officer
Linda Chinn, Administrator, Land Management Division
Kaleo Manuel, Planner, Planning Office
Kamanao Mills, Special Assistant
Dean Oshiro, Acting Administrator, Homestead Services Division
Sandra Pfund, Administrator, Land Development Division
Norman Sakamoto, Land Development Specialist
Niniau Simmons, NAHASDA Manager
Darrell Yagodich, Administrator, Planning Office
Bob Freitas, Planner, Planning Office
Juan Garcia, District Supervisor, Homestead Services Division
Elaine Searle, Secretary to the Commission

PULE Commissioner Davis

AMENDED AGENDA

Commissioner Hopkins moved, seconded by Commissioner Lee Loy, to correct Executive Session Item No. 1 to "Personnel Matters." Motion carried unanimously.

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

HAWAIIAN HOMES COMMISSION WORKSHOP/AGENDA

91-5420 Kapolei Parkway, Kapolei, Hawai'i

December 17, 2012, 9:30 a.m. and December 18, 2012, 1:00 p.m.

ORDER OF BUSINESS

Roll Call
Approval of Agenda
Approval of Minutes of August 20-21, 2012

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. Personal Matters

A - WORKSHOP PRESENTATIONS

- A-1 Native Hawaiian Roll Commission
- A-2 Statewide Outreach - Nelson Case and 2013 Legislative Session
- A-3 Agriculture Subdivision Moratorium
- A-4 Direct Loan Portfolio

B - PUBLIC TESTIMONY ON AGENDIZED ITEMS

C - OFFICE OF THE CHAIRMAN

- C-1 NAHASDA - Income Eligibility Manual and DHHL Self-Monitoring Policies and Procedures

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 Loans
- D - DHHL Guarantees for FHA Construction Loans
- D-2 Approval of Various Assignment of Leasehold Interest in Recently Approved Lease Award
- D-3 Ratification of Loan Approvals (see exhibit)
- D-4 Approval of Consent to Mortgage (see exhibit)
- D-5 Schedule of Loan Delinquency Contested Case Hearings (see exhibit)
- D-6 Homestead Application Transfers / Cancellations (see exhibit)
- D-7 Commission Designation of Successors to Application Rights - Public Notice 2011 **Pearl L. Lee** (see exhibit)
- D-8 Reinstatement of Deferred Applications (see exhibit)
- D-9 Adjustment to Residential Waitlist - **Jonah K. Ioane**
- D-10 Ratification of Designation of Successors to Leasehold Interest and Designation of Persons to Receive Net Proceeds (see exhibit)
- D-11 Approval of Assignment of Leasehold Interest (see exhibit)
- D-12 Approval of Amendment of Leasehold Interest (see exhibit)
- D-13 Commission Designation of Successor - **Arthur Manulani Naeole**, Lease No. 11427, Kaupe`a, O`ahu
- D-14 Commission Designation of Successor - **Maggie K. Vincent**, Lease No. 10066, Waiehu Kou 3, Maui
- D-15 Approval to Advance Net Proceeds - **Patrick S. Kahuila** (Dec'd)
- D-16 Approval to Use Cinder From Pu`u Papapa

E - LAND DEVELOPMENT DIVISION

- E-1 Approval of an Agreement of Purchase and Sale of Lands in Waihe`e, Maui in Exchange for the Issuance of DHHL Affordable Housing Credits, Pursuant to Act 141, SLH 2009, as Amended, Hawai`i Revised Statutes

F - LAND MANAGEMENT DIVISION

- F-1 Issuance of Utility and Air-Space License Easement to the U.S. Department of Transportation - Federal Aviation Administration, Keaukaha, Island of Hawai`i

G - PLANNING OFFICE

- G-1 Agreement with the University of Hawai'i, College of Tropical Agriculture and Human Resources for the Purpose of Providing Agricultural Technical Assistance, Island of Hawai'i

H - ADMINISTRATIVE SERVICES OFFICE

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


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.

2. Maui Delinquent Property Tax Update
3. Request for Independent Counsel for Green Energy/HCDC Negotiations
4. Status re: Hale Makana O Nanakuli Project
5. Leighton Pang Kee v DHHL, Civil No. 12-1-2403-09
6. Honokaia Ohana et al. v Masagatani et al., Civil No. 09-1-1615-07
7. In the Matter of Changing Counsel for HHC and DHHL and Changing Administrative Rules

ANNOUNCEMENTS AND ADJOURNMENT

1. Next Meeting – January 14, 2013, Kapolei, Hawai'i
2. Other Announcements
3. Adjournment


Jobie M.K. Masagatani, 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

No community meeting is scheduled for January 2013.

If you require an auxiliary aid or accommodations due to a disability, please contact 808-620-9590 at least five (5) working days prior to the scheduled meeting or email kuuwehi.hiraishi@hawaii.gov.

ITEM D-3 EXHIBIT - Ratification of Loan Approvals

<u>LESSEE</u>	<u>LEASE NO.</u>	<u>AREA</u>
PHILLIPS, Barbara	10163	Waimanalo, Oahu
KIAAINA, Samuel M. & KIAAINA, Randy K.	10162	Waimanalo, Oahu

ITEM D-4 EXHIBIT - Approval of Consent to Mortgage

<u>LESSEE</u>	<u>LEASE NO.</u>	<u>AREA</u>
AKINA, Glen L., etal	9444	Waiehu Kou II, Maui
APANA, Matthew K.	938	Kewalo, Oahu
ASANO, Leah K.	12129	Kaupe'a, Oahu
ASING, Raylord M.	12625	Kanehili, Oahu
AUWAE, Stephen K.	9762	Malu'ohai, Oahu
BROWN, Francis T.K.	11978	Kaupe'a, Oahu
CAMBRA, Brede A.	5207	Nanakuli, Oahu
CAMELLO, Aileen L.	9791	Malu'ohai, Oahu
CARDINES, Wanda K.A.	6281	Keaukaha, Hawaii
DELA CRUZ, Felix	8497	Princess Kahanu Estates, Oahu
ELIA, Anthony B.	8139	Waiakea, Hawaii
FARLEY, Chris S.	6646	Waiahole, Oahu
FARM, Kevin C.B.	12718	Laiopua, Hawaii
HALL, Ronald N.	9372	Kaniohale, Hawaii
HEW LEN, Eugene	11401	Kaupe'a, Oahu
HOYLE-KAMAKAHI, Davrie K.	12110	Kaupe'a, Oahu
INCIONG, Shirles M.Y.	5418	Paukukalo, Maui
JEREMIAH, Wendell W.	7488	Waiohuli, Maui
JOSEPH, Agnes	2248	Waimanalo, Oahu
KAHALEKOMO, Teal Ann K.	3712	Waimanalo, Oahu
KAHOOHANO HANO, Karen M.K.	9745	Malu'ohai, Oahu
KALEIWAHEA, Christopher K.	8592	Nanakuli, Oahu
KAMAI, Jade K., etal	8596	Nanakuli, Oahu
KEALOHA, Keone C.	9417	Kaniohale, Hawaii
KOHOLUA, Lono J.	11420	Kaupe'a, Oahu
KOMENE, Haunani K.	2209	Kewalo, Oahu
KUA, Joseph, Jr.	8678	Anahola, Kauai
LEONG, Calvin H.Y.	9850	Malu'ohai, Oahu
MOKIAO, Matthew K.	5286	Waianae, Oahu
NAEOLE, Jaimie K., etal	4116	Waimanalo, Oahu
PARK, Erika K.	8526	Princess Kahanu Estates, Oahu
PEAHI, Vivian L.	383	Nanakuli, Oahu
RENAUD, Edwin E.K.	10064	Waiehu Kou III, Maui
SAKAI, Lolita	4629	Waianae, Oahu
UESATO, Healani K.P.	9763	Malu'ohai, Oahu
YONAHARA, Merriel U.	4757	Kekaha, Kauai

ITEM D-5 EXHIBIT - Schedule of Loan Delinquency Contested Case Hearings

<u>LESSEE</u>	<u>LEASE NO.</u>	<u>AREA</u>
PIIMANU, Daniel, et al.	3275	Nanakuli, Oahu

ITEM D-6 EXHIBIT: HOMESTEAD APPLICATION TRANSFERS / CANCELLATIONS

APPLICANT

AREA

KALAMA, Genoa K.	Hawaii IW Res
LINDSEY, Carmen K.	Maui IW Res
LINDSEY, Charles N. K.	Hawaii IW Pas
LOW, Beautyann L.	Oahu IW Res
MOKUAU, Patrick	Oahu IW Res
WONG, Ronald P.	Hawaii IW Pas

ITEM D-7 EXHIBIT: CANCELLATION OF DECEASED FROM WAITING LIST, PUBLIC NOTICE 2011

DECEASED APPLICANT

AREA

LEE, Margaret P.	Maui IW Agr
------------------	-------------

ITEM D-8 EXHIBIT: REINSTATEMENT OF DEFERRED APPLICATIONS

APPLICANT

AREA

CARIAGA, Lily Ann	Hawaii IW Res / Hawaii IW Agr
HORN, Kathleen	Hawaii IW Res
KAWAAUHAU, Noel	Hawaii IW Res
SIMEONA, Francis K.	Keaukaha-Waiakea Area Res

* IW = Islandwide

**ITEM D-10 EXHIBIT - Ratification of Designation of Successors to Leasehold Interest and
Designation of Persons to Receive Net Proceeds**

<u>LESSEE</u>	<u>LEASE NO.</u>	<u>AREA</u>
BACLIG, Thomas	Lease No. 7390	Keokea, Maui
GREIG-HONG, Ilima M.	Lease No. 11497	Leialii, Maui
IRVINE, Annie N.	Lease No. 5565	Lualualei, Oahu
KAAHANUI, Hinano T.	Lease No. 12546	Lalamilo, Hawaii
KALEHUAWEHE, Allan G., Sr.	Lease No. 3465	Paukukalo, Maui
KEKONA, George G.K., Sr.	Lease No. 12282	Waiehu Kou 4, Maui
KELIUKOA-KAMAI, Dreena K.	Lease No. 5316	Waianae, Oahu
LILIKOI, Rawlene K.	Lease No. 11463	Leialii, Maui
MARTINEZ, Joan P.	Lease No. 11423	Kaupea, Oahu
MENDOZA, Emma M.	Lease No. 5454	Paukukalo, Maui
NASILAI, Yolanda E.	Lease No. 11542	Leialii, Maui
PAI, Julia K.M.	Lease No. 4471	Waianae, Oahu
PAUOLE, Stanley M.	Lease No. 115F	Hoolehua, Molokai
PURDY, Parrish A.	Lease No. 10494	Waiohuli, Maui
QUINABO, Herman K.	Lease No. 10522	Waiohuli, Maui
RICKARD, Amoy A.	Lease No. 7992	Puukapu, Hawaii
ROY, Corbett O., Sr.	Lease No. 6176	Puukapu, Hawaii
TOLENTINO, Mabel K.A.	Lease No. 2674	Kuhio Village, Hawaii

ITEM D-11 Exhibit - Approval of Assignment of Leasehold Interest

<u>LESSEE</u>	<u>LEASE NO.</u>	<u>AREA</u>
CONTRADES, Ginger M.	Lease No. 6476	Anahola, Kauai
KAHAPEA, Christopher L.	Lease No. 8266	Nanakuli, Oahu
KAHAPEA, Jeffrey F.	Lease No. 8266	Nanakuli, Oahu
KAHAPEA, Nadine V.	Lease No. 8266	Nanakuli, Oahu
KALELEIKI, Samuel H.	Lease No. 10353	Waiohuli, Maui
KAMAI, May K.	Lease No. 669	Waimanalo, Oahu
KAWAAKOA, Shannon K.	Lease No. 6826	Waiakea, Hawaii
KELIIPAAKAUA, Justin K.	Lease No. 11624	Kapolei, Oahu
LUNDBERG, Lorraine K.	Lease No. 11624	Kapolei, Oahu
LOPEZ, Charlotte N.	Lease No. 547B	Hoolehua, Molokai
PAULINO, Ann	Lease No. 1525	Keaukaha, Hawaii
SEALS, Hattie K.	Lease No. 6826	Waiakea, Hawaii
VALENTINE-HALBUNA, Sarah A.	Lease No. 11407	Kaupea, Oahu

ITEM D-12 Exhibit - Approval of Amendment of Leasehold Interest

<u>LESSEE</u>	<u>LEASE NO.</u>	<u>AREA</u>
DUNLAP, Van P.	Lease No. 2250	Waimanalo, Oahu
KAMAI, May K.	Lease No. 669	Waimanalo, Oahu
MANRIQUEZ, Beth K.	Lease No. 7103	Kawaihae, Hawaii
PAULINO, Ann H.	Lease No. 1525	Keaukaha, Hawaii

SPECIAL GUESTS

Governor Neil Abercrombie; Bruce Coppa, Chief of Staff to the Governor; David Louie, Attorney General; and Marvin Wong, Special Assistant to the Governor

MOTION/ACTION

Moved by Commissioner Artates, seconded by Commissioner Hopkins, to adjourn to executive session, to consult with counsel on Item No. 1, Personnel Matters. Motion carried unanimously.

