

HAWAIIAN HOMES COMMISSION

Minutes of February 21, 2017

Meeting held at Hale Pono`i, Kapolei

Pursuant to proper call, the 684th Regular Meeting of the Hawaiian Homes Commission was held at Hale Pono`i, 91-5420 Kapolei Parkway, Kapolei, O`ahu, Hawai`i, beginning at 9:30 a.m.

PRESENT Jobie M.K. Masagatani, Chairman
Doreen N. Canto, Maui Commissioner
Kathleen P. Chin, Kaua`i Commissioner
Gene Ross K. Davis, Moloka`i Commissioner
David B. Ka`apu, West Hawai`i Commissioner
William K. Richardson, O`ahu Commissioner

EXCUSED Wallace A. Ishibashi, East Hawai`i Commissioner
Michael P. Kahikina, O`ahu Commissioner
Wren Wescoatt, O`ahu Commissioner

COUNSEL Craig Iha, Deputy Attorney General

STAFF William Aila Jr., Deputy to the Chairman, Office of the Chair
Paula Aila, ICRO Manager
Kahana Albinio, Acting Land Management Division Administrator
Dean Oshiro, Acting Homestead Services Division Administrator
Kaleo Manuel, Acting Planning Manager
Norman Sakamoto, Acting Land Development Division Administrator
Leah Burrows-Nuuanu Secretary to the Commission
James Du Pont, West Hawai`i District Office Supervisor
Halealoha Ayau, Water Specialist
Bryan Cheplic, ICRO
Debra Aliviado, Customer Service Manager
Allen Yanos, Property Development Agent
Gigi Cairel, Grant Specialist
Susie Richey, Secretary

ORDER OF BUSINESS

CALL TO ORDER

Chair Masagatani called the meeting to order at 9:42 a.m.
Six (6) members were present at roll call.

APPROVAL OF AGENDA

MOTION/ACTION

Moved by Commissioner Canto, seconded by Commissioner Davis, to approve the agenda.
Motion carried unanimously.

APPROVAL OF MINUTES

Approval for the December 2015 Minutes were deferred to Tuesday.

PUBLIC TESTIMONY ON AGENDIZED ITEMS

ITEM A-1 Chair Masagatani moved the single Public Testifier with the Agenda items

ITEMS FOR DECISION MAKING

CONSENT AGENDA

HOMESTEAD SERVICES DIVISION

RECOMMENDED MOTION/ACTION

Acting Homestead Services Division Administrator Dean Oshiro presented the following:
To approve the Consent Agenda as listed in the submittal.

DISCUSSION

Chair Masagatani asked Commissioners if there were any Items from the Consent Agenda that they wanted to move to the Regular Agenda.

- ITEM D-2** Ratification of Loan Approvals (see exhibit)
- ITEM D-3** Approval of Consent to Mortgage (see exhibit)
- ITEM D-4** Approval of Streamline Refinance (see exhibit)
- ITEM D-5** Approval to Schedule Loan Delinquency Contested Case Hearings (see exhibit)
- ITEM D-6** Approval of Homestead Application Transfers / Cancellations (see exhibit)
- ITEM D-7** Commission Designation of Successors to Application Rights – Public Notice 2015 – **HEATHERLYNN P. BERG**
- ITEM D-8** Cancellation of Deceased Applicants from Waiting List Public Notice 2015 (see exhibit)
- ITEM D-9** Cancellation of Deceased Applicant with No Eligible Successors from Waiting List – **RYAN M. CULLEN**
- ITEM D-10** Ratification of Designations of Successors to Leasehold Interest and Designation of Persons to Receive Net Proceeds (see exhibit)
- ITEM D-11** Approval of Assignment of Leasehold Interest (see exhibit)
- ITEM D-12** Approval of Amendment of Leasehold Interest (see exhibit)
- ITEM D-13** Approval to Issue Non-Exclusive Licenses for Rooftop Photovoltaic Systems for Certain Lessees (see exhibit)
- ITEM D-14** Set Aside of Prior Designation of Successor to Lease No. 3805, Lot No. 63, Nanakuli, Oahu – **CORALENE N. KAAI**
- ITEM D-15** Request to Schedule Contested Case Hearing – Authorization to Proceed to Public Notice Under Section 205, HHCA, Due to Nonresponsive Designated Successor(s) (see exhibit)
- ITEM D-17** Request to Approve Third Party Agreement – **GARY K. KANIHO**
- ITEM D-18** Request to Schedule Contested Case Hearing for Lease Violations (see exhibit)

