

HAWAIIAN HOMES COMMISSION

Minutes of March 15, 2021 via Interactive Conferencing Technology (ICT) Zoom
DHHL Main Office, Hale Pono'i, Kapolei, O'ahu, Hawai'i

Pursuant to proper call, the meeting of the Hawaiian Homes Commission was held via teleconference, moderated by Chairman William Ailā Jr., from Hale Pono'i, 91-5420 Kapolei Parkway, Kapolei, O'ahu, Hawai'i, beginning at 9:30 a.m.

PRESENT William J. Ailā Jr., Chairman
Randy K. Awo, Maui Commissioner (via ICT) (10:33 a.m.)
Zachary Z. Helm, Moloka'i Commissioner (via ICT)
David B. Ka'apu, West Hawai'i Commissioner (via ICT)
Michael L. Kaleikini, East Hawai'i Commissioner (via ICT)
Russell K. Ka'upu, O'ahu Commissioner (via ICT)
Pauline N. Namu'o, O'ahu Commissioner (via ICT)
Dennis L. Neves, Kauai Commissioner (via ICT)
Patricia A. Teruya, O'ahu Commissioner (via ICT)

COUNSEL Katie Lambert, Deputy AG (via videoconference)

STAFF Tyler I. Gomes, Deputy to the Chairman
Leah Burrows-Nuuanu, Secretary to the Commission
Andrew Choy, Acting Planning Manager
Kahana Albinio, Acting Land Management Division Administrator
Juan Garcia, Homestead Services Division Administrator
Cedric Duarte, Information & Community Relations Officer
Stewart Matsunaga, Acting Land Development Division Administrator
Paula Ailā, Acting Contact and Awards Division Administrator
Jamilia Pacheco, Information Specialist
Michael Lowe, Information Specialist

ORDER OF BUSINESS

CALL TO ORDER

Chair Ailā called the meeting to order at 9:35 a.m. eight (8) members were present via videoconference at roll call.

Pursuant to the Governor's 18th Proclamation, related to COVID-19 Emergency, Hawai'i Revised Statutes ("HRS") Chapter 92 regarding public agency meetings and records are currently suspended through April 15, 2021, 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 effectively and efficiently provide emergency relief and engage in emergency management functions.

Chair Ailā introduced Deputy Attorney General Katie Lambert, as she is new to some of the Commissioners. DAG Lambert stated she represented the Department about 4-5 years ago, moved to Maui, and worked with the Child Support Agency on Maui. With COVID, the AG's Office became amenable to remotely represent clients, allowing her to be with DHHL again.

APPROVAL OF AGENDA

Commissioner Teruya suggested the J-Agenda move before the Executive Session so the beneficiaries may be heard. We lose some of the J agenda folks because they have to wait so long, and some cannot come back.

Commissioners Helm, Kaleikini, and Neves supported Commissioner Teruya's suggestion. Chair Ailā stated the attorney would be calling in at 12, so he will try to fit the J-Agenda in before the Executive Session, and in the future, look at placing it earlier on the agenda.

MOTION/ACTION

Moved by Commissioner Helm, seconded by Commissioner Ka'apu, to approve the agenda with the slight modification. Motion carried unanimously.

APPROVAL OF MINUTES FOR FEBRUARY 15 & 16, 2021

MOTION/ACTION

Moved by Commissioner Ka'apu, seconded by Commissioner Namu'o, to approve the February 15 & 16, 2021 Minutes. Motion carried unanimously.

Commissioner Teruya had a correction on page 29; it is a motion, and she noted, "Commissioner Teruya stated Aye with reservations on that motion. She stated she did vote Aye with reservations and would like to have it inserted under the 3rd paragraph.

PUBLIC TESTIMONY ON AGENDIZED ITEMS

Testimony on agendized items was submitted in writing via the Department of Hawaiian Home Lands website at www.dhhl.hawaii.gov/hhc/hhc-contact.

Chair Ailā stated there were no public testimonies submitted.

Note: Testimonies are attached.

Chair Ailā noted Deputy AG Craig Iha would be the Commission's counsel for tomorrow's meeting.

