

HAWAIIAN HOMES COMMISSION
Minutes of March 18 and 19, 2013
Meeting Held in Kapolei, Oahu

Pursuant to proper call, the 637th Regular Meeting of the Hawaiian Homes Commission was held at the Department of Hawaiian Home Lands, 91-5420 Kapolei Parkway, Kapolei, Hawaii, beginning at 9:33 a.m.

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

EXCUSED Imaikalani Aiu, Commissioner, Kauai
 Michael P. Kahikina, Commissioner, Oahu.

COUNSEL Craig Iha, Deputy Attorney General

STAFF Darrell Young, Acting Deputy to Chairman
 Derek Kimura, Executive Assistant, Office of the Chair
 Francis Apoliona, Compliance Officer
 Julie Cachola, Planner, Planning Office
 Linda Chinn, Administrator, Land Management Division
 Juan Garcia, District Operations Supervisor, Homestead Services Division
 Kaleo Manuel, Planner, Planning Office
 Kamanao Mills, Special Assistant, Office of the Chair
 Dean Oshiro, Acting Administrator, Homestead Services Division
 Sandra Pfund, Administrator, Land Development Division
 Niniau Simmons, NAHASDA Manager
 Darrell Yagodich, Administrator, Planning Office
 Elaine Searle, Secretary to the Commission

AGENDA Commissioner Artates moved, seconded by Commissioner Hopkins, to approve the agenda. Motion carried unanimously.

A - WORKSHOP PRESENTATIONS

ITEM NO: A - 1

SUBJECT: Authorization to Extend General Lease Terms

Presentation by Land Management Administrator - Linda Chinn

Two new Legislative actions were enacted into Law which impacted DHHL's general leasing program:

- 1) Act 187 (10) signed into law July, 2010; amended by Act 175 (12) signed into law, June 2012;
- 2) Act 219 (11), signed into law July 2011, effective date July 1, 2011 with a repeal date of December 31, 2015.

Linda Chinn noted that the general lease program may be found in the Hawaiian Homes Commission Act, Section 204(a)(2) and Section 220.5, Hawaii Revised Statutes, Chapter 171 as amended and the Hawaii Administrative Rules, Title 10-4. L. Chinn provided a power point presentation, to be made a part of these minutes as Exhibit "A" to Item A-1.

- 1) Part II of Act 187 (2010);
- 2) Act 175(Amended Act 187) (2012);
- 3) Impact of Act 175 - relating to commercial and multi-purpose project leases, extension of term: Section 228 (c) establishes new procedure for lease extension; Section 228 (d) states before written agreement is approved, lessee to submit: a) sufficient value; b) estimation of completion date; c) revised annual rent based on fair market value;
- 4) HHC Policy/Rule Making for lease term extension - under draft for lease term extension;
- 5) Act 219 and its Provision - extend the hotel and resort leases, to no longer than 55 years. Once rules are adopted for lease extensions, Land Management may address the commission for a 20-year extension.

Commissioner Hopkins inquired whether Prince Kuhio Shopping Center (PKSC) would require that a new general lease be submitted once the additional 20-year criteria are met. L. Chinn said unless new rules are in place, the department will be compelled to offer the property to any interested party. Once the lease is surrendered, the property, with all its appurtenances, will revert back to the department. At that time, it will be offered again with all of the improvements, if there is value to it. The same management team may re-apply as well, and store owners would be required to vacate or re-bid as all leases expire the same day. The commission may determine whether the department prefers to operate the mall itself; unfortunately, it currently lacks the ability and authority to directly negotiate leases. New legislation would be required to facilitate these types of operations. A 30-year lease still remains on the current leasehold for PKSC. There is a plan in place to upgrade the shopping center. The department may consider developing smaller lots, and direct tenants into a space to encourage income. Financing and the authority to

give the tenants a month-to-month revocable permit may not be as appealing. Any changes could require adding provisions in Chapter 171, said L. Chinn.

ITEM NO: A - 2

SUBJECT: Amended NAHASDA Program Budget, FY 2012-2013

Following the previous month's discussions, NAHASDA Manager Niniau Simmons recommended raising the spending program amount to include the past-approved NAHASDA (Native American Housing and Self Determination Act) program budgets from 2009 to 2012. A summary of the annual figures is presented, which is provided to HUD in conjunction with the housing plans. A summary listing the categories and housing goals and a budgeted amount of \$50,034,489 does not reflect actual awards that were made every program year, but are indications to raise the ceiling, based on commission approval from years 2009 to 2012, articulated N. Simmons. In a January submittal, actual LOCCS (Line of Credit Control System) amounts were listed so the difference between the \$50,000,000 and the balance in the HUD account is approximately \$4,000,000.

MOTION/ACTION

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

RECESS 10:05 a.m.

EXECUTIVE SESSION

The Commission convened in Executive Session pursuant to section 92-5 (a), HRS, to consult with its attorney on questions and issues pertaining to the Commission's powers, duties, privileges, immunities, and liabilities on the follow subject.

1. **Contested Case Hearing Process and Related Issues**

RECONVENE 12:46 p.m.

MOTION/ACTION

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

B - PUBLIC TESTIMONY ON AGENDIZED ITEMS

B-1 Blossom Feiteira - President, Association of Hawaiians for Homestead Lands (AHHL), Testimony on Items C-1, C-2 and H-1: Re: Item C-1, Ms. Feiteira thanked the Hawaiian Homes Commission for making the decision to support the efforts of the Native Hawaiian Roll

Commission (NHRC). Beneficiaries will undoubtedly gain by the work of this organization, noted Ms. Feiteira.

Item C-2, Ms. Feiteira supports the allocation of (NAHASDA) funds for the community. As a service provider, one of the crucial concerns is to not rely totally on NAHASDA resources, as it limits aid to applicants who meet the 80% median income. Other beneficiaries suffer because of this limitation. Ms. Feiteira said it is essential to have reserve monies to assist all beneficiaries.

Item H-1, Ms. Feiteira is opposed to the transfer of funds to the administration account from the loans account. Construction loans from the failed Menehune Development project should be made available to lessees. She would encourage other loan programs be made available to lessees that do not qualify for outside financing, so they, too, can obtain a lease. The Chair suggested Ms. Feiteira forward her recommendations to NAHASDA Manager, Niniau Simmons.

Puamana Crabbe - Waiohuli Undivided Interest Lessee Association, Testimony on Item: A-2: Members of the Waiohuli Undivided Interest Lessees Association could benefit from these NAHASDA funds for infrastructure to their subdivision in upper Maui. Ms. Crabbe listed a number of relatives with homesteads on Maui and kupuna that hail from Kipahulu. She is elated about moving to Waiohuli-Keokea and also for the proposed \$12.5 million center, which will include a pre-school, which is her expertise. As a designer, she looks ahead to working with Maui Arts and Cultural Center. She encourages the commission to look ahead at the planning and construction of this homestead area. Ms. Crabbe provided testimony to be made a part of these minutes as Exhibit "A" of Item B.

C - OFFICE OF THE CHAIRMAN

ITEM NO: C-1

SUBJECT: Assist Native Hawaiian Roll Commission's Dissemination of Information Efforts

RECOMMENDATION

Special Assistant, Kamanao Mills, recommended that the commission authorize the chairman to assist the Native Hawaiian Roll Commission (NHRC) in the dissemination of information to beneficiaries regarding the NHRC's efforts to voluntarily enroll Native Hawaiians for the purpose of re-organizing a Native Hawaiian government.

MOTION

Moved by Commissioner Hopkins, seconded by Commissioner Artates.

DISCUSSION

Mr. Clyde Namuo thanked the commission for its support in allowing this critical first step to be a part of this commission (NHRC). He is encouraged to be working with Chair Masagatani and staff in providing the information to all beneficiaries. The Chair said she felt this to be a significant policy issue for the Native Hawaiian community. Commissioner Hopkins asked Mr. Namuo to share what information he had.

Mr. Namuo said there are 500,000 Hawaiians across the United States with 280,000 residing in this state. He said the more people registered, the more viable and realistic the formation of a Native Hawaiian government will become. Kau Inoa registered 110,000 Native Hawaiians; regrettably, Kanaiolowalu registered only 10,000 Native Hawaiians. NHRC is working closely with OHA (Office of Hawaiian Affairs) in transferring the Kau Inoa registration records to them. Partnering with DHHL, the Kamehameha Schools, and the Department of Education will aid in this endeavor. The Chair pledged to have ICRO (Information and Community Relations Office) staff assist with disseminating information to the beneficiaries.

ACTION

Motion carried unanimously.

ITEM NO: C-2

SUBJECT: Amended NAHASDA Program Budget, FY 2012-2013

RECOMMENDATION

NAHASDA Manager Niniau Simmons recommended that the commission amend the current 2012-2013 fiscal year NAHASDA program budget to reflect the balance of already awarded Native Hawaiian Housing Block Grants (NHHBG) from program years 2009 to 2012.

MOTION/ACTION

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

D - HOMESTEAD SERVICES DIVISION

ITEM NO: D-1

SUBJECT: HSD Status Reports

MOTION/ACTION

None, for information only.

HSD Status Reports

Exhibits:

A - Homestead Lease and Application Totals and Monthly Activity Reports

B - Delinquency Report

C - DHHL Guarantees for USDA-RD Loans.

DISCUSSION

Acting Administrator Dean Oshiro, Homestead Services Division, stated that Exhibit-B delinquency report will commence with reporting loan advances in next month's report. The FHA loans, re-assigned to the department, will now be in the insured section at the end of the report. Commissioner Lee Loy questioned why East Hawaii delinquencies show a high volume. D. Oshiro explained that the high volume is due to limited staffing making the collection calls. A staff member dedicated full-time to loan delinquencies is essential to assist with the calls.

ITEM NO: D-2

SUBJECT: Ratification of Loan Approvals (see exhibit)

MOTION/ACTION

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

ITEM NO: D-3

SUBJECT: Approval of Consent to Mortgage (see exhibit)

MOTION/ACTION

Moved by Commissioner Artates, seconded by Commissioner DaMate. Commissioner Hopkins recused himself from voting. Motion carried unanimously.

ITEM NO: D-4

SUBJECT: Refinance of Loans

MOTION/ACTION

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

ITEM NO: D-5

SUBJECT: Schedule of Loan Delinquency Contested Case Hearing

MOTION/ACTION

Moved by Commissioner Artates, seconded by Commissioner DaMate. Commissioner Hopkins recused himself from voting. Motion carried unanimously.

ITEM NO: D-6

SUBJECT: Homestead Application Transfers/Cancellations (see exhibit)

MOTION/ACTION

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

ITEM NO: D-7

SUBJECT: Reinstatement of Deferred Application - Leilani Young

MOTION/ACTION

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

ITEM NO: D-8

SUBJECT: Commission Designation of Successor to Application Rights - Public Notice 2011 (see exhibit)

MOTION/ACTION

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

ITEM NO: D-9

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

MOTION/ACTION

Moved by Commissioner Hopkins seconded by Commissioner DaMate. Motion carried unanimously.

ITEM NO: D-10

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

MOTION/ACTION

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

MOTION/ACTION

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

RECESS 1:27 p.m.

EXECUTIVE SESSION

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

RECONVENE 1:36 p.m.

ITEM NO: D-11

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-12

SUBJECT: Request to Schedule Contested Case Hearing - Lease Violation for Failure to Occupy Residence, James B. Jay

MOTION

Moved by Commissioner Artates, seconded by Commissioner DaMate.

MOTION/ACTION

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

RECESS 1:38 p.m.

EXECUTIVE SESSION

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

RECONVENE 1:47 p.m.

ITEM NO: D-12(cont.)

SUBJECT: Request to Schedule Contested Case Hearing - Lease Violation for Failure to Occupy Residence, James B. Jay

WITHDRAWN MOTION

Commissioner Artates withdrew his motion until further investigation is completed on Item No. D-12.

ITEM NO: D-13

SUBJECT: Commission Designation of Successor - Thomas M. Key, Jr., Lease No. 4536, Waianae, Oahu

MOTION/ACTION

Moved by Commissioner Artates, seconded by Commissioner DaMate. Motion carried unanimously. Commissioner Tassill was excused.

ITEM NO: D-14

SUBJECT: Request to Schedule Contested Case Hearing - Corbett O. Roy, Lease No. 6176, Puukapu, Hawaii

MOTION/ACTION

Moved by Commissioner Artates, seconded by Commissioner Lee Loy, to adjourn in executive session. Motion carried unanimously.

RECESS 2:10 p.m.

EXECUTIVE SESSION

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

RECONVENE 2:18 p.m.

ITEM NO: D-14 (cont.)

SUBJECT: Request to Schedule Contested Case Hearing - Corbett O. Roy, Lease No. 6176, Puukapu, Hawaii

The Chair called for a roll call vote.

AE (3)

DaMate
Hopkins
Tassill

AOLE (4)

Artates
Davis
Lee Loy
Masagatani

ACTION

The motion failed.

E - LAND DEVELOPMENT DIVISION

ITEM NO: E-1

SUBJECT: Approval of Various Lease Awards (see exhibit)

RECOMMENDATION

Administrator Sandra Pfund recommended awarding of three leases; one in Piilani Mai Ke Kai and two in Kaniohale Village 3, subject to purchase of existing improvements on the lots by way of a loan or cash. These actions are normally processed by the Housing Project Branch under Homestead Services Division, but will now be processed under the Land Development Division, noted S. Pfund.

MOTION/ACTION

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

F - LAND MANAGEMENT DIVISION

ITEM NO: F-1

SUBJECT: Issuance of License, Alu Like, Inc. Paukukalo, Maui

RECOMMENDATION

Administrator Linda Chinn recommended an issuance of a ten-year license to Alu Like, Inc., for the use of Paukukalo Community Hall, Monday through Friday, with an option to extend for an additional ten years.

MOTION

Moved by Commissioner Artates, seconded by Commissioner DaMate.

DISCUSSION

Ms. Mervina Cash-Kaeo, CEO, Alu Like, Inc., shared her manao on the statewide Ke Ola Pono No Na Kupuna program, providing meals, exercise activities, and mental awareness programs for the Hawaiian kupuna. For some kupuna, this is their main meal for the day. This venue services 64 kupuna participants and distributes up to 2,000 meals a month, with transportation provided. Commissioner Artates said two of his aunts attended this program and he found it to be exceptional, especially with the camaraderie and exceptional care that was displayed.

ACTION

Motion carried unanimously.

ITEM NO: F-2

SUBJECT: Issuance of License, Aha Punana Leo, Inc., Hoolehua, Molokai

RECOMMENDATION

Administrator Linda Chinn recommended the issuance of license to Aha Punana Leo, Inc., for the purpose of operating and maintaining a Hawaiian language pre-school program for 10 years with monthly fees of \$955 per month, plus utilities.

MOTION

Moved by Commissioner DaMate, seconded by Commissioner Artates.

DISCUSSION

Commissioner Hopkins inquired why the difference in fee from the above-mentioned license. L. Chinn noted that the classrooms are dedicated entirely for the school's use and not available for other uses. Commissioner Lee Loy asked for the calculation used in determining property assessment, given the amount of valuation that would be paid had the department attracted a tenant paying fair market rent, and what would Aha Punana Leo need to pay, if they should rent elsewhere. L. Chinn will provide the information to the commission. Commissioner Davis inquired how rental fees are handled for other organizations using the facility. The kitchen fee is paid directly to Molokai Community Services Council (MCSC), the hall fee to the "ahupuaa" to maintain the facility, while other office rental fees are paid directly to the department, explained L. Chinn. Because Aha Punana Leo provides educational opportunities to the children, a discount is included in the rate.

ACTION

Motion carried unanimously.

ITEM NO: F-3

SUBJECT: Issuance of Right-of-Entry Permit to County of Kauai, Anahola, Kauai

MOTION/ACTION

This item was withdrawn.

ITEM NO: F-4

**SUBJECT: Issuance of Right-of-Entry Permit to Hawaii Electric Light Co., Inc.,
Kawaihae, Hawaii**

RECOMMENDATION

Administrator Linda Chinn recommended issuance of a Right-Of-Entry (ROE) permit to Hawaii Electric Light Company (HELCO) to do a ground survey and to assess a portion of the land at Kawaihae for financial feasibility of its proposed transmission utility line project; connecting a line from Akoni Pule Highway to the upper road. A presentation will be arranged for the Kailapa homestead community to address their concerns. Representatives from HELCO will also be on hand to address the community's concerns.

MOTION

Moved by Commissioner DaMate, seconded by Commissioner Lee Loy.

DISCUSSION

HELCO representatives Leila Buels, Land Agent, and Kevin Waltjen, Manager, Engineering Department appeared before the commission. Ms. Buels said that HELCO is asking for a Right of Entry (ROE) to determine the feasibility of a transmission line corridor and to survey the area. The proposed transmission line will increase the electrical service to the entire Kohala region and provide reliable service to the area, including DHHL properties. A direct benefit to homesteaders would be an unpaved road which would connect Kailapa residents to the Kohala mountain road. Residents are seeking an escape route for their community and this route would provide the solution, noted L. Chinn. Commissioners DaMate and Lee Loy are in favor of this proposal. Because of the magnitude of this radio 69 KV-line project and the efficiency it would create to maintain power to North Kohala and Kailapa, permits from the Public Utilities Commission (PUC) and public hearings would be required prior to building the access road, explained K. Waltjen. A perpetual easement request would then follow, once the ROE is granted, noted L. Buels.

ACTION

Motion carried unanimously.

ITEM NO: F-5

SUBJECT: Notices of Defaults/Revocations, Statewide

MOTION

Moved by Commissioner Artates, seconded by Commissioner DaMate.

DISCUSSION

Ms. Chinn was asked why was Nanakuli Hawaiian Homestead Community Association's (NHHCA) outstanding delinquency overlooked. She said the City's Real Property Tax office discovered the oversight when the property was being subdivided into four units to begin construction on an affordable housing project. The City retraced the history on the property and noticed that no real property tax was billed to NHHCA from the time it was converted to a general lease in 2008. DHHL records show the City was properly notified of this change, but the City, inadvertently, failed to bill them, noted L. Chinn. The department also received notice of this error, and informed Kali Watson, NHHCA Project Manager, of this oversight. The information is contained within the general lease, entailing fair market tax assessment on the land.

ACTION

Motion carried unanimously.

ITEM NO: F-6

SUBJECT: Revocable Permit No. 325, Native Hawaiian General Services, Kamaoa-Puueo, Hawaii

MOTION/ACTION

None; for information only.

DISCUSSION

There are 25 pastoral lots at 25 acres each in the Kamaoa-Pueo South Point region, and 5 active Revocable Permits (RP). Because of the severe drought, one of the requirements of the RP users is to graze the grass to prevent fires. RP 325 held by Native Hawaiian General Services (NHGS) is unique because it requires NHGS to work with existing applicants on the waitlist who want to ranch in the area. Lands under RP 325 were divided into 15 areas with each area fenced off, allowing for beneficiaries to use the land for pastoral activity. Shared road and water tanks are provided by NHGS and participants contribute to the maintenance of the road, water lines, and cost of water.

A complaint was filed in 2012 regarding a violation of RP 325, Mr. Jackie Kaluau of Native Hawaiian General Services (NHGS). It appears Mr. Kaluau has been subleasing to non-Hawaiian ranchers for a fee. He was notified in February 2013 of this violation, and, until now, no response was received. The next step is to terminate the RP. Part of the concern is to find a replacement to maintain the roads and waterline. Commissioner DaMate noted that Mr. Igami was taking in hundreds of cattle for a fee and dominated the water usage. Other ranchers want resolution to this problem and the department will need to determine how to proceed at this point. Commissioner Lee Loy conveyed that negotiations are ongoing with qualified people under NHGS that meet the criteria for homesteading. L. Chinn reminded the commission that these ranchers would need to meet the department's waitlist requirements.

H - ADMINISTRATION SERVICES DIVISION

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 March 31, 2013, to the Hawaiian Homes Trust Fund.

MOTION/ACTION

Moved by Commissioner Artates, seconded by Commissioner Tassill. Commissioner Lee Loy was excused when the vote was taken. Motion carried unanimously.

MOTION/ACTION

Moved by Commissioner Hopkins, seconded by Commissioner Artates, to recess the meeting. Motion carried unanimously.

RECESS

3:33 p.m.

HAWAIIAN HOMES COMMISSION
Minutes of March 19, 2013
Meeting Held in Kapolei, Oahu

RECONVENE 12:08 p.m.

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

COUNSEL Craig Iha, Deputy Attorney General

EXCUSED Imaikalani Aiu, Commissioner, Kauai
Michael P. Kahikina, Commissioner, Oahu

G - PLANNING DIVISION

ITEM NO: G-1

SUBJECT: Kau Land and Water Use

MOTION/ACTION

None, For information only.

DISCUSSION

Planner Kaleo Manuel said the department owns over 11,000 acres in Kau in four specific tracts: 11,000 in Kamaoa-Pueo (South Point), 262 acres in Waiohinu, 65 acres in Wailau, 13 acres in 40 scattered lots throughout Discovery Harbor subdivision. A handout was provided, with the prescribed uses identified in the table. DHHL's land holding overlay the different hydrologic units in Kalae, Naalehua, and Keaiwa. A table included in the submittal identified the sustainable yield amounts of water that can be withdrawn from these aquifers. Water to Pahala, Naalehu, and Waiohinu are serviced by Department of Water Supply, Hawaii County. People outside of that area collect their water through catchments. A test well was dug along the South Point Road, but the quality was poor for potable consumption.

An existing Coast Guard pipeline runs along South Point Road that serviced a barracks during the war. A moratorium exists, preventing additional meters from hooking up. The pipeline will need repairing before the moratorium is lifted. A Kau agricultural water district is in the process of surveying the existing irrigation systems and developing regional co-ops that would provide

maintenance and management of delivery of water to users in the area. The Mountain House Tunnel and Hao Springs system would affect Hawaiian home lands.

A Kau water assessment is a priority in this region. A scope of the assessment may include the following points:

- 1) review previous water studies;
- 2) conduct community consultation meetings;
- 3) assess quality and quantity of existing test well;
- 4) identify and investigate potential source development;
- 5) identify potential increased transmission and system upgrades to existing DWS System in order to service DHHL lands;
- 6) develop cost analysis of development options.