MOTION/ACTION

Moved by Commissioner Chin, seconded by Commissioner Canto, to approve the Consent Agenda as stated in the submittal. Motion carried unanimously.

REGULAR AGENDA

HOMESTEAD SERVICES DIVISION

- ITEM D-16** Approval of the Assignment of a Tenant-In-Common Leasehold Interest – **SANDRALYNN H. NAEA**, Lease No. 3159, Lot No. 13-A Waimanalo, Oahu

RECOMMENDED MOTION/ACTION

Acting Homestead Services Division Administrator Dean Oshiro presented the following: The motion was brought to the attention of the Commission in October 2016 with the staff’s recommendation to approve the assignment of the transfer. The Commission asked to defer the item to have the two parties meet to discuss and then return at a later date which is currently February 21, 2017.

MOTION

Moved by Commissioner Canto, seconded by Commissioner Chin, To approve the assignment of a tenant-in-common leasehold interest to Lease No. 3159, Lot No. 13-A, Waimanalo, Oahu (Lease), from Sandralynn H. Naea (Sandralynn) to Herbert Kaniaupio, III (Herbert), subject to the following conditions:

1. Contract of Loan No. 17297 needs to be paid in full prior to the completion of transfer; and
- and
2. Home Insurance needs to be current; and
3. Real Property Taxes to be paid current.

DISCUSSION

D. Oshiro stated the Department’s recommendation is to approve the transfer as there is no grounds to recommend anything but approval. Two different families have interest in the house. It is between the tenants-in-common to go to court for a judgment. It is an undivided interest in the home and the lot is under 10,000 sq. ft. Both lessees have the right to enter the residence.

Chairman Masagatani addressed Mr. Kaniaupio stating if the Commission approves the Department’s recommendation to grant Sandralynn’s request to transfer her share to him, that it may not resolve the conflict between him and Mr. Spencer. She wanted Mr. Kaniaupio to understand that.

ACTION

Moved by Commissioner Canto, to approve the assignment of a tenant-in-common leasehold interest to Lease No. 3159, Lot No. 13-A, Waimanalo, Oahu (Lease), from Sandralynn H. Naea (Sandralynn) to Herbert Kaniaupio, III (Herbert), subject to the following conditions:						
1. Contract of Loan No. 17297 needs to be paid in full prior to the completion of transfer; and						
2. Home Insurance needs to be current; and						
3. Real Property Taxes to be paid current.						
Seconded by Commissioner Chin						
Commissioner	1	2	‘AE (YES)	A’OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Canto	X		X			
Commissioner Chin		X	X			
Commissioner Davis				X		
Commissioner Ishibashi						X
Commissioner Ka’apu			X			
Commissioner Kahikina						X
Commissioner Richardson			X			
Commissioner Wescoatt						X
Chair Masagatani			X			
TOTAL VOTE COUNT			5	1		3
MOTION: [] UNANIMOUS [X] PASSED [] DEFERRED [] FAILED						
Motion passes with five (5) Yes, one (1) No, three (3) Excused.						

REGULAR AGENDA

OFFICE OF THE CHAIRMAN

ITEM C-3 Adoption of Amendments to Title 10 Hawai'i Administrative Rules

RECOMMENDED MOTION/ACTION

Administrative Rules Officer Hokulei Lindsey presented the following:
That the Hawaiian Homes Commission adopt the amendments to the Title 10 Administrative Rules

MOTION

Moved by Commissioner Canto, seconded by Commissioner Chin, to approve the motion as stated in the submittal.