RECESS 9:33 a.m.

EXECUTIVE SESSION

The Commission convened 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 the following issue:

1. Personnel Matters

RECONVENE 11:43 a.m.

MOTION/ACTION

Moved by Commissioner Lee Loy, seconded by Commissioner Hopkins, to convene with the regular meeting. Motion carried unanimously.

AMENDED AGENDA

Moved by Commissioner Lee Loy, seconded by Commissioner Artates, to convene with Item No. F-1 after the "B" agenda items. Motion carried unanimously.

A - WORKSHOPS

ITEM NO. A-1

SUBJECT: Native Hawaiian Roll Commission

Presented by Clyde Namuo, Executive Director, Native Hawaiian Roll Commission, and Lei Kihoi, Commissioner, Island of Hawaii.

C. Namuo said that former Governor Waihee expressed his "aloha", and was unable to attend today's presentation. He listed the names of commissioners who serve on this Native Hawaiian Roll Commission. They are: Robin Danner, Kauai; Mahealani Wendt, Maui; and Naalehu

Anthony, Oahu. Material was distributed, to be made a part of these minutes as Exhibit "A" for Item No. A-1.

In 2011, the Legislature passed a law recognizing native Hawaiians as indigenous people of the State of Hawaii. In addition, a Native Hawaiian Roll Commission (NHRC) was established for the purpose of self-determination, for the enrollment and building of a Native Hawaiian governing entity. Three criteria are necessary to participate in the enrollment process: 1) be a qualified Native Hawaiian, 2) be 18 years or older, and 3) have a significant connection to the Native Hawaiian community, which mirror some of the language in the Akaka Bill that talks about commitment to a Native Hawaiian community. A campaign was initiated in July 2012 with hopes to complete enrollment by July 2013. C. Namuo noted that 500,000 Native Hawaiians live across North America, and approximately 200,000 live in the State of Hawaii. NHRC is seeking the assistance of DHHL to encourage homesteaders to participate in "Kanaiolowalu." Non-Native supporters are welcome to sign the Kue petition. A registry of Native Hawaiians will be forwarded to the Governor's office later in 2013. Commissioner Kihoi noted that there were 54,000 registered Native Hawaiians living on the "Big Island" in a census taken in 2010. She looks forward to working with Commissioners DaMate and Lee Loy in signing up homesteaders. The Kau Inoa registry, conducted by OHA several years ago, signed up over 110,000 people. Thus far, only 10,000 have signed up with Kanaiolowalu.

Emphasis is being placed on getting people enrolled first. Once completed, people will then have an opportunity to discuss how they want the native governing entity to be formed, explained Mr. Namuo. Some people have expressed a sense of mistrust and are afraid it may affect their standing on the waitlist, noted Commissioner Lee Loy.

NHRC attorneys have ensured this would not diminish the rights of the homesteaders, noted Mr. Namuo. It is all that this law is intended to do - to enroll the people. It will be up to the people to say where they want this Native Hawaiian government entity to go; it will not be the decision of the state government. Mr. Namuo is hopeful for an affirmative position from DHHL that encourages all homestead leaderships to make contact with their homesteaders, encouraging them to sign up with Kanaiolowalu.

INTRODUCTION

Chair introduced new DHHL managers: Darrell Young, Information and Community Relations Manager, and Niniau Simmons, NAHASDA Manager. Niniau shared her manao and expressed delight at being part of this administration to help service native Hawaiians. She hails from Hilo and served as the Deputy Director of the Office of Housing and Community Development for the County of Hawaii.

ITEM NO. A-2

SUBJECT: Statewide Outreach - Nelson Case and 2013 Legislative Session

Planning Administrator Darrell Yagodich presented a workshop regarding the Nelson case and the DHHL 2013 legislative session budget. The purposes are to:

- 1 - Educate beneficiaries on different issues by providing information and allowing them to participate if they so chose;
- 2 - Advocate for passage of the budget proposal;
- 3 - Achieve the passage of a significant DHHL budget by the 2013 legislature.

The content provided will deal with several different items and steps:

- 1 - Constitution for the sufficient sums provision -- Article XII of the U.S. Constitution;
- 2 - Judiciary -- the courts weighed in on the interpretation, which brought it to the Nelson lawsuit and the Supreme Court decision, which translated into a sufficient sums budget;
- 3 - Executive branch -- the budget will be submitted to the Legislature;
- 4 - Legislative branch -- the budget will be reviewed and revised, cross over from the senate to the house and the house to the senate, to the conference committee, and then will be approved.

In January, the DHHL newsletter, Ka Nuhou, will be dedicated to this matter and possibly a Ka Wai Ola article will be generated by OHA. The purpose is to encourage everyone to peruse the DHHL website for information. The website will provide specific information of the documents, which will keep people informed on these important issues. Informational meetings will be conducted statewide in January, to address specific information, and copies distributed of the actual documents, to those attending. Commitments will be proffered to form a core group of people willing to testify in the legislative process. Targets will represent beneficiaries and homestead organizations on Oahu, Maui, Molokai, Lanai, Kauai, and Hawaii Island. Teams will be sent to various areas to allow beneficiaries to access the legislative process, and to secure support from others.

The DHHL website will provide an update and homesteaders may assist, as the budget moves through different committees. This plan will keep the people up-to-date on information from a strong position of knowing what is happening, and securing support for DHHL's budget proposal. Commissioner Hopkins thanked the department for including the commissioners as part of the team. Commissioner DaMate said it is critical that beneficiaries become a part of this endeavor.

ITEM NO. A-3

SUBJECT: Agriculture Subdivision Moratorium

Chair Masagatani expressed how this workshop will provide a path for action next month so that items may be clearly articulated when presented. A power-point presentation was provided by Administrator Darrell Yagodich and Planner Bob Freitas, which is being made a part of these minutes as Exhibit "A" to Item No. A-3. Planner Bob Freitas said the moratorium came about for varying reasons. Many of the issues had to do with the management of the Trust; delivering

services to beneficiaries; encouraging successful farming on Hawaiian home lands, and using agricultural lands for its intended purpose.

In 1995, only 5% of the people farmed the lands. Historically, Hawaiian lands were actually based on use. You use the land until such time as you did not need the land and then there was house lot.

When the Mahele occurred, there was a conflict because land, then, got converted to private property. Private property owners now had control and because of that, there has been a tension between the use of the land and ownership (private property) of the land. When speaking of Hawaiian home lands, it is only trust lands, and private principles should not be applied to Hawaiian home lands, noted B. Freitas.

Department of Hawaiian Home Lands (DHHL) spent millions of dollars developing lands for agriculture and pastoral homesteading; there were substantial investments in the land with very few people using the land. In fact, the lands outside of Hawaiian home lands are better suited for agriculture/pastoral usage, expressed B. Freitas. But for DHHL, it was a matter of preserving these lands, especially for food sustainability. There are 1,100 agricultural leases and 400 pastoral leases, statewide. The Hawaii Administrative Rules (HAR) requires that 2/3 of an agriculture lease lot needs to be in compliance with the lease; HAR 10-3-26 provides the authority to subdivide the agricultural and pastoral lands, subject to Hawaiian Homes Commission approval.

A beneficiary study defined what beneficiaries want out of the program. Approximately 75% of applicants on agriculture/pastoral waitlist just want to live in rural areas, but not to raise crops. It was determined that lessees preferred a subsistence lease of 1/2 to 2 acres; 15% of farming lessees want to utilize their leases as defined, and are eager to expand; 10% of the current farming and ranching lessees use their homesteads for large-scale operations. These people lease lands from Kamehameha Schools and private property owners all over the state. These are termed "commercial category." Agriculture leases were last granted in 1986 and pastoral leases were last granted in 1991. The focus, for many years, has been on residential leases -- housing for native Hawaiians. Currently there are 17,000 agricultural applicants and 2,800 pastoral applicants.

In December 1999, the Hawaiian Homes Commission adopted a moratorium to preserve the agricultural lands. The commission created a task force in 1998 to address the issues surrounding the agricultural lands. The motion determined that the moratorium would be in effect until the Agricultural Task Force (Task Force) issued its recommendations. The recommendations were completed on April 29, 2000. The subdivision moratorium was to be in effect until the Hawaiian Homes Commission adopted a clear agricultural program policy that focused on future land development and existing management of agricultural lands.

It was determined that most people wanted a type of subsistence farming. The Task Force looked at lease compliance, which specified that 2/3 of the lot had to be farmed. Many lessees

were non-compliant. Draft plans were created to inform the department of what the lessees intended to grow/raise.

The majority of the lands are not used for crops and larger lots are not being utilized. Many homesteaders built their homes close to the roads and farmed the back portions. As time passed, many lacked the resources to continue; thus, a subsistence-lot lifestyle was deemed more suitable. With homesteaders wishing to subdivide lots, unused lots could be re-awarded.

Developing criteria, to approve a subdivision and allow for the transfer of a portion of a lessee's lot to another family member, is an issue. Adequate infrastructure and meeting county requirements are additional issues needing to be addressed. The question is how many lots should a homesteader have? A model was provided by B. Freitas, where the logic was to have two lots; one for the homesteader and the other for a family member, dividing one acre into ½-acre lots.

Water credits will need to be allocated for subdivided properties, noted B. Freitas. A question arose as to who will be responsible for bearing the cost to develop these subdivided lands -- the department or the homesteader? Other questions arose as to whether, in approving the subdivisions, there would be an obligation to return the lands to the trust. The commission will need to address this and other criteria.

The Chair inquired whether the department's recommendation is to allow the subdivision of "ag" lots, to create a small number of subsistence lots, with the unused balance being returned to the trust. D. Yagodich explained that if a lessee is cultivating 2/3 of their lot, another lot would be proffered, giving the lessee two subsistence lots.

Chair Masagatani requested a recess, upon learning of Senator Daniel Inouye's passing.

RECESS 12:55 p.m.

RECONVENE 1:35 p.m.

ITEM NO. A-3 (cont.)