ITEMS FOR DECISION MAKING

CONSENT AGENDA

HOMESTEAD SERVICES DIVISION

- ITEM D-2** **Approval of Consent to Mortgage (see exhibit)**
- ITEM D-3** **Approval of Refinance of Loans (see exhibit)**
- ITEM D-6** **Approval of Homestead Application Transfers / Cancellations (see exhibit)**
- ITEM D-7** **Commission Designation of Successors to Application Rights – 2013, 2014, 2015, 2016, 2017, 2018 & 2019 (see exhibit)**
- ITEM D-8** **Approval of Designation of Successors to Leasehold Interest and Designation of Persons to Receive the Net Proceeds (see exhibit)**
- ITEM D-9** **Approval of Assignment of Leasehold Interest (see exhibit)**

- ITEM D-10 Approval of Amendment of Leasehold Interest (see exhibit)
- ITEM D-11 Approval to Issue Non-Exclusive Licenses for Rooftop Photovoltaic Systems for Certain Lessees
- ITEM D-12 Cancellation of Lease – No Qualified Successor – OSEAS K. BALOYOT, Residential Lease No. 5612, Lot No. 80, Lualualei, O`ahu
- ITEM D-13 Commission Designation of Successor – LARRY E. MEHAU, Pastoral Lease No. 3391, Lot No. 10, Kamoku, Hawai`i

RECOMMENDED MOTION/ACTION

Homestead Services Division Administrator Juan Garcia presented the following:
 Motion to approve the Consent Agenda items listed for the Commission’s consideration.

MOTION

Moved by Commissioner Helm, seconded by Commissioner Kaleikini, to approve the ten agenda items listed. Motion unanimously passed.

Commissioner Teruya asked about the consent to mortgage for Kaiwi and his Nanakuli homestead with Theodore Awai, which was approved by the Commission.

J. Garcia stated he preferred that be discussed in an executive session.
 Chair Ailā stated that it would be added to the discussion in the executive session list.

Commissioner Neves noted he had a cousin and sister-in-law in Items D-2 and D-11, and Commissioner Helm had a nephew in Item D-2. DAG Lambert asked both Commissioners if they have or see any possible gains in those approvals. Commissioner Neves and Commissioner Helm stated they did not. The people noted were not close relatives like a sister or brother.

ACTION

Moved by Commissioner Helm, seconded by Commissioner Kaleikini, to approve the ten items listed in the Consent Agenda. Motion unanimously passed.						
Commissioner	1	2	‘AE (YES)	A’OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo						X
Commissioner Helm	X		X			
Commissioner Ka’apu			X			
Commissioner Kaleikini		X	X			
Commissioner Ka’upu			X			
Commissioner Namu’o			X			
Commissioner Neves			X			
Commissioner Teruya			X			
Chairman Ailā			X			
TOTAL VOTE COUNT			8			1
MOTION: [X] UNANIMOUS [] PASSED [] DEFERRED [] FAILED Motion passed unanimously- eight (8) Yes votes.						

REGULAR AGENDA

HOMESTEAD SERVICES DIVISION

ITEM D-4 Approval to Extend Postponement of Mortgage Payments

RECOMMENDED MOTION/ACTION

Loan Services Manager Dean Oshiro presented the following:

That the Hawaiian Homes Commission

- 1) Approve the continuance of the postponement of mortgage loan payments for all DHHL direct loans and loans assigned to DHHL for an additional three months, effective with the April 2021 payment
- 2) Delegate authority to the Chairman for a further postponement of mortgage loan payments for an additional three months if needed.

Commissioner Teruya asked if the motions were being combined. D. Oshiro stated it was like the previous submittal several months ago.

MOTION

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

DISCUSSION

Commissioner Teruya asked if the Commission would be notified if the Chairman has to continue the mortgage loan program. D. Oshiro stated the Commission approved the previous action. The Chairman authorized a further postponement. On December 2, 2020, HSD returned to the Commission that the Chairman exercised that authority, and payments were further postponed.

Commissioner Ka'apu stated he does not have a problem with part one and would support it. He would want to have more control over the further postponement. At some point, there will be a need to look at the fiscal impact; if it is already going to June and if it is further postponed, it will go into the next fiscal year's budget. He would like to have the ability to decide within that time frame. He asked that the Commission not delegate authority for part two because it runs into the fiscal year, and he does not want to give up fiscal responsibility.

Commissioner Neves agreed with Commissioner Ka'apu.

Chair Ailā asked the staff if they want to withdraw the second part. D. Oshiro stated the Commission could amend the motion. J. Garcia stated it would be easier to withdraw.

Chair Ailā noted the second part of the motion's withdrawal and kept the first part of the recommended motion.

ACTION

Moved by Commissioner Ka'apu, seconded by Commissioner Neves, to approve the first part of the recommended motion. The second part of the motion was withdrawn.						
Commissioner	1	2	'AE (YES)	A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo						X
Commissioner Helm			X			
Commissioner Ka'apu			X			
Commissioner Kaleikini			X			
Commissioner Ka'upu	X		X			
Commissioner Namu'o			X			
Commissioner Neves		X	X			
Commissioner Teruya			X			
Chairman Ailā			X			
TOTAL VOTE COUNT			8			1
MOTION: <input checked="" type="checkbox"/> UNANIMOUS <input type="checkbox"/> PASSED <input type="checkbox"/> DEFERRED <input type="checkbox"/> FAILED Motion passed unanimously- eight (8) Yes votes.						