DISCUSSION

One residence is permitted on agricultural lots of more than 3-acres as well as on a pastoral lot. The residential lot has to be surrendered because only one residential lot is allowed. The worker's quarters is allowed only on the larger lots, not on lots less than 3-acres.

ACTION

Motion carried unanimously.

LAND DEVELOPMENT DIVISION

ITEM E-4 Approval of Various Lease Awards (see exhibit)

RECOMMENDED MOTION/ACTION

Acting Land Development Division Administrator Norman Sakamoto presented the following:
Motion that the Hawaiian Homes Commission approve the awards of the DHHL resident lot leases to the applicants listed in the submittal for 99-years subject to the purchase of the existing improvements on the lot by way of loan or cash.

MOTION/ACTION

Moved by Commissioner Davis, seconded by Commissioner Canto, to approve the motion as stated in the submittal. Motion carried unanimously.

ITEMS FOR INFORMATION/DISCUSSION

GENERAL AGENDA

REQUESTS TO ADDRESS THE COMMISSION

ITEM J-3 Avery Choy – Princess Kahanu Estates

A. Choy testified as the Secretary for the Princess Kahanu Estates Association, joining him at the table was the Association's President John DuKay and his wife Irene. The Association was having a problem with collecting association dues and fees. They reported an outstanding balance of with \$34,000.

ITEM J-4 Princeslehanani Kamaewakainakalomomona – deferred

WORKSHOPS

PLANNING OFFICE

ITEM G-1 Legislative Updates 2017

RECOMMENDED MOTION/ACTION

Legislative Analyst Lehua Kinilau-Cano presented the following:

DISCUSSION

Of the 18 Bills, 13 were still alive and the 3 the Governor included in his package were alive in both the House and the Senate. There is a concern of the Successorship Bill in the Senate.

OFFICE OF THE CHAIRMAN

ITEM C-1 Update on DHHL Workplan –

Note: This items was to Tuesday

GENERAL AGENDA

REQUESTS TO ADDRESS THE COMMISSION

ITEM J-1 Emily Naeole – Maku`u Farmers Association

E. Naeole stated she has been in Maku`u for 31 years. One of the pilikia is people dropping dead on the waitlist. The land belongs to the Hawaiian people and not to an entity called DHHL.

A pilot program was requested with regards to the 50 unawarded lots. Deputy Aila addressed the conditions of the lease procedures along with issues that have to be worked through.

MOTION

Moved by Commissioner Canto, seconded by Commissioner Davis to convene in executive session pursuant to Section 92-5(a)(4), HRS, to consult with its attorney on questions and issues pertaining to the Commission's powers, duties, privileges, immunities, and liabilities. Motion carried unanimously.

EXECUTIVE SESSION IN

12:30 P.M.

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

1. Update on Nelson Case - Richard Nelson, III et al., v HHC, Civil No. 07-1-1663

EXECUTIVE SESSION OUT

2:25 P.M.

ITEMS FOR DECISION MAKING

REGULAR AGENDA

OFFICE OF THE CHAIRMAN

ITEM C-3 Adoption of Amendments to Title 10 Hawai`i Administrative Rules

RECOMMENDED MOTION/ACTION

Administrative Rules Officer Hokulei Lindsey presented the following:
Motion that the Hawaiian Homes Commission adopt the amendments to the Title 10 Administrative Rules.

A copy of the revised language was distributed. The revision starts on the bottom of page 25, the rules about the transfer 10-3-36, and the language for clarification is on page 26. The change takes out who would qualify for a transfer and puts in at least 18-years old and qualified under the ACT, and continues with language that was already present.

Chairman Massagatani asked for a motion to the proposed amendment to Title 10 noting the one technical amendment.

MOTION/ACTION

Moved by Commissioner Canto, seconded by Commissioner Davis, to approve the motion as amended noting the one technical amendment. Motion carried unanimously.