SUBJECT: Agriculture Subdivision Moratorium

D. Yagodich noted that for homesteaders who were in compliance, utilizing 2/3 of their lots, two subsistence lots would be created; one to live on, the other to farm. Commissioner Lee Loy said he would advocate for those in compliance with their lease, to allow them to transfer a portion of their lease to a qualified applicant. He asserts the commission should address those lands that are not being utilized by reviewing all agricultural lands. Commissioner Hopkins inquired whether the award of two subsistence lots is consistent with the new "ag" program of 1/2 acre and how the department defines subsistence lots. Originally, it was designed to address the growing of crops and livestock to serve a family's needs, explained B. Freitas. The size would vary depending on the quality of lands. It was determined by the Task Force that 1/2 acre to 4 acres would be adequate. Based on a 10-acre Puukapu subsistence lot, a two-animal subsistence lot was deemed adequate for home use consumption. Based on his discussions with

farmers, Commissioner Hopkins indicated 2 acres appeared appropriate. Commissioner DaMate stated topography and good agricultural lands should determine how much land one should be awarded. Commissioner Aiu expressed concern that lands would continue to be cut up, leaving the future dim for larger productive farming. Commissioner Davis said families with 40 acres on Molokai feel compelled to farm, where siblings have partnered together to farm their 40 acres and kupuna who live on 40-acre farm lots have no ohana to live nearby. The discussion will continue later, noted Chair.

ITEM NO. A-4

Direct Loan Portfolio (deferred)

ITEM B -PUBLIC HEARING

Bo Kahui, Laiopua 2020, Testimony on Item C-1 re: NAHASDA - Laiopua 2020 submitted a \$14.8 million grant initiative under model activities for a community health development and seeks to have this matter expedited. With that approval, they can leverage more capital to bring their project to fruition. With the hiring of a new NAHASDA manager, the goal is to have a recommendation by next month, articulated Chair Masagatani.

Blossom Feiteira, President, Association of Hawaiians for Homestead Lands (AHHL), Testimony on Item A-1 re: Native Hawaiian Roll Commission - Ms. Feiteira supports partnering with other Hawaiian agencies, sharing information, and making informed decisions when necessary. Item A-3 re: Agriculture Moratorium -- She supports the removal of the moratorium and requested that the commission review the agriculture and pastoral leases on a case-by-case basis. Item C-1 re: Income Eligibility Manual and DHHL Self-Monitoring Policies and Procedures -- Asked whether department will utilize its own eligibility process or require grant-recipients to determine eligibility. Special Assistant K. Mills noted that the idea of the Income Eligibility plan is to have both the department and grant-recipients abide by the manual. Ms. Feiteira requested that Paukukalo Boys and Girls Club of Maui be exempt from procedures and policies as staff refrains from utilizing this type of procedure in determining eligibility. Item E-1 re: Sale of Lands in Waihee, Maui and Exchange for DHHL Affordable Housing Credits -- AHHL supports this proposal as it would advance beneficiaries to be on the land. Maui lacks a kupuna housing program, and Ms. Feiteira appreciates the department addressing this matter. Item H-1 re: Transfer of Hawaiian Home Receipts Money -- Ms. Feiteira opposes the transfer of funds into the Hawaiian Home Administration Account. With the commission's decision to not endorse the transfer, 9% would then go in the operating fund and 91% to the general loan fund. Item 2 Executive Session re: Maui Delinquent Property Tax -- Ms. Feiteira recommended the department pay off the debt. Item 3 Executive Session re: Independent Counsel for Green Energy/HCDC Negotiations -- Ms. Feiteira approves this action. Item 4 Executive Session re: Hale Makana O Nanakuli Project -- Ms. Feiteira supports this project. She addressed the history of Menehune Development and its demise when they walked away from numerous unfinished projects. The department made good on all of these projects by finishing all of those homes.

After five years, Ms. Feiteira surmised that lessees continue to pay 8% interest on their construction loan, and are, thus, unable to acquire outside financing. Ms. Feiteira requested the department assist the 117 families who are in this predicament. Chairman will assign Executive Assistant Derek Kimura, with Homestead Services Administrator Dean Oshiro, to address the matter regarding these loans. A revised policy on the interest rate was introduced recently for lessees who comply with mortgage loans, added the Chairman.

Kawai Warren, President, Kekaha Hawaiian Homestead Association (KHHA), testimony on Item A-1, re: Native Hawaiian Roll Commission -- Mr. Warren read verbatim, his testimony in support of the Native Hawaiian Roll Commission. Mr. Warren's testimony is to be made a part of these minutes as Exhibit "A" of Item B.

Kekoa Enomoto, Secretary, Keokea Homestead Farm Lots Association and Waiohuli Undivided Interest Lessees Association, testimony on Item E-1 re: Sale of Lands in Waihee, Maui and Exchange of DHHL Affordable Housing Credits -- Ms. Enomoto is in total agreement with the additional purchase of lands in Waihee for homesteading purposes. Ms. Enomoto read verbatim her testimony, to be made a part of these minutes as Exhibit "B" of Item B.

Mike Hodson, President, Waimea Hawaiian Homestead Association, Testimony on Item A-3 re: Agriculture Subdivision Moratorium -- Mr. Hodson testified that each homestead district is different on subsistence farming. Agricultural farmers are not farming the lands and no technical assistance is being provided. His recommendation is to prepare farming by formulating a partnership with the university agriculture system on each island, with each homestead area becoming food-secure. He believes this is the plan that should be addressed. Item D-16 re: Cinders from Puu Papapa - Mr. Hodson was upset that the West Hawaii District Manager was responsible for the closure of the cinder removal from Puu Papapa. He witnessed cinder being mined as U.S. Fish and Wildlife Services personnel conducted an inspection. He believes it should be a privilege for everyone. With regard to water issues in the state, he recommended a committee comprised of homestead associations partner with DHHL to exert native rights on water issues. The Office of Hawaiian Affairs has a curriculum to educate Boards and Commissions that have jurisdiction over natural resources about Native Hawaiian rights, noted Chair. Chair asked Mike Hodson his manao on the CTAHR program. He believes it was a waste of money to spend \$250,000 annually for technical assistance and not establish new farmers after 10 years. He is not opposed to hiring a CTAHR agent for Makuu and Panaewa farmers.

The Chair requested to have Item E-1 addressed after the "F" Items.

MOTION/ACTION

Moved by Commissioner Lee Loy, seconded by Commissioner Artates. Motion carried unanimously.

ITEM NO: F-1

SUBJECT: Issuance of Utility and Air-Space License Easement to the U.S. Department of Transportation - Federal Aviation Administration, Keaukaha, Island of Hawaii

RECOMMENDATION

Acting Property Development Supervisor Kahana Albinio recommended the issuance of a license to FAA for a utility airspace license located in Keaukaha, Island of Hawaii, which is located near the Hilo Airport. A power point presentation was provided at last month's meeting.

MOTION

Moved by Commissioner Lee Loy, seconded by Commissioner DaMate.

DISCUSSION

Commissioner Hopkins perceived the annual rent to be inadequate and asked for guidance from other commission members. K. Albinio recommended the word "perpetual" be removed from Page 1, second paragraph. "Approval and issuance of this ~~perpetual~~ utility and restricted...." Darice Young, FAA Contracting Office, clarified that the site of the VORTAC is located on State of Hawaii, Department of Land and Natural Resources land, at no cost. The other portion of the restricted area contains three different State government entities. The third portion belongs to the Department of Transportation, Airports Division, at no cost. This facility is purely for public benefit and is critical to the State of Hawaii. This VORTAC (navigational beacon) is a necessity due to mountainous areas that may block signals to the region. Commissioner Lee Loy supports the recommendation due to the safety factor to the community. He recommended FAA communicate with a homestead association to allow someone from the community to assist in the maintenance and care of the area as a benefit to the community, barring any restrictions.

ACTION

Motion carried unanimously.

ITEM NO: E-1

SUBJECT: Approval of an Agreement of Purchase and Sale of Lands in Waihee, Maui in Exchange for the Issuance of DHHL Affordable Housing Credits, Pursuant to Act 141, SLH 2009, as Amended, Hawaii Revised Statutes

RECOMMENDATION

Administrator Sandra Pfund, Land Development Division recommended approval in principle of terms and conditions to enter into an agreement of purchase of lands in Waihee, Maui, from landowner NP7 LLC, a Hawaii limited liability company, in exchange for DHHL affordable

housing credits and further asked the Hawaiian Homes Commission to authorize the chairman to finalize and execute an agreement of purchase of sale pursuant to the substantive terms and conditions of the sale described today. The department is authorized to enter into a developer agreement for available lands for homestead projects. Under Act 141, SLH 2009, and further amended in 2011, the department is authorized to utilize affordable housing credits to attract more affordable homestead opportunities. Affordable housing credits were received through this Act based on existing homesteads already developed, such as on Lanai and in other areas on Maui. In October 2010, a proposal was made for a parcel of land approximately 12 acres in size for affordable housing credit. Current land owner is NP7 LLC. The department is suggesting 56 affordable housing credits in exchange for 12.834 acres near existing Waiehu Kou projects, which can be developed for homestead use and/or a possible kupuna housing project. S. Pfund listed some of the key terms and conditions. An environmental review record (ERR) needs to be completed first, which would then bring this land purchase into compliance with federal funding requirements for NAHASDA and USDA-RD. The lots would be similar to lot sizes in Waiehu Kou. The value of the property is worth \$4.5 to \$5 million. The value of 56 credits per parcel is \$80,357 to \$89,286 per lot.

DISCUSSION

Glenn Yamasaki of NP7 LLC addressed the commission and thanked staff for moving this project forward for the benefit of the beneficiaries on Maui. He introduced consultant Bobby Hall of Aukai Pacific and attorney Stan Manuia. Mr. Yamasaki noted that the lands are ideal for homestead lands with sewage capacity and immediate access to Kahekili Highway. They will work with the County of Maui to acquire the ERR approval. Credits received from the department will be workable on Maui. Commissioner Artates thanked Mr. Yamasaki for taking on the risks and expressed how gratifying it is to hear similar comments from both applicants and homestead communities on Maui and he believes the department will receive equitable value in this exchange.

The Chair reiterated that this is a 56-affordable credits transaction in exchange for land. No determination has been made as to what will be developed, be it homesteading or kupuna housing. Commissioner Hopkins questioned whether engaging in this type of transaction would be adverse to our normal process in land acquisitions. Deputy AG Bush said he is awaiting a response from Lisa Oshiro of the Department of Interior. After further discussion, Commissioner Hopkins recommended to append to the second paragraph, page 1, herein below **"as outlined in #3 Discussion, Items A - F.**

MOTION

Moved by Commissioner Hopkins, seconded by Commissioner DaMate, to append to paragraph two, page 1, herein below **"as outlined in #3 Discussion, Items A - F.**

DISCUSSION

S. Pfund clarified these credits are affordable housing credits under Act 141, which states that if affordable housing units are created, the County affords one (1) credit per house lot, which is

different from a tax credit. If the substantial terms are signed off as an agreement of purchase, the transfer of land would likely occur within nine (9) months due to the ERR process. During this time, NP7 LLC would complete their due diligence with the County of Maui to ensure these credits are marketable for this transaction. With each house that is built, the department receives one (1) credit. There needs to be a separation on how we got the credits, as opposed to how NP7 LLC could utilize them, added Development Officer Norman Sakamoto. Neighbor island counties are not comfortable with the legislature giving the Department of Hawaiian Home Lands this added bonus and are going after the legislators as being too generous. In the meantime, we should defend receiving this credit and allow people that we transfer the credit to, an ability to utilize it to a greater extent.

On a separate matter, the Chair informed the commission that the department received \$1 million from Everett Dowling for affordable housing credits this year that will permit the department to utilize trust funds for other activities on Maui.

ACTION

Motion carried unanimously.

ITEM NO: C-1

SUBJECT: NAHASDA - Income Eligibility Manual and DHHL Self-Monitoring Policies and Procedures

RECOMMENDATION

Special Assistant Kamanao Mills and NAHASDA Manager Niniau Simmons appeared before the commission to adopt written policies to be used for the department's compliance and implementation of the NAHASDA program as required by the Department of Housing and Urban Development (HUD), for the use of Native Hawaiian Housing Block Grant (NHHBG) funds.

