

HAWAIIAN HOMES COMMISSION
Minutes of July 17, 2017
Meeting held at Hale Pono'i, Kapolei Parkway

Pursuant to proper call, the 689th 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. Kaapu, West Hawai'i Commissioner
Michael P. Kahikina, O'ahu Commissioner
William Richardson, O'ahu Commissioner

EXCUSED Wallace A. Ishibashi, East Hawai'i Commissioner
Wren Wescoatt, O'ahu Commissioner

COUNSEL Craig Iha, Deputy Attorney General
Ryan Kanakaole, Deputy Attorney General

STAFF William Aila Jr., Deputy to the Chairman
Paula Aila, ICRO Manager
Niniau Simmons, NAHASDA Manager
Kahana Albinio, Acting Land Management Division Administrator
Dean Oshiro, Acting Administrator, Homestead Services Division
Kaleo Manuel, Acting Manager, Planning Office
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 Resource 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 9:43 a.m. Seven (7) members were present at roll call. Commissioners Ishibashi and Wescoatt were excused.

APPROVAL OF AGENDA

MOTION/ACTION

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

APPROVAL OF MINUTES

Chair Masagatani asked if there were any amendments to the June 2014 Minutes. There were none.

MOTION/ACTION

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

PUBLIC TESTIMONY ON AGENDIZED ITEMS

ITEM A-1 Michelle Kauhane Re: Sandwich Isles Communication

M. Kauhane testified as to the President and CEO of the Council for Native Hawaiian Advancement (CNHA). M. Kauhane read the Department's comments to the FCC regarding SIC and did the Trust do the right thing in its exclusive license. The mana'ō from the policy center would be yes; the homesteaders are entitled to the exclusivity as beneficiaries of the Trust. SIC had provided meaningful telecommunication services to the Trust lands when other providers did not. Everything SIC did was at no cost to the Trust. She was disappointed at the result of the question asked, did the Trust violate anything by giving the exclusive rights to SIC. The Commission is not the state; the Commission acts on behalf of the beneficiaries.

ITEM A-2 Kika Bukoski Re: Item F-7

K. Bukoski testified on behalf of Mr. Alan Silva, the current holder of ROE 645, located in Waimanalo, and a former permittee holder on RP 173, Item F-7 of discussion. He shared Mr. Silva's concern regarding a court order with Mr. Ben Char and Manawale'a Ranch. As a favor to A. Silva, K. Bukoski got involved back in October 2013 due to some unresolved differences between A. Silva and B. Char. A. Silva submitted a request for a separate ROE which was granted in 2013 and executed in 2015. Mr. Gibson mentioned that there was also a discussion as part of the settlement to cut a new roadway for Mr. Silva to access his property under ROE 645 and to disallow him from using the current roadway which he has been using for the past 22 years.

Deputy Aila stated, under the terms, access would continue for Mr. Silva unfettered, there would be no change. K. Bukoski requested the proposal of access be in writing.

ITEM A-3 Lisa Ann Kahalewai Re: F-1, F-3, G-2

L. Kahalewai spoke on behalf of Kekoa Enomoto for the Maui Homestead Farmers and Ranchers Association and Paupena Community Development Corporation. Regarding Item G-2, Hawaiian Home Lands non-homesteading dispositions. Paupena submitted in 2016 a land-use application for a two-year due diligence ROE to 5057-acres in Waiohuli, Kēōkea. Paupena still awaits the decision from DHHL. A memo was sent to Kahana, from Pa'upena supporting its land-use application by noting cattle, water, and mentoring related commitments from Rancher Rodney Akau, committing to allow PCDC to run a hundred or more of his cattle on 5057-acres in Waiohuli, Keokea homeland, and to mentor waitlist beneficiaries in tending cattle. Ranchers Akau and homesteader Norman Abihai agreed to truck in water to the cattle using 8-350 gallons containers weekly, depending on weather conditions. L. Kahalewai urged the Commission to support PCDC's request for a Hawaiian Home Lands non-homesteading pastoral disposition and get the Hawaiians back to the soil.

ITEMS FOR DECISION MAKING

CONSENT AGENDA

HOMESTEAD SERVICES DIVISION

RECOMMENDED MOTION/ACTION

Acting Homestead Services Division Administrator Dean Oshiro presented the following:
Motion 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. There were none.