LAND DEVELOPMENT DIVISION

ITEM E-1 Rescission of Homestead Lease Award and Reinstatement of Application – Laiopua Undivided Interest – Ella M. K. McComber

RECOMMENDED MOTION/ACTION

Acting Land Development Division Administrator Norman Sakamoto presented the following:
Recommends that the Hawaiian Homes Commission approve the rescission of one residential lease Lai Opuu undivided interest program which commenced on December 3, 2005, to reinstate one residential lease application to the appropriate residential lease waiting list according to the original date of the application.

The lessee wants to reapply on O`ahu so she withdrew her undivided interest in Kona.

MOTION/ACTION

Moved by Commissioner Davis, seconded by Commissioner Canto, to approve the motion as stated in the submittal. Motion carried unanimously.

ITEM E-2 Rescission of Homestead Lease Awards and Reinstatement of Applications – East Kapolei II B & C Undivided Interest - Charlene M. K. Kelesoma and Henry DeCosta Jr.

RECOMMENDED MOTION/ACTION

Acting Land Development Division Administrator Norman Sakamoto presented the following:
Motion that the Hawaiian Homes Commission approve the rescission of two residential leases in East Kapolei II, B & C undivided interest program which commenced on December 2, 2006, to

reinstate two residential lease applications to the appropriate residential lease waiting list according to the original date of application.

MOTION/ ACTION

Moved by Commissioner Canto, seconded by Commissioner Davis, to approve the motion as stated in the submittal. Motion carried unanimously.

ITEM E-3 Rescission of Homestead Lease Award and Reinstatement of Application – East Kapolei I Undivided Interest – Lizastarlene K. M. Pestana

RECOMMENDED MOTION/ACTION

Acting Land Development Division Administrator Norman Sakamoto presented the following: That the Hawaiian Homes Commission approve the rescission of one residential lease to East Kapolei I undivided interest program which commenced on December 2, 2006, to reinstate one residential lease application to the appropriate residential lease waiting list according to the original date of application.

MOTION

Moved by Commissioner Davis, seconded by Commissioner Canto, to approve the motion as stated in the submittal.

DISCUSSION

This motion is East Kapolei I and Kanehili. Chairman Masagatani stated currently they are undivided lessees living in Ho`olimalima. For them to convert their rental to a lease, they have to give up their undivided interest lease, go back on the waiting list and then they can receive the homestead lease.

ACTION

Motion carried unanimously.

ITEMS FOR INFORMATION/DISCUSSION

GENERAL AGENDA

REQUESTS TO ADDRESS THE COMMISSION

ITEM J-2 Momi Cruz-Losano – Kahua Ola Hou

M. Cruz-Losano introduced Wade Lee from Moloka`i. He is the Executive Director of the non-profit organization Kahua Ola Hou (KOH), a youth residential program. He is working with DHHL staff to get the papers in order. He is looking at a 2-acre parcel in Waianae and wants to put one of the delapidated house located along Farrington Highway on the 2-acre lot.

RECESS

5:39 P.M.

HAWAIIAN HOMES COMMISSION

Minutes of February 22, 2017

Meeting held at Hale Pono`i, Kapolei

Pursuant to proper call, the 684th Regular Meeting of the Hawaiian Homes Commission was held at Hale Pono`i, 91-5420 Kapolei Parkway, Kapolei, O`ahu, Hawai`i, beginning at 9:00 a.m.

PRESENT Jobie M.K. Masagatani, Chairman
Doreen N. Canto, Maui Commissioner
Kathleen P. Chin, Kaua`i Commissioner
Gene Ross K. Davis, Moloka`i Commissioner
David B. Ka`apu, West Hawai`i Commissioner (on his way)
William K. Richardson, O`ahu Commissioner

EXCUSED Wallace A. Ishibashi, East Hawai`i Commissioner
Michael P. Kahikina, O`ahu Commissioner
Wren Wescoatt, O`ahu Commissioner

COUNSEL Craig Iha, Deputy Attorney General

STAFF William Aila Jr., Deputy to the Chairman, Office of the Chair
Paula Aila, ICRO Manager
Kahana Albinio, Acting Land Management Division Administrator
Dean Oshiro, Acting Homestead Services Division Administrator
Kaleo Manuel, Acting Planning Manager
Norman Sakamoto, Acting Land Development Division Administrator
Leah Burrows-Nuuanu Secretary to the Commission
James Du Pont, West Hawai`i District Office Supervisor
Halealoha Ayau, Water Specialist
Bryan Cheplic, ICRO
Debra Aliviado, Customer Service Manager
Allen Yanos, Property Development Agent
Gigi Cairel, Grant Specialist
Susie Richey, Secretary

ORDER OF BUSINESS

CALL TO ORDER

Chair Masagatani called the meeting to order at 9:42 a.m. Five (5) members were present at roll call.