MOTION

Moved by Commissioner Lee Loy, seconded by Commissioner Hopkins.

DISCUSSION

After a federal audit in July 2012, it was recommended that a manual, with policies in place, be approved by this commission. It affords documentary evidence to prove that the program participant is at 80% or below median income. Once a recipient is certified 80% or below median income (BMI), it is not required that they be recertified, noted K. Mills. Chair inquired whether the NAHASDA program may be revised after six-months of implementation, to which K. Mills responded that regulatory monitoring is maintained quarterly, and any varying changes will be incorporated into the manual. One of the recommendations is to provide training and technical assistance to the grant recipients, in addition to distributing these manuals.

Commissioner Hopkins recommended that staff review the eligibility policy, again, to clarify whether the department or the commission needs to approve operational matters. Chair proposed that those matters be made distinct. Commissioner Hopkins thanked staff for a well-written, unique policy.

ACTION

Motion carried unanimously.

MOTION/ACTION

Moved by Commissioner Lee Loy, seconded by Commissioner Kahikina to address Item D-16.
Motion carried unanimously.

ITEM NO: D-16

SUBJECT: Approval to Use Cinder From Puu Papapa

RECOMMENDATION

Acting Homestead Services Division Administrator Dean Oshiro recommended that approval be granted to West Hawaii District Office to utilize cinders from Puu Papapa for homestead road maintenance, as addressed by West Hawaii District Supervisor, Jim DuPont.

MOTION

Moved by Commissioner Lee Loy, seconded by Commissioner Hopkins.

DISCUSSION

Commissioner DaMate disagreed with a few of the steps proposed. Having a botanist survey the area is unnecessary as Waimea residents are knowledgeable with the area's vegetation. Testimony by Maxine Kahaulelio indicated that the roads were never repaired with cinder, noted Commissioner DaMate. She requested that President Mike Hodson, Waimea Hawaiian Homestead Association (WHHA) testify as to the amount of cinder that is left. Mr. Hodson estimated that 1/100th of a section of cinder, was removed.

Commissioner DaMate noted that WHHA offered to be in charge of the distribution of the cinders through a log-in process, and to fence in the areas where the Nehe (plant) could be protected. Mike Hodson said that the community volunteered to fence in the area; however, 90% of the plants were estimated to be destroyed. Taking charge of the maintenance would be a difficult task for them, as the community lacks the capacity to oversee the operation, and heavy equipment would be deemed necessary. Mr. Hodson conveyed that Jim DuPont kept a log for the removal of cinder, and added that the problem lies with the cinders being laid down and graded, instead of rolled and compacted when repairs are made. Until this matter is corrected, it will continue to be troublesome.

U.S. Fish and Wildlife Services ceased the mining of cinders, until decisions and assessments are completed by a botanist, noted Commissioner Lee Loy; it would be inappropriate to proceed without a recommendation from them. Chair requested that the motion be withdrawn, as there appears to be a lack of information to make a sound decision. It was noted that the latest process which proved viable for cinder removal was to: a) contact West Hawaii District Office (WHDO), b) present an approved green slip at the station site, c) log the cinder removal amount, and d) return the green slip. Commissioner Hopkins suggested opening the puu for everyone, thus not restricting it for DHHL use only. Mike Hodson concurred with this proposal.

MOTION WITHDRAWN

Commissioner Lee Loy withdrew his motion.

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 Assignment of Leasehold Interest in Recently Approved Lease Award

MOTION/ACTION

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

ITEM NO: D-3

SUBJECT: Ratification of Loan Approvals (see exhibit)

MOTION

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

ITEM NO: D-4

SUBJECT: Approval of Consent to Mortgage (see exhibit)

MOTION/ACTION

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

ITEM NO: D-5

SUBJECT: Schedule of Loan Delinquency Contested Case Hearings (see exhibit)

MOTION/ACTION

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

ITEM NO: D-6

SUBJECT: Homestead Application Transfers/Cancellations (see exhibit)

MOTION/ACTION

Moved by Commissioner Artates, seconded by Commissioner, to defer this item until the following day's agenda. Motion carried unanimously.

ITEM NO: D-7

SUBJECT: Commission Designation of Successors to Application Rights - Public Notice 2011, Pearl L. Lee (see exhibit)

MOTION/ACTION

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

ITEM NO: D-8

SUBJECT: Reinstatement of Deferred Applications (see exhibit)

MOTION/ACTION

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

ITEM NO: D-9

SUBJECT: Adjustment to Residential Waitlist - Jonah K. Iaone

MOTION/ACTION

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

ITEM NO: D-10

SUBJECT: Ratification of Designation of Successors to Leasehold Interest and Designation of Persons to Receive Net Proceeds (see exhibit)

MOTION

Moved by Commissioner Hopkins, seconded by Commissioner Artates.

DISCUSSION

Commissioner Hopkins requested to have Corbett O. Roy (Roy, Sr.) Puukapu Lot 15-C, be deferred until the request by Corbett Roy, Jr. (Roy, Jr.) to proceed with a contested case hearing is addressed. In consultation with the AG's office, this matter appears to be a civil matter, not a departmental issue, expressed Homestead Services Division Acting Administrator D. Oshiro. There needs to be evidence that a law or rule was broken, and documentation needs to be presented. Thus far, Roy, Jr. has presented no documentation to this department. Homestead Services Division, District Supervisor Juan Garcia, noted that the lessee, Roy, Sr., is exercising his right to designate a person to succeed to his lease upon his death. Part of the filing of that designation required the ratification by this commission; thus, the purpose of today's presentation. The decision to hold up the ratification does not remove the effectiveness of the designation of successor (DS). Upon his death, the department would still require a designation of successor be ratified by the Hawaiian Homes Commission to effectuate that designation. The person named is already qualified. Commissioner Lee Loy suggested that Roy, Jr. submit material within a certain timeframe. Deputy AG Bush recommended that Roy, Jr. secure his own counsel, and get his paperwork done, because this is a designation of successor that has already been filed with the department. He explained that the moment his father dies, the department asks the commission to ratify the DS. At that point, it would be too late for Roy, Jr. to come forward to contest it, if he needs to take it to another venue, or if he decides to sue his father's estate for the \$96,000. Based on discussions, Chair recommended that staff encourage Roy, Jr. to file the paperwork no later than 45 days.

AMENDED MOTION/ACTION

Moved by Commissioner Hopkins, seconded by Commissioner DaMate to remove Item 17 from this D-10 submittal. Motion carried unanimously.

DISCUSSION

Based on what Roy, Jr. has asserted, the department encourages Roy, Jr. to produce his documents, as there appears to be conflict on what the department has on file, as opposed to his statement, noted D. Oshiro. Chair recommended that staff follow up on: 1) what transpired between Roy, Jr. and staff and 2) a letter to Roy, Jr. requesting documentation to be submitted no later than 45 days.

ACTION

Motion carried unanimously.

ITEM NO: D-11

SUBJECT: Approval of Assignment of Leasehold Interest (see exhibit)

MOTION/ACTION

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

ITEM NO: D-12

SUBJECT: Approval of Amendment of Leasehold Interest (see exhibit)

MOTION/ACTION

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

ITEM NO: D-13

SUBJECT: Commission Designation of Successor - Arthur Manulani Naeole, Lease No. 11427, Kaupea, Oahu

RECOMMENDATION

Two actions are being requested: 1) dispense with public notice required as Mr. Naeole did not name a designated successor and 2) approve his wife, Miriam Kehaulani Waialae Naeole, as a successor.

MOTION/ACTION

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

ITEM NO: D-14

SUBJECT: Commission Designation of Successor - Maggie K. Vincent, Lease No. 10066, Waiehu Kou 3, Maui

MOTION/ACTION

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

ITEM NO: D-15

SUBJECT: Approval of Advance Net Proceeds - Patrick S. Kahuila (Dec'd)

MOTION/ACTION

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

ITEM NO: G-1

SUBJECT: Agreement with the University of Hawaii, College of Tropical Agriculture and Human Resources for the Purpose of Providing Agricultural Technical Assistance, Island of Hawaii

RECOMMENDATION

Darrell Yagodich, Planning Office Administrator, recommended to the commission to amend the operating budget to re-program \$100,000 in the administration account for professional services, to provide agricultural technical assistance on the Island of Hawaii; and to authorize the Chairman to negotiate and procure the services of the University of Hawaii, College of Tropical Agriculture and Human Resources (CTAHR).

MOTION

Moved by Commissioner Lee Loy, seconded by Commissioner Hopkins.

DISCUSSION

According to D. Yagodich, the Native Hawaiian Development Plan was approved in January 2012 for Molokai Island, pending discussions with Hawaii Island homesteaders in terms of services they required. President Mele Spencer, Keaukaha-Panaewa Farmers Association (KPFA), called a meeting among Hawaii Island homesteaders to organize an advisory committee to plan for CTAHR services that are needed, to review CTAHR's progress semi-annually, and to

identify any recommended changes to provided services. Approval by the commission would begin the process toward obtaining agricultural technical assistance for KPFA members and for other Hawaii Island homesteaders. Services of an agent would cost approximately \$100,000, which would include travel benefits and opportunity to attend conferences, noted D. Yagodich. Due to the vast areas on Hawaii Island, Commissioner Lee Loy maintains a full-time agent is warranted. Comparatively, costs to cover an entry-level agent for Molokai, is \$95,000 annually. Planner Bob Freitas added that the department is able to leverage the services of experts such as Mike DuPonte, a livestock expert, and other farm experts who provide direct assistance to the agent. The Chair noted that the Department of Agriculture (DOA) may place additional staff to assist DHHL and DLNR (Department of Land and Natural Resources) in these areas. The Chair further noted that there needs to be accountability on delivery of service that is responsive to the beneficiaries.

ACTION

Motion carried unanimously.

ADMINISTRATIVE SERVICES OFFICE

ITEM NO: H-1

**SUBJECT: Transfer of Hawaiian Home Receipts Money at the End of the Third 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 December 31, 2012 to the Hawaiian Home Administration Account.

MOTION

Moved by Commissioner Aiu, seconded by Commissioner DaMate.

DISCUSSION

Chair inquired what are the risks to the Trust should the money not be transferred. There is no impact to the Trust, noted R. Lau. A formula in the Hawaii Administrative Rules (HAR) stipulates that 91% is transferred to the general loan fund, while the 9% balance is placed in the operating fund, if no action is taken by the commission. Should funding be zilch, then, a shortage will occur in the 2014 budget. Cash balances are accumulating in the administration account in the event there is not enough funding from the general fund to pay salaries and other operational expenses.

The original request from DHHL is for \$25 million and Governor Abercrombie is requesting \$14.6 million from the legislature in general funding. Should the department be approved for

enough general funds, receipts transfers to the loan fund may commence in June 2013. The general loan fund currently has \$10.8 million available for lending and the Hawaiian Home Loan Fund has \$2.6 million available, conveyed R. Lau.

Commissioners Kahikina and Hopkins shared their concern on the potential litigation of the Nelson case, to which Deputy AG Bush recommended they seek advisement from the assigned attorney to the case. Chair recommended deferring discussion on the Nelson issue until tomorrow, to allow for consultation with staff and its attorney.

Note: Items H-1 and D-6 and discussions on the Agriculture Moratorium will be addressed tomorrow, and included in executive sessions.

MOTION/ACTION

Moved by Commissioner Hopkins, seconded by Commissioner Artates to recess the regular meeting until 1:00 p.m., tomorrow.

RECESS 5:05 p.m.

HAWAIIAN HOMES COMMISSION
Minutes of December 18, 2012
Meeting Held in Kapolei, Oahu

PULE Commissioner Kahikina.

RECONVENE 1:00 p.m.

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

COUNSEL S. Kalani Bush, Deputy Attorney General.