ITEM D-5 Approval of Loan Interest Rate Policy

RECOMMENDED MOTION/ACTION

Loan Services Manager Dean Oshiro presented the following:

Motion that the Hawaiian Homes Commission amend the November 19, 2012 interest rate policy established by the Hawaiian Homes General Loan Fund to reset the before interest rate of not less than 4.5% to not less than 4%.

DISCUSSION

D. Oshiro stated Exhibit A is the previous submittal. The Department's rates are tied to the USDA, and the USDA rates are currently at 2.5%. If the Department follows the USDA rates, it would be 1% below, a 1.5% rate. The Commission set up a floor rate that the Department's interest rate shall not be lower than 4.5% during that period of 2012.

Now the Department is requesting to reset the floor from 4.5% to 4%.

MOTION

Moved by Commissioner Neves, seconded by Commissioner Helm, to approve the motion as stated in the submittal.

DISCUSSION

Commissioner Neves asked how it will affect the bottom-line in finances. D. Oshiro stated Rodney Lau will be presenting Item H-1 later in the agenda and would be the best to answer the interest income.

Commissioner Kaleikini asked if the floor is set to 4%, will it only apply only to the new loans. D. Oshiro stated that is correct, and it applies to the new loans to the Department or the ones that the staff request ratification of loan approval or the streamline. These are only for DHHL Trust or DHHL Assigned portfolio loans. Commissioner Kaleikini asked if DHHL loans are all fixed rates or adjustable rates? D. Oshiro stated that for the most part, they are fixed, but some old farm loans were adjustable, but they are being phased out and maturing out.

Commissioner Ka'apu stated why it should not go lower than 4% because it does not charge fees that other lenders would charge. The borrower would be saving 25-35 thousand dollars. The balance is the Department charges a little bit higher interest rate because it does not charge fees except for the minimal fees, correct? D. Oshiro confirmed that the Department does not charge fees except for the credit reporting.

Commissioner Ka'apu asked if this rate would be available for anyone with a direct loan with the Department? D. Oshiro stated those applying. There are a couple of construction loan requests in process, and those action items like the streamline refi or ratification. For the construction loan, Commissioner Ka'apu asked if there was a different rate for the construction period and a take-out to a 30-year like in a standard fee simple setting? D. Oshiro stated no, it is the same. It depends on which lender they use.

ACTION

Moved by Commissioner Ka'apu, seconded by Commissioner Neves, to approve the motion as stated in the submittal						
Commissioner	1	2	'AE (YES)	A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo						X
Commissioner Helm			X			
Commissioner Ka'apu	X		X			
Commissioner Kaleikini			X			
Commissioner Ka'upu			X			
Commissioner Namu'o			X			
Commissioner Neves		X	X			
Commissioner Teruya			X			
Chairman Ailā			X			
TOTAL VOTE COUNT			8			1
MOTION: [] UNANIMOUS [X] PASSED [] DEFERRED [] FAILED Motion passed unanimously- eight(8) Yes votes.						

OFFICE OF THE CHAIRMAN

ITEM C-1 Approval of Lease Award Ka'uluokaha'i Increment B Residential Vacant Lot Ewa Beach and Kakaina Subdivision Residential Vacant Lot Waimanalo (see exhibit).

RECOMMENDED MOTION/ACTION

Acting Contact and Awards Division Administrator Paula Ailā presented the following:
Motion that the Hawaiian Homes Commission approve the Lease Awards for Ka'uluokaha'i Increment B Residential Vacant Lot, Ewa Beach and Kakaina Subdivision Residential Vacant Lot, Waimānalo.

MOTION/ACTION

Moved by Commissioner Neves, seconded by Commissioner Helm, to approve the motion as stated in the submittal.						
Commissioner	1	2	‘AE (YES)	A’OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo						X
Commissioner Helm		X	X			
Commissioner Ka’apu			X			
Commissioner Kaleikini			X			
Commissioner Ka’upu			X			
Commissioner Namu’o			X			
Commissioner Neves	X		X			
Commissioner Teruya			X			
Chairman Ailā			X			
TOTAL VOTE COUNT			8			1
MOTION: <input checked="" type="checkbox"/> UNANIMOUS <input type="checkbox"/> PASSED <input type="checkbox"/> DEFERRED <input type="checkbox"/> FAILED Motion passed unanimously- eight (8) Yes votes.						