Commissioner Lee Loy noted that former Hawaii Island Councilwoman Britney Smart tapped into a military National Guard grant for water resources. He said Ms. Smart expressed an interest in bringing water to the Kau area. K. Manuel said he will investigate this further, and with the planning and assessment portion yet to be completed, this may be an opportune time to move forward. Discussions still continue with the Kau agricultural district on how the survey will be done and where the focus will be. There are 32 tunnels from Pahala to Waiohinu that need to be surveyed as part of this project.

Initial conversations have taken place with the Hawaii National Park Service (HNPS) regarding the historical preservation at the federal level, and what is the department's intent to utilize the area. The department will seek ways to partner and investigate funding opportunities from HNPS. K. Manuel pointed out that the Kau district was designated as both a Hawaii and national historic landmark in the '60's. He will research the current status of this landmark.

K. Manuel attended a meeting with beneficiaries who are seeking guidance on how they will be impacted with co-ops providing water to DHHL lands. The meeting helped clarify some of the issues that may impact both the beneficiaries and the department. Commissioner Lee Loy inquired whether the department is able to gain water rights or licensing for "ag" and pastoral lots in the area. One of the major factors is the use of land and what plans the department foresees happening in the region. There are twenty-five pastoral leases, and 12 agricultural leases in Pueo. Existing "ag" lots are located in lava fields and some of the discussion prompted views on relocating to the mauka region, where the land is fertile, and water resources readily available. Land uses still need to be figured out, expressed K. Manuel.

In response, Commissioner Lee Loy wants a placeholder on water rights for the lower region of Kamaoa-Pueo for development of pastoral and "ag" lots.

The Planning Division has comprehensively looked at all lands, statewide, as part of the Hawaii State water project plan that DLNR (Department of Land and Natural Resources) is updating. They have identified water demands based on general land use, and reserving water, potentially, for uses in all of the tracts throughout the state. A figure could be available by the end-of-the month with a DLNR consultant determining how much water, per acre, in Kau, will be needed to make those lands usable, said K. Manuel.

Chair noted that the department should assert its rights to water, to ensure sufficient resources to irrigate our pastoral and agricultural lands. The department is focusing their efforts on the water issues deemed a priority by the Kau community, added K. Manuel.

ITEM NO: G-2

SUBJECT: Oahu Island Plan Update

MOTION/ACTION

None, For Information Only.

DISCUSSION

Planner Nancy McPherson provided some updates of the meeting venues scheduled for the Oahu Island Plan open houses, beginning next month. She stated that all divisions are participating and staff will share feed back as the open houses progress. She encouraged the Oahu commissioners to kokua by sharing the information with others.

ITEM NO: G-3

SUBJECT: Lifting of Ag Subdivision Moratorium Update

MOTION/ACTION

None, For Information Only.

DISCUSSION

Planner Bob Freitas shared how the farmers and ranchers have a better understanding of the subdivision process. Having information available on the DHHL website has assisted those who did attend the meetings. Comments are being assembled, and initial indications show a strong support for more agricultural and pastoral leases. Homesteaders are in strong support of subdividing their lots to allow the next generation of ohana an opportunity to farm or ranch. B. Freitas conveyed there is strong support against the sale of leases. He noted that a workshop will be held next month for commission members.

There is a strong belief when dealing with homestead farming and ranching, which goes back to the sentiments expressed when the Agricultural Task Force was formed; that, "land is not designed to be owned, it should be used so another native Hawaiian may be able to farm or ranch the lands." B. Freitas pointed out that costs to subdivide the lots will be incurred by the homesteaders as stated in the rules. These costs will include such things as surveyors and professionals needed to work through the county process. Commissioner Hopkins thanked staff for the information that was shared in the consultation meetings. He asked that perhaps information be made available prior to the meetings, to aid potential homestead farmers and ranchers in understanding the process.

J - GENERAL AGENDA

ITEM NO: J-1

SUBJECT: Request to Address the Commission – Mark Hee, Koa, Inc

MOTION/ACTION

None, for information only.

Garrett Kam introduced himself, Mark Hee, and Attorney Patricia Talbert, as representatives of Koa, Inc. G. Kam submitted a binder that included pictures of finished koa products and its processing, a schematic evaluation of a koa salvage and reforestation project in Humuula, Island of Hawaii, which is to be made a part of these minutes as Exhibit "A" of Item J. Each party represented his/her personal and business background experiences. G. Kam expressed how their company is the largest buyer of koa from the DHHL harvest, and has over ten (10) years of experience in working with architects, contractors, and developers. He named several well-established entities as some of their clients. Their dealings in koa have all been "satisfactory and pono," articulated G. Kam. The emphasis is not only to harvest the wood, but to sustain the market for koa wood and to create a multi-million dollar business shared by DHHL that can 1) create jobs, 2) work with Kamehameha Schools (KS) Hawaii campus, 3) ensure perpetual practices in woodworking, 4) educate students at a base camp on the mountainside, 5) develop a market for sugi pine, (an invasive species) or clear gorse weed, and 6) sustain a revenue stream for the forest managers. He recommended that DHHL can learn from the forest and create a data base on DHHL lands and other private lands to position themselves as managers of their lands. G. Kam noted that Koa, Inc. thinks along the lines of benefiting its community, being sustainable, and growing revenue streams. With this in mind, Koa, Inc. submitted a proposal for DHHL's last harvest, to acquire a land license in Humuula. In June 2012, a Request for Proposal (RFP) 13-HHL-001 was issued, and Koa, Inc. responded with the high bid \$5.65 per board-foot. Overall, Koa, Inc. ranked No. 3 in the evaluation process. After meeting with DHHL agent Mike Robinson, P. Talbert articulated that the criteria used for the terms of the RFP were incorrect as the land license contained 20 pages while the RFP displayed only 6 pages, which indicated, to them, that many specifics were missing in the RFP. A protest was filed on February 4, 2012, based on the fact that they were the top bidder for the project, as established in HRS Section 171-59, which states that if two or more applicants meet the criteria the highest bidder is offered the license.

According to Deputy AG Iha, there is no provision that grants someone an opportunity to protest this matter, as this is not a procurement process. He advised the commission to adjourn to executive session to discuss the matter further.

Prior to adjourning, P. Talbert noted that Koa, Inc. is not submitting a protest and conveyed that they are merely adhering to what is interpreted in HRS Section 171-59, which is to select the lessee who submits the highest bid.

MOTION/ACTION

Commissioner Lee Loy moved to adjourn in executive session, to further discuss this matter with counsel, seconded by Commissioner Hopkins. Motion carried unanimously.

RECESS 2:36 p.m.

EXECUTIVE SESSION

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

MOTION/ACTION

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

RECONVENE 3:08 p.m.

ITEM NO: J-1 (cont.)

SUBJECT: Request to Address the Commission – Mark Hee, Koa, Inc.

DISCUSSION

The Chair conveyed to Koa, Inc. that the “J” agenda affords the public and/or beneficiary an opportunity to share their concerns with the commission. However, the commission is unable to render any action in this format. The Chair expressed to Koa, Inc. presenters that someone from the department will be in contact with them regarding this matter.

MOTION/ACTION

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

RECESS 3:10 p.m.

EXECUTIVE SESSION

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

1. Honokaia Ohana Settlement Proposal
2. In the Matter of Sale of Leases

RECONVENE 4:23 p.m.

MOTION/ACTION

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

ADJOURNMENT 4:24 p.m.

ANNOUNCEMENTS AND ADJOURNMENT

NEXT MEETING

April 22, 2013, Kapolei, Oahu, Hawaii

ANNOUNCEMENTS

A community meeting is scheduled on April 22, 2013, Waimanalo, Oahu, Hawaii, at 6:30 p.m.

ADJOURNMENT

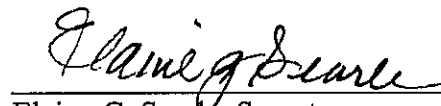
4:24 p.m.

Respectfully submitted:



Jobie M. K. Masagatani, Chairman
Hawaiian Homes Commission

Prepared by:



Elaine G. Searle, Secretary
Hawaiian Homes Commission

APPROVED BY:

The Hawaiian Homes Commission
At Its Regular Monthly Meeting Of
April 22, 2014



Jobie M. K. Masagatani, Chairman
Hawaiian Homes Commission

HAWAIIAN HOMES COMMISSION

SIGN IN SHEET TESTIMONY

Date & Time: MAR 18 2013

Re: HHC AGENDA

Location: 91-5420 Kapolei Pkwy, Kapolei, HI

FULL NAME (PLEASE SIGN)	ADDRESS (STREET, CITY, ZIP)	Reference ITEM NO.	TELEPHONE
1. <u>Blossom Feistner</u>	<u>Association of Homeowners for Waialeale Lands</u>	<u>CH, 02, H-1</u>	
2. <u>Puamau Crabbe</u>	<u>Waialeale</u>	<u>A-2</u>	
3.			
4.			
5.			
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10.			
11.			
12.			

Testimony of Waiohuli Undivided Interest Lessees
Association to
Hawaiian Homes Commission
3/18/13 at DHHL Kapolei

Aloha, my name is Puamana Crabbe, and I am a Waiohuli undivided-interest lessee, speaking on behalf of the Waiohuli Undivided Interest Lessees Association on agenda item A-2 regarding the NAHASDA budget, that is, the federal funds of the Native American Housing Assistance and Self-Determination Act of 1996.

The 289 Waiohuli undivided-interest lessees could benefit from these funds being used on infrastructure for an increment of our Upcountry Maui subdivision.

* My Kupuna are from Kipahulu, and my sister, Leihua Lu`uwai, and her family live on Waiohuli phase-1 homestead.

* Although I currently reside on O`ahu, I am taking the steps to qualify for a homestead home.

* As a preschool teacher from Palolo, I would like to teach early education on the homestead. By May, I anticipate being awarded the CDA, or Child Development Associate, national certification that will allow me to serve as a preschool director or lead teacher.

* And as an apparel designer, the art communities of Makawao and Paia are sources of inspiration.

* I meet monthly with Kekoa Enomoto (on O`ahu) to discuss homestead issues and get updates that may have an impact on future homestead recipients.

* I humbly ask the Commission and all those with kuleana regarding Waiohuli undivided-interest homestead to ho`omau and stay the course in the planning, development and construction of this homestead.

Public Testimony
HHC Item No. B-2
Exhibit A
Date 3-18-13



Department of Hawaiian Home Lands

Land Management Division

Authorization to Extend General Lease Terms

March 19, 2013

Legislative Actions

➤ Two (2) new legislation impacting
DHHIL general leasing program:

✓ Act 187 (10) signed into law July, 2010;
amended by Act 175 (12) signed into law
June, 2012

✓ Act 219 (11), signed into law July, 2011
with effective date of July 1, 2011 with a
repeal date of December 31, 2015

WRKshop
3-18-13

DHHL Authority/Legal Guidance

➤ DHHL's authority relating to general leasing program can be found in :

- ✓ Hawaiian Homes Commission Act of 1920, as amended, Section 204(a)(2) and Section 220.5
- ✓ Chapter 171, Hawaii Revised Statutes, as amended; and
- ✓ Hawaii Administrative Rules, Title 10-4

Act 187

Part II of Act 187 (2010):

- ✓ Require DHHL to establish consultation process prior to awarding leases for commercial or multi-purpose projects;
- ✓ Authorize the extension of commercial and multi-purpose projects leases to make improvements to the projects and shall not be longer than twenty (20) years;
- ✓ Require DHHL to set aside 15% of all lease revenues from extension of commercial and multi-purpose leases to the native Hawaiian rehabilitation fund
- ✓ Establish reporting requirements regarding leases of Hawaiian home lands for commercial and multi-purpose projects;
- ✓ Establish reporting requirements regarding the expenditures of the native Hawaiian rehabilitation fund.

Act 175

Act 175 (2012) amended Act 187:

- ✓ Repeal requirement that DHHL deposit 15% of all revenues from the lease agreements from the time a lease extension is granted into the Native Hawaiian Rehabilitation Fund;
- ✓ Remove requirement for an annual report on expenditure from this fund that are derived from the amounts deposited from the lease extension; and
- ✓ Require all lease revenues from commercial and multipurpose project leases collected by the department to be deposited into the Hawaiian home administration account.

Impact of Act 175

➤ Created Section 228, HHCA, as amended - relating to commercial and multipurpose project leases, extension of term.

➤ Section 228 (c) establishes new procedures for lease extensions:

Notwithstanding section 220.5(d)(1), the department may extend the term of a lease of Hawaiian home lands for commercial or multipurpose projects and with the approval by the department of a written agreement proposed by the lessee, or the lessee and developer, to:

- (1) Make improvements to the leased property, or
- (2) Obtain financing for the improvements of the leased lands

The extension of the lease pursuant to this section shall be based upon the improvements made or to be made, shall be no longer than twenty years, and shall be granted only once.

Impact of Act 175

➤Section 228(d) states that:

Before the written agreement is approved, the lessee, or the lessee and developer, shall submit to the department the plans and specifications for the proposed development. The department shall review the plans, specifications, and the written agreement and determine:

- (1) Whether the development is of sufficient value and meets the priorities of the commission to justify an extension of the lease;
- (2) The estimated time needed to complete the improvements and expected date of completion of the improvements; and
- (3) The minimum revised annual rent based on the fair market value of the lands to be developed, as determined by an appraiser for the department, and percentage rent where gross receipts exceed a specified amount.

Impact of Act 175

➤Section 228(d) also states that:

"The commission shall adopt and publish a policy pursuant to chapter 91, Hawaii Revised Statutes, which shall be used to evaluate any request for a lease extension, including the terms of the lease, prospective payments, and renegotiation, and shall be used by the commission for any final determination on a lease extension request."

HHC Policy/Rule Making for lease term extension

Proposed Evaluation Policy for HHC to consider lease extension request:

- 1) Lessee shall meet and satisfy all requirements as referenced in HHCA §228, specifically (c) and (d);
- 2) Extension shall provide lessee for the extent necessary, but not longer than 20 years, to qualify the lease for mortgage lending or guaranty purposes with any federal mortgage lending agency and/or private lending institution loan; private loan guaranteed by the State; or any loan in which the State and any private lender participates; provided that the federal and/or private lender is qualified to do business in the State of Hawaii;
- 3) The demised premises have been used substantially for the purpose which they were originally leased;
- 4) The rental shall not be less than the rental for the preceding term; and
- 5) The Commission may set forth any additional terms and conditions deemed prudent and reasonable to insure and promote the purposes of the demised premises.

Act 219

> Act 219 (11) signed into law July, 2011 effect as of July 1, 2011; provided that this Act shall be repealed on December 31, 2015.

> The purpose of this Act is to authorize the board of land and natural resources (Hawaiian Homes Commission) to extend hotel and resort leases that have not been sold or assigned within the last five years, for lessees who commit to substantial improvements to the existing improvements.

> Substantial improvements shall mean any renovation, rehabilitation, reconstruction, or construction of the existing improvements, including minimum requirements for off-site and on-site improvements, exceeding 50% of the market value of the existing improvements.

Act 219 Provision

- ✓ Allows the Hawaiian Homes Commission (HHC) to extend the term of a lease for hotel or resort use upon the approval by the HHC of a written agreement proposed by the lessee, or the lessee and developer;
- ✓ Requires the lessee, or the lessee and developer to submit to the HHC the plans and specifications for the total development being proposed;
- ✓ Requires the HHC to review the specifications and determine whether the development is of sufficient worth and value to justify the extension of the lease; the estimated period of time to complete the improvements and expected date of completion of the improvements; and the minimum revised annual rent based upon the fair market value of the lands to be developed exceed a specified amount.
- ✓ Prohibits any lease extension until the lessee, or the lessee and developer have filed with the HHC a good and sufficient bond or other financial guaranty satisfactory to the board.
- ✓ Requires extension of the lease to be based upon the substantial improvements to be made and to be no longer than 55 years.
- ✓ Requires that any extension of a lease granted is to be effectuated, documented, and executed using the most current lease form and leasing practices and policies of the board.

Act 219

Land under Aston Aloha Beach Hotel in Wailua, Kauai:

- ✓ General Lease Nos. S-3831, S-3840, & S-4647 transferred to DHHL effective July 2, 2012
- ✓ Annual ground lease rent is \$221,452.00
- ✓ Improvements need substantial upgrade
- ✓ In discussion with LMD on lease extension under Act 219
- ✓ Appraisal in process
- ✓ HHC review and action in April/May 2013



Department of Hawaiian Home Lands



ACT 187

"Private entity" means any association of homeowners, community association, condominium association, cooperative, or any other nongovernmental entity with covenants, bylaws, and administrative provisions with which a homeowner's compliance is required."

SECTION 2. New statutory material is underscored.¹

SECTION 3. This Act shall take effect on July 1, 2010.

(Approved June 30, 2010.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 187

H.B. NO. 1015

A Bill for an Act Relating to Obligations of the Department of Hawaiian Home Lands Trust Fund.

Be It Enacted by the Legislature of the State of Hawaii:

PART I

SECTION 1. The purpose of this part is to establish a two-year pilot project to enable the department of Hawaiian home lands to begin housing and other projects without having the full amount of the cost of the projects on hand at the start of the project.

SECTION 2. Section 37-40, Hawaii Revised Statutes, is amended to read as follows:

"§37-40 Exceptions; trust funds. Except as to administrative expenditures, and except as otherwise provided by law, expenditures from trust funds may be made by any department or establishment without appropriation or allotment; provided that no expenditure shall be made from and no obligation shall be incurred against any trust fund in excess of the amount standing to the credit of the fund or for any purpose for which the fund may not lawfully be expended[.], except that obligations in excess of the amount standing to the credit of any trust fund established under the Hawaiian Homes Commission Act, 1920, as amended, may be incurred, subject to conditions that the director of finance believes to be reasonably necessary, when the director of finance determines that:

- (1) Moneys to pay the obligation made in excess of the amount standing to the credit of the trust fund are expected to be received by the trust fund within a reasonable time period; and
- (2) With the approval of the governor, such action is in the best interests of the State and will not impede or hamper the financial obligations of the State.

No suit for damages, including an action for breach of trust under chapter 673 or any other law, may be brought against the State, the department of Hawaiian home lands, the Hawaiian homes commission, the governor, the director of finance, or any other state agency or official for relying or refusing to rely on this section to permit expenditures in excess of the amount standing to the

credit of the trust fund established under the Hawaiian Homes Commission Act, 1920, as amended.

Nothing in sections 37-31 to 37-41 shall require any trust fund established pursuant to law be reappropriated annually."

SECTION 3. Section 103D-309, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Contracts awarded pursuant to section 103D-302, 103D-303, or 103D-306, shall neither be binding nor have any force and effect of law unless the comptroller, the director of finance of a county, or the respective chief financial officers of the department of education, the judiciary, or the legislative branches of the State or county, as the case may be, endorses thereon a certificate that there is an appropriation or balance of an appropriation over and above all outstanding contracts, sufficient to cover the amount required by the contract; provided that if the contract is a multi-term contract, the comptroller, director of finance, or chief financial officer shall only be required to certify that there is an appropriation or balance of an appropriation over and above all outstanding contracts, that is sufficient to cover the amount required to be paid under the contract during the fiscal year or remaining portion of the fiscal year of each term of the multi-year contract; provided further that the administrator of the state procurement office shall attest in writing to any recommendation or solicitations. This section shall not apply to any contract under which the total amount to be paid to the contractor cannot be accurately estimated at the time the contract is to be awarded, or to any contract for which consideration is in kind or forbearance, or to any contract awarded pursuant to section 103D-306 that is a one-time payment through a purchase order[-], or to any contractual obligation approved by the governor under section 37-40."

SECTION 4. The department of Hawaiian home lands shall submit an interim report to the legislature no later than twenty days prior to the convening of the regular session of 2011 and a final report to the legislature no later than twenty days prior to the convening of the regular session of 2012, including in the interim and final reports:

- (1) The number of instances and extent of obligations it has incurred in excess of the amount standing to the credit of each trust fund established under the Hawaiian Homes Commission Act, 1920, as amended, pursuant to the provisions of this part;
 - (2) The name, location, and description of any housing projects, including the number and types of housing units, and the projected delivery date of the units in each project, that have benefitted from the obligations incurred in paragraph 1; and
 - (3) Any other information that it may deem to be relevant;
- during the period from the effective date of this Act to, and including, the date of the filing of the interim and final reports required by this section.

PART II

SECTION 5. Pursuant to section 101, Hawaiian Homes Commission Act, 1920, as amended, the Hawaiian home lands are intended to establish "a permanent land base for the benefit and use of native Hawaiians, upon which they may live, farm, ranch, and otherwise engage in commercial or industrial or any other activities as authorized in this Act." The legislature finds that commercial and multipurpose projects authorized under this part to raise funds to enable the department of Hawaiian home lands to operate and build the infra-

structure necessary for the native Hawaiian beneficiaries to make the homestead lands their home, are well-intentioned. However, while these revenue-raising commercial and multipurpose projects benefit the native Hawaiian beneficiaries indirectly, there are times when commercial and multipurpose projects result in short- and long-term negative consequences for the beneficiaries that are not adequately addressed.

The legislature finds that setting aside a portion of those commercial and multipurpose project revenues to be used for the benefit of native Hawaiian beneficiaries, beneficiary-controlled organizations, and homestead community associations is consistent with the purpose and intent of the Hawaiian Homes Commission Act, 1920, as amended, and will aid in ensuring that native Hawaiian beneficiaries, either directly or through native Hawaiian community organizations, such as beneficiary-controlled organizations, and homestead community associations, benefit from these commercial and multipurpose projects.

The purpose of this part is to:

- (1) Direct the department of Hawaiian home lands to establish a process for consulting with beneficiaries prior to awarding leases for commercial and multipurpose projects;
- (2) Authorize the extension of commercial and multipurpose project leases to make improvements to the property;
- (3) Set aside fifteen per cent of all lease revenues from extensions of commercial and multipurpose project leases to be deposited into the native Hawaiian rehabilitation fund to be used for the benefit of native Hawaiian beneficiaries, beneficiary-controlled organizations, and homestead community associations;
- (4) Establish reporting requirements regarding leases of Hawaiian home lands for commercial and multipurpose projects; and
- (5) Establish reporting requirements regarding the expenditures of the native Hawaiian rehabilitation fund.

