

**HAWAIIAN HOMES COMMISSION**  
Minutes of March 24, 2020  
DHHL Main Office, Kapolei, O‘ahu, Hawai‘i

Pursuant to proper call, an emergency meeting of the Hawaiian Homes Commission was held via teleconference, moderated by Chairman William Aila Jr. and Commission Secretary Leah Burrows-Nuuanu, from the DHHL O‘ahu Conference Room, 91-5420 Kapolei Parkway, Kapolei, O‘ahu, Hawai‘i, beginning at 10:30 a.m.

**PRESENT** William J. Aila Jr., Chairman  
Randy K. Awo, Maui Commissioner (via telephone)  
Zachary Z. Helm, Moloka‘i Commissioner (via telephone)  
David B. Ka‘apu, West Hawai‘i Commissioner (via telephone)  
Michael L. Kaleikini, East Hawai‘i Commissioner (via telephone)  
Russell K. Kaupu, O‘ahu Commissioner (via telephone)  
Pauline N. Namu‘o, O‘ahu Commissioner (via telephone)  
Dennis L. Neves, Kauai Commissioner (via telephone)  
Patricia A. Teruya, O‘ahu Commissioner (via telephone)

**COUNSEL** Ryan Kanaka‘ole, Deputy Attorney General (via telephone)

**STAFF** Dean Oshiro, Acting Administrator, Homestead Services Division  
Juan Garcia, O‘ahu District Supervisor  
Leah Burrows-Nuuanu, Secretary to the Commission  
Cedric Duarte, Information & Community Relations Officer  
Paula Aila, Finance and Development Specialist  
Debra Aliviado, Customer Service Manager  
Jamilia Epping, Information Specialist

**ORDER OF BUSINESS**

**CALL TO ORDER**

Chair Aila called the meeting to order at 10:33 a.m. Eight (8) members were present via teleconference at roll call.

Pursuant to the Governor’s March 16, 2020, Supplementary Proclamation in response to the COVID-19 pandemic, Hawai‘i Revised Statutes (“HRS”) Chapter 92 regarding public agency meetings and records are currently suspended through May 15, 2020, to the extent necessary to enable boards to conduct business without holding meetings open to the public and to allow state agencies the ability to more effectively provide emergency relief and engage in emergency management functions. At this time, we do not have the capability to create an audience live listening feature. A recording of the meeting will be posted to the DHHL website as soon as possible.

**APPROVAL OF AGENDA**

**MOTION/ACTION**

Moved by Commissioner Ka‘apu, seconded by Commissioner Neves, to approve the agenda. Motion carried unanimously.

## **PUBLIC TESTIMONY ON AGENDIZED ITEMS (via weblink only)**

Testimony on the agendized item was submitted in writing via the Department of Hawaiian Home Lands website at [www.dhhl.hawaii.gov/hhc/hhc-contact](http://www.dhhl.hawaii.gov/hhc/hhc-contact). Testimonies received by the 10 a.m. deadline were forwarded to Commissioners before the meeting. Testimonies received after the deadline will be stamped "Late" and submitted to the Commissioners after this emergency meeting is adjourned.

Commissioners should have received testimonies by email from Robin Danner, Bo Kahui, Kimberly Elia, Kapua Keliikoa-Kamai, Wade Ishibashi Jr., and Kanani Kapuniai. Testimonies are attached.

## **ITEMS FOR DECISION MAKING**

### **HOMESTEAD SERVICES DIVISION**

#### **ITEM D-1      Emergency postponement of mortgage payments for DHHL direct loans and loans assigned to DHHL**

##### RECOMMENDED MOTION/ACTION

Acting Homestead Services Division Administrator Dean Oshiro presented the following: Motion to approve the postponement of mortgage loan payments for all Department of Hawaiian Home Lands ("DHHL") direct loans and loans assigned to DHHL for a period of six (6) months, effective with the April 2020 payment.

Lessees/borrowers that may need an additional six (6) months postponement can request relief from the department and will be evaluated on a case-by-case basis. Requests for further postponements will be presented to the Hawaiian Homes Commission for consideration/action.

##### MOTION

Moved by Commissioner Ka'apu, seconded by Commissioner Helm, to approve the motion as stated in the submittal.

##### DISCUSSION

Commissioner Helm asked if after the six months is over, would lessees have to catch up with back payments. D. Oshiro stated that any payments postponed would extend the maturity date of the loan, or be added to the end of the loan until it is paid in full.

Commissioner Neves asked if penalties will be applied to the loans. D. Oshiro stated the purpose of the action is to provide a six-month relief where there will be no penalties for late payments.

Commissioner Neves asked how the department plans to communicate the postponement to beneficiaries. Chair Aila stated a letter would accompany all April statements, details will be on the DHHL website, and a press release will be issued after the action is approved.

Commissioner Neves expressed concern about lessees taking advantage of the postponement and wondered if guidelines for case by case evaluations should be looked at. D. Oshiro stated the department is working with minimum staff and thought it would be too difficult given its limitations. Most folks will want to make the payments if they can.

Chair Aila stated the action is similar to a motion taken after Hurricane Iniki.

Commissioner Teruya thanked the staff for putting together the submittal and asked if the department is also looking at ways to help right-of-entry (ROE) permit holders who may have difficulty making their payments. Chair Aila stated the department is looking at equitable solutions for general lease and ROE permit holders. The department may propose something in the near future.

Commissioner Kaapu asked for a calculation of the financial impact to the DHHL loan fund. Chair Aila responded the impact to the loan fund budget's quarterly cash flow would be \$2.2 million in principal and \$1.2 million in interest. The interest goes back into the loan fund, so we will not see any of that until the mortgage payments resume. Commissioner Kaapu is concerned that a deficit of \$3.4 million will affect the department's ability to offer new loans within the six month period. D. Oshiro stated there is a cushion in the budget for new loans.