- 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 of Loan (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** Approval of Designation of Successors to Leasehold Interest and Designation of Persons to Receive the Net Proceeds (see exhibit)
- ITEM D-8** Approval of Assignment of Leasehold Interest (see exhibit)
- ITEM D-9** Approval of Amendment of Leasehold Interest (see exhibit)
- ITEM D-10** Approval to Issue Non-Exclusive Licenses for Rooftop Photovoltaic Systems for Certain Lessees (see exhibit)

MOTION/ACTION

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

REGULAR AGENDA

LAND MANAGEMENT DIVISION

- ITEM F-2** **Approval to Issue Right of Entry Permit to Department of Land and Natural Resources (DLNR), Division of Forestry and Wildlife (DOFAW), Hawai'i Island, Access to boundary of TMKs (3)3-8-001:009; 004 for fence replacement and TMKs (3)3-8-001:002; 007 for access to site along Mana Road**

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator, Kahana Albinio, recommended the following:
Motion that the Hawaiian Homes Commission approve to issue the Right of Entry Permit to the State of Hawai'i Land and Natural Resources (DLNR) Division of Forestry and Wildlife (DOFAW), on the island of Hawai'i to the boundaries that are identified in the exhibits of F-2. Kualii Camara did the presentation.

MOTION

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

DISCUSSION

K. Camara stated the fence is a replacement fence on the mauka boundary. The fence is 2.1-miles, and its function is to protect the summit of Mauna Kea; 89,000-acres, from feral ungulates, especially sheep. DLNR has been working on completing the fencing project, with 15-miles to go with a total of 59-miles. Forty-three hundred acres of land will be protected by the fence. The cost of the fence is at no cost to DHHL. Commissioner Richardson asked what the plan is for eradicating the feral animals inside of the fence. K. Camara stated DLNR has a hunting program for the upper region and doing aerial shooting from the helicopter. Commissioner Richardson asked if DHHL has a budget for reforestation. Chair Masagatani stated, there is a comprehensive budget for the priority of the 'Āina Mauna land plan which is \$600,000 that the Commission approved.

ACTION

Motion carried unanimously.

ITEM F-4 Approval to Issuance of Right of Entry and Amendment to General Lease No. 282, Pacific Transfer, LLC, TMKs (1)1-1-064:011, 010(por), Shafter Flats, O'ahu Island

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator, Kahana Albinio, recommended the following: Motion that the Hawaiian Homes Commission approve to issue the right of entry and the amendment to general lease No. 282, Pacific Transfer located at Fort Shafter, Shafter Flats. Allen Yanos, LMD, did the presentation.

MOTION

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

DISCUSSION

Allen Yanos stated the matter has been ongoing since 2007 when the last general lessee decided not to extend its general lease due to the maintenance cost, and the condition of the building was not feasible to continue the use of the building at 650 Kakoi Street. The request for approval is to demolish the mauka warehouse on that property which is sinking on the Northside and tilting onto the warehouse of Pacific Transfer LLC, a DHHL lessee. DHHL's consultants have indicated it is a safety issue. The request to the Commission is to approve Pacific Transfer go on DHHL's property at 650 Kakoi Street, demolish the building and in return, DHHL will provide its lessee, Pacific Transfer with a rent credit until the cost for the demolition has been fully reimbursed.

ACTION

Motion carried unanimously.

ITEM F-7 Request to approve Mediated Settlement Agreement between DHHL, Ben Char, and Manawale'a Riding Center relating to Civil No. 1RC15-1-11007, District Court of the First Circuit, Ko'olaupoko Division, State of Hawai'i, Various TMKs, O'ahu Island

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator, Kahana Albinio, recommended the following: Motion that the Hawaiian Homes Commission approve the mediated settlement agreement between DHHL, Ben Char, and Manawale'a Riding Center relating to Civil No. 1RC15-1-11007,

District Court of the First Circuit, Ko‘olaupoko Division, State of Hawai‘i, various TMKs, O‘ahu Island.

MOTION

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

DISCUSSION

Land Development Division Administrator Norman Sakamoto stated that there are two parcels, 7-acres in the red area plus another 52-acres that the Department has worked for years with the Wong family who farms on the part of the land, and DLNR’s former Meadowland. The Department will now take possession of these two parcels. An engineer will be procured to determine what options there are to develop with the idea of turning it into homesteads as opposed to right of entry or temporary uses.