SECTION 6. The Hawaiian Homes Commission Act, 1920, as amended, is amended by adding a new section to be appropriately designated and to read as follows:

“§ Commercial and multipurpose project leases; extension of term. (a) Notwithstanding any law to the contrary, the procedures under this section shall apply to commercial and multipurpose projects under section 204 or 220.5, and shall be in addition to any other procedures required by law.

(b) Prior to the disposition of available land through a request for proposals for an initial lease for a commercial or multipurpose project, the department shall consult with beneficiaries of the trust in the master planning of the available lands. The process of beneficiary consultation shall be as established by the department and shall:

- (1) Engage beneficiaries and beneficiary-serving organizations;
- (2) Provide for the timely dissemination of information about the proposed project and the gathering of input; and
- (3) Allow for a reasonable time and reasonable access to relevant information for evaluation and consideration.

(c) Notwithstanding section 220.5(d)(1), the department may extend the term of a lease of Hawaiian home lands for commercial or multipurpose projects and with the approval by the department of a written agreement proposed by the lessee, or the lessee and developer, to:

- (1) Make improvements to the leased property; or
- (2) Obtain financing for the improvement of the leased lands.

The extension of the lease pursuant to this section shall be based upon the improvements made or to be made, shall be no longer than twenty years, and shall be granted only once.

(d) Before the written agreement is approved, the lessee, or the lessee and developer, shall submit to the department the plans and specifications for the proposed development. The department shall review the plans, specifications, and the written agreement and determine:

- (1) Whether the development is of sufficient value and meets the priorities of the commission to justify an extension of the lease;
- (2) The estimated time needed to complete the improvements and expected date of completion of the improvements; and
- (3) The minimum revised annual rent based on the fair market value of the lands to be developed, as determined by an appraiser for the department, and percentage rent where gross receipts exceed a specified amount.

The commission shall adopt and publish a policy pursuant to chapter 91, Hawaii Revised Statutes, which shall be used to evaluate any request for a lease extension, including the terms of the lease, prospective payments, and renegotiation, and shall be used by the commission for any final determination on a lease extension request.

(e) Upon the extension of a lease term pursuant to subsection (c), the department shall deposit fifteen per cent of all revenues generated from the lease from the time the lease extension is granted, into the native Hawaiian rehabilitation fund under section 213(i).

(f) The department shall submit an annual report to the legislature and the United States Department of the Interior, no later than twenty days prior to the convening of each regular session, beginning with the regular session of 2011, of all leases of available lands for commercial and multipurpose projects, including the following:

- (1) The total number of leases;
- (2) Acreage of each lease;
- (3) Terms of each lease;
- (4) Whether the lessee is a beneficiary or beneficiary controlled organization; and
- (5) Whether the lease was for retained available lands not required for leasing under section 207(a), and was negotiated with a native Hawaiian, or organization or association owned or controlled by native Hawaiians, under section 204(a)(2).

(g) As used in this section, "improvements" means any renovation, rehabilitation, reconstruction, or construction of the property, including minimum requirements for off-site and on-site improvements."

SECTION 7. Section 213, Hawaiian Homes Commission Act, 1920, as amended, is amended by amending subsection (i) to read as follows:

"(i) Native Hawaiian rehabilitation fund. Pursuant to Article XII, Section 1, of the [State] Hawaii Constitution, thirty ~~percent~~ per cent of the state receipts, derived from lands previously cultivated as sugarcane lands under any other provision of law and from water licenses, and fifteen per cent of all revenues from lease agreements granted lease extensions pursuant to section , shall be deposited into this fund. The department shall use this money for the rehabilitation of native Hawaiians, native Hawaiian families, and Hawaiian homestead communities, which shall include the educational, economic, political, social, and cultural processes by which the general welfare and conditions of native Hawaiians are thereby improved and perpetuated.

ACT 187

The native Hawaiian rehabilitation fund shall be subject to the following conditions:

- (1) All moneys received by the fund shall be deposited into the state treasury and kept separate and apart from all other moneys in the state treasury;
- (2) The director of finance shall serve as a custodian of the fund. All payments from the fund shall be made by the director of finance only upon vouchers approved by the commission;
- (3) The commission shall develop guidelines for the investment of moneys in the fund;
- (4) The commission may invest and reinvest in investments authorized by chapter 88, Hawaii Revised Statutes. The commission may hold, purchase, sell, assign, transfer, or dispose of any securities and investments in which any of the moneys shall have been invested, as well as the proceeds of such investments; and
- (5) The commission may pay out of any of the moneys held for investment, a reasonable amount to any person for supplying investment advisory or consultative services; and to meet such other costs incident to the prudent investment of moneys as the commission may approve.

Any payment of principal, interest, or other earnings arising out of the loan or investment of money from this fund shall be credited to and deposited into this fund.

Sections 214, 215, 216, and 217 shall not apply to administration of this fund. The department is authorized to adopt rules under chapter 91, Hawaii Revised Statutes, necessary to administer and carry out the purposes of this fund.

The department shall submit an annual report to the legislature and the United States Department of the Interior, no later than twenty days prior to the convening of each regular session of the legislature, beginning with the regular session of 2011, on expenditures from this fund that are derived from the amounts deposited from commercial and multipurpose project lease extensions pursuant to section (e), including the amount expended, the recipient of the moneys expended, and the purpose of the expenditure."

SECTION 8. The Hawaiian homes commission shall adopt and publish the policy described in section 6 of this Act pursuant to chapter 91, Hawaii Revised Statutes, to evaluate any request for a lease extension, including the terms of the lease, prospective payments, and renegotiation, and for any final determination on a lease extension request no later than October 31, 2010.

SECTION 9. All lease revenues from commercial and multipurpose project leases collected by the department of Hawaiian home lands to which section , Hawaiian Homes Commission Act, 1920, as amended, applies shall be deposited into the Hawaiian home lands trust fund established under section 213.6, Hawaiian Homes Commission Act, 1920, as amended; provided that the department of Hawaiian home lands shall deposit fifteen per cent of those revenues that are derived from the amounts deposited from commercial and multipurpose project lease extensions pursuant to section (e), Hawaiian Homes Commission Act, 1920, as amended, into the native Hawaiian rehabilitation fund established under section 213(i), Hawaiian Homes Commission Act, 1920, as amended.

SECTION 10. The provisions of the amendments made by this part to the Hawaiian Homes Commission Act, 1920, as amended, are declared to be severable, and if any section, sentence, clause, or phrase, or the application thereof

to any person or circumstances is held ineffective because there is a requirement of having the consent of the United States to take effect, then that portion only shall take effect upon the granting of consent by the United States and effectiveness of the remainder of these amendments or the application thereof shall not be affected.

PART III

SECTION 11. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 12. This Act shall take effect on July 1, 2010; provided that on June 30, 2012, part I of this Act shall be repealed and sections 37-40 and 103D-309(a), Hawaii Revised Statutes, shall be reenacted in the form in which they read on the day prior to the effective date of this Act.

(Approved July 2, 2010.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 188

S.B. NO. 2828

A Bill for an Act Relating to Education.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that to implement a program of school impact fees, established by Act 245, Session Laws of Hawaii 2007, certain amendments need to be made to the sections of law creating school impact districts and to the formulas and practices for providing land and collecting fees for new or expanded school facilities in areas expecting a large amount of residential growth.

The purpose of this Act is to clarify the sections of law pertaining to school impact fees to facilitate the provision of land and collection of fees for public schools.

SECTION 2. Chapter 302A, Hawaii Revised Statutes, is amended by adding a new section to subpart B of part VI to be appropriately designated and to read as follows:

"§302A- Use of data reflecting recent conditions in impact fee calculations. (a) Every three years beginning in 2010, the department shall concurrently update the following:

- (1) School site area averages, using the total school land requirement for each individual in a school impact district as calculated pursuant to section 302A-1606(b);
- (2) Elementary, middle or intermediate, and high school permanent facility construction costs per student, as provided under section 302A-1607; and
- (3) Revenue credit per unit figures provided pursuant to section 302A-1607(e).

ACT 175

"(d) There are established in the treasury of the State four trust funds, to be known respectively as the Hawaiian home operating fund, the Hawaiian home receipts fund, the Hawaiian home trust fund, and the native Hawaiian rehabilitation fund, and one special fund to be known as the Hawaiian home administration account. Expenditures and procurements less than \$100,000 made from these trust funds and accounts shall be exempt from chapter 103D, Hawaii Revised Statutes; provided that the department shall develop internal policies and procedures for the procurement of goods, services, and construction that are consistent with the goals of public accountability and public procurement practices for expenditures from these funds. The department is encouraged to use the provisions of chapter 103D, Hawaii Revised Statutes, where possible; provided that the use of one or more provisions of chapter 103D, Hawaii Revised Statutes, shall not constitute a waiver of the exemption from that chapter and shall not subject the department to any other provision of chapter 103D, Hawaii Revised Statutes.

The department shall submit an annual report to the legislature no later than twenty days before the convening of each regular session. The report shall include, but not be limited to, solicitations of goods, services, and construction, types of procurements, and awardees."

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect on July 1, 2012; provided that on June 30, 2015, this Act shall be repealed and section 213, Hawaiian Homes Commission Act, 1920, as amended, shall be reenacted in the form in which it read on June 30, 2012.

(Approved June 28, 2012.)

ACT 175

S.B. NO. 2790

A Bill for an Act Relating to the Department of Hawaiian Home Lands.

Be It Enacted by the Legislature of the State of Hawaii:

PART I

Section 1. Act 187, Session Laws of Hawaii 2010, is amended by amending section 12 to read as follows:

"SECTION 12. This Act shall take effect on July 1, 2010; provided that on June 30, [2012] 2015, part I of this Act shall be repealed and sections 37-40 and 103D-309(a), Hawaii Revised Statutes, shall be reenacted in the form in which they read on the day prior to the effective date of this Act."

SECTION 2. The department of Hawaiian home lands shall report to the legislature no later than twenty days prior to the convening of the regular sessions of 2013, 2014, and 2015 on the status of the pilot project established under part I of Act 187, Session Laws of Hawaii 2010.

PART II

SECTION 3. Section 213, Hawaiian Homes Commission Act, 1920, as amended, is amended by amending subsection (i) to read as follows:

"(i) Native Hawaiian rehabilitation fund. Pursuant to Article XII, Section I, of the Hawaii Constitution, thirty per cent of the state receipts, derived from lands previously cultivated as sugarcane lands under any other provision of law and from water licenses, ~~[and fifteen per cent of all revenues from lease agreements granted lease extensions pursuant to section 228,]~~ shall be deposited into this fund. The department shall use this money for the rehabilitation of native Hawaiians, native Hawaiian families, and Hawaiian homestead communities, which shall include the educational, economic, political, social, and cultural processes by which the general welfare and conditions of native Hawaiians are thereby improved and perpetuated.

The native Hawaiian rehabilitation fund shall be subject to the following conditions:

- (1) All moneys received by the fund shall be deposited into the state treasury and kept separate and apart from all other moneys in the state treasury;
- (2) The director of finance shall serve as a custodian of the fund. All payments from the fund shall be made by the director of finance only upon vouchers approved by the commission;
- (3) The commission shall develop guidelines for the investment of moneys in the fund;
- (4) The commission may invest and reinvest in investments authorized by chapter 88, Hawaii Revised Statutes. The commission may hold, purchase, sell, assign, transfer, or dispose of any securities and investments in which any of the moneys shall have been invested, as well as the proceeds of such investments; and
- (5) The commission may pay out of any of the moneys held for investment, a reasonable amount to any person for supplying investment advisory or consultive services; and to meet such other costs incident to the prudent investment of moneys as the commission may approve.

Any payment of principal, interest, or other earnings arising out of the loan or investment of money from this fund shall be credited to and deposited into this fund.

Sections 214, 215, 216, and 217 shall not apply to administration of this fund. The department is authorized to adopt rules under chapter 91, Hawaii Revised Statutes, necessary to administer and carry out the purposes of this fund.

~~[The department shall submit an annual report to the legislature and the United States Department of the Interior, no later than twenty days prior to the convening of each regular session of the legislature, beginning with the regular session of 2011, on expenditures from this fund that are derived from the amounts deposited from commercial and multipurpose project lease extensions pursuant to section 228(e), including the amount expended, the recipient of the moneys expended, and the purpose of the expenditure.]"~~

SECTION 4. Section 228, Hawaiian Homes Commission Act, 1920, as amended, is amended to read as follows:

"~~[[§228.]]~~ Commercial and multipurpose project leases; extension of term. (a) Notwithstanding any law to the contrary, the procedures under this section shall apply to commercial and multipurpose projects under section 204 or 220.5, and shall be in addition to any other procedures required by law.

(b) Prior to the disposition of available land through a request for proposals for an initial lease for a commercial or multipurpose project, the department shall consult with beneficiaries of the trust in the master planning of the

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available lands. The process of beneficiary consultation shall be as established by the department and shall:

- (1) Engage beneficiaries and beneficiary-serving organizations;
 - (2) Provide for the timely dissemination of information about the proposed project and the gathering of input; and
 - (3) Allow for a reasonable time and reasonable access to relevant information for evaluation and consideration.
- (c) Notwithstanding section 220.5(d)(1), the department may extend the term of a lease of Hawaiian home lands for commercial or multipurpose projects and with the approval by the department of a written agreement proposed by the lessee, or the lessee and developer, to:
- (1) Make improvements to the leased property; or
 - (2) Obtain financing for the improvement of the leased lands.
- The extension of the lease pursuant to this section shall be based upon the improvements made or to be made, shall be no longer than twenty years, and shall be granted only once.

(d) Before the written agreement is approved, the lessee, or the lessee and developer, shall submit to the department the plans and specifications for the proposed development. The department shall review the plans, specifications, and the written agreement and determine:

- (1) Whether the development is of sufficient value and meets the priorities of the commission to justify an extension of the lease;
- (2) The estimated time needed to complete the improvements and expected date of completion of the improvements; and
- (3) The minimum revised annual rent based on the fair market value of the lands to be developed, as determined by an appraiser for the department, and percentage rent where gross receipts exceed a specified amount.

The commission shall adopt and publish a policy pursuant to chapter 91, Hawaii Revised Statutes, which shall be used to evaluate any request for a lease extension, including the terms of the lease, prospective payments, and renegotiation, and shall be used by the commission for any final determination on a lease extension request.

~~[(e) Upon the extension of a lease term pursuant to subsection (c), the department shall deposit fifteen per cent of all revenues generated from the lease from the time the lease extension is granted, into the native Hawaiian rehabilitation fund under section 213(i).~~

(f) (e) The department shall submit an annual report to the legislature and the United States Department of the Interior, no later than twenty days prior to the convening of each regular session, beginning with the regular session of 2011, of all leases of available lands for commercial and multipurpose projects, including the following:

- (1) The total number of leases;
- (2) Acreage of each lease;
- (3) Terms of each lease;
- (4) Whether the lessee is a beneficiary or beneficiary controlled organization; and
- (5) Whether the lease was for retained available lands not required for leasing under section 207(a), and was negotiated with a native Hawaiian, or organization or association owned or controlled by native Hawaiians, under section 204(a)(2).

(f) All lease revenues from commercial and multipurpose project leases collected by the department to which this section applies shall be deposited into the Hawaiian home administration account established under section 213(f).

(g) As used in this section, "improvements" means any renovation, rehabilitation, reconstruction, or construction of the property, including minimum requirements for off-site and on-site improvements."

SECTION 5. Act 187, Session Laws of Hawaii 2010, is amended by repealing section 9:

~~["SECTION 9. All lease revenues from commercial and multipurpose project leases collected by the department of Hawaiian home lands to which section , Hawaiian Homes Commission Act, 1920, as amended, applies shall be deposited into the Hawaiian home lands trust fund established under section 213.6, Hawaiian Homes Commission Act, 1920, as amended; provided that the department of Hawaiian home lands shall deposit fifteen per cent of those revenues that are derived from the amounts deposited from commercial and multipurpose project lease extensions pursuant to section (e), Hawaiian Homes Commission Act, 1920, as amended, into the native Hawaiian rehabilitation fund established under section 213(i), Hawaiian Homes Commission Act, 1920, as amended."]~~

PART III

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 7. This Act shall take effect on July 1, 2012; provided that part I shall take effect on June 29, 2012.

(Approved June 28, 2012.)

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S.B. NO. 2858

A Bill for an Act Relating to Open Government.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 92F, Hawaii Revised Statutes, is amended by adding to part IV a new section to be appropriately designated and to read as follows:

"§92F- Agency appeal of a decision by the office of information practices. (a) An agency may not appeal a decision by the office of information practices made under this chapter or part I of chapter 92, except as provided in this section. Within thirty days of the date of the decision, an agency may seek judicial review of a final decision rendered by the office of information practices under this chapter or part I of chapter 92, by filing a complaint to initiate a special proceeding in the circuit court of the judicial circuit in the State where:

- (1) The request for access to a record was made;
- (2) The act the office determined was prohibited under part I of chapter 92 occurred; or
- (3) The agency's principal place of business is located.

(b) The agency shall give notice of the complaint to the office of information practices and the person who requested the decision for which the agency seeks judicial review by serving a copy of the complaint on each; provided that the office of information practices and the person who requested the decision shall not be required to participate in the proceeding; and provided further that

- (5) Director of business, economic development, and tourism;
 - (6) Comptroller;
 - (7) Director of the department of planning and permitting of the city and county of Honolulu;
 - (8) Director of the department of planning of the county of Maui;
 - (9) Director of the department of planning of the county of Kauai; and
 - (10) Director of the department of planning of the county of Hawaii; provided that each member may select a designee to serve on the task force.
- (c) The task force shall make recommendations to the governor, the mayor of each county, and the heads of state and county agencies on any administrative rules that need to be amended or repealed in the interest of streamlining government for efficiency and responsiveness to businesses.
- (d) The task force shall report to the legislature the findings and recommendations of the temporary task force no later than twenty days prior to the convening of the regular session of 2012.

SECTION 3. This Act shall take effect upon its approval.

(Approved July 11, 2011.)

ACT 219 S.B. NO. 1530

A Bill for an Act Relating to Public Lands.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that many of the leases for hotel and resort properties on state land, such as in the Banyan Drive area in Hilo, Hawaii, are nearing the end of the lease term. Faced with the uncertainty of continued tenancy, lessees have little incentive to make major investments in infrastructural improvements and to ensure the long-term maintenance of the facilities. As a result, the infrastructure on these properties has been deteriorating.

Act 55, Session Laws of Hawaii 2000, attempted to address the problem of deteriorating hotel and resort infrastructure in east Hawaii on the island of Hawaii by authorizing the board of land and natural resources to issue new leases to the existing lessees in the Banyan Drive area. However, this Act was later found to be unconstitutional under article XI, section 5, of the Hawaii State Constitution.

The legislature finds that business lessees typically sell or assign their leases that are nearing the end of the lease terms at a discount, and believes that it would be unfair to the prior assignors of the leases if the State granted extensions of leases that previously could not be extended under existing law or lease terms to the newly-assigned lessees who acquired their leases at a discount due to short remaining lease terms.

The purpose of this Act is to authorize the board of land and natural resources to extend hotel or resort leases that have not been sold or assigned within the last five years, for lessees who commit to substantial improvement to the existing improvements.

SECTION 2. Chapter 171, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

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"§171- Hotel or resort leases; extension of term. (a) Notwithstanding section 171-36, the board may extend the rental period of a lease of public lands for hotel or resort use upon the approval by the board of a development agreement proposed by the lessee or by the lessee and developer to make substantial improvements to the existing improvements.

(b) Prior to entering into a development agreement, the lessee or the lessee and developer shall submit to the board the plans and specifications for the total development being proposed. The board shall review the plans and specifications and determine:

- (1) Whether the development proposed in the development agreement is of sufficient worth and value to justify the extension of the lease;
- (2) The estimated period of time to complete the improvements and expected date of completion of the improvements; and
- (3) The minimum revised annual rent based on the fair market value of the lands to be developed, as determined by an appraiser for the board, and the percentage of rent where gross receipts exceed a specified amount.

No lease extension shall be approved until the board and the lessee or the lessee and developer mutually agree to the terms and conditions of the development agreement.

(c) No construction shall commence until the lessee or the lessee and developer have filed with the board a sufficient bond conditioned upon the full and faithful performance of all the terms and conditions of the development agreement.

(d) Any extension of a lease pursuant to this section shall be based upon the substantial improvements to be made and shall be for a period not longer than fifty-five years.

(e) Any extension of a lease granted pursuant to this section shall be effectuated, documented, and executed using the most current lease form and leasing practices and policies of the board. The intent of this subsection is to ensure that an extended lease, like the issuance of a new lease, will be subject to the most current leasing practices and policies of the board, which shall be incorporated into the lease document.

(f) The applicant for a lease extension shall pay all costs and expenses incurred by the department in connection with the processing, analyzing, and negotiating of any lease extension request and document, and the development agreement under subsections (a) and (b).

(g) As used in this section, "substantial improvements" means any renovation, rehabilitation, reconstruction, or construction of the existing improvements, including minimum requirements for off-site and on-site improvements, the cost of which equals or exceeds fifty per cent of the market value of the existing improvements that the lessee or the lessee and developer install, construct, and complete by the date of completion of the total development.

(h) As used in this section, "hotel or resort" means a development that provides transient accommodations as defined in section 237D-1 and related services, which may include a front desk, housekeeping, food and beverage, room service, and other services customarily associated with transient accommodations; provided that no development shall qualify as a hotel or resort under this section unless at least seventy-five per cent of the living or sleeping quarters in the development are used solely for transient accommodations for the term of any lease extension."

SECTION 3. New statutory material is underscored.'

SECTION 4. This Act shall take effect on July 1, 2011; provided that this Act shall be repealed on December 31, 2015.

(Approved July 11, 2011.)