ITEM NO: D-6

SUBJECT: Homestead Application Transfers / Cancellation (see exhibit)

RECOMMENDATION

This matter is continued from the previous day's agenda, to confirm that Ms. Carmen K. Lindsey is the new lessee of Lot No. 140, Waiohuli, Maui. Based on this confirmation, Ms. Lindsey's application can now be canceled from the application listing.

MOTION/ACTION

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

ITEM NO: H-1 (cont)

SUBJECT: Transfer of Hawaiian Home Receipts Money at the End of the Second Quarter, FY 2013

AMENDED RECOMMENDATION

Administrative Services Officer Rodney Lau amended an earlier recommendation which will now read "that the Commission approve the transfer of the entire receipts deposited into

the Hawaiian Homes Receipts Fund as of December 31, 2012, to the Hawaiian Home Trust Fund."

MOTION

Moved by Commissioner Artates, seconded by Commissioner Hopkins.

DISCUSSION

The department is uncertain what the cash demands for trust funds will be until the legislature determines the amount of general funding DHHL will receive for its administrative and operational costs. R. Lau proposed to deposit the entire receipts received in the Hawaiian Home Receipt Fund for this quarter into the Hawaiian Home Trust Fund until May 2013. By May, the legislature would have decided on DHHL's general fund budget.

Commissioner Hopkins read verbatim from Section 213 (h) of the Hawaiian Homes Commission Act "(h) Hawaiian home trust fund: Except for gift requests and other moneys given for designated purposes, moneys deposited into this fund shall be available for transfer into any other fund or account authorized by the Act or for any public purpose deemed by the commission to further the purposes of the Act. Public purpose, as used herein, includes the formation of an account within the Hawaiian home trust fund as a reserve for loans insured or guaranteed by Federal Housing Administration, Department of Veteran Affairs, or any other federal agency and their respective successors, and assigns, which are authorized to insure guarantee loans...."

Chair entertained a question in relation to the transfer of funds to an administration account, and whether this would be deemed a violation as it relates to the Nelson case. Deputy AG Bush recommended addressing this matter in executive session.

MOTION/ACTION

Moved by Commissioner Hopkins, seconded by Commissioner Aiu to adjourn in executive session to address Item H-1.

RECESS 1:12 p.m.

EXECUTIVE SESSION

The Commission convened 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 the above-mentioned matter.

RECONVENE 1:18 p.m.

MOTION/ACTION

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

ITEM NO: H-1 (cont)

SUBJECT: Transfer of Hawaiian Home Receipts Money at the End of the Second Quarter, FY 2013

DISCUSSION

Chair inquired as to which account was Everett Dowling's affordable housing tax credit money deposited into. According to R. Lau, it was placed in the Hawaiian Home Land Trust Fund, which may restrict spending on the island of Maui.

ACTION

Motion carried unanimously.

A - WORKSHOP

ITEM NO: A-3

Agriculture Subdivision Moratorium

DISCUSSION

Commissioner Lee Loy presented two scenarios to the agriculture subdivision moratorium:

1) request for subdivision for leases not in compliance with a lease and 2) leases in compliance that want subdivisions.

Item 10-3-26(f) - provision in HAR (Hawaii Administrative Rules) was suspended due to a moratorium. A request was prompted by this commission to revisit these provisions, separate from the agriculture policy. Chair called for a short recess to allow commission members to review the agriculture workshop material.

RECESS 1:25 p.m.

RECONVENE 1:30 p.m.

MOTION/ACTION

Moved by Commissioner Hopkins, seconded by Commissioner Aiu to adjourn in executive session to consult with its attorney on this matter. Motion carried unanimously.

RECESS 1:30 p.m.

EXECUTIVE SESSION

The Commission convened 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 the following matter:

1. Moratorium on Ag and Pastoral Leases

RECONVENE 2:10 p.m.

MOTION/ACTION

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

MOTION/ACTION

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

RECESS 2:12 p.m.

EXECUTIVE SESSION

The Commission convened 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 the following matters:

2. Request for Independent Counsel for Green Energy/HCDC Negotiations
3. Maui Delinquent Property Tax Update
4. Leighton Pang Kee v. DHHL, Civil No. 12-1-2-2403-09
5. Honokaia Ohana et al., v. Masagatani et al., Civil No. 09-1-1615-07
6. Personnel Issues (cont.)

RECONVENE 5:24 p.m.

MOTION/ACTION

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

MOTION/ACTION

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

ADJOURNMENT 5:24 p.m.

ANNOUNCEMENTS AND ADJOURNMENT

NEXT MEETING Next meeting to be held on January 14, 2013, Kapolei, Hawaii.

ANNOUNCEMENT No community meeting is scheduled for January 2013.

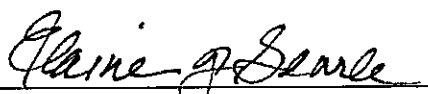
ADJOURNMENT 5:24 p.m.

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
November 19, 2013



Jobie M. K. Masagatani, Chairman
HAWAIIAN HOMES COMMISSION

HAWAIIAN HOMES COMMISSION

SIGN IN SHEET TESTIMONY

Date & Time: DEC 17 2012
 Re: HHC AGENDA
 Location: 91-5420 Kapolei Parkway

FULL NAME (PLEASE SIGN)	ADDRESS (STREET, CITY, ZIP)	Reference ITEM NO.	TELEPHONE
1. Bo Kahui	74-5599 Luani St. Kaneohe	C-1	808-8962252
2. Blomman Futina	AHNL	C-1, E-1, G-1, H-1,	Excellence - # 2347
3. Kawai Umanu	Kekaha (Kauai) Homeless	A-1	639-2731
4. Kekoa Enomoto	393 Puao Dr., Kalaheo	E-1	276 2713
5. Mike Hodson	Kamuela HI	AG /awder	640-3453
6. Alice Greenwood/Kaholo	85-1367 Kamaileua St		377-8958
7.			
8.	Dec 18, 2012		
9.	N/A		
10.			
11.			
12.			

HAWAIIAN HOMES COMMISSION

WORKSHOP A-2

STATEWIDE OUTREACH NELSON CASE AND 2013 LEGISLATIVE SESSION BY PLANNING OFFICE

DECEMBER 19, 2012

PURPOSE

- Education
- Advocate, Participate
- Passage of Significant DHHL Budget by 2013 Legislature

CONTENT

Legal Authority: Article XII Hawaii State Constitution
Judicial: Nelson Lawsuit, Hawaii Supreme Court Decision
Administrative: Budget Proposals by DHHL, Executive Branch
Legislative: Budget Review and Revision Process and Access

DHHL KANUHO & OHA KA WAI OLA ISSUES, JANUARY 2013

Content: General Information
Process: Printed Material to Read
Target: 27,000 Homestead Applicants and Lessees; OHA voters
Result: Directed to Use DHHL Website for More Information and
How to Participate

DHHL BUDGET WEBSITE, JANUARY 2013

Content - More Specific Information, Copies of Documents
Process: Printed Material to Read and Capacity to Discuss and
Comment
Target: Those Wanting More Information; Participate in
Legislative Process
Result: Access Legislative Process to Support Passage of Budget

HHC Item No. A-2
Exhibit A
Date 12-17-12

INFORMATIONAL MEETINGS STATEWIDE, JANUARY 2013

Content - Summary and More Specific Information, Copies of Documents

Process: Presentation, Discussion, Follow-up, and Commitment to Support

Target: Representatives of Beneficiary and Homestead Organizations on Oahu, Kauai, Maui, Molokai, Lanai, and Hawaii

DHHL Team: Island HHC, OCH, ICRO, Planning, District Office

Result: Access Legislative Process, Active Support Passage of Budget, Secure Support of Others

DHHL BUDGET WEBSITE, FEBRUARY TO MAY 2013

Content - Updated Information

Process: Printed Material to Read and Capacity to Discuss and Comment

Target: Those Wanting More Updated Information; Participate in Legislative Process

Result: Access Legislative Process to Support Passage of Budget

Hawaiian Homes Moratorium on Subdivision of Agriculture and Pastoral Leases

HHC Workshop

December 17, 2012

HHC Item No. A-3
Exhibit A
Date 12-17-12

HHCA and Administrative Rules

- HHCA-Section 207 authority to lease homestead, 208 Conditions of Lease (1,101 agriculture and 407 pasture leases)
- Admin Rules 10-3-26, homesteader must use 2/3 of lot and subdivision allowed subject to HHC approval
- 10-3-38 subdivision and transfer of a portion of residential lease

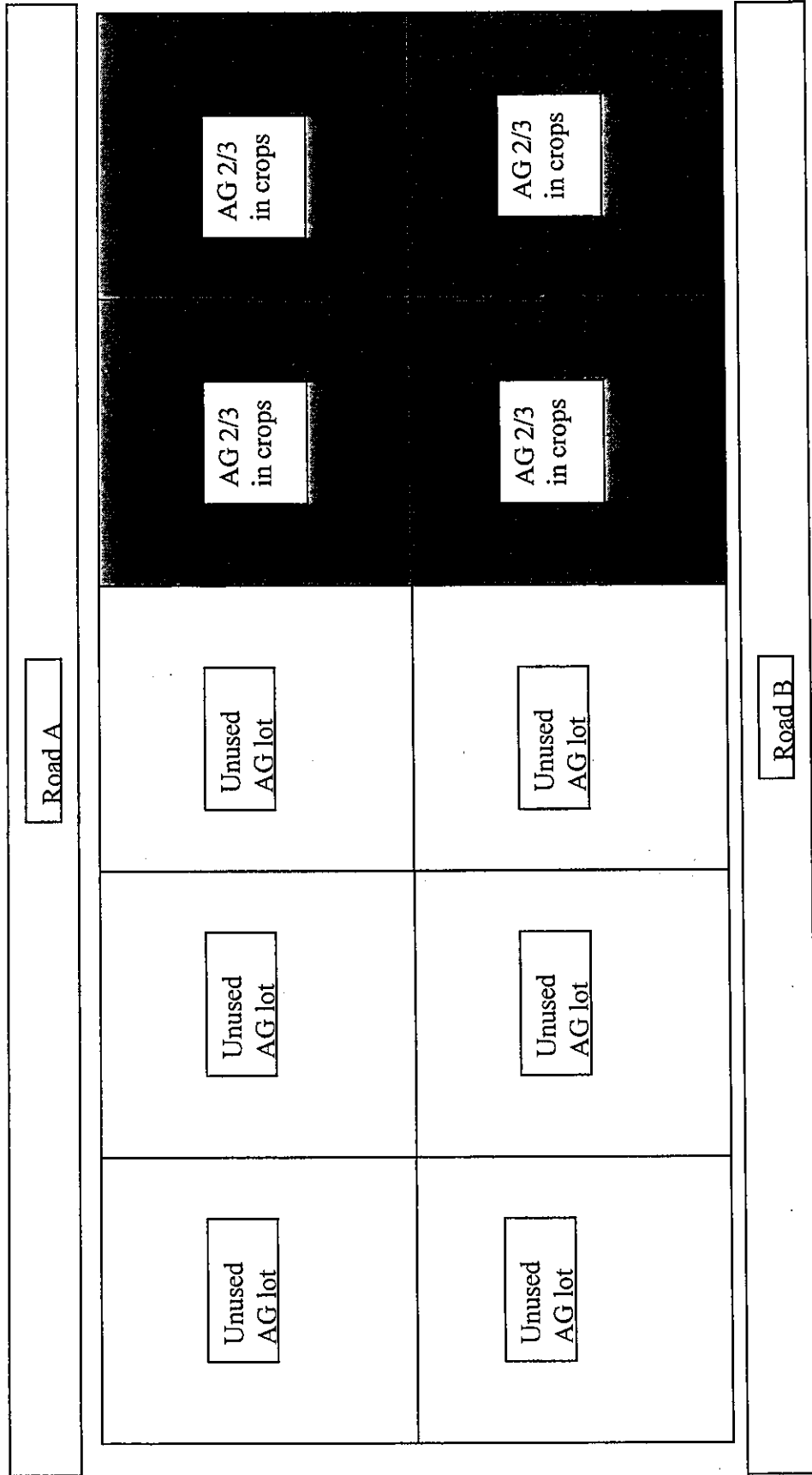
HHC Moratorium on Subdivision of Homestead Leases December 14, 1999

- The HHC unanimously passed agenda item B-9 which was renumbered to item B-12 which formally placed a moratorium on all subdivisions involving agriculture and pastoral homestead leases. (*goal to preserve limited DHHL Agricultural lands*)
- The motion stated that the moratorium would be in effect until the DHHL Agricultural Task Force issues recommendations for HHC action.
- The motion further authorized those subdivision requests made prior to December 1, 1999 to be processed.