N. Sakamoto stated there is money in the budget, and the Legislature did appropriate some CIP money for agricultural subdivisions, so a combination of agricultural/residential. Going forward will determine which types of lots and how many lots. N. Sakamoto added, assuming that there are no major engineering issues, lots would be available for homesteading in 3-years.

Mr. Look stated that that is part of the settlement agreement; it will remain as it currently exists, that there will be a joint entrance for both Manawale‘a as well as for Mr. Silva’s property. As part of the settlement agreement, Mr. Char will no longer be involved with this right of entry and it will be a right of entry to Manawale‘a.

Chair Masagatani confirmed that when the Department is ready to move forward and seeks to move Manawale‘a off of the property, the Department will not encounter any kind of dispute moving forward. Mr. Look agreed that Manawale‘a would want a reasonable time, which is identified as 30-days because there is a lot of infrastructure and equipment involved. Manawale‘a will move upon notice from DHHL that it is time to go.

Chair Masagatani confirmed that it is not Manawale‘a’s intention to do any additional construction or improvements on the right of entry parcel. Mr. Look stated that he doesn’t think so.

Chair Masagatani stated that her concern has nothing to do with the nature of Manawale‘a’s program and the services that are provided; it is the position that it is not in the right location. It is about how the Department moves forward in terms of homesteading.

MOTION/ACTION

Moved by Commissioner Kahikina, seconded by Commissioner Richardson, to convene in executive session pursuant to Section 9-5(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

11:23 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

1:35 PM

Chair Masagatani stated that the Commission has concerns regarding the action of the Court that brought the Department, Mr. Char, and Manawale`a into this mediation situation. The Commission has instructed Counsel to go back into mediation to address and resolve those issues.

ACTION

Deferred

ITEMS FOR INFORMATION/DISCUSSION

GENERAL AGENDA

REQUESTS TO ADDRESS THE COMMISSION

ITEM J-1 Stephanie Lauifi – HB 451 -Blood Quantum Bill

S. Lauifi asked when will the Department be able to accept their successorship form. Chair Masagatani stated, once the amendment to the Hawaiian Homes Commission Act is approved by Congress, then the Department will be able to implement that provision of the Act. When that happens, we don't know.

S. Lauifi asked if the Commission could put on a moratorium to stop the eviction of any lessees who don't have a successor that qualifies Chair Masagatani stated that the Department has to implement the Act as it currently is stated, which allows for a successor who is at least 25%, child, grandchild, spouse, siblings, to be able to succeed. If you do not have the 25%, you would be eligible for net proceeds. Chair Masagatani thanked Kapua (S. Lauifi) for all her time and energy, and because of her advocacy for HB 451, this change was accomplished.

ITEM J-2 Avery Choy – Princess Kahanu Estates

A. Choy stated that she attended February's meeting and brought up some concerns about Princess Kahanu Estates. Since then, the fences have been repaired, and the homeowners feel safer that the fence is not leaning over. Also, an assessment was done on the culverts in the back of 61 lots that border Kaleiwohi Street along Hakimo Road and the backside of Princess Kahanu community. There's lots of corrosion and cracks in the culvert. A. Choy told the homeowners that DHHL would be coming by to do their own assessment. She stated that it is similar to the sidewalk damages from before.

A. Choy stated the homeowners obtained their leases at Princess Kahanu; it was an agreement of abiding by all the by-laws and DCCRs that were handed to the homeowners. They signed the lease and agreed to abide by the rules, but if the Associations don't have the foundation to enforce it, the Association will keep coming back to the Department.

ITEM J-3 Princesslehuani Kumaewakainakaleomomona – Waitlist

P. Kumaewakainakaleomomona stated that it is her third time before the Commission. She stated that she went through the process of getting Hawaiian home lands for her family. She stated that

she is still waiting for her residential lot, which she has been on since 1993, and still waiting for her pastoral lot.

WORKSHOPS

PLANNING OFFICE

ITEM G-1 Papakōlea Regional Plan Priority Project Updates

RECOMMENDED MOTION/ACTION

None. For information only. Acting Planning Office Manager Kaleo Manuel and Liaison Lehua Kinilau-Cano presented an update on the Papakōlea Regional Plan Priority Project.

DISCUSSION

L. Kinilau-Cano stated that 5% of the lands designated for residential use is in Papakōlea, Kewalo, and Kalawahine. The Papakōlea Regional Plan focused on the three areas mentioned and not the other areas because those areas have no homesteads; they are commercial and industrial. Based on the regional plan prepared, there were five priorities identified:

- address abandoned homes,
- Hawaiian homestead kupuna supportive living center,
- native Hawaiian education and culture community center,
- Papakōlea community center and park improvements, and
- repair, replacement, and maintenance of infrastructure.