Note

1. Edited pursuant to HRS §23G-16.5.

ACT 220

H.B. NO. 761

A Bill for an Act Relating to Intellectual Disabilities.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 324, Hawaii Revised Statutes, is amended by amending the title of part II to read as follows:

**"PART II. MENTAL HEALTH AND ~~[MENTAL RETARDATION]~~
INTELLECTUAL DISABILITY STUDIES"**

SECTION 2. Chapter 333F, Hawaii Revised Statutes, is amended by amending the title to read as follows:

**"SERVICES FOR PERSONS WITH DEVELOPMENTAL ~~[DISABILITIES]~~
OR ~~[MENTAL RETARDATION]~~ INTELLECTUAL DISABILITIES"**

SECTION 3. Section 333F-11, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Notwithstanding any law to the contrary, the family court may appoint the director as guardian of any person if the court finds that:

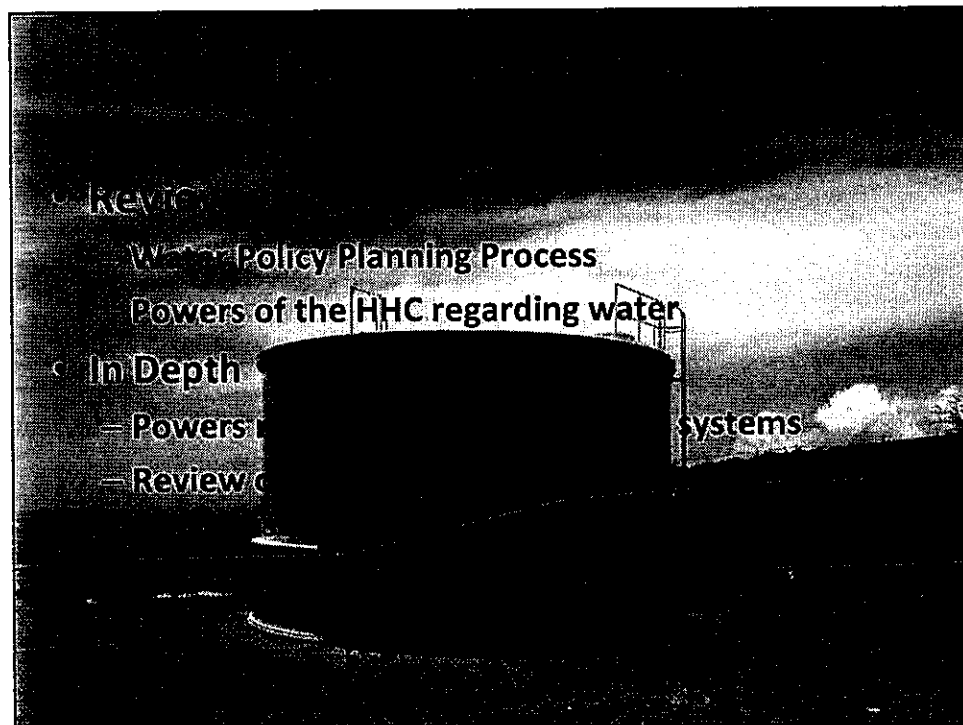
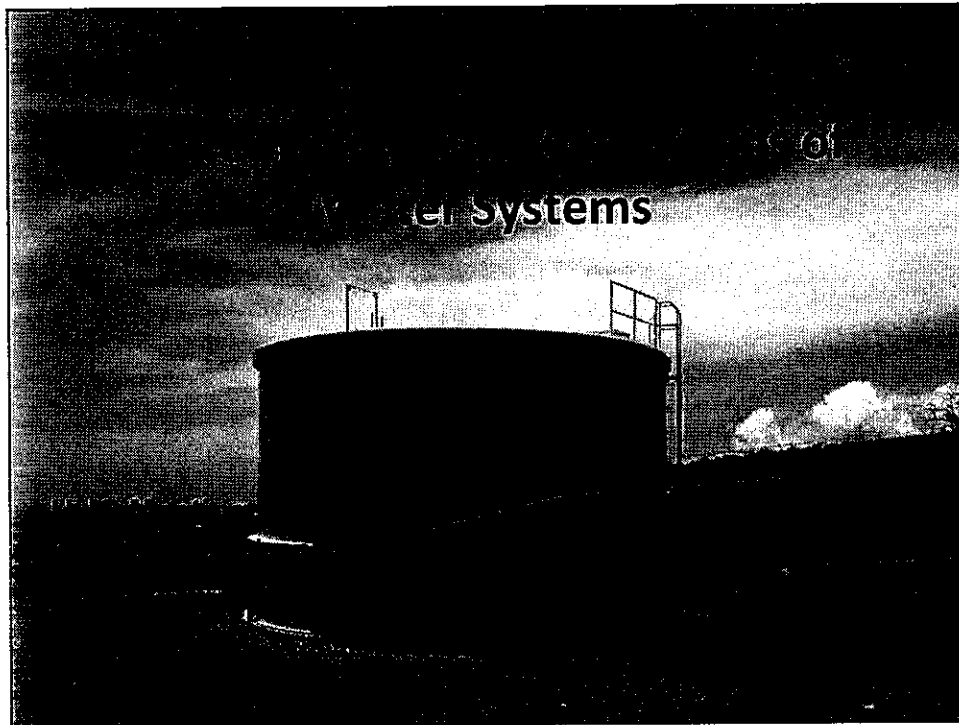
- (1) The person is an incapacitated person as defined in section 560:5-102;
- (2) The person is developmentally or intellectually disabled ~~[or mentally retarded]~~;
- (3) The person may reasonably be expected to need treatment or care at any residential facility; and
- (4) There is no other suitable guardian including the public guardian as designated in chapter 551A who is able or willing to serve as guardian."

SECTION 4. Section 346-230, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Upon the department's determination that protective services are no longer needed, the vulnerable adult shall be referred to the agency responsible for follow-up services. For the mentally ill~~[-mentally retarded, or developmentally disabled adult]~~ or adults with developmental or intellectual disabilities, the state agency designated to provide services shall be the department of health."

SECTION 5. Section 346D-2, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Waiver programs shall be established and administered by the department of human services to provide comprehensive home and community-based services for the aged, chronically ill, disabled, developmentally disabled.



January 2013 Meeting

Policy & Planning	Develop Source	Manage Systems
Reservations	Develop	
License Revenue	Private	
	Acquire Licenses	
Public Trust		

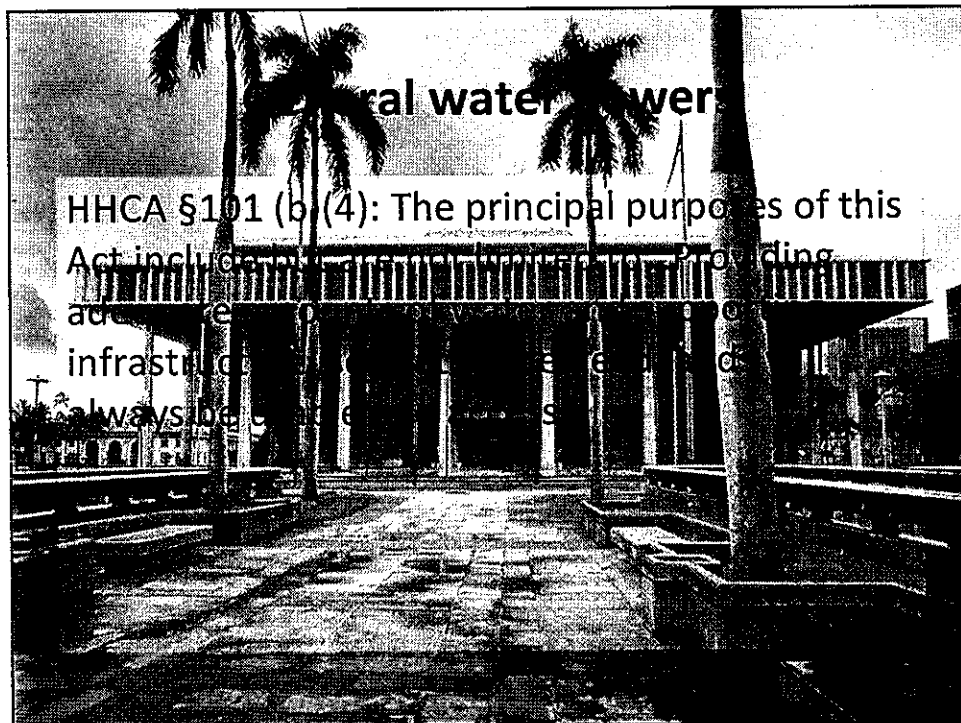
Koke'e Ditch, Waimea

February 2013 Meeting

Policy & Planning	Develop Source	Manage Systems
Reservations	Priority Development	
	Acquire License	
Public Trust	Issue Legal Agreement	

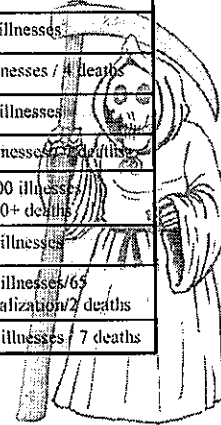
DHHL Owned and Managed Systems

HHCA §221 (f): Water systems in the exclusive control of the department shall remain under its exclusive control ; provided that the department may negotiate an agreement to provide for the maintenance of the water system and the billing and collection of user fees...



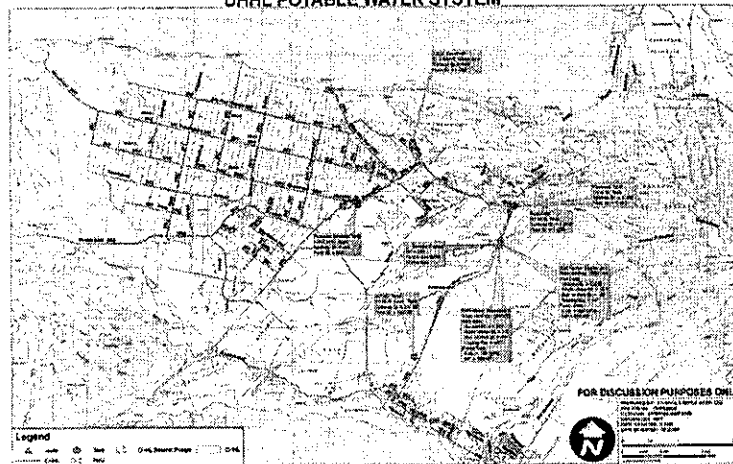
Waterborne Disease Outbreaks Cause Irreparable Damage to Public & to PWSs

Year	State/Territory	Cause of Disease	No. of People Affected
1985	Massachusetts	<i>Giardia lamblia</i> (protozoan)	703 illnesses
1987	Georgia	<i>Cryptosporidium parvum</i> (protozoan)	13,000 illnesses
1987	Puerto Rico	<i>Shigella sonnei</i> (bacterium)	1,800 illnesses
1989	Missouri	<i>E. coli</i> 0157 (bacterium)	243 illnesses / 4 deaths
1991	Puerto Rico	Unknown	9,847 illnesses
1993	Missouri	<i>Salmonella typhimurium</i> (bacterium)	650 illnesses / 2 deaths
1993	Wisconsin	<i>Cryptosporidium parvum</i> (protozoan)	400,000 illnesses / 50+ deaths
1998	Texas	<i>Cryptosporidium parvum</i> (protozoan)	1,400 illnesses
1999	New York	<i>E. coli</i> 0157 (bacterium)	1,061 illnesses / 65 hospitalization / 2 deaths
2000	Ontario	<i>E. coli</i> 0157 (bacterium)	1,000 illnesses / 7 deaths



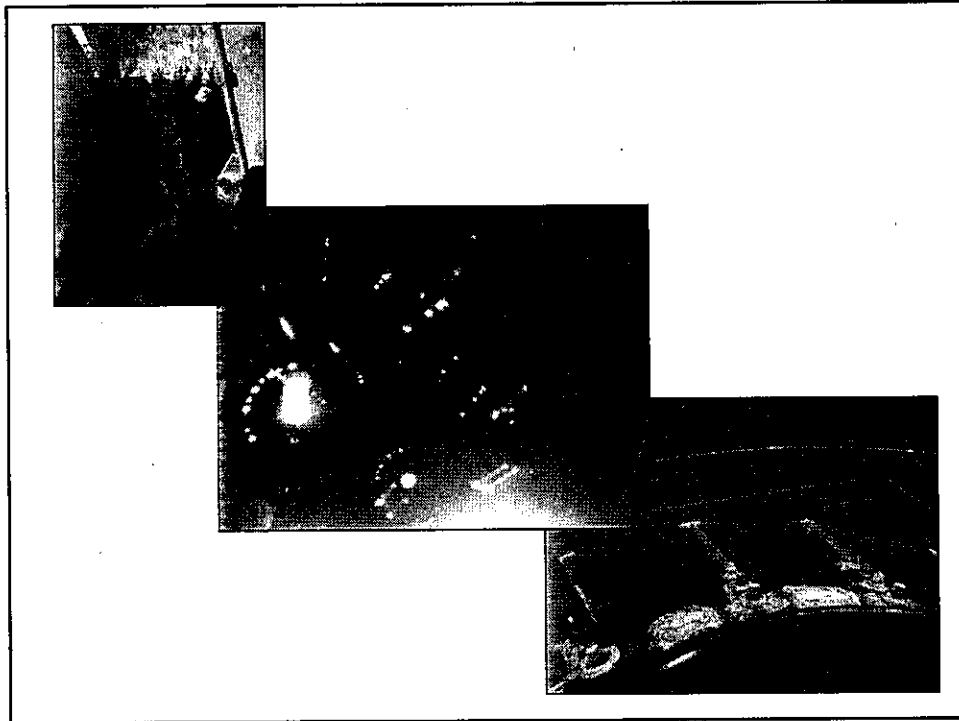
The Good News

DHHL POTABLE WATER SYSTEM



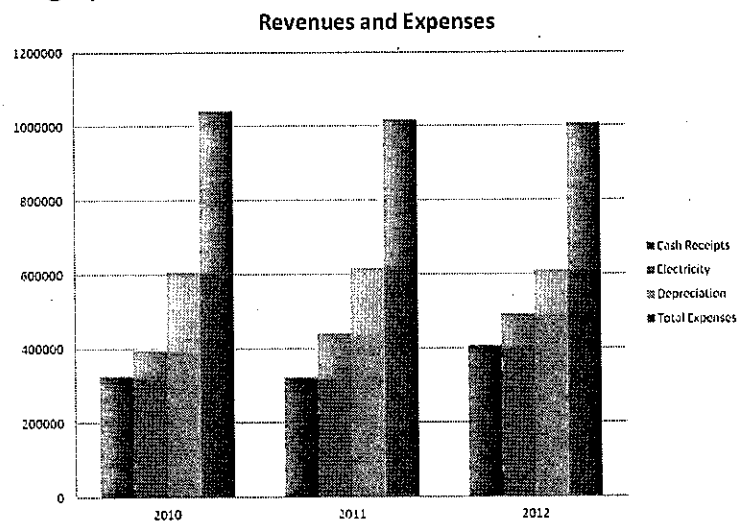
Excellent Water Quality

All DHHL Water Systems in compliance with DOH.
Staff Cares About Providing Safe Water to Customers.



Revenues are Insufficient for Operations

- Ho'olehua Cash Receipts do not cover electrical costs of running system



March 18, 2013

Aloha e Commission Board Members and Chairperson,

First of all thank you for allowing my wife and myself on being here. We requested in November to have our case heard and we are more than grateful to be here today.

We have compiled the folders in front of you that contain important documents to support our case. We have not been contacted by Juan Garcia or Dean Oshiro about our claim that Lease #6176, Lot 15C in Puukapu, should have been simultaneously transferred to Corbett O. Roy Jr or Corbett Oheleahaaheo Roy III in May of 2008.

We question DHHL's practice in handling lease transfers since we requested to have the lease handled simultaneously, the same way our Maui Waiehu Kou III was handled. We purchased the lot from Willie Pualoa III for \$96,000 and DHHL staff members Gail Loo and Lee Takara along with Century 21 realtor Charmaine Quilit-Poki did the introduction of this lot.

My father Corbett O. Roy Sr had an application on file for DHHL lease property. He was on the Hawaii Agricultural lot list since September 2000. He was in the 5000's and it was apparent that he would not be awarded any lease in his lifetime. He had loss interest in Hawaiian Homes over the years.

We noticed in Kai Wai Ola, that many Hawaiians were being allowed to "sell" their right to the lease. Yes, we thought this practice was not the right thing to do, but OHA was allowing ads to run in their monthly newsletter, so it must be okay. We were successful in the purchase of Maui-Waiehu Kou III. We bought the lot for \$35,000 and built a home on that property. We initiated this lease transfer in August 2007 and had the simultaneous transfer to me Corbett O. Roy Jr, finalized October 24, 2007. This transaction took about 2 ½ months. The docket packet for the lease was made available on October 26, 2007 and I personally picked it up from the Downtown office.

Here are the transactions that occurred for the **Maui- Waiehu Kou III Lot 65** property.

- **June 2007**-found land for sale on Maui in Ka Wai Ola. Went to Maui to see the land. Met with Harold Ano and he was willing to transfer his interest to us.
- **June 03, 2007**- cashier's check from Territorial Saving for \$500 deposit made out to Harold Ano

HHC Item No. D-14
Exhibit A
Date 3-18-13

- **August 1, 2007** Application paperwork and request to transfer lease completed and signed by Harold Ano and **Corbett O Roy Sr.** (Note transfer application has **Corbett Oheleahaaheo Roy**).
- **August 22, 2007**-Further transfer forms completed to have lease transferred. Corbett Roy Jr signed, but no signature from Corbett Roy Sr. Corbett O. Roy III signed on August 6, 2007, but no signature from Corbett Roy Sr.
- **October 11 2007**- transfer approved and **Harold Ano** signs the assignment of lease (in Kauai).
- **October 17, 2007**-**Corbett O. Roy** and **Corbett O Roy Jr** signs Assignment of Lease. Notarized by Alethea Takara, DHHL notary.
- **October 17, 2007**-simultaneous transfer of lease from Corbett O. Roy to Corbett O. Roy Jr done. (Note transfer application was from **Corbett Oheleahaaheo Roy**, signed by Corbett O. Roy Sr and lease paperwork was Corbett O. Roy to Corbett O. Roy Jr.
- **October 24, 2007**- lease finalized for Corbett O. Roy and transferred to Corbett O. Roy Jr. simultaneously by Chairman Micah Kane.
- **October 26, 2007**-Received docket packet for lease Residential lot No 65 in Waiehu Kou III.

When I went to pick up the docket packet, I learned about the Puukapu property. I met with Gail Loo and Lee Takara and was informed that there was an "ag" lot that a lessee was planning to sell and that I should contact Charmaine Quilit-Poki for details and the price and to do it soon since the ad was due to be placed in the upcoming Ka Wai Ola (November).

When I asked where this land was, I was told Waimea. I was really excited for my wife lived near there and that my dad's family was from Kona. My mom recently died and my father has always wanted to return home to be with his surviving family members. So when I got back to the office, I called my wife to tell her about it. We both decided to contact Charmaine Quilit-Poki and to let her know that Gail Loo sent us.

We emailed Charmaine Quilit-Poki on October 27 and she got back to us on October 28. The purchase price was \$89,000, which I offered and was accepted by the lessee Willie Pualoa. Charmaine Quilit-Poki runs a credit check on Corbett Roy and finds liens found on Corbett Roy Sr. but no liens on Corbett O. Roy Jr. so proceeds with sale.

Charmaine Quilit-Poki arranged to have an escrow account opened with Fidelity National Title and Lawren Takara. (questionable if relations with Lee Takara).

A DROA was drafted for \$89,000 with Corbett Roy, but later changed to Corbett O. Roy Jr, due to the poor financial status of Sr. A check for \$1000 was given to Quilit-Poki to set up escrow account. Escrow account is for Corbett O. Roy Jr.

Quilit Poki sends an email a few days later, stating there is another buyer and that we need to "bid" on the land with the highest bidder winning the lease. Our final offer was \$96,000 that was accepted by the seller of the lease, Willie Pualoa.

On November 7, 2007, an application for lease transfer request was submitted by lessee Willie Pualoa III. On November 9, 2007, the transfer request form was signed by Corbett O. Roy Sr. Five months later, the paperwork was finalized with Willie Pualoa III and Corbett Ohelehaaheo Roy, and the lease was assigned May 23, 2008 to Corbett Ohelehaaheo Roy. (note application was for Corbett O. Roy Sr.).

Payment to Willie Pualoa III was made in 2 installments. On May 5, 2008 the first payment for \$56,000 was given with a promissory note to receive the balance in 30 days. On June 5, 2008, the balance of \$39,000 plus the \$1000 escrow money was given to Willie Pualoa III.

We feel that Quilit-Poki, Gail Loo, and Lee Takara all agreed to amend the purchaser on the DHHL paperwork that was drafted by the State of Hawaii Attorney Generals Office to Corbett Ohelehaaheo Roy to avoid any question about his poor credit report and blood quantum. We asked for the paperwork to be handled like the Maui property, as a simultaneous transfer from assignor to assignee where the Puukapu lease would be placed in my name or my son's. The original successors were my son and daughter, but since my daughter was not 18 years old then, she could not be added. I do think that this is not an accurate DHHL ruling.

We question why the Maui property and the Puukapu property were handled differently when we requested for a simultaneous transfer from assignor to assignee. Many forms were signed and submitted in both lease transfers. Corbett Ohelehaaheo Roy is my name too and I feel that DHHL, the escrow company as well as the realtor wrote up the paperwork to disassociate Corbett O Roy Sr with any financial burdens so that the paperwork could be finalized. I don't know why we didn't have these problems with the Maui property and I didn't have a realtor then.

Here are the transactions for the **Puukapu Lease No 6176, Lot 15C**

- **October 26, 2007-** Gail Loo/Lee Takara inform me about an agriculture lot in Waimea and want to know if I am interested in bigger property. Maui-Waiehu Kou III just finalized. Waimea property to be in November Ka Wai

Ola and to contact Century 21 realtor Charmaine Quilit-Poki. We emailed and called Quilit and informed her that Gail Loo referred us.