AG Task Force Recommendations

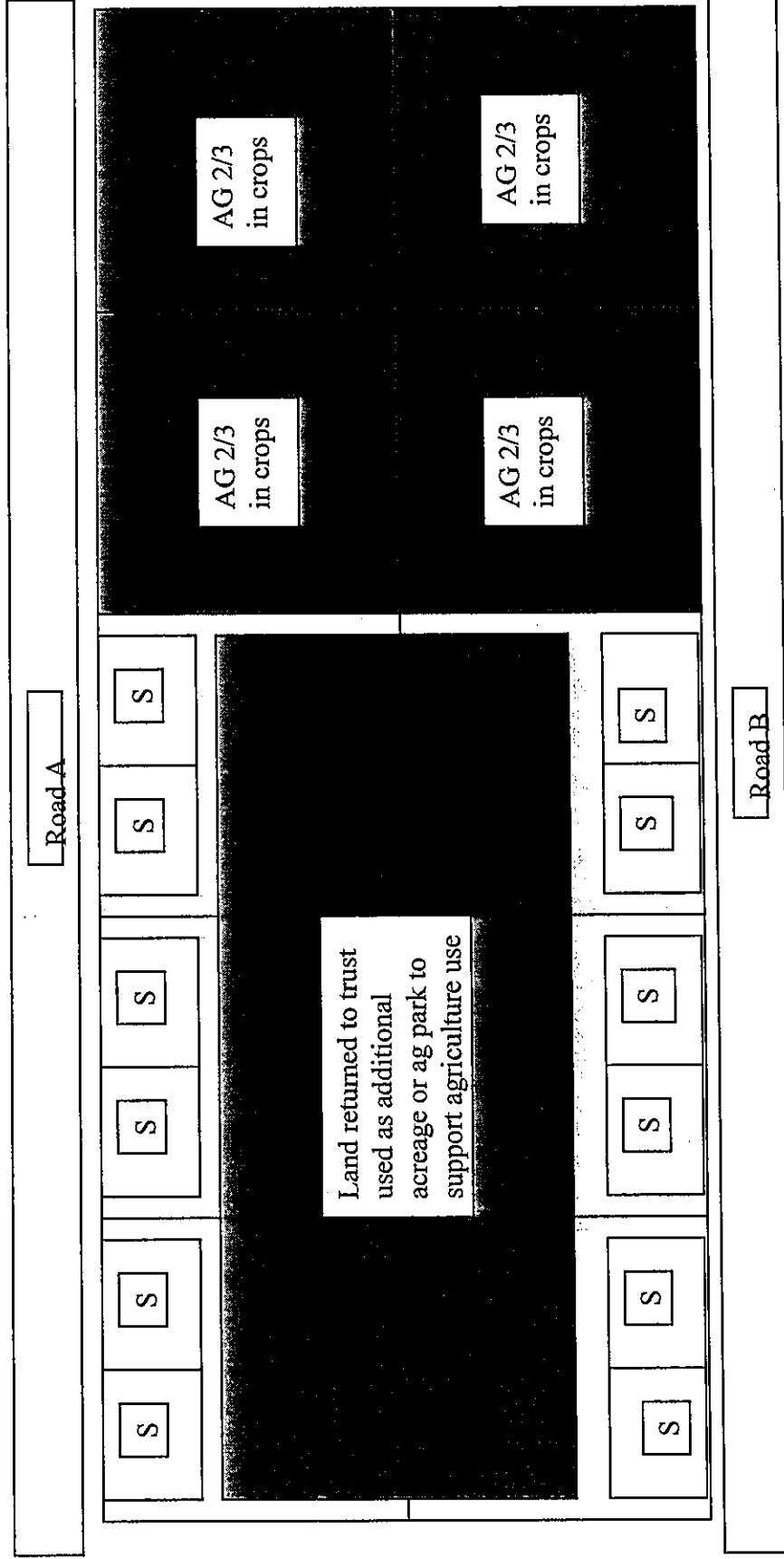
- Limit size of agricultural homestead awards provide for subsistence farming. A farm plan should be required. Only one residence should be allowed and subdividing should be prohibited.
- Enforce lease compliance, but be sensitive and flexible when dealing with each case since the commission has allowed the violations to occur.
- Require existing lessees to update and secure DHHL's approval for their farm plans. Require implementation of the farm plan within six months of approval. Terminate the leases of those who do not implement their farm plan.

Majority of lands not used for AG



Investments were made to develop Ag lands and studies show that many homesteaders have other priorities which results in under utilized land as documented by the Task Force

Address Applicants on Waiting lists



As homesteaders subdivide their lots using the same development specifications as DHHL to create more subsistence sized lots the remainder lands which they were not using is returned to the trust for use by other Beneficiaries to farm or ranch.

Criteria for Approving Subdivision

- How many lots are allowed?
- Should only two subsistence lots be allowed?
- Should the lots created be consistent with new Ag program (.5 acre)?

Criteria for Approving Subdivision

- Should each subdivision be required to return land back to the Trust for reallocation to other homesteaders?
- Should subdivided properties be subject to a negotiated process?

**Testimony of Kawai Warren,
President of Kekaha Hawaiian Homestead Association
Monday, Dec. 17, 2012**

Good morning Chair Masagatani and Commissioners:

This testimony is submitted under Agenda item A-1 regarding the Native Hawaiian Roll Call. The following comments call attention to the importance of the Roll Call when combined with recent meetings by some organizations and native Hawaiian communities with the US Department of Interior.

These discussions have potentially longterm impacts on the status of our home lands and rights of native Hawaiians by government agencies, whether state or Federal.

These rights include:

- Native Hawaiian rights to water and resources
- Land and homestead rights under the Hawaiian Homes Commission Act, 1920
- Rights regarding the protection and support for native Hawaiian cultural practices
- Cultural site preservation
- And the prerogative of our trustee, the Department of Hawaiian Homelands and the Hawaiian Homes Commission, to make decisions regarding the natural resources of our home lands.

HHC Item No. B
Exhibit A
Date 12-17-12

Clearly, management and oversight of Hawaiian lands and the role of DHHL and the Commission as our designated trustee is at stake. The outcome of policy decisions regarding state and Federal jurisdiction issues over our homelands and people will determine who has decision making power to disburse the rights to our homelands, and how native Hawaiian resources and lands are handled.

Therefore, careful thought and legal analysis, as well as detailed work-through of the tension points in state and Federal law are necessary. Haste in any conversation with the Federal government does not serve US.

We believe that DHHL and the Hawaiian Homes Commission are the rightful state-designated agencies, along with the Governor's office, to lead the establishing of a Federal/State relationship with US Dept of Interior (and any other Federal agency).

There are no easy answers, but we feel that **DHHL and the Commission under Chair Masagatani's leadership**

gives native Hawaiians the best chance to finally experience the benefits of the Hawaiian Homes Commission Act in a way that is most fair, equitable, and respectful of local self governance.

Oversight by a public agency, vs. a private non profit, **will ensure accountability to our people and the electorate.**

KHHA has great trust in Chair Masagatani's abilities to professionally and responsibly deliver on the promises of the Hawaiian Homes Act. We have witnessed, in the past several month's of Commission meetings **Chair Masagatani's attention to institution-wide assessments, careful surveys of current law, ability to guide respectful Commission discussion within set rules of order, as well as her interest in creating and encouraging Commissioners' observance of consistent criteria** for decision making on the disbursements of home lands.

Experienced and successful executive leaders know that important decisions must not be made in random fashion, or

be based on emotion.

Rather that, **in coming into office, time must be spent understanding the lay of the land, and instituting an orderly process for all decision making.** So KHHA **applauds the Chair** for taking her first months in office for those activities. It shows **a level of professionalism that we as native Hawaiians have needed for so long yet never had.**

As part of their effort to hear from the native Hawaiian community, US Dept of Interior representatives will be in Hawaii in 2012 and 2013. We will assume that the Governor's office and DHHL will be key consulted members at those tables.

We therefore urge Chair Masagatani to work closely with Lisa Oshiro at the Dept of Interior's Honolulu office as well as directly with:

- **Ken Salazar** – Secretary of the Interior
- **Rhea Suh** – Assistant Secretary, Policy Management and Budget

- **David J. Hayes** – Deputy Secretary
- **Hilary Tompkins** – Solicitor of the Interior

We ask that you stand firm for us to establish the solid, specific parameters, key issues of focus, and native Hawaiian beneficiary input processes, to find the right, pono relationship with the US Department of Interior.

We are counting on you and the Commission to preserve, protect, and honor the land, water, homestead, cultural practice and expression rights of native Hawaiians under applicable law.

I request that this testimony be made part of the official public minutes of this meeting.

Mahalo for your time and happy holidays to you and your families.

Testimony of Waiohuli Undivided Interest Lessees Association to
Hawaiian Homes Commission
12/17/12 at DHHL Kapolei

Aloha mai e na Hawaiian Homes commissioners,

My name is Kekoa Enomoto, and I live on Maui. I am a six-year resident of Waiohuli Phase 1 homestead; interim secretary of the Keokea Hawaiian Farm Lots Association, and secretary pro tem of the three-month-old **Waiohuli Undivided Interest Lessees Association**.

I am accompanied by two young people to support me in testifying before the Hawaiian Homes Commission:

. My niece, Kiana Kekoa, daughter of my brother Kevin Kekoa, who is a Pu'ukapu homestead lessee in Waimea on Hawai'i island.

. And my nephew Kody, who is Kiana's older sibling.

Kody and Kiana are home on vacation as students of the U.S. Coast Guard Academy in New London, Connecticut. They are supporting me to testify before the Hawaiian Homes Commission because they are future Department of Hawaiian Home Lands beneficiaries.

I would like to offer public testimony on agenda item E regarding approval of an agreement of purchase and sale of lands in Waihe'e, Maui, in exchange for the issuance of DHHL affordable-housing credits, pursuant to Act 141, Session Laws of Hawai'i 2009, as amended, Hawai'i Revised Statutes.

My understanding is that a developer seeks DHHL affordable-housing credits and, to gain them, is offering to provide Waihe'e property to DHHL. These lands conceivably could become a Wai'ehu Kou V Hawaiian Homes subdivision that would be attractive to at least three groups of beneficiaries:

. Undivided-interest lessees interested in living in Central Maui vis-a-vis Upcountry Maui or elsewhere in the archipelago.

. Beneficiaries, who earlier had been slated to receive lots in Wai'ehu Kou III or IV but, for some reason, including financial need, had deferred.

. Waiting-list beneficiaries.