Since 2011, there has been over \$18 million appropriated for improvements to the infrastructure in Papakōlea. A community meeting for the sewer project was held on March 4, 2017, and preconstruction work has begun.

L. Kinilau-Cano stated that for the sewer to be turned over to the City, it has to be up to a certain standard. The work now is intended to get it to that standard so it can be turned over to the City. The Legislature is funding the upgrade.

Land Development Division Administrator Norman Sakamoto stated that there are two contracts in the \$4.5 million range that have been put out to bid. Both contracts are pending the release of funds from B&F. For now, the money is coming from the Legislative CIP.

RECESS 2:35 PM

RECONVENED 2:45 PM

ITEM G-3 Environmental Impact Statement Preparation Notice for 820 Isenberg Street Redevelopment at Mō‘ili‘ili, Waikīkī, O‘ahu, TMK: 2-7-008: 018 and 020 Portion

RECOMMENDED MOTION/ACTION

None. For information only. Acting Planning Office Manager Kaleo Manuel and Planner Nancy McPherson presented the update

DISCUSSION

N. McPherson noted that the exhibit being handed out is the actual EIS prep notice. The group is asking for the Commission’s mana‘o, on whatever they want to weigh in on, then they will be going out to present to the beneficiaries with an informational meeting in late August, and then

again to do a public scoping meeting which will probably happen in September once the EISPN has been published in the environmental notice.

N. McPherson stated that the revenue-generating potential for the property needs to be increased as it will provide additional revenue for the programs. She stated that there also might be residential opportunities here; residential mix-use. She stated that the group is asking the Commissioners for their comments on the EISPN.

N. McPherson briefed the Commissioners on what the area was used for in the past, i.e., wet agriculture and also a stock car pit, and the bowling alley. Studies have been done for this property in trying to assess alternative uses. There did not seem to be a demand for residential homestead leases in a townscape study in 2000. Also, the sewer capacity was a major constraint to development. The group has been working with the City and County to resolve that issue.

A Phase 1 environmental assessment was done in 2001, which identified asbestos and lead-based paint in the building. With the transit development, ultimately, this area would be potentially close to the extension from Ala Moana to the University of Hawai'i. This could be an opportunity for redevelopment for mixed-use, commercial, office, and residential. The Planning Division has been doing technical, preliminary engineering studies, hazardous material reports and has been able to get the City & County tell Planning that they could get wastewater approval for up to 276 units. During the O'ahu Island Plan preparation, when Planning talked to people during the open houses, Planning did hear interests for rentals, kupuna housing, and student housing.

K. Manuel stated that it is a recommendation to prepare an EIS. The project will have significant impacts on the existing building environment and the community in that area. We have not gone through this yet, but the goal is the Commission would have clearly articulated mitigation measures to mitigate as much of those impacts as possible. The EIS process is an information and disclosure process to get and collect information from surrounding landowners, stakeholders in this region that can hopefully help guide the Department in the project, realistic uses of the property. This the first time for the Department to be doing this, so there's that iterative process to work through

K. Manuel stated that the Governor is evaluating whether or not the Department's mitigation measures, as articulated, and all the statutory requirements on the 343 and the Administrative Rules have been met and that the process is tight and being inclusive and transparent, and the Department is not skipping through or going over anybody's rights to engage in this public process.

N. McPherson stated that the Department would be able to use the NEPA if it is able to use the Hawaiian Block Grant monies, the NAHASDA monies, to fund part of this.

ITEM G-4 Legislative Update – HB451 Signing and Proposals for 2018

RECOMMENDED MOTION/ACTION

None. For information only. Acting Planning Office Manager Kaleo Manuel and Legislative Analyst Lehua Kinilau-Cano presented the following:

DISCUSSION

L. Kinilau-Cano stated that the Governor signed the State Budget into Law, Act 49; and he also House Bill 451 into law which is Act 80, based on the DOI Rule, Part 48, requiring the Chairman submit certain information to the Secretary of Interior no later than 120 days after the State

approves a proposed amendment to the Hawaiian Homes Commission Act or in the case of this bill, no later than November 2, 2017. That is just the start of the process.