- **October 29, 2007-** Quilit Poki checks credit of Corbett Roy Sr, Corbett Roy, and Willie Pualoa III. Lien found on Corbett Roy Sr for \$4816.87 by Peter Lee. Not informed about lien until 11/14/07.
- **October 30, 2007-** Quilit-Poki opens escrow account with Fidelity National Title. Arranged with Quilit-Poki and Lawren Takara.? Relationship with Lee Takara. BOH cashiers check #8612737 for \$1000 to Fidelity National from Corbett O. Roy Jr. DROA- original purchase price of \$89,000; DROA original name is Corbett Roy, but later changed to Corbett O. Roy Jr.
- **October 31, 2007-** email received from Quilit Poki that another buyer found and need to offer more money and to bid higher if we want the property. States she is canceling original DROA for \$89,000.
- **November 1, 2007-** Final bid of \$96,000 accepted by seller of lease, Willie Pualoa III. Quilit-Poki changes DROA from Corbett Roy to Corbett Roy Jr. Per Quilit-Poki, Sr has terrible credit and cannot put Sr on paperwork.
- **November 2, 2007-** escrow instruction worksheet submitted by Quilit- Poki showing purchase price of \$96,000.
- **November 7, 2007-** DHHL transfer request form submitted by lessee Willie Pualoa III.
- **November 9, 2007-** transfer request signed by **Corbett O. Roy Sr** as transferee.
- **November 14, 2007-** new paperwork from Fidelity National as **Corbett O. Roy**. Quilit-Poki is told by Gail Loo that DROA must be amended because **Corbett O. Roy Jr.** not 50% Hawaiian. Name left as **Corbett O. Roy**.
- **April 16, 2008-** finalized paperwork signed by **Willie Pualoa III** and **Corbett Oheleahaaheo Roy**. (note application request form is Corbett O. Roy Sr.)
- **May 5, 2008-** Cashier's check from HSFCU check #0001409890 for \$56,000 to Willie Pualoa III from **Corbett O Roy, Jr.** Promissory note from **Corbett O. Roy Jr** to **Willie Pualoa III** to receive balance in 30 days.
- **May 23, 2008-** Lease assigned to **Corbett Oheleahaaheo Roy**

We hope that the commission and DHHL sees that Waimea, Puukapu Lease No 6176, Lot 15C should belong to the Corbett Oheleahaaheo Roy that paid for it and was the named purchaser in the DROA and on file with the escrow company. I am fully aware that I do not have the blood quantum of 50%, but my father does and I was successful in having the Waiehu Kou III lease assigned to me. As you can see, the practice of transferring lease property is not the same. I did everything the same way, but for some reason the Puukapu lease was not simultaneously transferred and assigned to Corbett O. Roy Jr.

I have planted trees, installed water sprinklers and kept up with the property tax and utilities. I do feel that my father's recent poor judgment and questionable health is getting the best of him.

We started the Puukapu venture in October of 2007 with the staff of DHHL contacting me to purchase the lease for this land. It was finally complete in May 2008. This transaction took 7 months. I don't know why it was so delayed.

\$96,000 is a lot of money and it is our hope to make Waimea our family home. We have plans to cultivate the land and become self-sustaining. We may even look into a small business to provide foods for the community. When I purchased the lease in 2007, the land was assessed at \$89,000. Today the land value is \$249,000. I do hope the land can be assigned to my family and me.

As we mentioned previously, we ask that the commission look into the practice of DHHL in assigning lease lands and to assure that all cases are standardized and handled the same way, especially to those that are purchasing the land and to secure who would be the rightful assignee. A realtor and an escrow company handled the lease transaction in question and the rightful lessee should have been the person putting up the funds. My father was nowhere near in being awarded any lease land and if I did not pay the previous lessee his asking price, my father would have not been given any award. There was a play with the namesake and unfortunately the lease was not simultaneously assigned to me. It is not clear on what Corbett Oheleahaaheo Roy is the rightful lessee.

We also ask that the policies and rules be followed to avoid problems like this from occurring. We also feel that DHHL staff should not solicit buyers for realtors, as this maybe deemed inappropriate. The act was written to be followed and the stated rules and guidelines should be followed for the good of the beneficiaries.

Aloha Pumehana,

Corbett and Garla Roy

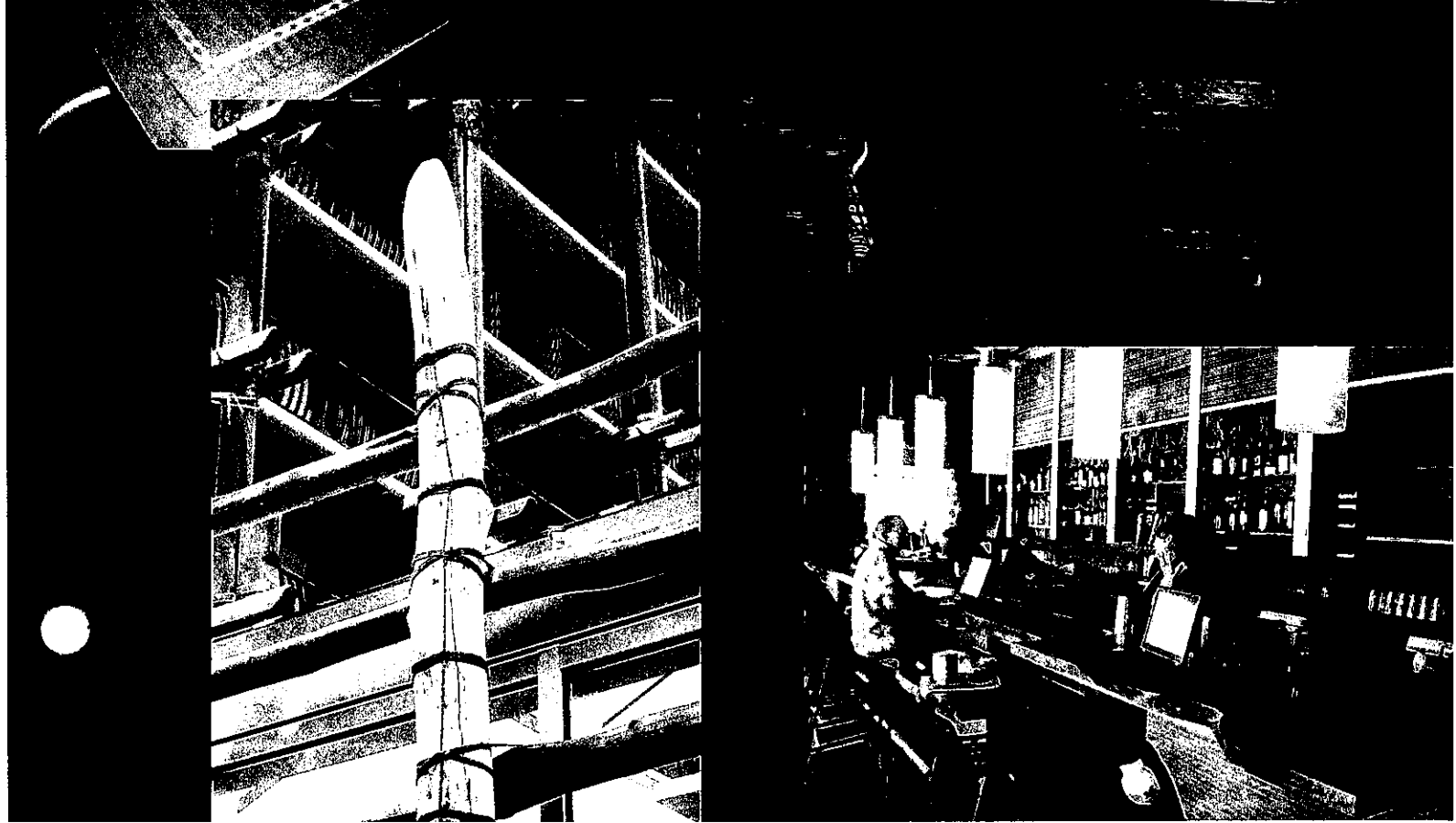
DOCUMENT 1

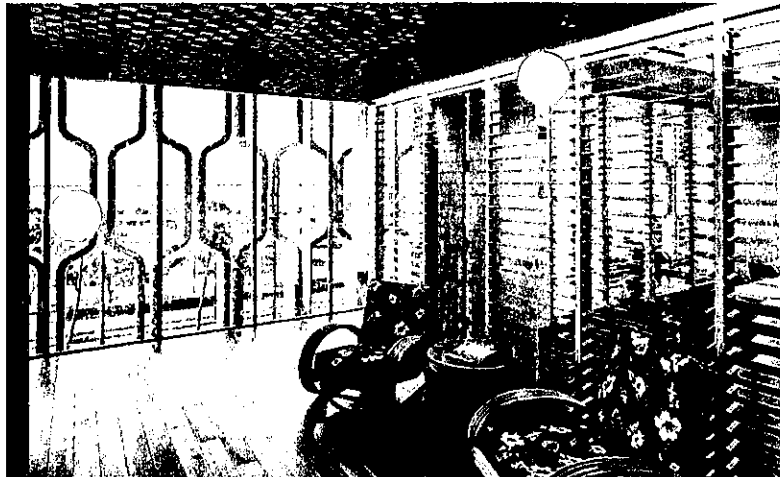
KOA INC

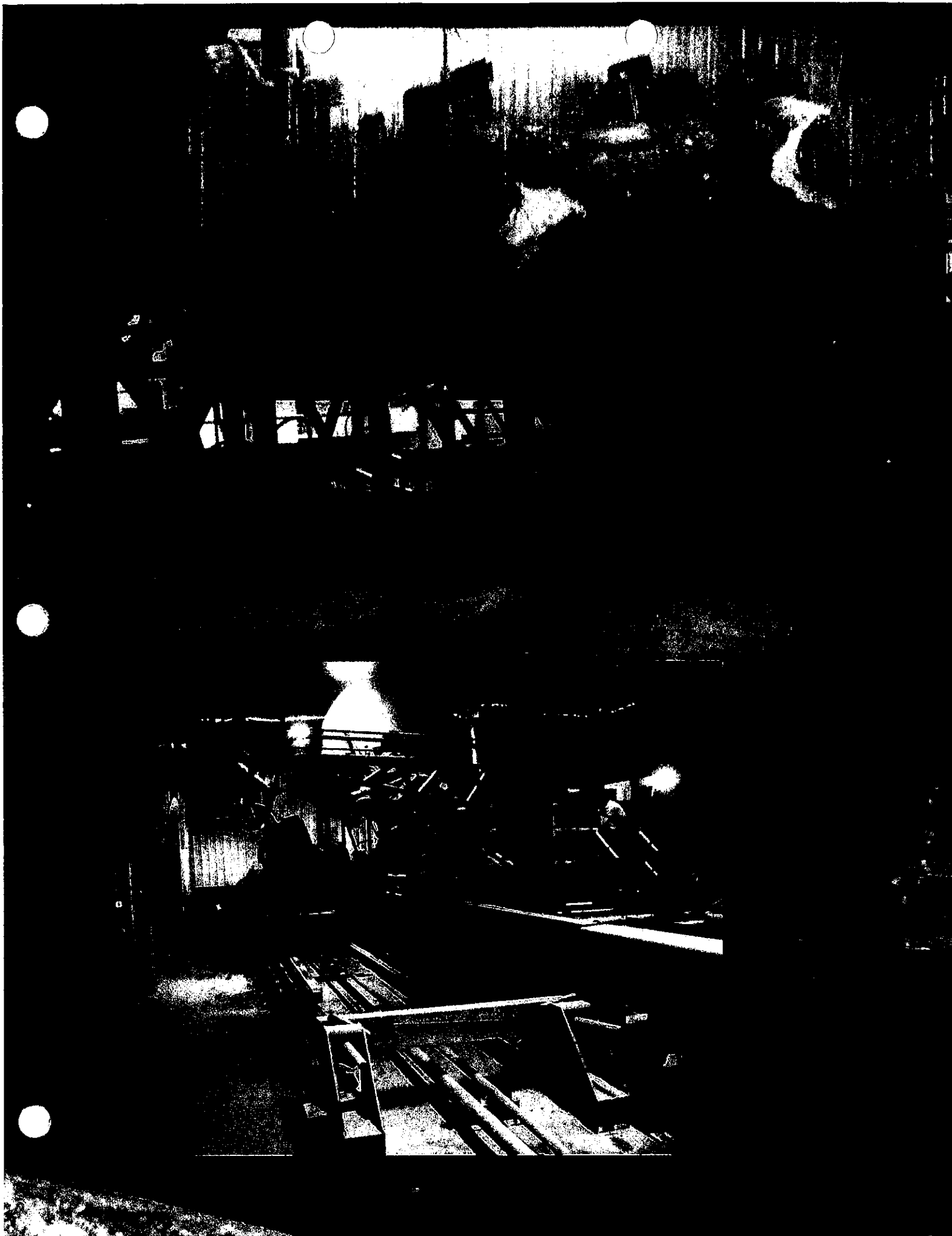
HHC Item No. J-1
Exhibit 4
Date 3-19-13



OHIA







DOCUMENT 2,

REQUEST FOR PROPOSAL

RFP-13-HHL-001

Koa Salvage and Reforestation Project
Humuula, Island of Hawaii
June 29, 2012

1. Request For Proposal

The Department of Hawaiian Home Lands (DHHL) invites your written proposal for a koa (*Acacia koa*) salvage and reforestation land license on 498 acres, more or less, located in Humuula on the island of Hawaii. Selection will be based on Comparative Evaluation Criteria listed in section 6. A copy of this Request for Proposal may be obtained by calling Mike Robinson at (808) 933-3480, or by writing to DHHL at 160 Baker Street, Hilo, Hawaii 96720, or may be downloaded at www.hawaii.gov/spo/notices/ or at www.hawaiianhomelands.org/procurement/.

A pre-proposal conference and site visit is scheduled for July 27, 2012 at 9 a.m. The site visit will begin at the Humuula sheep station. The Sheep Station is located approximately 0.8 miles north of the Saddle Road/Mauna Kea Summit Road intersection. Attendance at the pre-proposal conference is not required, but is encouraged. Following a brief project introduction meeting, a site visit to the koa salvage project area will be conducted. A four-wheel drive vehicle is necessary and travel time to the project site from the Sheep Station is approximately 1 hour.

Written proposals must be received by DHHL no later than 4:30 p.m. on August 29, 2012. Proposals shall be sealed and clearly marked "Piha Mauka Salvage Sale Unit 3" on the outside so that proposals are not opened prior to the above deadline. DHHL may reject any or all proposals when, in its opinion, such rejection will be in the best interest of its beneficiaries. Three (3) copies of the proposal should be mailed or hand delivered to:

Land Management Division – Forestry and Natural Resources
Department of Hawaiian Home Lands
160 Baker Street
Hilo, Hawaii 96720

The primary contact for this RFP is:

Mr. Mike Robinson
Department of Hawaiian Home Lands
160 Baker Street
Hilo, Hawaii 96720
Phone: (808) 933-3480
email: mike.e.robinson@hawaii.gov

2. Objectives

The objectives of the koa project are to:

- Salvage koa trees before they are further reduced in value by weather, rot, and age, leaving certain trees for wildlife habitat and on-site seed production;
- Promote forest-based economic opportunities in the community;
- Generate income for DHHL;
- Promote koa regeneration from existing seed present in the soil;
- Provide a source of koa wood for Hawaii's forest industry.

A license to accomplish the above objectives will be issued to the selected proposal. The incorporation of these objectives into the proposal will enhance the chance of selection.

3. The Koa Salvage and Reforestation Project Location

The koa project site is located on Keanakolu Road on the northeast flank of Mauna Kea between the Kanakaleonui Bird Corridor northern boundary and the Hakalau Forest National Wildlife Refuge Piha Section gate, on the island of Hawaii. The Tax Map Key number for this area is (3) 3-08-01: por. 09. Figure 1 indicates the project's location. The project area totals approximately 498 acres, of which about 290 acres is forest and the remainder of 208 acres is primarily grass. Those areas that are grasslands with scattered trees will not be harvested. Figure 2 indicates which areas are forest and which are not.

Salvage areas contain significant amounts of koa wood. The project's perimeter has been delineated with yellow flagging and trees which have a yellow paint "X" on the side facing towards the sale area.

Trees within the forested areas that will NOT be harvested have been marked with a yellow paint stripe. Sale boundary trees marked with yellow paint will not be harvested.

Those areas of the sale that contain Keanakolu Road will include the removal of certain hazard trees within 20 yards of the road. Trees that have a high risk of falling and blocking traffic along Keanakolu road have been designated with blue paint, and include a blue paint strip and a number followed by an "R" for removal.

Gross volume estimates for this area range from 3,000 to 6,000 board feet per acre, based on a State of Hawaii inventory conducted for this area in 1998. A fire in the project area in 2008 may have reduced this volume significantly. Proposers should conduct their own volumetric determinations before submitting their proposal. Those familiar with harvesting and milling koa understand that net volumes of wood recovered from any given koa tree can be significantly less than the estimated gross volume for that tree. Gross volume estimates are offered by DHHL for perspective only and are not considered reliable for generating a proposal.

4. Scope of Work

All activities must be conducted according to a project management plan prepared by the licensee and approved by DHHL. The sale area consists of two types of forested areas, as well as unforested areas with little or no koa trees, as determined by the 1998 State survey. "Well stocked" koa stands are estimated to have approximately 30 trees per acre greater than 16" diameter at breast height (dbh), as measured 4 ½ ft above ground level. "Low stocked" stands have approximately 14 trees per acre greater than 16" dbh. Activities shall consist of the following, depending on the type of forested land:

4.1. At least 10 koa trees per acre (TPA) shall remain in all forested areas following harvest, as follows:

4.2. The following koa tree classes shall not be harvested, damaged or disturbed:

4.2.1. All healthy koa trees - vigorous, full crowns with little or no dieback (1.5 TPA)

4.2.2. All yellow paint marked trees (1.5 TPA)

4.2.3. At least 2 additional live koa trees per acre. (2 TPA)

4.2.4. At least 5 dead or dying koa trees per acre, standing or down, greater than 16" dbh. (5 TPA)

4.3. All remaining koa trees greater than 12 inches dbh and having less than 67% defect shall be salvaged in cutting blocks of 5 to 15 acres. This includes koa trees lying on the ground.

4.4. As much soil as possible, but no less than 50% of the total area in the harvested areas, shall be scarified each year following harvest in order to stimulate koa seedling growth from existing seed present in the soil. Scarification must be conducted between April and June to maximize the first growing season for newly germinated koa seedlings. Scarification must use a brush blade to minimize soil disturbance. A bulldozer's flat blade may not be used for scarifying.

4.5. Any temporary roads, skid trails, and landings that are compacted following harvest are to be closed and ripped to relieve compaction and encourage seedling establishment.

5. Timeline of Performance (estimated)

Timeline	Action
June 29, 2012	Publicize and mail out Request For Proposal
July 27, 2012	Pre-proposal conference/field trip, Humuula, Hawaii
August 29, 2012	Deadline for receipt of proposals
August/September, 2012	Evaluate proposals, award/develop license
October, 2012	License approved by Hawaiian Homes Commission
November, 2012 – October, 2015	Salvage koa, annually scarify soil

6. Comparative Evaluation Criteria

This section presents the criteria to be used in the comparative proposal evaluation process and the relative weights of the criteria, in percent. For example, “6.1 Net Project Revenue” to DHHL shall represent 40% of the total merit of any proposal. Higher stumpage rates paid to DHHL will mean higher standing in the list of proposals received by DHHL. Conversely, stumpage price is only part (40%) of the criteria considered by DHHL in selecting a proposal.

Each proposal will be evaluated in relation to its conformance with the weighted criteria (totaling 100%). Each applicant must satisfy the following requirements:

- | | | |
|------------|--|-----|
| 6.1 | Net Project Revenue. Stumpage revenues to DHHL shall be maximized after accounting for the costs of protecting the environment as outlined in this RFP. Harvested volumes will be scaled onsite in log form to determine stumpage revenues per board foot to DHHL. | 40% |
| 6.2 | Project Management Plan. The applicant shall submit a brief one or two page project management plan, which shall describe the following:

a) Site impacts, both positive and negative, from the planned harvest, site preparation, and road construction.

b) A list of the major tools and equipment to be used in the project.

c) The harvest and reforestation schedule; highlighting any events which are critical to the success of the project.

d) A description of the financing plan such as equity requirements and means of financing. The successful licensee will be required to provide a performance bond of not less than \$50,000 and liability insurance of not less than \$1,000,000. | 15% |
| 6.3 | DHHL Community Benefit. The number, types of jobs, local investment opportunities created by the project, projected timing on the availability of these jobs, and how they will benefit the DHHL trust. Cultural values, in-service training of local workers, and other forms of community input and participation are acceptable forms of DHHL benefit. | 10% |
| 6.4 | Qualifications. The applicant shall establish that he/she has relevant experience in Hawaii and is able to successfully complete a project of this magnitude on time and as planned. | 25% |
| 6.5 | Value-Added Processing. The extent to which local value-added processing is done and how this project enhances the expansion and development of the forest industry. | 10% |