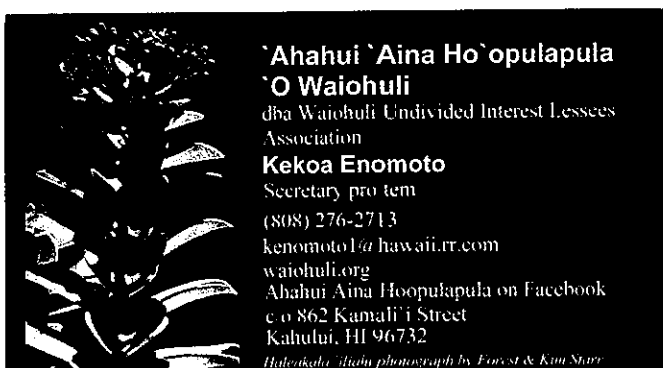
In conclusion, I took Kekoa, my maiden name, as my legal first name when I moved to Maui 14 years ago; of course, "Kekoa" translates to "the warrior" or "courage."

As an original beneficiary of the Keokea Hawaiian farm lots, I spent nearly a quarter of a century as a *warrior* battling for infrastructure to be built at Keokea, the only agricultural homestead on Maui.

Recently, I testified three times on behalf of the Department of Hawaiian Home Lands and the Waiohuli Undivided Interest Lessees Association in favor of the Pulehunui Masterplan, and now I support Hawaiian Homes Commission approval of procuring Waihe'e, Maui, lands in exchange for DHHL affordable-housing credits. Both stances, but particularly the latter approval, will contribute to getting not only undivided-interest lessees, but also some of the thousands of waiting-list beneficiaries onto the 'aina.

Mahalo.

P.S. I have appended the agenda from the 12/16/12 meeting held in Kane'ohe for O'ahu beneficiaries of the **Waiohuli Undivided Interest Lessees Association**.



HHC Item No. B
Exhibit B
Date 12-17-12

Agenda

`Ahahui `Aina Ho`opulapula O Waiohuli
dba Waiohuli Undivided Interest Lessees Association
4 to 6 p.m. Sunday 12/16/12, Zippy's Windward Mall

1. Pule

2. Minutes

3. Old business

. Dane Makaila testimony to Hawaiian Homes Commission 11/20/12

4. New business

a. Progress summary:

. DHHL Chairwoman designate Jobie Masagatani confirms Waiohuli Undivided high priority

. Community Planning & Engineering, or CP&E, contract moving forward

. Engineering consultant to meet/collaborate w/Waiohuli lessees in
2013

b. Kekoa Enomoto testimony on Pulehunui Masterplan before Maui County Council 12/10/12

c. Jobie Masagatani/Perry Artates lunch meeting w/Kekoa Enomoto 12/10/12

d. Stewart Matsunaga meeting w/Waiohuli Undivided Interest Lessees
12/11/12

e. Perry Artates/Mona Kapaku breakfast meeting w/Kekoa Enomoto 12/12/12

f. Robin Newhouse letter to Maui News editor 12/12/12

g. Maui County small-town grant available for Keokea/Waiohuli/Waiakoa
12/13/12

h. Keokea Hawaiian Farm Lots Association meeting 12/14/12

i. Kekoa Enomoto to meet w/DHHL planner Julie Cachola/testify before Hawaiian Homes
Commission 9:30 a.m. 12/17/12

j. Hawaiian Homes Commission community meeting at Nanakuli/Wai`anae 6 to
8 p.m. 12/17/12 at Ka Waihona O Ka Na`auao cafeteria, 89-195 Farrington Highway, Nanakuli

5. Next meeting 4 to 6 p.m. Sunday 1/13/13, Zippy's Windward Mall

6. Pule ho`oku`u

Hawaiian Homes Moratorium on Subdivision of Agriculture and Pastoral Leases Workshop

December 17, 2012

Supplemental References

- 1) August 29, 2000 HHC Action Moratorium to remain in place until the land use plans are completed to define best use and pattern of distribution of agriculture and pastoral lands.
- 2) May 23, 2000 Agricultural Task Force Recommendations adopted.
- 3) December 14, 1999 Moratorium on subdividing agricultural lands approved.
- 4) HHCA Sections 207 and 208
- 5) Admin Rules 10-3-26 and 10-3-38

HHC Item No. A-3
Exhibit _____
Date 12-17-12

State of Hawaii
Department of Hawaiian Home Lands

May 23, 2000

To: Chairman and Members, Hawaiian Homes Commission

From: Darrell Yagodich, Planning Office Administrator

Subject: Agricultural Task Force Recommendations

Recommended Motion/Action

That the Hawaiian Homes Commission:

1. Accept the recommendations of the Hawaiian Homes Agricultural Task Force, in general, which are contained in Exhibit A and incorporated herein;
2. Authorize the department to prepare more specific work plans with priorities and budget recommendations for review by the Hawaiian Homes Commission; and
3. Express its appreciation to the members of the Hawaiian Homes Agricultural Task Force for their volunteer service and commitment to successful farming by native Hawaiians on Hawaiian home lands.

Discussion

Agricultural Task Force

On July 21, 1998, the Hawaiian Homes Commission (HHC) authorized the creation of an Agricultural Task Force (Task Force) to create a strategic plan for successful farming of Hawaiian home lands agricultural lots.

In accordance with the HHC resolution, the Task Force was composed of the following:

Representing Beneficiaries:

Gordean Bailey, Maui
Luana Beck, Makuu, Hawaii

8. Provide options and alternatives for those who are violating their leases by operating non-agricultural related businesses. For example, commercial districts could be created to relocate these businesses.
9. Establish a procedure for existing agricultural lessees who do not wish to farm to relinquish their agricultural lands without sacrificing their opportunity to have a home and a homestead lease.
10. Maintain the moratorium on subdividing agricultural land until the Planning Office completes land use plans covering each homestead area.

Recommended Implementing Actions Related to Farm Support Services

1. Create an Agricultural Resources Management Division to develop, manage, and coordinate agricultural resources and support services for leases and to monitor and enforce agricultural lease provisions.
2. Create agricultural training programs for new farmers. Cohort training programs and mentorship programs that provide new farmers with sustained and in-depth information about all phases of farm production are recommended over the workshop approach.
3. Strengthen the University of Hawaii Cooperative Extension Service (CES) programs and provide lessees with information to make them aware of its existence. Produce an introductory video of farm practices in each region and establish farm demonstration sites.
4. Develop a mechanism to ensure that new lessees are capable of using an agricultural award to its full potential. Possible mechanisms might include:
 - Providing information to potential lessees on the realities of farming on DHHL land, the lease requirements, agricultural background qualifications, and the farm plan requirements so that they are fully aware of what is expected of them. Do not encourage people to take an agricultural lease when a residential lot may be what they are really looking for.
 - Developing a certification process that documents the farming qualifications of lessees. This certification would be used to verify that a potential lessee has the skills and commitment to warrant receiving an agricultural lot.
 - Establishing minimum agricultural education requirements for receiving an agricultural lease. Incorporate training or certification into the lease award process to insure that those receiving agricultural lots are serious and prepared to farm.
5. Establish standards for an acceptable farm plan. It may be necessary to provide assistance to lessees to create a good farm plan.

2. Determine water needs for each agricultural area and acquire the needed water.
3. Ensure adequate water is available to each homestead. Suggestions for achieving this include:
 - Developing agreements with appropriate agencies to do experimental drilling as part of their studies. After their studies are complete the wells could be turned over to the department.
 - Working with the State Department of Agriculture to develop water resources and delivery systems and to investigate alternative sources.
 - Participate in the State Department of Agriculture's water resource planning.

Recommended Implementing Actions Related to Value-Added Products and Marketing Support

1. Develop a commercial agriculture management team to assist commercial homestead farmers with marketing, business planning, transportation, storage, and links to each other.
2. Develop partnership agreements to provide business planning and marketing assistance to farmers.
3. Establish a marketing working group with allied agencies and lessees that can identify, develop, and expand market share of homestead products. It is important to have a person (or group) who is specifically trained to deal with wholesalers, shippers, and secondary producers and knows the market demand and pricing to take care of this side of the business so that farmers can concentrate on their crops.
4. Provide land for farmers markets, cooperatives, cooling plants, marshalling yards, etc.
5. Support the formation and operation of community-based farmers markets for homesteaders.
6. Create support facilities such as marshalling yards, processing plants, and shipping facilities so that farmers can combine their products to compete with larger mainland and Oahu growers.
7. Identify suitable crops for all agricultural homestead lands that can provide guidance to potential and existing lessees in creating their farm plans.
8. Develop a database of product demand and production patterns that will help homestead farmers plan their crops to meet market opportunities. It was stated that a caveat of farming is that you have to have your crop sold before you put it in the ground.

MINUTES OF December 13-14, 1999, Meeting Held in Honolulu, Hawaii

ITEM NO: B-9 (Renumbered to B-12)

SUBJECT: Request to Approve a Moratorium on Subdivision and Transfer of Agricultural and Pastoral Leases

COMMISSIONERS	MOTION	SECOND	AYES	NAYS	ABSTAIN
Soon, Raynard			X		
Agpalsa, Wonda					
Cho, Henry			X		
Contrades, Thomas			X		
Freitas, Rockne			X		
Holt, Karen	X		X		
Kalua, Herring			X		
Thurston, Kathleen			X		
Tomoso, John		X	X		
TOTAL			8		
Action Approved <u>X</u> Deferred _____ Denied _____ Tabled _____					

MOTION

1. To approve a moratorium on lessee requests to subdivide and transfer a portion of agricultural or pastoral homestead leases until the DHHL Agricultural Task Force issues recommendations for Commission action.
2. To approve the processing of lessee requests to subdivide and transfer a portion of agricultural or pastoral homestead leases for those requests submitted prior to December 1, 1999.

DISCUSSION

Commissioner Tomoso inquired as to the number of applications pending. A list was distributed to the Commissioners (made a part of these minutes). Commissioner Holt noted that some names listed have already gotten Commission approval and Mr. Hirota explained that the subdivision is still being worked on.

ACTION

Motion carried unanimously.

NOTE: Written testimony was submitted on this item at the end of the meeting by Mr. Stephen Morse (made a part of these minutes).

3

to lease home sites herein to native Hawaiians under certain circumstances.

Homesteaders Cooperative Association use of Hoolehua Store building free of rent, subject to certain conditions. L 1959, JR 17.

Revision Note

In subsection (b), "State" substituted for "United States" in view of section 5 (b) of Hawaii Admission Act.

Attorney General Opinions

Section does not authorize the commission to grant a permit to occupy Hawaiian homes premises from month to month on a monthly charge basis. Att. Gen. Op. 61-64.

Commission has no authority to permit a lessee to subdivide homestead tract and sublease a portion thereof to daughter. Att. Gen. Op. 61-65.

Neither the department nor any lessee is authorized to develop multi-unit dwellings. Att. Gen. Op. 62-9.

Lands not needed for purposes of Act could be subjected to county zoning regulations. Att. Gen. Op. 72-21.

Law Journals and Reviews

The Lum Court and Native Hawaiian Rights. 14 UH L. Rev. 377.

Case Notes

As subsection (c)(1)(A) of this Act does not provide a "statutory entitlement" to any entity which may be granted a license pursuant to it, plaintiff energy producer failed to establish that plaintiff's exclusive telecommunications service license issued under this subsection constituted "property" which would entitle plaintiff to due process protection. 110 H. 419, 134 P.3d 585.

[Previous](#)

[Vol01_Ch0001-0042F](#)

[Next](#)

4

insured or guaranteed by the Federal Housing Administration, Department of Veterans Affairs, or any other federal agency and their respective successors and assigns, which are authorized to insure or guarantee such loans, or any acceptable private mortgage insurance as approved by the commission. The mortgagee's interest in any such mortgage shall be freely assignable. Such mortgages, to be effective, must be consented to and approved by the commission and recorded with the department.