The Governor vetoed 13 of the 15 Bills that he put out his Notice of Intent to Veto. L. Kinilau-Cano stated that for 2018, the Department is taking Legislative proposals and will be reaching out to homestead associations and other beneficiaries and stakeholders to give input on proposals the Department may be looking at for 2018 Legislative session.

ITEM G-5 Grants Status Report

RECOMMENDED MOTION/ACTION

None. For information only. Acting Planning Office Manager Kaleo Manuel presented the following:

DISCUSSION

K. Manuel stated that the grants status report is for the end of the fourth quarter of 2017. The Commission approved four new agricultural peer-to-peer grants totaling \$200,000, and the contracts are working towards finalization. There were 14 capacity-building grants approved for \$96,818 in April 2017. The State Legislature approved three grants in aid for \$1.5 million, \$500,000 each to La‘i‘opua 2020, Kailapa Community Association and Waiohuli Hawaiian Homesteaders Association, Inc; all geared towards their community centers. The release of the funds won't happen until December 2017.

RECESS

3:26 P.M.

HAWAIIAN HOMES COMMISSION
Minutes of July 18, 2017
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Pursuant to proper call, the 690th 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. Kaapu, West Hawai'i Commissioner
Michael P. Kahikina, O'ahu Commissioner (Arrived 9:20 a.m.)
William Richardson, O'ahu Commissioner

EXCUSED Wallace A. Ishibashi, East Hawai'i Commissioner
Wren Wescoatt, O'ahu Commissioner

COUNSEL Craig Iha, Deputy Attorney General
Ryan Kanakaole, Deputy Attorney General

STAFF William Aila Jr., Deputy to the Chairman
Paula Aila, ICRO Manager
Niniau Simmons, NAHASDA Manager
Kahana Albinio, Acting Land Management Division Administrator
Dean Oshiro, Acting Administrator, Homestead Services Division
Kaleo Manuel, Acting Manager, Planning Office
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 Resource 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 9:12 a.m. Six (6) members were present at roll call. Commissioners Ishibashi and Wescoatt were excused.

ITEMS FOR DECISION MAKING

REGULAR AGENDA

LAND MANAGEMENT DIVISION

ITEM F-1 Annual Renewal of Right of Entry Permits, O‘ahu Island (see exhibit)*

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Kahana Albinio presented the following: Motion that the Hawaiian Homes Commission approves the following actions while developing a process to making short-term agricultural and pastoral land dispositions available to beneficiaries.

- A. Recommends the renewal of all O‘ahu Island Right of Entry Permits as listed on Exhibit “A” and identified by approximate location on the O‘ahu Island Map Exhibit “A-1” that are in compliance and issued temporary approvals as of July 1, 2016, granted by the Hawaiian Homes Commission at its June 2016 meeting under Agenda Item No. F-3.
- B. The annual renewal period shall be on a month-to-month basis for up to twelve (12) months but no longer than June 30, 2018.
- C. Authorize the Chairman to negotiate and set forth other terms and conditions that may be deemed to be appropriate and necessary.

MOTION

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

DISCUSSION

Chair Masagatani stated that for Kalaeloa, the Department is looking to upgrading that landholding so that the Department can put those up for general leasing and earn a higher return. K. Albinio stated the contract for an infrastructure market feasibility study started in January and will run for two-years.

Commissioner Richardson asked if the Kalaeloa properties have been certified as not appropriate for residential. K. Albinio said it is identified in the Island Plan as commercial-industrial.

Commissioner Ka‘apu said he would like to know if there are any parcels not allocated but available. Chair Masagatani stated that not all of the RPs encompasses all of the lands that are unencumbered in some way.

Chair Masagatani deferred the item to the afternoon.

ACTION

Deferred.

ITEMS FOR INFORMATION/DISCUSSION

REGULAR AGENDA

LAND MANAGEMENT DIVISION

- ITEM F-6 Issuance of Final Approval to pursue Condominium Property Regime (CPR) and Amendment to General Lease No. 290, Kapolei Community Development Corporation (KCDC), TMK No. (1)9-1-151:002, Kapolei, O‘ahu Island**

RECOMMENDED MOTION/ACTION

None. For information only. Acting Land Management Division Administrator Kahana Albinio presented the following:

Scott Abrego, President of the Kapolei Community Development Corporation (KCDC). KCDC represents the homesteads of Kapolei. In March, KCDC approached the Commission in March asking for preliminary approval on a CPR map for their commercial property, which is a 4.9-acre parcel located at Kualakai and Kapolei Parkway. In 2007, the Commission awarded KCDC with two properties and one was this commercial property, the other was 22,000-sq. ft parcel located in Kipuka. The idea was that commercial property would support community property. Over time, KCDC has been able to move on their community property and finally moving on their commercial property. The action that was to take place in this Commission meeting was the final approval of the CPR, and from March till today, he has wanted to provide the Commission with an update.