Figure 1 - Project Location Map

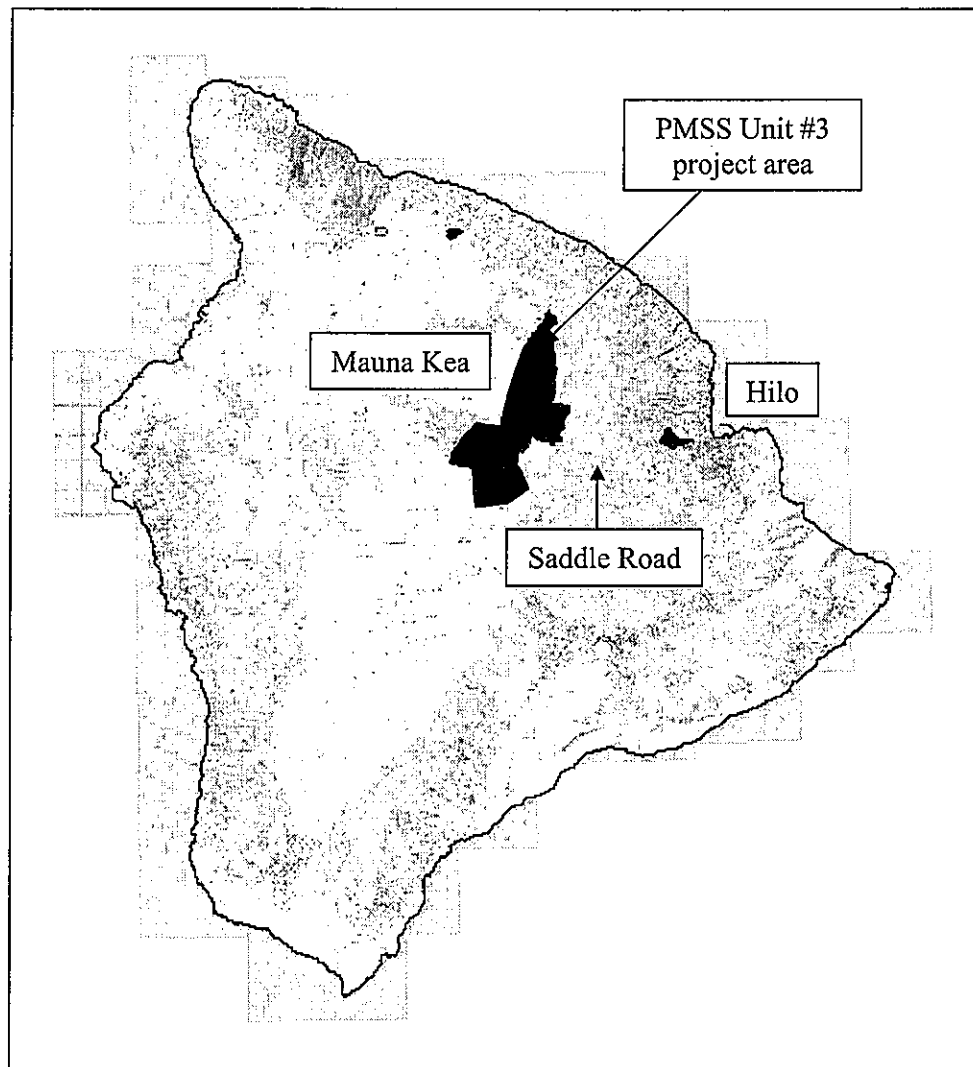
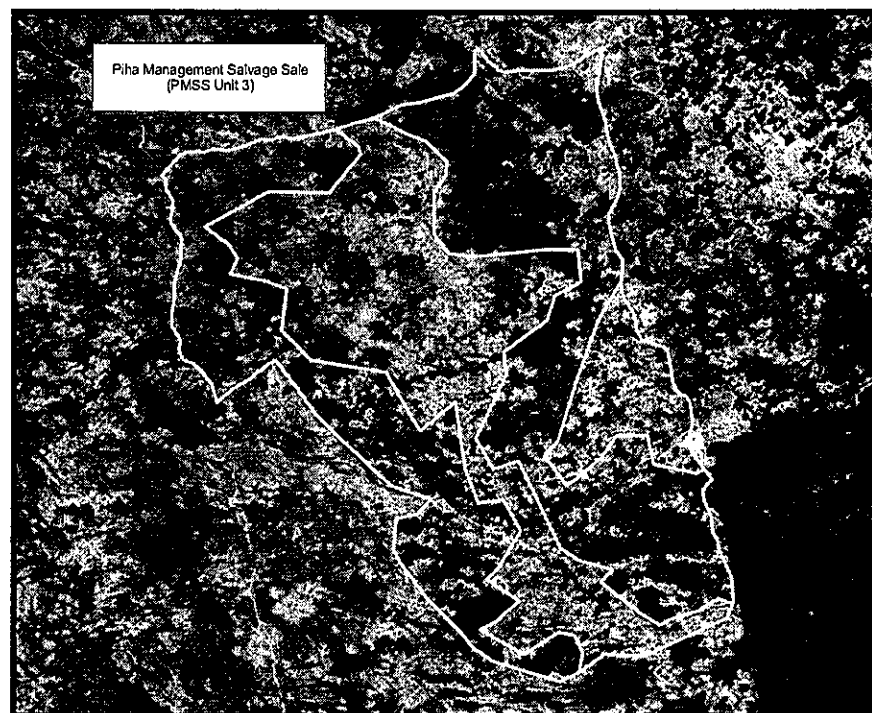
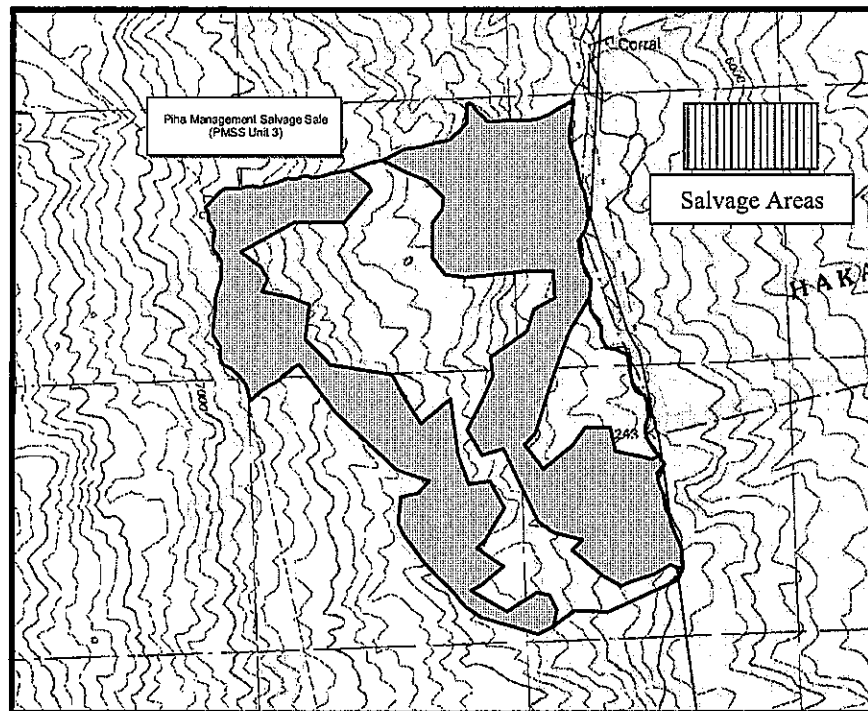


Figure 2 - Piha Mauka Salvage Sale (PMSS Unit#3) Location Maps



DOCUMENT 3

Legal Notice

RFP-13-HHL-001 In accordance with Chapter 171 HRS, the Department of Hawaiian Home Lands (DHHL) invites your written proposal for a koa (Acacia koa) salvage and reforestation land license on 498 acres, more or less, located in Humuula, Island of Hawaii.

Gross volume estimates for this area range from 3,000 to 6,000 board feet per acre. Proposers should conduct their own volumetric determinations before submitting their proposal. Those familiar with harvesting and milling koa understand that net volumes of wood recovered from any given koa tree can be significantly less than the estimated gross volume for that tree.

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A copy of the Request for Proposal may be obtained by calling Mike Robinson at (808) 933-3480, or may be downloaded at www.hawaii.gov/spo/notices/, or at www.hawaiianhomelands.org/procurement/, or by writing to DHHL at 160 Baker Street, Hilo, Hawaii 96720.

Date: Honolulu, Hawaii June 29, 2012.

State of Hawaii

Department of Hawaiian Home Lands

By/s/ Jobie M.K. Masagatani, Chairman
Designate

Hawaiian Homes Commission

(SA429495 06/29/2012)

TO: Marla Wain/Candyn Dur

FAX#EMAIL: 620-9479

CONTACT #: 620-9456

DATE: 6/27/12

ACCOUNT #: 6970

FROM: Star-Advertiser/MidWeek-Legal Advertising Dept.

FAX: **808-529-4829**

Lisa Kaukani (808-529-4344)

Email: lkaukani@staradvertiser.com

X Rose Rosales (808-529-4825)

Email: rosales@staradvertiser.com

Remit Payment to:

Honolulu Star-Advertiser/Midweek

500 Ala Moana Blvd., 7 Waterfront Plaza, Ste. 500
Honolulu, HI 96813

PUBLICATION: 6/29/12

CLASSIFICATION: Request for Proposals

Paper: Star Advertiser Staradvertiser.com
MidWeek Monster.com

SIZE: 2 column(s) x 3.75

Affidavit

TOTAL COST \$ 195.94

Proof Enlarged to 125%/150%/175%

☐ SEE ATTACHED FOR PROOF

AD # 429495

■ **AD PROOF** ■

***** **APPROVAL BY** *****

12 am/pm 6/28/12

Correction(s) noted on proof

Proof OK as is Date

Payment Method (Circle):

Prepayment: _____ Invoice: _____

P.O.# _____ Check# _____

PCARD/CC _____

EXP _____ CID Code _____

CARD HOLDER

Ad will not be released for publication unless payment & signature is received by above date and time

*Signature: [Signature]

Please proof read thoroughly.
Oahu Publications, Inc. will not be responsible for any errors, typographical or otherwise, once the proof has been approved and signed by the customer.

16th/16th/16th
5th/6/12/12
4th/16th/12/12
3rd/16th/12/12
2nd/16th/12/12
1st/16th/12/12
* 6/26/12

Perfect Mahalo!

DOCUMENT 4

- Land Use Requests
- LDD – Land Development Division
 - Land Development Division
 - Administrative Services Office
 - Fiscal Office
- Procurement
- NAHASDA
- Collaborations
- Site Map

Procurement

2013

Professional Services

- **PS-13-LDD-003**
 - Lualualei Engineering Services
 - Posted August 30, 2012
 - Deadline September 14, 2012
- **PS-13-LDD-004**
 - Engineering Design Services for Kanehili Sound/Safety Wall
 - Posted October 5, 2012
 - Deadline October 19, 2012
- **PS-13-LDD-014**
 - Professional Civil Engineering Services for Lalamilo Housing Phase 2A, Increment 2, Waimea, South Kohala, Island of Hawaii
 - Posted March 8, 2013
 - Deadline April 1, 2013

Request for Proposals

- **RFP-13-HHL-001**
 - Koa (acacia koa) salvage and reforestation land license on 498 acres, more or less, located in Humuula, Island of Hawaii
 - Posted June 28, 2012
 - Also published in the Honolulu Star-Advertiser on June 29, 2012
 - Expires August 29, 2012, 4:30 p.m.
- **RFP-13-HHL-003**
 - Enterprise Content Management System
 - Published February 12, 2013
 - Expires March 25, 2013

DOCUMENT 5

Proposal for RFP-11-HHL-001
Koa Salvage and Reforestation Project
by
Koa Inc.

Koa Inc. seeks to restore portions of the Piha Mauka Salvage Unit #3 lands in perpetuity to conserve these native forests and natural habitats for future generations and simultaneously provide environmental, economic and social benefits by bridging traditional cultural knowledge and modern science.

Net Project Revenue:

Stumpage revenue to DHHL shall be *\$5.00/bd. ft. for logs less than 6' lengths, \$6.00/bd. ft. for logs greater than 6' lengths, and \$10.00/bd. ft. for veneer quality logs greater than 8' lengths.*

Harvesting volumes will be scaled on-site in log form using International 1/4" Log Scale. Logs will be stamped with log tags.

Payment to DHHL will be made once a month on log volumes stamped; via invoice from DHHL paid through a bank wire or letter of credit. *An upfront cash pre-payment towards stumpage fees will be available to DHHL if desired. Amount to be negotiated.*

Project Management Plan:

Site preparation will begin with the construction of a base camp and log landing (#1 Red) located approximately half way between the Piha Mauka Salvage PMSS Unit #3, mauka of Keanalolu Road. At the furthest point of PMSS Unit #3, we will construct a second log landing (#2 Blue) for scaling and storing logs, (see Map 1 - Piha Mauka Salvage Sale, PMSS Unit #3). Base camp will include bunking quarters for a 6 man operation team. This mobile structure will include sleeping quarters, toilets, showers, kitchen facility, water catchment, equipment and fuel storage, and photovoltaic solar system.

This facility will benefit the project by providing on-site housing during the week so that crews can be more productive in harvesting efforts, meeting deadlines and providing security and fire readiness throughout the Piha Mauka area.

The biggest challenge in building this facility will primarily be ocean freight shipping delays. Adverse weather conditions and road run-offs on Keanalolu Road could also cause delays in base camp construction.

Road construction will occur simultaneously with the construction of the base camp. Four (4) main roadways will be established to access harvesting areas. Road construction will occur in two phases. Phase I will include roadway construction leading from base camp to harvesting sites B & C and two (2) roads leading from log landing #2 Blue to harvesting site A, all located in the lower half of the Piha Mauka Salvage region. Phase II will include five (5) extensions of established roadways to continue into the upper half of Piha Mauka to access harvesting sites D, E & F, (see Map 2, Phase II).

Costs for unexpected mechanical malfunctions are included into the budget. Problems with extreme terrain conditions and weather related delays are obvious impacts related to road construction. Alternate routes may need to be considered.

A professional timber cruise will be conducted for lower Piha Mauka Salvage unit #3 prior to harvesting mobilization. Once harvesting areas are accessible, timber crews will be split up into two harvesting crews, each consisting of a foreman, cutter and operator/extractors. Each harvesting crew will have a tractor with a heavy duty winch and an all terrain utility vehicle with a portable skidder. Each crew will drop predetermined trees identified by the timber cruise. Logs will be bucked, cleaned and stamped on site. Logs will then be skidded to designated log landings where they will be inventoried and tallied using the International 1/4" Log Scale in the presence of a DHHL forester or assignee on a monthly basis. Crew #1 & #2 will begin efforts in harvesting sites A&B, then C to complete harvesting of lower Piha Mauka Unit #3. A 2nd Timber Cruise of the Upper Piha Mauka Area will be completed prior to harvesting. Crews will then proceed towards the upper areas of Piha Mauka Salvage Unit #3 to harvest sites D,E and F.

Studies have shown that a professional timber cruise will produce a uniformed productive harvest. This will provide DHHL with a predetermined board footage for overall budgetary items.

Removal of large trees and clearing of sites and roadways always present the problem of creating optimal conditions for the invasion of introduced and invasive plant species. Studies have shown that disturbance to areas being actively logged and through scarification of the soil in native koa forests actually promote the emergence of *Acacia koa* by opening up the forest canopy, exposing the harvested area to sunlight, (Scowcroft and Nelson 1976, Scowcroft and Wood 1976). This process stimulates the *Acacia koa* seed bank, causing rapid germination to occur within the entire exposed area. By opening up the canopy through harvesting of *Acacia koa* followed by scarification along with the removal of invasive shrubs and trees, seed sources for invasive species are minimized, and natural regeneration of *Acacia koa* optimized with the addition of manual seed dispersal as part of the scarification process. Roadways and work sites will also be seeded with *Acacia koa* at the closing of the project unless these areas are needed for future use.

A monitoring program will be implemented by paid interns hired through the University of Hawaii – Hilo/Hawaiian Internship Program. Data will be collected on Acacia koa regeneration & succession and regeneration of other plant species.

List of Major Tools and Equipment to be used in the project:

1. Global 6-man sleeping quarters equipped with (2) showers, (2) toilets, and (2) sinks.
2. 5,000 Gallon Water Catchment System
3. PV/Solar Systems, Electrical and Water Heater
4. Equipment Storage
5. Metal Fuel Storage (2- 55gal. diesel fuel tanks, 1- 55 gallon gasoline tank)
6. 20' x 40' Tent
7. (2) Outdoor sinks
8. Table, Chairs, Benches
9. Outdoor compost toilet
10. (1) Flatbed Truck and Log Trailer
11. (2) All Terrain Vehicles with log skidders
12. (1) 4-Wheel Drive Truck
13. D-7 Loader and D-5 Caterpillar Tractors with cable winches
14. High Performance STIHL Chainsaws:
 - (2) MS 660 R Magnum 16"-36" Blade
 - (1) MS 880 Magnum 17"-59"
 - (2) MS 201 CE 12"-16"
15. Nyle L200 Dry Kiln, 1,500-2,000 bd ft capacity, Honolulu, Hawaii
Nyle L500 Dry Kiln, 10,000 -15,000 bd ft capacity, Shipman Industrial Yard
16. Clark Forklift: (1) Shipman Industrial Yard and (1) Honolulu, Hawaii

Harvest and reforestation schedule (See attachment A - Koa Harvest Time Schedule)

Timeline	Harvesting Tasks	Reforestation Tasks
Nov 2012 - Feb 2013	Timber Cruise Sec. A,B,C Base Camp Construction, Road Construction to Harvesting Sites A,B, & C	
Jan - Oct 2013	Cutting and Harvesting Sites A & B	
Apr - Jul 2013	Scarification & Manual Seeding of Harvest Sites A & B, Timber Cruise D,E,F	Set up Database for Monitoring Program Manuel Seed Gathering
Nov 2013 – Feb 2014	Start Harvesting of Site C, Timber Cruise for Sites D,E, & F (Upper Piha Mauka), Road Construction to Harvesting Sites D,E & F	
Feb - May 2014	Cutting and Harvesting Site D	Monitoring of Seedlings to begin for Sites A & B
Apr - Jul 2014	Scarification & Manual Seeding of Harvest Sites C & D	Monitoring of Seedlings for Site C Manuel Seed Gathering
May - Aug 2014	Cutting and Harvesting Upper Piha Mauka Site E	Monitoring of Seedlings for Site D to begin
Aug - Oct 2014	Cutting and Harvesting Upper Piha Mauka Site F	
Nov – Dec 2014	Break Down Base Camp	
Apr – Jul 2015	Scarification & Manual Seeding of Harvest Sites E & F	
Nov 2014 – Jul 2015		Monitoring of Seedlings for Site E & F to begin
Aug – Nov 2015		Continued Monitoring of all Sites

Description of the financing plan

Koa Inc.

Wendell Choy

Hawaiian Exotic Wood and Veneers, LLC

HK Consultants, LLC

\$50,000 performance bond will be provided by John H. Connor Insurance.

\$100,000 liability Insurance will be provided by John H. Connors Insurance.

Contact Info:

John H. Connors Insurance

Insurance Agent: Jim

ph. (808) 521-3663

First Hawaiian Bank - Main Branch

999 Bishop Street

Honolulu, HI 96813

Private Wealth Manager:

ph. (808) 525-7000

I. First 3 months of budgetary items, which includes start up cost and salaries, are estimated at \$200,000. This will be funded via cash on hand by Koa Inc.

II. Operational and Stumpage Expenses will be funded partly through a \$1,000,000 bank line of credit as well as sales of lumber (around May 2013)

All verification of finances will be available to DHHL upon successful awarding of the contract

DHHL Community Benefit:

Koa LLC – An international koa lumber distribution center in Shipman Industrial Park will be established. 2 ½ acres has been secured to build this center. Through this distribution center, 3-4 jobs will be created to cut, grade, kiln dry and distribute koa lumber to the local and world markets.

HEWV, HWFC and GL Veneer – These subsidiaries will provide koa building products for the finish carpentry industries and wood workers both locally and worldwide. HWFC has been working with Alu Like Inc. employment and training program to place young native Hawaiian adults in summer internships for the last 3 years. We will continue to work with Alu Like Inc. to benefit more native Hawaiians through this project.

Job opportunities : A six (6) man harvesting crew will be employed during the entire harvesting operation. 3-4 persons will be employed to operate the Koa Distribution Center. Napua Harbottle, Botanist will be contracted to implement reforestation data collection and serve as an invasive species specialist.

This project will also provide indirect jobs to the State of Hawaii using an economic multiplier factor: Truckers, Freight Forward Companies, Ocean Freight Shippers, Food and Water Service Companies etc.

University of Hawaii – Hilo/Hawaiian Internship Program – Interns will be hired through this program to collect data and maintain a database. Data will be made available to DHHL and other land managers throughout the state. Koa Inc. will match up to \$25,000 for this program.

Hawaiian Homes Commission Scholarships Program - A minimum of \$10,000 will be donated towards scholarships for the education of native Hawaiian students.

Halau I Ka Wekiu – This halau will provide cultural protocol and volunteers for manual seeding of harvested areas.

Native Hawaiian Chamber of Commerce - This organization has been the recipient of \$10,000 for the last two years through its annual 'O'o Awards fundraiser event which has primarily been supported by donations made by Hawaiian artisans using koa wood harvested and processed by HEWV.

Qualifications:

Wendell Choy, President of Solar Wave Hawaii

- Owner and founder of Solar Wave Hawaii
- Owner of Shipman Self Storage Facility
- A former Honolulu deputy prosecutor
- Iolani graduate
- Leading expert in financing photovoltaic systems and maximizing production from PV systems.

Wendell will be the lead financier of Koa Inc. He will also provide 2 1/2 acres on Shipman Self Storage property to establish an International Koa Lumber Distribution Center. Wendell will also serve as legal advisor to Koa Inc.

Mark Hee /Owner of Hawaiian Exotic Woods and Veneers (HEWV) dba: Hawaiian Wood Flooring Co. (HWFC).

- One of the largest distributors of Hawaiian woods in the world
- Producer of the Hawaiian Veneer Collections featuring Hawaiian koa and ohia, mango, and Hamakua Eukalyptus
- Creator of the first LEED Hawaiian engineered floor in the world
- HEWV and HWFC, LLC products are featured at:
 - Disney Aulani
 - Bank of Hawaii – Main Branch/Executive Board Room
 - Ferraro & Choi Architectural Firm
 - Makaha Ranch

Mark is a Native Hawaiian residing on Hawaiian Homes Land, Kalawahine Streamside, Honolulu, Hawaii. He has worked with Hawaii Forest Preservation and Ohana Sanctuary Forest Management Plan to reforest over 20 acres of native forest, and assist Wade Lee of Jawmin LLC in strategic planning of harvesting, sales, and reforesting his 3,000 acres. Mark will be responsible for logistics, procurement of materials and on-site operations. He will also be instrumental in product development and koa sales.

Wade Lee/ Principle and Founder of Jawmin LLC (see attached resume)

A native Hawaiian who currently resides in Honokaa, Hawaii, Wade has actively worked in the native Hawaiian forest for over 20 years. In this time frame, Wade has served as a consultant to land managers to resolve biological and forestry issues.

Clients include:

- Jawmin LLC
- Macandless Ranch
- American Timberlands
- U.S. Fish and Wildlife Service
- Colorado Division of Wildlife
- Alaska Department of Fish and Game
- U.S. Park Service
- U.S. Forest Service

Currently, Wade is harvesting and reforesting 3,000 acres of Iliahi and Koa mauka of Keahou.

Wade will be an advisor to pre-harvesting planning as well as part of the reforest data collection team. His expertise and knowledge in the Native Hawaiian Forest will be an invaluable asset to the success of this project.

Ken Wilcox/ General Manager of GL Veneer

- 42 years of experience in timber harvesting , cutting, grading, veneering and purchasing Acacia koa.
- Experienced in helicopter logging off the slopes of Haleakala, Maui.
- Experience in reforestation through scarification
- Recognized as an expert witness by the California Judicial system for his knowledge in exotic woods
- Graduate of the University of Oregon, BS Forestry

Ken will be an advisor to Koa Inc. His expertise in all aspects of forestry, product development, and manufacturing will be an invaluable asset to the execution of the harvesting plan, restoration monitoring, and product development.