Further, notwithstanding the authorized purposes of loan limitations imposed under section 214 of this Act and the authorized loan amount limitations imposed under section 215 of this Act, loans made by lending institutions as provided in this paragraph, insured or guaranteed by the Federal Housing Administration, Department of Veterans Affairs, or any other federal agency and their respective successors and assigns, or any acceptable private mortgage insurance, may be for such purposes and in such amounts, not to exceed the maximum insurable limits, together with such assistance payments and other fees, as established under section 421 of the Housing and Urban Rural Recovery Act of 1983 which amended Title II of the National Housing Act of 1934 by adding section 247, and its implementing regulations, to permit the Secretary of Housing and Urban Development to insure loans secured by a mortgage executed by the homestead lessee covering a homestead lease issued under section 207(a) of this Act and upon which there is located a one to four family single family residence.

- (7) The lessee shall pay all taxes assessed upon the tract and improvements thereon. The department may pay such taxes and have a lien therefor as provided by section 216 of this Act.
- (8) The lessee shall perform such other conditions, not in conflict with any provision of this Act, as the department may stipulate in the lease; provided that an original lessee shall be exempt from all taxes for the first seven years after commencement of the term of the lease. [Am Jul. 10, 1937, c 482, 50 Stat 504; Nov. 26, 1941, c 544, §2, 55 Stat 783; Aug. 21, 1958, Pub L 85-710, 72 Stat 706; am L 1963, c 207, §2; am L 1967, c 146, §§1, 2; am L 1973, c 66, §1; am L 1974, c 175, §1; am L 1978, c 229, §5; am L 1981, c 90, §2; am L 1985, c 60, §2 and c 284, §1; am L 1990, c 305, §1; am L 1997, c 196, §3; am L 1999, c 17, §1; am L 2002, c 12, §1; am L 2005, c 53, §1]

Attorney General Opinions

Lessee is prohibited from subdividing homestead tract and subleasing a portion thereof to lessee's daughter. Att. Gen. Op. 61-65.

Bank of Hawaii is not an eligible mortgagee; improvements may not be treated as personalty. Att. Gen. Op. 65-15.

Case Notes

Tax on the tract is the tax on the fee simple estate and not on lessee's leasehold interest. 60 H. 487, 591 P.2d 607.

Third party agreements with non-Hawaiians which transferred portion of lessees' interest in homesteads void ab initio as violative of paragraph (5). 81 H. 474, 918 P.2d 1130.

Approval of home loan did not constitute approval of department for transfer of lease. 4 H. App. 446, 667 P.2d 839.



approved by the department before construction thereof; (4) The department shall not be obliged to pay for any costs incurred in the processing and obtaining of the subdivision; (5) The department shall not be liable for expenses incurred by the lessee for amenities brought to the lot. The department shall not provide nor be required to provide any amenities except as it may determine in the planned development of its lands; and (6) A farm plan may be required by transferees for all transfers involving the subdivided agricultural or pastoral lots. Where required, the farm plan shall be submitted to, reviewed and accepted by the department. [Eff 7/30/81; am 9/24/83; am 11/17/84; am and comp 10/26/98] (Auth: HHC Act §222) (Imp: HHC Act §208) 3-18 §10-3-27

§10-3-38 Subdivision and transfer of a portion of residential lot leasehold. A lessee of a residential lot, with the approval of the commission, may subdivide and transfer a portion of the lot for the remaining term of the lease to any individual who is a native Hawaiian and is at least eighteen years old; provided that after the transfer, each lot conforms to county zoning standards. The department shall not be required to finance the construction of the house on the transferred portion. Plans for construction of the house shall be subject to the approval of the chairman. The department shall not be required to pay for any costs incurred in the processing and obtaining of the subdivision. [Eff 7/30/81; am 1/20/86; am and comp 10/26/98] (Auth: HHC Act §222) (Imp: HHC Act §208)

5

(d) Following determination that a lessee is eligible for lot selection, the lessee shall be notified as provided in section 10-3-24(b).

(e) Following lot selection, the lessee shall submit a plan as required in section 10-3-24(c) incorporating into the plan, all existing acreage.

(f) Decision for award shall be based upon the provisions of section 10-3-24(d). [Eff 7/30/81; am and comp **OCT 26 1998**] (Auth: HHC Act §222) (Imp: HHC Act §207)

§10-3-26 Residence permitted on agricultural and pastoral lot. (a) Upon award of an agricultural or pastoral lot, the applicant shall reside on the island on which the leasehold is located.

(b) Residences shall be permitted on agricultural or pastoral lots. Only one residence shall be permitted per lessee on Hawaiian home lands. In addition, a workers' quarters may be permitted per lessee subject to the following conditions:

- (1) The lessee has actively cultivated or developed at least two-thirds of the agricultural or pastoral tracts at all times;
- (2) The lessee shall submit a plan justifying the construction of a workers' quarters including but not limited to production processes and projections, number of workers and labor requirements, jobs to be performed, site and plot plan, house construction plans, and benefits accrued by the addition of a workers' quarters;
- (3) Approval by the commission;
- (4) Conformance to all state and county zoning and building requirements;
- (5) Adequate infrastructure, i.e., water, power, etc., shall be available to service the workers' quarters;
- (6) The lessee shall finance the construction of the workers' quarters and the department

(d) The department shall not be liable for expenses incurred by the lessee for amenities brought to the lot. The department shall not provide nor be required to provide any amenities, except as it may determine in the planned development of its lands.

(e) Upon cancellation or surrender of the agricultural or pastoral lot, the lessee shall relinquish the entire leasehold interest including the residence.

(f) Subdivision and transfer of a portion of agricultural or pastoral lot lease may be permitted upon commission approval for the remaining term of the lease to any individual who qualifies under the act, subject to the following conditions:

- (1) Upon such transfer, each resultant subdivided lot meets department criteria for designation as agricultural or pastoral;
 - (2) The department shall not be obliged to finance the construction of a residence on any transferred portion;
 - (3) Plans for all residences to be constructed on transferred portions of leases shall be submitted to and approved by the department before construction thereof;
 - (4) The department shall not be obliged to pay for any costs incurred in the processing and obtaining of the subdivision;
 - (5) The department shall not be liable for expenses incurred by the lessee for amenities brought to the lot. The department shall not provide nor be required to provide any amenities except as it may determine in the planned development of its lands; and
 - (6) A farm plan may be required by transferees for all transfers involving the subdivided agricultural or pastoral lots. Where required, the farm plan shall be submitted to, reviewed and accepted by the department.
- [Eff 7/30/81; am 9/24/83; am 11/17/84; am and comp **OCT 26 1998**] (Auth: HHC Act §222)
(Imp: HHC Act §208)

**Testimony of Kawai Warren,
President of Kekaha Hawaiian Homestead Association
Monday, Dec. 17, 2012**

Good morning Chair Masagatani and Commissioners:

This testimony is submitted under Agenda item A-1 regarding the Native Hawaiian Roll Call. The following comments call attention to the importance of the Roll Call when combined with recent meetings by some organizations and native Hawaiian communities with the US Department of Interior.

These discussions have potentially longterm impacts on the status of our home lands and rights of native Hawaiians by government agencies, whether state or Federal.

These rights include:

- Native Hawaiian rights to water and resources
- Land and homestead rights under the Hawaiian Homes Commission Act, 1920
- Rights regarding the protection and support for native Hawaiian cultural practices
- Cultural site preservation
- And the prerogative of our trustee, the Department of Hawaiian Homelands and the Hawaiian Homes Commission, to make decisions regarding the natural resources of our home lands..

HHC Item No. B-3
Exhibit A
Date 12-17-12

Clearly, management and oversight of Hawaiian lands and the role of DHHL and the Commission as our designated trustee is at stake. The outcome of policy decisions regarding state and Federal jurisdiction issues over our homelands and people will determine who has decision making power to disburse the rights to our homelands, and how native Hawaiian resources and lands are handled.

Therefore, careful thought and legal analysis, as well as detailed work-through of the tension points in state and Federal law are necessary. Haste in any conversation with the Federal government does not serve us.

We believe that DHHL and the Hawaiian Homes Commission are the rightful state-designated agencies, along with the Governor's office, to lead the establishing of a Federal/State relationship with US Dept of Interior (and any other Federal agency).

There are no easy answers, but we feel that **DHHL and the Commission under Chair Masagatani's leadership**

gives native Hawaiians the best chance to finally experience the benefits of the Hawaiian Homes Commission Act in a way that is most fair, equitable, and respectful of local self governance.

Oversight by a public agency, vs. a private non profit, will ensure accountability to our people and the electorate.

KHHA has great trust in Chair Masagatani's abilities to professionally and responsibly deliver on the promises of the Hawaiian Homes Act. We have witnessed, in the past several month's of Commission meetings Chair Masagatani's attention to institution-wide assessments, careful surveys of current law, ability to guide respectful Commission discussion within set rules of order, as well as her interest in creating and encouraging Commissioners' observance of consistent criteria for decision making on the disbursements of home lands.

Experienced and successful executive leaders know that important decisions must not be made in random fashion, or

be based on emotion.

Rather that, in coming into office, time must be spent understanding the lay of the land, and instituting an orderly process for all decision making. So KHHA applauds the Chair for taking her first months in office for those activities. It shows a level of professionalism that we as native Hawaiians have needed for so long yet never had.

As part of their effort to hear from the native Hawaiian community, US Dept of Interior representatives will be in Hawaii in 2012 and 2013. We will assume that the Governor's office and DHHL will be key consulted members at those tables.

We therefore urge Chair Masagatani to work closely with Lisa Oshiro at the Dept of Interior's Honolulu office as well as directly with:

- Ken Salazar – Secretary of the Interior
- Rhea Suh – Assistant Secretary, Policy Management and Budget

- **David J. Hayes** – Deputy Secretary
- **Hilary Tompkins** – Solicitor of the Interior

We ask that you stand firm for us to establish the solid, specific parameters, key issues of focus, and native Hawaiian beneficiary input processes, to find the right, pono relationship with the US Department of Interior.

We are counting on you and the Commission to preserve, protect, and honor the land, water, homestead, cultural practice and expression rights of native Hawaiians under applicable law.

I request that this testimony be made part of the official public minutes of this meeting.

Mahalo for your time and happy holidays to you and your families.

DEC. 17, 2012

Elaines.

TO: Tobie Masagatani, Chairman, DHHL

VIA: I. Aiu, P. ARATE, C. Da Mate, G. DAVIS,

J. HOPKINS, M. KAHIKINA, I. LEECOY,

R. TASSILL

FROM: CORBETT Roy Jr.

SUBJECT: Item # 100 EXHIBIT, LEASE

6176, Puukapu, HAWAII; ROY, Corbett O.J.

A This letter is being submitted today (12-17-2012) as I am requesting that the lease # 6176 as described under item 100 be stopped until I am given my due process.

Last month under a "J" hearing, I was permitted to address the commission. I detailed that my wife Garla K. Souza-Ray and myself are the RIGHTFUL owners of the above mentioned lease. The lease was purchased for \$96,000.00 in 2007-2008 from Willie K. Pualoa III.

The DHHL paperwork was "doctored" so the monies and paperwork could be transferred. The Transfer was not completed by Earl Loo until October 2012 when Corbett O.J. Sr initiated the Successor as

Stephen James Keawe Ray.

Letters were sent to all commissioners after the meeting in November 2012. I requested to be placed on the agenda for a contested hearing but got no response from DHHL.

To my surprise upon viewing the agenda for today (Dec. 17, 2012) I saw the Item D. with Corbett D. Ray Sr.

I am "Humbly" requesting that the Ratification of Designation of Successors to Leasehold Interest and Designation of persons to Receive Klot Proceeds be terminated temporarily until the investigation is conducted and completed.

It is my understanding that if this transfer is ~~not~~ approved, it will be impossible for us to move forward.

Respectfully,

Corbett Ray Jr.

HHC Item No. D-10
Exhibit A
Date 12-17-12