DISCUSSION

Scott Abrego, President of the Kapolei Community Development Corporation (KCDC). KCDC represents the homesteads of Kapolei. In March, KCDC approached the Commission in March asking for preliminary approval on a CPR map for their commercial property, which is a 4.9-acre parcel located at Kualakai and Kapolei Parkway. In 2007, the Commission awarded KCDC with two properties and one was this commercial property, the other was 22,000-sq. ft parcel located in Kipuka. The action that was to take place in this Commission meeting was the final approval of the CPR, and from March till today, he has wanted to provide the Commission with an update.

S. Abrego stated that since March 20, 2017, KCDC has met with the Department on their sub-lease, multiple drafts were negotiated in April, and the sub-lease was finalized in May. With recommendations from DHHL, KCDC did have the draft sub-lease appraised by a third party and the findings were that the fundamental economics were sound and that it was consistent with the market and basically the terms negotiated in the sub-lease were fair to both sides. Preliminary cash flow and budget were done to get a sense of the amounts of revenue that KCDC would be getting and how the revenue would be utilized in terms of the community center. KCDC got Board consent to move forward with the sub-lease. In June, the sub-lease was signed and transmitted. They have a fully executed sub-lease in July.

Knowing that they would be on the agenda, KCDC went to the Commission's community meeting in Kapolei and provided an update at that meeting. An announcement was made about the beneficiary consultation that would happen in July. A community halawai was held, and the homestead leaders were updated as to the direction KCDC was headed and the plan and commercial property. The associations helped KCDC distributed over 900 flyers to the homesteads in Kapolei to get homesteaders to the beneficiary consultation meeting about the commercial property.

The lease amendment would allow KCDC to pursue or finalize a CPR map of the property, which will allow their partner to allocate different portions of the property to the different partners. KCDC is seeking three other amendments, one to update the program evaluation timeline based on the original timeline which sunset in 2016; edits to improvement costs which is capped at \$15,000 and needs to come back for DHHL's consent to increase that amount; and the last is circling back to the general terms and policies related to commercial use.

PUBLIC TESTIMONY ON AGENDIZED ITEMS

ITEM A-1 Michelle Kauhane Re: Item F-1, F-6

M. Kauhane spoke in the capacity of a beneficiary of Kaupea to congratulate KCDC and Scott Abrego. She stated that she brought up the mercantile question at the consultation and learned that it is a general lease, and the general lease has to have a non-profit purpose. The beneficiaries of the Trust should not have equal footing with every non-profit, as she stated that eleemosynary allows a non-competitive disposition to be given. The beneficiaries are the reason why the Trust exists, so the beneficiaries should not be in the same position as every non-profit that does not have to bid on a license.

ITEMS FOR INFORMATION/DISCUSSION

REGULAR AGENDA

OFFICE OF THE CHAIRMAN

ITEM C-1 For Information Only - HALE Program Review and Updates

RECOMMENDED MOTION/ACTION

None. For information only. Former Hale Manager Paula Aila and current Hale Manager Michelle Heitzman provided the update.

DISCUSSION

P. Aila stated that the program started in 2013 with the previous version called HOPE, with Kamana'o Mills and Niniau Simmons being instrumental in reviving this program. The focus has been to assist beneficiaries with financial literacy and assistance specifically in preparation for homeownership, on and off the homelands, and that the beneficiaries have the ability to continue homeownership as a lessee on the homelands. The two services offered are homebuyers' education on the islands of O'ahu, Kaua'i and Big Island, which follow the developments that the Department has built, and the other is foreclosure prevention, lease cancellation. The NAHASDA funding supports the program, and the funding started in 2003 and goes through 2019 for a total of \$2.9 million. The vendors that provide the services are Hawaiian Community Assets, Helen Wai and her team, and Nanakuli Housing Corporation.

P. Aila stated that as of late, there had been 222 cases referred through the Hale program, of which 204 of those are closed or 91%. As far as the plus/minus, a plus is defined as anyone that the Hale program can keep in place from not sliding down. If the Hale program can keep the family from dropping, that is a plus. The minus is those who decided not to work with the program.