Napua Harbottle/Botanist at the Bishop Museum (see attached resume)

- Over 15 years experience in environmental conservation and restoration, specific to Hawaii
- Over 10 years experience in data management
- Native Hawaiian cultural practitioner and consultant

Napua will be responsible for the reforestation monitoring program and seeking other grant opportunities to support internships for Native Hawaiian students.

Value-Added Processing

Koa Inc. will establish an international Hawaiian wood lumber distribution center that will serve as a hub to international, domestic and local buyers of Hawaiian woods.

HEWV and GL Veneer have already processed and manufactured koa, ohia, mango and Eucalyptus into veneer grade plywood for the finish carpentry industry. This harvesting project will make koa more readily available through this venue, allowing the consumer to purchase koa at a lower cost. In addition, HWFC will continue to process and manufacture koa flooring on a larger scale.

GL Veneer, out of Huntington Park, CA., being the largest specialty exotic plywood company in the United States, will be the lead distributor for koa veneers, plywood, and lumber in the United States and abroad.

Koa Harvest Time Schedule
(Attachment A)

Nov-12 Dec-12 Jan-13 Feb-13 Mar-13 Apr-13 May-13 Jun-13 Jul-13 Aug-13 Sep-13 Oct-13

Start Harvest of Section A and B

Scarification of harvested sites in Section A and B (est 50%)
Data Collection and Manual Seed Gathering

13-Nov	13-Dec	14-Jan	14-Feb	14-Mar	14-Apr	14-May	14-Jun	14-Jul	14-Aug	14-Sep	14-Oct
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Start Harvest of Section C

Start Harvest of Section D

Scarification of harvested sites Section B, C, D

Start Harvest of Section F

Monitoring of Seedlings for Site D

14-Nov	14-Dec	15-Jan	15-Feb	15-Mar	15-Apr	15-May	15-Jun	15-Jul	15-Aug	15-Sep	15-Oct
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Scarification of harvested site E, F

Continue Monitoring of Sites

15-Nov	15-Dec	16-Jan	16-Feb	16-Mar	16-Apr	16-May	15-Jun	15-Jul	15-Aug	15-Sep	15-Oct
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MAP 1

Piha Management Salvage Sale
(PMSS Unit 3)



BASE CAMP/LOG LANDING



LOG LANDING #2



Section A,B,C,D,E,F



Phase 1 Road Construction

Piha Management Salvage Sale
(PMSS Unit 3)



Phase II Road Construction
Roads will tie into Phase 1
Road Const.



GL Veneer

November 12, 2012

Hawaiian Exotic Woods & Veneers
819 Moowaa Street Suite 212B
Honolulu, HA 96817
Attention: Mr. Mark Hee

RE: Hawaiian Homelands Cutting Contract

Dear Sirs,

Please let me introduce GL Veneer Co., Inc. of Huntington Park, California. GL Veneer started production in 1977. We have grown into the largest custom specialty hardwood plywood manufacturer in North America. Along with **Hardwood Plywood**, we also manufacture **Exotic Hardwood lumber**, **Flexible Sheet Veneers** (over 200 species), and **High Pressure Laminate Plywood**. GL Veneer sells to over 2400 distributors in North America.

GL Veneer also has a logging company in Slovakia and is involved in the procurement, cutting, sales, and shipping of Beech, European Oak, and Sycamore logs to lumber and veneer companies all over the world. This experience in cutting logs, being able to grade them, and then knowing the proper manufacturing processes to apply to the raw material, helps Hawaiian Exotic Woods because of our close business relationship. GL Veneer has the financial strength to buy the entire Koa production from the contract.

Our strengths bode well for Hawaiian Homelands. We can use our sales and marketing experience to expand Koa sales in North America. Koa is one of the most expensive renewable resources that we have in the United States and it deserves to be marketed in a more modern, job creating way. We only support sustainable logging practices. The products that we manufacture out of Koa are environmental by their very nature. Veneering is the most efficient use of the raw material. Our mainland production facilities are the most modern factories in the world. Reducing manufacturing costs through modern standards of procedure reduces costs and expands markets through fairer pricing.

Please select Hawaiian Exotic Woods as your contracted harvester for this contract. Together we can be responsible stewards of this beautiful resource and through our interaction, Hawaiian Homelands will thrive in the future.

With compliments,

Kenneth Wilcox
Kenneth Wilcox
VP Sales and Marketing

GL Veneer
manufacturers
Hardwood Plywood,
Levaneer Laminates
and Industrial
Panel Products.

Corporate Headquarters
2224 East Stauson Avenue
Huntington Park, CA 90255-2937
Telephone 323.582.5203
FAX 323.582.9681
Email Sales@glveneer.com
www.glveneer.com



August 24, 2012

Aloha,

KoAloha Inc, dba KoAloha Ukulele has been hand crafting ukulele in Hawaii for the past 17 years. We are proud to be one of the "Made in Hawaii" brands of instruments as the market has witnessed an influx of many products manufactured overseas. We continue the practice of utilizing Hawaiian Acacia Koa as the material of preference for our product line.

It has been our pleasure dealing with Mark Hee of Hawaiian Exotic Woods and Veneers, dba Hawaiian Wood Flooring over the past five years. The Koa market can be volatile at times and Mark has proven to be a reliable source for us.

We hope that Mark can continue to service our needs in the present and future. Our yearly budget is approximately 12,000 board feet per year.

Mahalo



Alan K. Okami
President

Halau I Ka Wekiu
394 Auwaiolimu Street
Honolulu, Hawaii 96813
(808) 286-2754

Mr. Mark Hee
Hawaiian Exotic Woods and Veneers/Koa Inc.
Honolulu, Hawaii 96817

Aloha Mr. Hee,

As Kumu of Halau I Ka Wekiu I am in full support of your application to DHHL for its all-encompassing plan to harvest, restore and revive the uplands of Piha Mauka on Moku O Keawe.

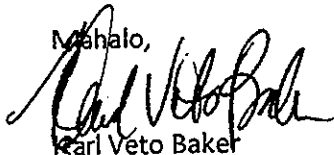
As a VP and Manager for one of the local Banks in town and as a business man it gives me great pleasure to see someone from within our community who has the Hawaiian business sense be awarded this contract. Being the President of the Native Hawaiian Chamber of Commerce I can only support those who use our Hawaiian values on a daily basis within their business framework. You are this man Mr. Hee and I support you because of this.

As a cultural practitioner being Kumu of Halau I Ka Wekiu, I am a strong advocate for preserving Hawaii's environment and cultural resources for future generations. I expect you will be using our Hawaiian protocol prior to the harvest. I'm sure you will be asking permission as Hi'iaka did on her quest to fetch Lohi'au by asking Malaeha'akoa and Kaua'i for permission to come on their island. This is the way of our Kupuna as well as our halau members would always ask for permission to the elements to our Kinolau prior to gathering.

Once the harvesting is done then reforestation must happen and we would like to be there as well for this process. Sustainability is the word of the hour but our Kupuna did this day in and day out. The people of this land understood we are the transients and the aina is here to stay and reason we take care of her so she will be here for our future generations.

We need our local businesses who have a stake in our community who understand how to take care of our natural resources be awarded these contracts. From where I'm sitting this is you Sir. If there is anything else I can do please do not hesitate to contact me.

Mahalo,



Karl Veto Baker

Kumu Hula, Halau I Ka Wekiu

William Henry Kekoa McClellan
87-855 B Farrington Hwy.
Maui, HI 96792

August 23, 2012

Chairwoman Jobie Masagatani
Hawaiian Homes Commission - Department of Hawaiian Home Lands
Hale Kalaniana'ole
91-5420 Kapolei Parkway
Kapolei, Hawaii 96707


Aloha Chair Masagatani,

I have had the pleasure of collaborating on a number of activities with Mr. Mark Hee for several years, and I can attest first hand to his solid commitment to and involvement in the Hawaiian community. Mark has been advocating for healthy Hawaiian communities for more than two decades, supporting nonprofit activities and up-and-coming Hawaiian entrepreneurs.

As a businessman, he has put his money where his mouth is in support of all things Hawaiian. Not only has Mark contributed hard dollars to the advancement of Hawaiian crafts, but his business promotes, markets, and sells goods and services by local artisans who have chosen to make a living by working wood, carrying on age old carving techniques, and using sustainably harvested local materials.

I have every confidence that should Mark be awarded the rights to DHHL's koa harvest, he will not only ensure the use of best practices in the gathering of this precious and mana rich wood, but he will use this resource to benefit Hawaiian focused programming and efforts. Each year for three years now Mark has generously donated his time, funds, and products to the annual Hawaii Maoli Spirit of the Hawaiian Awards, an event I have chaired since 2010. His contribution not only generates thousands of dollars for our humble organization, but allows our guests to enjoy these beautifully hand crafted works of art. For years Mark has similarly helped other nonprofits, including the Native Hawaiian Chamber of Commerce, in the same way.

Mahalo piha for your strong consideration of Mr. Mark Hee's request for the harvesting rights in question. Mark will work well with your organization and ensure that the Department's mandate to secure home ownership for and to add value to native Hawaiians and the Native Hawaiian community is a part of his harvesting activities.

Me ka ha'aha'a


Kekoa McClellan
1.808.393.7937 - kmcclellan@pelatron.com

DOCUMENT 6

Proposal Analysis - Piha Mauka Salvage Sale Unit #3 – November 13, 2012

The following criteria are somewhat subjective and each proposal should be iteratively weighed against other qualifying proposals. A value from 1 to 10 is awarded to each proposal for each criteria relative to the other proposals, i.e. the best has the highest score, the worst has the lowest score, and the rest are scored somewhere in between. When a committee consensus on these scores is reached, weighted percentages for each criterion will be calculated and the top candidates will be interviewed. Interview information will be used to refine these scores, which will be used in a numerical evaluation to grade each proposal and select the top proposals for recommendation.

Criterion	Reviewers	1	2	3	4	5
6.1 Net Project Revenue 40%	Kahana, Kaleo, and Mike		KGA INC \$5.65 10	\$4.87 8	\$2.25 7	\$5.00 9
6.2 Project Management Plan 15%	Kahana, Kaleo, and Mike	Proposal withdrawn on 11-13-12 via e-mail	6	5	9.5	8.5
6.3 DHHL Community Benefit 10%	Kahana, Kaleo, and Mike		7	4	7	10
6.4 Qualifications 25%	Kahana, Kaleo, and Mike		2	2	8	7
6.5 Value-Added Processing 10%	Kahana, Kaleo, and Mike		8	3	7	8

Proposal Analysis – Management Plan Criterion
Piha Mauka Salvage Sale Unit #3 – November 13, 2012

The Project Management Plan (6.2) is the most complex criterion and requires a more detailed analysis. The following 13 site impact components were considered individually for each proposal. One or more of the components below can be found in at least one of the proposals, but do not represent all possible impacts. By calculating how many of these impacts any given proposal discusses, a relative comprehensiveness in proportion to the other proposals can be reached. The total value of the site impact criterion was 10 points.

If less than 3 of these impacts were mentioned, the proposal was given a score of 0 for component "a". If between 3 and 7 impacts were mentioned, 1 point was awarded. Any mention of a majority of impacts, i.e. 8 or more, resulted in 2 points being awarded for component "a". Up to 2 additional points could be awarded if the proposal addressed site impacts not normally part of a salvage operation, i.e. harvest, site preparation, and road construction. Only two such impacts were discussed – on-site living quarters and invasive species control.

Proposal/ a. Site Impacts	1	2	3	4	5
1. cutting blocks		1	.5	1	.25
2. harvest schedule		1	.5	1	.25
3. visual quality		0	1	1	1
4. other BMPs		0	0	0	1 forwarding capacity
5. erosion		1	1	1	.5
6. roads		1	1	1	1
7. wildlife habitat	Proposal withdrawn on 11-13-12 via e-mail	1	0	1	1
8. regeneration		1	0	1	1
9. leave trees		1	1	1	1
10. compaction		0	0	1	1
11. noise		0	0	0	0
12. oil spills		0	0	0	1
13. traffic		0	0	0	0
Impact score (less than 3 = 0; 3-7 = 1; 8 or more = 2)		1	1	2	2
Extra credit/reason		1 – on site tent	1 – historical sites	1 – on site camp 1 – fire plan	1 – on site camp 1 – previous sale assessment
Site Impact Total Score	N.A.	2	2	4	4

Proposal Analysis – Management Plan Criterion
Piha Mauka Salvage Sale Unit #3 – November 13, 2012

Components b., c., and d. of the Project Management Plan criterion were also awarded up to 2 points each as follows.

Proposal	1	2	3	4	5
b. Equipment (max 2 points) Unknown (0), insufficient, inappropriate (1). All others (2)	Proposal withdrawn on 11-13- 12 via e- mail	K&S INC 0 – logger unknown, on site milling not preferred, small dozer	0 – logger unknown, on site milling not preferred, small dozer	2	2
c. Harvest Schedule (max 2 points) None – (0) Marginal; no dates, no lengths of time (1) Adequate; dates, time, orderly (2)	N.A.	2	1	1.5	.5
d. Financial Plan (max 2 points) Each worth one point: bond/insurance (1) non-equip assets (1)	N.A.	2	2	2	2

The summation of components a, b, c, and d resulted in a potential maximum score of 10 points for a proposal's Project Management Plan. The score were then ranked highest to lowest, with the highest score being the number 1 choice of the reviewer. These results are summarized below.

Score of a, previous page	N.A.	2	2	4	4
Total Score (a, b, c, d)	N.A.	6	4	9.5	8.5
Ranking of mgmt plan scores (not weighted)	N.A.	3	4	1	2

DOCUMENT 7

3rd Place

3rd Place

DOCUMENT 8

NEIL A. BERCROMBIE
GOVERNOR
STATE OF HAWAII



JOBIE M. K. MASAGATANI
CHAIRMAN DESIGNATE
HAWAIIAN HOMES COMMISSION

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

P. O. BOX 1879
HONOLULU, HAWAII 96805

January 18, 2013

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Mark Hee
Koa, Inc.
819 Moowaa Street, 212B
Honolulu, Hawaii 96817

Dear Mr. Hee,

Subject: Piha Mauka Salvage Sale, Unit #2, Humuula, Hawaii

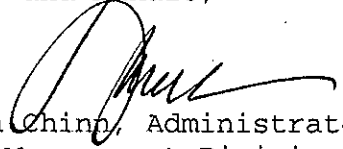
Thank you for your interest in DHHL's Piha Mauka Salvage Sale Unit #3. This is an important project for restoring our koa forests on Mauna Kea. Your proposal was one of five that were received and deemed worthy of further consideration.

Upon review, your proposal was selected as one of the top three received. Our process is to begin negotiation with the top rated proposal. If an agreement cannot be reached, we will then negotiate with the second proposal. In lieu of an agreement with the second, we will then work with the third. Your proposal was rated number 3.

We will keep you informed as to our progress in licensing this sale and will let you know if and when you will receive further consideration.

Once more, thank you for your interest in perpetuating Hawaii's koa forests. If you have any questions, please feel free to contact Mike Robinson, of our Land Management Division at 808.933.3480.

Aloha and mahalo,


Linda Chinn, Administrator
Land Management Division

c: LMD File

DOCUMENT 9

RECEIPT OF DOCUMENT

**RFP-13-HHL-001
KOA SALVAGE AND REFORESTATION PROJECT
HUMUULA, ISLAND OF HAWAII
PROTEST**

On this day, February 4th, 2013, Mark D. Hee hand delivered to the Department of Hawaiian Homelands a signed copy of Protest to the following individuals:

Chair-Designate Jobie Masagatani

Linda Chinn, Land Management Division

Acknowledged and received by:

Name:
Title:

KOA INC.
Contact: Mark D. Hee
819 Hoowaa St., 212-B
Honolulu, HI 96817
808-358-8529

RFP-13-HHL-001
KOA SALVAGE AND REFORESTATION PROJECT
HUMUULA, ISLAND OF HAWAII

PROTEST

TO: Chair-Designate Jobie Masagatani

Cc: Linda Chinn, Land Management Division
Mike Robinson, Forestry and Natural Resources

Date: February 4, 2013 – Via Hand Delivery/USPS

I. Statement of Protest. The evaluation process for RFP-13-HHL-001 is fundamentally flawed and lacking in administrative oversight and accountability. As a result of this lack of controls, Koa Inc. asserts that the employee making the selection has been arbitrary, capricious and biased while imposing his own standards for evaluation and selection, in contravention of legally compelled transparency in government procurement.

As a consequence and pursuant to HAR, Title 3, Department of Accounting and General Services, Subtitle 11, Procurement Policy Board, Chapter 122, Source Selection and Contract Formation (and other relevant federal and state procurement law), Koa Inc. protests the evaluation process, the numerical rating system and the selection process (1) utilized by Mike Robinson (Primary Contact for the RFP), Land Management Division, Forestry and Natural Resources, Department of Hawaiian Home Lands; and (2) sanctioned by the Department of Hawaiian Home Lands.

II. Procedural and Factual History

A. DHHL releases Request for Proposal, RFP-13-HHL-00, June 29, 2012. All bids are to be filed by August 29th, 2012. The salvage and

deforestation is to be accomplished from November 2012 through October 2015 (approximately three years).

B. By letter dated January 18th, 2013, and received by Koa Inc. on January 24th, 2013, Linda Chinn, Administrator, Land Management Division, DHHL, informs Koa Inc. that the selection has been made and the top bids ranked one through three. Koa Inc. is number three. Any follow-up is referred to Mike Robinson.

C. On or about January 24, 2013 at 12:25 p.m., HST, Mark Hee emails Mike Robinson "requesting scoring tallies from all applicants...copies of awarded contracts for the last 3 DHHL harvest." Hee further states "The Department of Information Practices does not have any of the awarded contracts on file. Please provide within the 7 days that the law requires[.]"

D. On or about January 25th, 2013, Mike Robinson states that he is in license negotiations with the selected bidder and the selection ranking has been accomplished resulting in Koa Inc.'s number three position. Robinson further states that the RFP is an "open opportunity" but he is awaiting an opinion from the Attorney General telling him whether he can speak with Mark Hee, in light of the request for documents Hee has made.

E. On or about January 28th, 2013, Mike Robinson informs Mark Hee that he has been permitted to debrief Koa Inc. on the strengths and weaknesses of its proposal and to discuss the information sought in the email of January 24th, 2013.

F. During the briefing with Mike Robinson on that day, Mike Robinson states the following:

1. Five proposals were submitted; one bidder dropped out leaving four.

2. The RFP is "not all about the money" but rather about "taking care of the forest first" to balance the monetary concerns against the cultural.

3. Following the close of bidding, Mike Robinson marked a number (1, 2, 3 and so forth) on each bid in the order of receipt. He maintained a record of the identity of the bidder but this information was not shared with the other two members of the selection committee.

4. Koa Inc.'s point ranking in the Comparative Evaluation Criteria:

a. 6.1. Net Project Revenue. 40%. **Koa Inc. ranked number one** with the highest stumpage revenue of \$5.00/bd. ft. for logs less than 6' lengths, \$6.00/bd. ft. for logs greater than 6' length, and \$10.00/bd. ft. for veneer quality logs greater than 8' lengths, with an average of \$5.65.

b. 6.2. Project Management Plan. 15%. **Koa Inc. ranked number three, 30% below the second place bidder.** The selection committee downgraded Koa Inc. because it failed to identify a logger.

c. 6.3. DHHL Community Benefit. 10%. **Koa Inc. tied with second proposal.** Mike Robinson states the selection committee liked Koa Inc.'s community benefits proposal but marked it down because Koa Inc. was proposing "intangibles" that have not been implemented. Robinson noted that many bidders make promises they do not keep – it's an issue of "what if versus what is."

d. 6.4. Qualifications. 25%. **Koa Inc. tied for third.** Mike Robinson again reiterated that Koa Inc. did not identify a logger. He conceded that he had not contacted nor researched any of the professionals Koa Inc. submitted as its salvage and reforestation team. The resumes and vitae of the professional indicate one member is currently harvesting and reforesting 3000 acres of Iliahi and Koa mauka of Keahou. Another has 42 years of experience in timber harvesting, cutting, grading, veneering and purchasing Acacia koa. The team's environmental conservation and restoration expert is a botanist at the Bishop Museum.

e. 6.5. Value Added Processing. 10%. **Koa Inc. tied for high.**

G. Koa Inc.'s Efforts to Acquire RFP Information and Government Documents.

From January 29th to February 1st, 2013, Mark Hee made good faith efforts to have Mike Robinson confirm whether the "notice of posting of award" had occurred. Hee also transmitted his request for government records related to the last three harvests. Robinson did not respond and Hee was compelled to contact Linda Chinn for her response to his questions, including scored tallies from all applicants and, once again, copies of the awarded contracts for the last three DHHL harvests. To date, Linda Chinn has not responded to the emailing and telephone calls.

1. On February 1st, 2013, Mike Robinson transmitted proposal analyses for 6.2, a spreadsheet showing rating system results, two prior licensing

agreements and a draft licensing agreement for the pending RFP.

2. As of February 4th, 2013, neither Linda Chinn nor Mike Robinson responded to Koa Inc.'s request that they, on behalf of DHHL, confirm whether the posting of notice of award has been made. And, if so, where did the posting occur. See attached emails.

H. DHHL Evaluation, Selection and License Documents – See attached.

1. According to DHHL Piha Mauka Unit #3, Proposal Rating System Results, Koa Inc. received the highest scores in 6.1 in Net Project Revenue – 10 points; and 6.5 Value Adding – 8 points. It scored third in 6.2 Management Plan with 6 points, 7 points in 6.3 Community Benefits and 2 points in 6.4 Qualifications. The unweighted totals are 33 points for Koa Inc., 42.5 for the selected bidder and 38.5 for the second place bidder.

The weighted totals result in 6.90 for Koa Inc., 8.43 and 7.63 for the first and second place bidders. During the debriefing, Mike Robinson emphasized that the weakness of Koa Inc.'s proposal was its failure to identify a logger and to articulate community benefit that was being implemented rather than being proposed.

Mike Robinson/DHHL did not produce the scoring sheets for each of the three selection committee members.