APPROVAL OF AGENDA

Chair Masagatani noted the carry overs from yesterday:

- The Minutes of December 2015
- Update on the Work Plan

APPROVAL OF MINUTES

Approval of Minutes for December 2015

MOTION/ACTION

Moved by Commissioner Canto, seconded by Commissioner Davis, to approve the Minutes of December 2015. Motion carried unanimously.

PUBLIC TESTIMONY ON AGENDIZED ITEMS

None.

WORKSHOPS

OFFICE OF THE CHAIRMAN

ITEM C-2 Proposed Kuhio Award Program – Securing Successorship for Wait List Beneficiaries

RECOMMENDED MOTION/ACTION

None. For information only. Administrative Rules Officer Hokulei Lindsey presented the Proposed Kuhio Award Program for securing successorship for wait list beneficiaries.

DISCUSSION

An applicant study had statistics that were shocking according to what Darryl Yagodich testified to. Beneficiaries on the wait list are getting older and 57 years old was the median age of those on the wait list. 31% of the applicants were over 65 years old. The numbers support the statement that people are dying on the waitlist. Those on the wait list can only name certain 50% Hawaiian relatives to succeed their spot on the wait list at their death. The Kuhio Award tries to even that out so that those on the wait list can have the same opportunities for succession and maybe even for transfer as those who are on the land and have a lease.

Helen Wai stated that those who are in their 70s and 80s attending her homeowner workshop have no intention to live on the land, their intention is to transfer it. The challenge is their children do not possess the 50% Hawaiian. Plenty don't meet the blood quantum requirement to get the home. The applicant has to become a lessee first before their child with less than 50% blood quantum can be the successor.

MOTION

Moved by Commissioner Ka`apu, seconded by Commissioner Awo to convene in executive session pursuant to Section 92-5(a)(4), HRS, to consult with its attorney on questions and issues pertaining to the Commission's powers, duties, privileges, immunities, and liabilities. Motion carried unanimously.

EXECUTIVE SESSION IN 10:22 AM

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

1. Update on issues related to Sandwich Isles Communications.

EXECUTIVE SESSION OUT 11:35 AM

PLANNING OFFICE

ITEM G-2 Presentation of Proposed Honokoa Fence Project by Kailapa Community Association and the Kohala Mountain Watershed Partnership, Kawaihae, Hawai`i

RECOMMENDED MOTION/ACTION

None. For information only. Acting Planning Program Manager Kaleo Manuel presented the following workshop item for the proposed Honokoa Fence Project by Kailapa Community Association and the Kohala Mountain Watershed Partnership, Kawaihae, Hawai`i.

A video was shown.

ITEMS FOR INFORMATION/DISCUSSION

REGULAR AGENDA

HOMESTEAD SERVICES DIVISION

ITEM D-1 HSD Status Reports
A - Homestead Lease and Application Totals and Monthly Activity Reports
B - Delinquency Report

No discussions.

ANNOUNCEMENTS AND ADJOURNMENT

NEXT MEETING

The next meeting will be held on March 20 & 21, 2017, at Hale Pono`i, Kapolei, O`ahu, Hawai`i

MOTION/ACTION

Moved by Commissioner Helm, seconded by Commissioner Canto, to adjourn the meeting.
Motion carried unanimously.

ADJOURNMENT

11:45 A.M.

Respectfully submitted:

Jobie M. K. Masagatani, Chairman
Hawaiian Homes Commission

Prepared by:

Leah Burrows-Nuuanu, Commission Secretary
Hawaiian Homes Commission