Commissioner Ka'apu stated that talking to the banks as far as notifying us that someone is in default because lots of time the Department doesn't know until they are so far in default that the bank wants the loan to go back to the Department. Chair Masagatani stated that if the lender is still involved, it is the lender's responsibility to do the loss mitigation. It depends on the loan. FHA 247 has a loss mitigation process; the question is how effective is that loss mitigation. 184A, which is a different loan product, is a federal 100% guarantee, and we have a relationship with them in terms of how that payment gets made.

Commissioner Ka'apu stated that the ones we see in contested cases are the ones that have been in default for a long time, they come back and then work with them starts, it doesn't make sense. If the loan expands to be unwieldy, and we have the money to put loss mitigation practice early on, it's where we need to start, catch it. A ton of money will be spent on the back end when a little money could be spent on the front end to get the beneficiary back into compliance with that outside lender. The Department needs to do a better job at advocacy around the lenders for when it's 30/60-days out. Bank of America and those others have a responsibility to do loss mitigation.

Commissioner Ka'apu stated that with regular loans if you are 60-days, somebody is going to be hounding you. Chair Masagatani stated that she agrees with M. Kauhane. FHA is a mortgage insurance program and before you are eligible for that, you as a lender are supposed to do effective loss mitigation. Before you pay the claim, make sure you have all the documents.

Commissioner Richardson stated the Department is incentivizing FHA to build a loan up; is there a Chair Masagatani stated that the Department could look at the relationship with FHA. Mind you; we are a small program, FHA is the whole, huge. 184A is a different story because the Office of Native American Programs, which runs the NAHASDA block grant, also does 184A, so we have more latitude to do that discussion.

P. Aila moved on to the homebuyer education that the Hale program provides. The timeframe to get the homebuyer contracts in order was from 2015 to 2017. The two vendors are Helen Wai who services the O'ahu project, Kakaina and Ike II in Kapolei; and Hawai'i Homeownership services the Big Island to support the La'i 'Opua project and Kaua'i, which supports the Pi'ilani Mai Ke Kai projects. The Waiohuli project was started and slowed down. There was a movement to have financial literacy support, but because there were things that needed to be addressed in the Waiohuli project, it stopped.

Michelle Heitzman stated that of the 44 selected on Waiohuli, the deadline for their pre-approval is July 24. There have been 13 pre-approvals received from the bank, three or four families working with Maui Habitat, and the remaining families are continuing to work with Bank of Hawai'i, USDA, or Homestreet.

P. Aila stated that the information starts with mailouts about the homebuyer education workshops on the islands. Phone calls, emails, e-blasts for reminders are sent to get people to attend the workshops. At the workshops, the beneficiaries ask questions about the projects, processes; they are encouraged to look at the successorship. After the workshop, clients work one-on-one with their service providers in getting all of their financials and all the necessary information so that the service provider can provide a recommendation in terms of where they are at in their home purchase timeline. The next steps are loan qualification, then awards; then they move in.

M. Heitzman said NAHASDA does not currently have down payment assistance for lending outside.

HOMESTEAD SERVICES DIVISION

ITEM D-1 HSD Status Reports

- A - Homestead Lease and Application Totals and Monthly Activity Reports
- B - Delinquency Report

No questions, no discussion.

WORKSHOPS

LAND MANAGEMENT DIVISION/PLANNING OFFICE – JOINT PRESENTATION

ITEM F-3 For Information Only - Process to Issue Non-Homesteading General Agriculture Dispositions to Beneficiaries (LMD)

ITEM G-2 Hawaiian Home Lands Non-Homesteading Dispositions (PO)

RECOMMENDED MOTION/ACTION

Acting Planning Office Manager Kaleo Manuel presented the following:

DISCUSSION

K. Manuel stated that in March 2017, a presentation was made on the RPs, revocable permits or short-term dispositions regarding tying the planning system to land use designations. What evolved out of this is that the Department has these large tracts of land that need to be managed now. This presentation is what LMD and PO are recommending the steps that could be taken on three tracts that are prioritized based on the attention the tracts received over the past couple years being on month-to-month right of entries.

Land Management Division (LMD) manages all the unencumbered Hawaiian Home Lands for the Trust, lands not currently in homesteading. There are four types of agreements or dispositions that are used by LMD: general leases, revocable permits, licenses, and right-of-entry permits. The authority rests in the Hawaiian Homes Commission Act, Section 204: the management of any retained available lands, not required for leasing under Section 207A, which is homesteading purposes.