Commissioner Kaapu is also concerned that the department is clear with beneficiaries who may not understand the difference between DHHL direct loans and non-DHHL loans. He asked if the department is having discussions with third-party lenders to offer similar programs for the loans they carry. Chair Aila stated the press release would make it clear that this action only applies to department loans. He also stated that the department would send a letter to the US Department of Housing and Urban Development and its regional office to see if they would be open to offering similar programs.

Commissioner Helm asked if things get back to normal in three months, can the Commission adjust its action. Chair Aila stated he does not see the private sector bouncing back in three months, but the Commission has the authority to change its mind.

Commissioner Neves asked if the action included contested case hearing decisions and orders as they, too, are active loans. D. Oshiro stated any account under a decision and order would not apply because they are Commission actions. The Commission would have to meet to decide how it wants to handle those cases. The staff does not have the authority to override anything the Commission decided. The action does not include loans that are part of a decision and order by the Commission. Commissioner Neves stated the Commission is not a finance company, and those are still loans that the department holds no matter who is ordering them to pay their loan. His concern is that these lessees under decisions and orders will be hit the hardest. If it has to be a separate discussion, he understands it, but it should be included in the action.

Commissioner Kaapu agreed that decision and order loans should be addressed, and the Commission should take action to provide relief. DAG Kanakaole agrees that such a motion should be separate and can be done in another emergency meeting.

Chair Aila stated as soon as the information can be gathered, the Commission can convene for a discussion.

Commissioner Namuo stated she assumed the motion included all DHHL loans. She felt it more efficient to add the motion to the current agenda.

Chair Aila asked if the motion on the floor could be amended to include all Commission ordered loans. He welcomed discussion on the fact that such an amendment would hold most contested cases in abeyance for six months.

Commissioner Kaapu wondered if the Commission in its adjudicatory function, noting the recusal of Chair Aila would procedurally need to handle contested cases separately. DAG Kanakaole stated it would be cleaner to have a separate motion for loans under the jurisdiction of the Hawaiian Homes Commission and direct the department to implement its action.

Commissioner Teruya supported separating the motions and not offering any amendments to the motion on the table.

ACTION

<p>Moved by Commissioner Ka'apu to approve the postponement of mortgage loan payments for all Department of Hawaiian Home Lands ("DHHL") direct loans and loans assigned to DHHL for a period of six (6) months, effective with the April 2020 payment.</p> <p>Lessees/borrowers that may need an additional six (6) months postponement can request relief from the department and will be evaluated on a case-by-case basis. Requests for further postponements will be presented to the Hawaiian Homes Commission for consideration/action.</p> <p>Seconded by Commissioner Helm</p>						
Commissioner	1	2	'AE (YES)	A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo			X			
Commissioner Helm		X	X			
Commissioner Ka'apu	X		X			
Commissioner Kaleikini			X			
Commissioner Ka'upu			X			
Commissioner Namu'o			X			
Commissioner Neves			X			
Commissioner Teruya			X			
Chairman Aila			X			
TOTAL VOTE COUNT			9			
<p>MOTION: <input checked="" type="checkbox"/> UNANIMOUS <input type="checkbox"/> PASSED <input type="checkbox"/> DEFERRED <input type="checkbox"/> FAILED</p> <p>Motion passes with nine (9) Yes votes</p>						

Chair Aila and Commissioners discussed amending the agenda to include an item titled *Item C-1 Postponement of loans under the jurisdiction of the Hawaiian Homes Commission*.

MOTION

Commissioner Teruya moved to amend the agenda to include *Item C-1 Postponement of loans under the jurisdiction of the Hawaiian Homes Commission*. Seconded by Commissioner Helm.

Commissioner Kaapu stated he would still prefer getting something from staff, so Commissioners understand the scope of what they are dealing with. There are some decisions and orders where there were performance items attached. Is the Commission deferring only

payments or performance type orders? If it is just a payment, it would be fair to include it with the department loans, but he would hate to lose any kind of progress made by getting the lessee in and getting them to agree to a certain payment plan. The Commission has tried to work with beneficiaries on a case by case basis. Unless the Commission can look at a list of items, it would be like making a decision in the dark.

Commissioner Teruya stated if Commissioner Kaapu suggests waiting, she will withdraw her motion. Commissioner Neves withdraws his second.

Commissioner Neves asked how long it would take to put together a list. He is concerned that as soon as the press release goes out, it will appear to include all DHHL held loans.

Commissioner Kaapu asked if the decision and order cases can be deliberated by email as part of the Commission's adjudicatory function. DAG Kanakaole confirmed an email deliberation is an option.

Chair Aila clarified that if Commission Secretary Leah Burrows-Nuuanu requested information from the department on the status of payments, would it be considered ex-parte communication. DAG Kanakaole stated it would not be ex-parte communication because Leah is acting on behalf of the tribunal.

Commissioner Kaapu asked for a list that includes 2019-2020 decisions and orders.

## ANNOUNCEMENTS AND ADJOURNMENT

Chair Aila thanked Commissioners for participating.

### MOTION/ACTION

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

## ADJOURNMENT

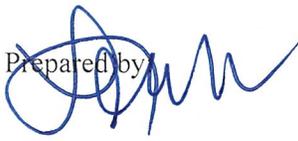
11:20 A.M.

Respectfully submitted:



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William J. Aila Jr., Chairman  
Hawaiian Homes Commission

Prepared by

  
\_\_\_\_\_  
Leah Burrows-Nuuanu, Commission Secretary  
Hawaiian Homes Commission