2. The proposed license for this RFP is single-spaced and 17 pages long. The RFP document itself is 6 pages long. The level of detail in the license, e.g., from harvesting requirements to treatment of logging debris and specifications on stumpage fee, affects pricing and the project management plan, among other things. Koa Inc. did not receive this draft prior to submitting its bid nor are the term specifications reflected in the underling RFP.

III. Authority Governing RFP Process.

A. Public Policy

Our commander-in-chief, Barack Obama, is unequivocal in his commitment "to creating an unprecedented level of openness in government."

We will work together to ensure the public trust and establish a system of transparency, public participation, and collaborations. Openness will strengthen our democracy and promote efficient and effectiveness in Government.

Transparency promotes accountability and provides information for citizens about what their Government is doing.

www.whitehouse.gov/thepressoffice/transparencyandopengovernment.

DHHL comes under the purview of federal guidelines - being an agency established by Prince Kuhio and the United States Congress; and contemporaneously having received more than \$10,000,000 in ARRA stimulus funds from the federal government. Having received this funding that inures to the benefit of native Hawaiians, DHHL pledges that it will comply with all accountability, transparency requirements and reporting requirements.

Our State's Governor Abercrombie acknowledges we need to "rebuild confidence in government and how tax dollars are spent; Develop stronger partnerships, improve transparency and implement procurement reform; make government lead by example."

B. Procurement Statutes and Regulations Pertaining to Evaluation and Selection Process.

The evaluation and selection process engaged in by Mike Robinson with the tacit approval of DHHL, can be judged against specific state and federal procurement law as to whether it meets public policy standards of transparency, accountability and confidence building in government.

1. **Federal** – Federal government procurement is controlled by the Federal Acquisition Regulation (FAR) which is codified in Title 48 of the United States Code of Federal Regulations, Office of Federal Procurement Policy Act of 1974 (Pub. L. 93-400 and Title 41 of the United States Code), Chapter 7.

With respect to evaluation and selection processes, FAR is very specific and, in section M of the regulation, it requires an evaluation and selection process that is premised on detailed factors. Obviously, in order for the purchasing agent to engage in this transparent process (shown below), the underlying RFP must have informed the bidding public how it must respond to correlate with the evaluation process.

a. Section M, FAR 15.406-5 Part IV-- Representations and instructions. Evaluation factors for award.

Identify all significant factors, including cost or price, cost or price-related factors, and non-cost or non-price-related factors, and any significant subfactors that will be considered in awarding the contract (see 15.605(d) and (e) and the multiple award provision at 52.215-34) and state the relative importance

the Government places on those evaluation factors and subfactors.

M-3 EVALUATION FACTORS AND RATING METHODOLOGY

M-3.1 EVALUATION FACTORS

The evaluation will be based on a complete assessment of the offeror's proposal. Proposals shall be evaluated on the following technical factors and subfactors, listed in [rank factors in order of importance; e.g., each sub-factor will be equally important among the other sub-factors within the corresponding factor]. Each technical factor will be equally important among the other technical factors. Each past performance factor will be equally important among the other past performance factors. The overall technical factor will be considered equally important to the overall past performance factor.

The offerors will receive one overall rating value for the non-cost proposal evaluation factors [Technical and Past Performance]. All non-cost evaluation factors (these include all the Technical & Past Performance factors) when combined are [select one: significantly more important than, equal to, or less important than cost or price].

M-3.1.1. Non-Cost Factors

Factor 1 – [Insert Factor; e.g. Technical Approach/Methodology]

Sub-Factor 1: [Insert Sub-Factor; e.g. Quality of Proposed Solution]

Sub-Factor 2: [Insert Sub- Factor; e.g. Quality of Proposed Performance

Measures]

Sub-Factor 3: [Insert Sub- Factor; e.g. Relevant Experience]

Sub-Factor 4: [Insert Sub- Factor; e.g. Approach to Implementation]

Factor 2 – [Insert Factor; e.g. Personnel Qualifications]

Sub-Factor 1: [Insert Sub-Factor; e.g. Key Personnel]

Sub-Factor 2: [Insert Sub- Factor; e.g. Subcontractors]

Factor 3 – (Insert Factor; e.g. Management Plan)

Sub-Factor 1: [Insert Sub-Factor; e.g. Management]

Sub-Factor 2: [Insert Sub- Factor; e.g. Initial Staffing]

Sub-Factor 3: [Insert Sub- Factor; e.g. Phase-in Transition]

Sub-Factor 4: [Insert Sub- Factor; e.g. Subcontracting Plan]

Factor 4 – (Insert Factor; e.g. Past Performance)

Sub-Factor 1: [Insert Sub-Factor; e.g. Quality of Performance]

Sub-Factor 2: [Insert Sub- Factor; e.g. Schedule Performance]

Sub-Factor 3: [Insert Sub- Factor; e.g. Management Performance]

Sub-Factor 4: [Insert Sub- Factor; e.g. Cost Control]

Factor 5 – (Insert Factor; e.g. Cost)
Sub-Factor 1: [Insert Sub-Factor; e.g. Realism]
Sub-Factor 2: [Insert Sub- Factor; e.g. Reasonableness]
Sub-Factor 3: [Insert Sub- Factor; e.g. Completeness.

b. Section M, FAR, evaluating Key Personnel Resumes. In a FAR compliant process, criterion will be scored on the strength of the key personnel proposed both individually and collectively. This implies investigating and evaluating qualifications of key personnel resumes.

2. **Hawai'i State.**

a. HAR, Title 3, Department of Accounting and General Service, Subtitle 11, Procurement Policy Board, Chapter 122, Source Selection and Contract Formation mandates the following RFP process:

Subchapter 6. Competitive Sealed Proposals.

Section 3-122-52 Evaluation of proposals. **(a) Evaluation factors shall be set out in the request for proposals and the evaluation shall be based only on the evaluation factors. Evaluation factors not specified in the request for proposal may not be considered.** (b) A numerical rating system shall be used. The relative priority to be applied to each evaluation factor shall also be set out in the request for proposals. (c) The points to be applied to each evaluation factor shall be set out in the request for proposals. (1) The procurement officer, or each member of the evaluation committee, as applicable, shall explain his or her ranking determination in writing which shall be placed in the procurement file; (2) The written ranking evaluations or explanations shall be available for public inspection after the award of the contract is posted.

b. Title 9 - Public Property, Purchasing And Contracting Chapter 103d - Hawaii Public Procurement Code §103-303 - states the following:

Competitive Sealed Proposals. ... (f) Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing offerors.

(g) **Award shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous taking into consideration price and the evaluation factors set forth in the request for proposals. No other factors or criteria shall be used in the**

evaluation. The contract file shall contain the basis on which the award is made.

(h) in cases of awards made under this section, non-selected offerors may submit a written request for debriefing to the chief procurement officer or designee within three working days after the posting of the award of the contract. Thereafter, the head of the purchasing agency shall provide the requester a prompt debriefing in accordance with rules adopted by the policy board. Any protest by the requester pursuant to section 103D-701 following debriefing shall be filed in writing with the chief procurement officer or designee within five working days after the date that the debriefing is completed. [L Sp 1993, c 8, pt of §2; am L 1995, c 178, §§8, 9; am L 1997, c 352, §23; am L 2003, c 52, §4]

IV. MIKE ROBINSON AND DHHL FAIL TO COMPLY WITH BOTH STATE AND FEDERAL REGULATIONS in RFP-13-HHL-001

Specific Violation	Explanation of Procurement Violation	Consequence
Mike Robinson intakes bids, numbering them and correlating to the identity of each bidder; a 3 person committee then evaluates	Mike Robinson is the Primary Contact for the RFP and will follow through on execution of the license. His opinion carries more weight in the evaluation process and he is the only one who has knowledge of the identity of each bidder. There were only four bids being evaluated.	In the absence of a blind evaluation process, the public cannot be assured that the evaluation and selection process will be unbiased, free of favoritism and/or personal preferences by a Mike Robinson and DHHL.
6.1, Net Project Revenue – Koa Inc. bid the highest price to be paid to DHHL. Mike Robinson and DHHL rated each bidder from 10 (the high) to 7 (the low) on this criterion. There is no explanation for the rating system either in the process or in the RFP.	The highest price is the highest price. According to the Hawaii Public Procurement Code, if the evaluation factors are not in the RFP, they cannot be used in the evaluation. Obviously, Mike Robinson/DHHL imposed other evaluation factors, separate and apart from objective price offered, in awarding points.	Net Project Revenue accounted for 40% of the rating, almost half of the scoring a bidder could receive. The rating system here lacks transparency that means that bidders are not able to present a correlated proposal, beneficiaries of DHHL stand to lose revenues and there is no oversight for evaluating project revenue proposals.

<p>6.2, Project Management Plan. The selection committee downgraded Koa Inc. because it failed to identify a logger.</p>	<p>Koa Inc. was ranked 3rd in this category on a factor that was not set forth in the RFP. Mike Robinson emphasized the importance of having a logger on board and gave this as the reason for Koa Inc.'s low rating in 6.2. State regulations say: Evaluation factors not specified in the request for proposal may not be considered. The federal FAR is very specific and, in section M of the regulation, it requires an evaluation and selection process that is premised on detailed factors.</p>	<p>An evaluation and selection process that has failed to articulate the factors upon which rating will be accomplished means a Mike Robinson and DHHL can utilize any criteria they wish, change the criteria mid-evaluation, manipulate the criteria to favor one bidder over another.</p>
<p>6.3. DHHL Community Benefit. Koa Inc. receives 7 points and is tied for second. Mike Robinson states the selection committee liked Koa Inc.'s community benefits proposal but marked it down because Koa Inc. was proposing "intangibles" that have not been implemented. Robinson noted that many bidders make promises they do not keep – it's an issue of "what 'if' versus what 'is.'"</p>	<p>Mike Robinson states that since bidders in the past have made promises they did not keep, community benefit proposals were evaluated on whether the benefit was already in place and/or had been implemented. This perspective is fundamentally flawed and contravenes the very purpose of a bid – which is to propose actions that will be taken, if and when the bid is selected. State regulations say: Evaluation factors not specified in the request for proposal may not be considered. Section M of the FAR regulation requires an evaluation</p>	<p>An evaluation and selection process that fails to articulate the factors upon which rating will be accomplished means a Mike Robinson and DHHL can utilize any criteria they wish, change the criteria mid-evaluation, manipulate the criteria to favor one bidder over another. Moreover, the bidding public is entitled to know that they will be downgraded if they do not set forth a community benefits plan showing programs in place – since this is contrary to the basic objective of a bid proposal that is generally understood.</p>

	and selection process that is premised on detailed factors reflected in the RFP. If Mike Robinson was only interested in a community benefit proposal that would enhance existing programs, it should have been articulated to the bidding public.	
6.4. Qualifications. Koa Inc. received 2 points with the number one and two receiving 8 and 7 points respectively. Mike Robinson again reiterated that Koa Inc. did not identify a logger. He conceded that – other than personal knowledge - he had not contacted nor researched any of the professionals (with accompanying resume/vitae) Koa Inc. submitted as its salvage and reforestation team	In order to comply with section M of FAR, the criterion will be scored on the strength of the key personnel proposed.	Since Mike Robinson/DHHL did not investigate or contact any of Koa Inc.'s team professionals, they had no basis to validly evaluate the qualifications of Koa Inc. If a logger was integral to qualifying, that factor should have been articulated, which it was not. An evaluation and selection process that fails to articulate the factors upon which rating will be accomplished means a Mike Robinson and DHHL can utilize any criteria they wish, change the criteria mid-evaluation, manipulate the criteria to favor one bidder over another.
Mike Robinson/DHHL did not produce the scoring sheets for each of the three selection committee members.	Procurement regulations require the procuring agency to maintain originals and copies of any evaluator's actual scoring sheets. These are to be made available to the public.	If records of an evaluation process are not maintained, there can be no oversight by the procuring agency and by the public. The process lacks objective standards. Internal processes can then be

		manipulated, biased and subjective.
The proposed license for this RFP is single-spaced and 17 pages long. The RFP document itself is 6 pages long. The level of detail in the license, e.g., from harvesting requirements to treatment of logging debris and specifications on stumpage fee, affects pricing and the project management plan, among other things. Koa Inc. did not receive this draft prior to submitting its bid nor are the term specifications reflected in the underling RFP.	Bidders in this RFP submitted proposals that attempted to conform to the factors set forth in the RFP. The license agreement is not correlated to the RFP creating a fundamental unfairness in the bid and evaluation process.	Mike Robinson/DHHL is foisting terms, specifications and conditions of the license upon unsuspecting bidders resulting in an oppressive contract negotiation. A bidder premised its proposal on costs it reasonably could estimate from the RFP. The additional terms are substantial, affect a bidder's bottom line and expose the procuring agency to charges of engaging in contracts of adhesion, i.e., contracts achieved through oppressive and unfair conditions where the bidder is at a clear disadvantage if it wishes to acquire the license.
Irregularities in license execution.	Based on information and belief, Koa Inc. is of the opinion that once the license agreement is in place, work orders are lax and possibly inexistent.	If proper work orders are not maintained, Mike Robinson/DHHL can make requests of the licensee outside of the terms of the license. Since Mike Robinson/DHHL have the ability to shut down a project, a licensee is hard pressed to refuse a work order that is not documented.

V. KOA INC.'S REMEDIES

A. Mike Robinson – Recusal.

Koa Inc. believes that Mike Robinson engages in an evaluation and selection process that violates federal and state procurement statutes, rules and regulations. The process is impermissibly subjective, lacks transparency and accountability. Koa Inc. lacks confidence in Mike Robinson's ability to be a primary contact for this RFP and to participate in any fashion in the determination of this protest. Moreover, Koa Inc. is concerned that there may be a conflict of interest between Mike Robinson's individual advantage and that of DHHL's and of the licensee.

Koa Inc. is also prepared to support any civil and/or criminal violations, as set forth in Hawai'i's procurement regulations, against Mike Robinson that DHHL deems appropriate under these circumstances.

B. Options to Rehabilitate the RFP – Rescore Koa Inc. based upon the following:

1. Logger Factor. Koa Inc. asserts that the evaluation and selection process for this RFP is fundamentally flawed. Since the RFP does not state that a primary and essential factor is whether a bidder has a logger, that factor should be disregarded in the evaluation. Or, Koa Inc. should be permitted to submit its logger as part of its bid.

2. Qualifications. DHHL should investigate and interview the salvage and reforestation team Koa Inc. has assembled. Again, a logger was integral to this category and Koa Inc. should be permitted to revise its bid to include a logger and any other qualifications deemed a factor in the evaluation process.

3. Community Benefit. Koa Inc.'s bid cannot be downgraded because its community benefit proposal included programs it intended to accomplish if and when awarded the license. Koa Inc.'s proposal, as a special note, did include programs in place that it pledged to continue. If DHHL/Mike Robinson selected bidders – in the past - who subsequently did not follow through on commitments made in their proposals, it is DHHL's responsibility to enforce those obligations. Koa Inc. should not be penalized in its current proposal because DHHL was remiss in past license/contract agreements against an awardee.

C. RFP Must be Withdrawn, Revised and Re-Let

It is unclear whether the evaluation and selection process can be rehabilitated because of the extensive irregularities and violations of federal and state law and regulations. As it stands, there is no confidence in Mike Robinson's/DHHL's rating system results. The filing of a protest stays all proceedings. If the evaluation and selection process cannot be rehabilitated

satisfactorily, then the RFP needs to be withdrawn, revised to comply with the law and re-released with a different Primary Contact in place.

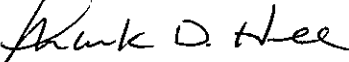
D. Resolution

Koa Inc. is open to discussing settlement of this Protest as it does not presume to have contemplated all possible resolutions.

VI. PRESERVATION OF RIGHT TO AMEND AND TO HOLD DETERMINATION IN ABEYANCE UNTIL GOVERNMENT RECORDS ARE ACQUIRED

Neither Mike Robinson nor Linda Chinn or any employee of DHHL has responded to Koa Inc.'s numerous requests to state whether the posting of the notice of award had been accomplished in this RFP. Since Mike Robinson conducted a briefing and has provided certain documents, Koa Inc. determined that the time to file a protest was imminent. It did not have sufficient time to demand, through OIP, and to receive from DHHL the government records it needs to prosecute this protest. Since the rules permit a party who protests sufficient time to gather government documents, Koa Inc. is asking for that consideration.

Sincerely,


MARK D. HEE
For Koa Inc.

DOCUMENT 10

NEIL ABERCROMBIE
GOVERNOR
STATE OF HAWAII



JOBIE M. K. MASAGATANI
CHAIRMAN DESIGNATE
HAWAIIAN HOMES COMMISSION

MICHELLE K. KAUHANE
DEPUTY TO THE CHAIRMAN

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

P. O. BOX 1879
HONOLULU, HAWAII 96805

February 28, 2013

Via First Class Mail

Koa, Inc.
c/o Mark Hee
819 Hoowaa Street, 212-B
Honolulu, Hawaii 96817

Re: February 4, 2013 Protest

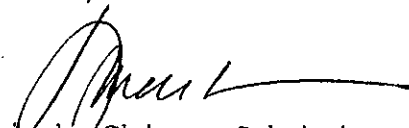
Dear Mr. Hee:

This letter responds to your Protest dated February 4, 2013, in which you protest the method by which proposals submitted pursuant to Request for Proposal ("RFP") 13-HHL-001 were evaluated and ranked. The basis for your protest appears to be Hawaii Revised Statutes ("HRS") § 103D-701, which allows aggrieved parties to protest certain "procurement" contracts.

As you know, RFP-13-HHL-001 was a solicitation for proposals for a land license to salvage, harvest, and replant koa on a certain Department of Hawaiian Home Lands ("DHHL") parcel. The land license is to be issued by negotiation pursuant to HRS § 171-54. Chapter 171, HRS does not provide for protests of land license awards, nor does the issuance of a land license under HRS § 171-54 constitute a "procurement contract" under Chapter 103D, HRS. Consequently, DHHL denies your Protest.

If you have any questions or concerns regarding this matter, please feel free to call me at (808) 620-9451.

Aloha,


Linda Chinn, Administrator
Land Management Division

DOCUMENT 11

ISSUANCE OF LAND LICENSE - AUTHORITY

HRS §171-54 Land license. The board of land and natural resources may issue land licenses affecting public lands for a period not exceeding twenty years. No land license shall be disposed of except at public auction as provided in this chapter; provided that the board may, after publication of notice in accordance with section 171-16(d), dispose of a land license by negotiation, without recourse to public auction, if it determines that the public interest will best be served thereby. The disposition of a land license by negotiation shall be upon such terms and conditions as the board determines shall best serve the public interest. [L 1962, c 32, pt of §2; am L 1965, c 239, §29; Supp, §103A-51; am L 1967, c 234, §9; HRS §171-54]

DOCUMENT 12

LEASE OF PUBLIC LAND - NEGOTIATION

HRS §171-59 Disposition by negotiation. (a) A lease of public land may be disposed of through negotiation upon a finding by the board of land and natural resources that the public interest demands it. Where the public land is being sought under this section by a sugar or pineapple company, and the company is the owner or operator of a mill or cannery, then, for the purposes of this section, the economic unit shall be that acreage of public land which when taken together with the lands already owned or controlled or available to the company, when cultivated is found by the board to be necessary for the company's optimum mill or cannery operation. In all other cases, public land to be sold under this section shall be an economic unit as provided in section 171-33(3).

After a determination is made to negotiate the disposition of a lease, the board shall:

(1) Give public notice as in public auction, in accordance with the procedure set forth in section 171-16(a), of its intention to lease public land through negotiation setting forth the minimum conditions thereunder, the use for which the public land will be leased. Any person interested in securing the lease shall file an application with the board not later than forty-five days after the first publication of the notice;

(2) Establish reasonable criteria for the selection of the lessee; provided that where the intended use of the land is agriculture, the department of agriculture shall establish the criteria;

(3) Determine the applicants who meet the criteria for selection set by the board or the department of agriculture, as the case may be, and notify all applicants of its determination. Any applicant may examine the basis of the determination, which shall be in writing, to ascertain whether or not the conditions and criteria established by the board or the department of agriculture were followed; provided that if any applicant does not notify the board of the applicant's objections, and the grounds therefor, in writing, within twenty days of the receipt of the notice, the applicant shall be barred from proceeding to seek legal remedy for any alleged failure of the board to follow the conditions and criteria.

If only one applicant meets the criteria for selection of the lessee, the board may, after notice as provided in (3), above, dispose of the lease by negotiation.

If two or more applicants meet the criteria for the selection of the lessee, the board shall select the lessee who submits the highest offer contained in a sealed bid deposited with the board.

DOCUMENT 13

**MEETING OF THE COMMISSION
OF THE DEPARTMENT OF HAWAIIAN HOME LANDS
MARCH 19, 2013, KAPOLEI, O'AHU**

**ACTION ITEM
REGARDING RFP-13-HHL-001 ("RFP")
Koa Salvage and Reforestation Project
Humuula, Island of Hawaii
Released June 29, 2012**

Whereas, the Land Management Division, Forestry and Natural Resources, Department of Hawaiian Home Lands released a request for proposal on June 29, 2012, for the last of four koa harvests in Humuula, island of Hawai'i;

Whereas, HK Consultants, LLC d/b/a Koa Inc. submitted a proposal in a timely manner;

Whereas, according to the rating sheets produced by DHHL, Koa Inc. offered the highest price in the RFP;

Whereas, after evaluating all proposals to the RFP, DHHL informed Koa Inc. on January 18th, 2013, that it was ranked third in line to negotiate for the land license;

Whereas, on February 28th, 2013, DHHL stated that RFP-13-HHL-001 is the award of a land license that will be determined through negotiation, pursuant to HRS 171-54;

Whereas, HRS 171-59 sets forth the negotiation process that will be followed in awarding a land license;

Whereas, HRS 171-59 states if two or more applicants meet the criteria for the selection of the lessee, the board shall select the lessee who submits the highest offer; and

Whereas, DHHL has determined that Koa Inc. is both qualified and the applicant that submitted the highest offer;

NOW, by the authority vested upon it by HRS 171-54 and 171-59, the Commission of the Department of Hawaiian Home Lands hereby awards the land license in RFP-13-HHL-001 to HK Consultants, LLC d/b/a Koa Inc.

/March 19, 2013/