Sixteen percent (16%) of DHHLs inventory is in non-homestead land use. Of the 16%, there is a bunch in beneficiary hands; it's not only non-beneficiaries utilizing DHHL lands for non-homesteading uses. The goal of the revocable permits program is a short-term land management tool. Those areas are parcels identified in the Island Plan for residential subsistence ag, supplemental ag and pastoral land uses. The Department said those should be available for homesteading in the next 20-years. Within each island, there is a prioritization of tracts and how the Department implements and develop those areas.

In the Island Plan, those lands are designated as commercial, industrial, general ag, and or community use land designations. Conservation and special district land use designations are the other two and could be available for leasing and licensing, but because of the constraints and the characteristics of the properties, it is a little more complex. The discussion is being focused on the general ag disposition.

The question asked by the Commission was, what does the Department do with the vast acreages of land that are designated for general agriculture and that are clearly not going to get homesteaded in the next 20-years. The Department is proposing to focus on three areas that have large tracts of general agriculturally land designated areas. The three tracts are Kamaoa, Puueo, Ka'ū, on the Big Island; Kawaihae in Kohala; and Kēōkea, Waiohuli in Kula

K. Manuel explained the description of general ag as intense or extensive farming or ranching. May serve as an interim use until opportunities for higher and better uses become available. A lot of the lands in the Island Plan listed as general agriculture are primarily lands that do not have access to infrastructure at all. It may have a road or a dirt road, but no formalized access,

easements or anything, thus it is formalized as general ag. It doesn't mean it can be used for homesteading in the far future, but there is not enough infrastructure in place to homestead the property.

LMD and PO have put together options that have been discussed internally, and one is to

- establish community pasture, per Section 211 of the Hawaiian Homes Commission Act, or some kind of area for communal purposes.
- general lease or license for the management and land preparation of the property, tying into the intent of general ag land use designation, i.e., intensive or extensive farm or ranching purposes. General lease these under Section 220.5 and Section 207 of the Hawaiian Homes Commission Act.
- general lease for an energy project under Section 204, generating revenue. There was no discussion to use the land for reforestation or stewardship type of project.

K. Manuel stated that the Department could do a 10-year period of the communal pastoral to see how it works. There is little land left, and this is an alternative way to provide to the beneficiaries. Another alternative is general leasing or licensing for pastoral agricultural uses. There is a Hawaiian Homes Commission Act 220.5. It is parcel or project-specific driven, but it still goes through bidding, and it allows individuals to participate. Currently, through the licensing process, only organizations can access the property, an individual beneficiary cannot license a property; it has to be through an organization. The tracks are huge and under one TMK, so are these properties disposed of in one disposition or multiple dispositions or go take all three and go out as one parcel.

- The last is the State's goal to meet 100% renewable energy. The Department has lands that fit well with the State's goal because of its location and isolation. All three large tracts could contribute to energy projects.

HECO did a study that the Department participated in to show that DHHL has lands that are viable for solar, wind, and various renewable energy use. The term for these projects is 25-years, but the latest one is a hydro project in Waimea which is for a 65-year term. This a way to meet the state-wide goal for renewable energy, utilize the general ag land for renewable energy which would not displace agricultural and pastoral homesteading use in the future, but serve a function and get infrastructure put into place so homesteading is more easily ready and available after the term of the project. Revenue is being generated and infrastructure is being put in to help the future use of homesteading.

K. Manuel stated that the community pasture in the HHC Act 211, states that the Department can set up community pastures where there are agricultural lots available. The Administrative Rules have articulated what the community pasture looks like. The Rules mentions servicing lessees; it does not mention how applicants participate in that.

MOTION/ACTION

Moved by Commissioner Kaapu, seconded by Commissioner Kahikina 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

12:15 PM

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

2:10 PM

ANNOUNCEMENTS AND ADJOURNMENT

Next Meeting

The next meeting will be held at the Kaua'i State Office Building, Lihu'e, Kaua'i, on August 21 and 22, 2017.

ADJOURNMENT

2:15 PM

Respectfully submitted:

Jobie M. K. Masagatani, Chairman
Hawaiian Homes Commission

Prepared by:

Leah Burrows-Nuuanu, Commission Secretary
Hawaiian Homes Commission