PLANNING OFFICE

ITEM G-1 Accept Beneficiary Consultation Report for Proposed Limited Gaming Legislation as the Official Public Record of Beneficiary Input and Feedback Relative to the Legislative Proposal to Authorize Limited Gaming

RECOMMENDED MOTION/ACTION

Acting Planning Program Manager Andrew Choy presented the following:

Motion that the Hawaiian Homes Commission accept the Beneficiary Consultation Report as the Official Public Record of Beneficiary Input and Feedback relative to the Legislative Proposal to authorize limited gaming.

A. Choy walked the Commissioners through the PowerPoint presentation.

MOTION

Moved by Commissioner Namu’o, seconded by Commissioner Neves, to approve the motion as stated in the submittal.

DISCUSSION

Commissioner Teruya stated she could not participate due to a storm, and the computers were down. Many kupuna could not participate, and many cannot. It was an after-the-fact consultation and only after the Commissioners said that there should be a consultation. She does not think the Department would have had a beneficiary consultation until instructed by Commissioners. The whole process was rushed, from the consultation to the decision-making.

Commissioner Neves stated because beneficiary consultations are on video, it is difficult to know whether comments are from a beneficiary or someone in public. The Department has to develop a better way to figure out how the Commission is talking to beneficiaries versus talking to the public. He has no problem accepting the consultation, except the Commission does not know who they are actually talking to. The beneficiaries have to be comfortable that it is their voice the Commission represents; there needs to be a better way to confirm that.

Chair Ailā stated the staff sent out surveys directly to beneficiaries and received responses directly from beneficiaries.

Commissioner Namu‘o stated the study was an objective way of gathering information from beneficiaries and non-beneficiaries. The casino idea was an attempt for the Department to look at a model for much-needed revenue and control something that the Department needs, whether it is a casino, a lottery, or whatever. The Department needs a revenue generator, and the beneficiaries want help with the waitlist and support the community. DHHL wants to be independent, and that is where the Commission comes up with revenue-generating ideas to move forward.

Commissioner Kaleikini agreed that it was rushed, and that the Department needs a stream of funding to help. If the bill is dead for this session, he stated it is time to recoup and discuss the next steps, so the Department has time to reach out.

Commissioner Helm stated he understands this was a rush to get this submitted before a certain deadline to the Legislature. He believes that any revenue-generating proposal should go to the beneficiaries before any vote.

Commissioner Ka‘apu stated his concern was after-the-fact and that the decision was already made. It skewed the responses received from the beneficiaries who understood that the decision had already been made. He was surprised at the number of responses received. Prior beneficiary consultations tended to be more neutral, and the evidence is presented, their testimonies are taken and weighted one way or another. In this one, because the decision had been made, he is unsure what the value of the beneficiary consultation is. He does not have a problem with accepting the beneficiary consultation. He stated it might come up next session as it was heard from Maile Shimabukuro. The Commission was told the decision had to be made immediately because the anti-gambling factions would be doing everything, they could do to block it. This was the Department’s only opportunity to make the decision.

There were comments that the Commission needs to be independent, but realistically independence means different things to different people. He stated we could not be independent without somebody saying we can, and that would come from the Department of the Interior. Beneficiaries want to be independent, but the Commission should not mislead them if it requires Congress’s consent.

For other alternatives, he is the sole Commissioner on the Investment Committee. The Commission could invest its funds. Had funds been invested in the past 3-4 years, the Commission would be looking at an additional \$30 million instead of nothing from the State. There is a discrepancy in what the Commission can do and what it has not done. Discussions need to be more in-depth about what the Commission can do and not just based on an agenda item. There need to be strategic planning sessions like there used to be before COVID, as a group, instead of having the Department throw ideas out and the Commission votes yes or no. He would like that input on a going-forward basis because strategic planning is the best type of planning that the Commission can engage.

Chair Ailā acknowledged Commissioner Awo joined the discussion at 10:37 a.m.

Commissioner Namu‘o stated since serving on the Commission, it is the first time she has heard someone talk about strategic planning, and she did not know there was an Investment Committee.

She stated that is one of the Department’s major flaws, not having a strategic planning discussion on the policy level, and that is why she thinks there are many problems.

Commissioner Neves stated the Commission needs to do a complete feasibility study on the positive and negative impacts on anything the Department wants to do. He stated the Department does things it should not be doing, such as a revocable permit having a 50% discount.

Chair Ailā stated he does not want the Commission thinking that there is an automatic 50% discount given to everyone. General leases and larger revenue-generating properties are appraised, and their rent and fees are structured on that appraised value. The 50% are those with very little or no infrastructure available.

Commissioner Teruya asked if beneficiary consultation reports are always put on the agenda for approval by the Commission. A. Choy stated four specific items call for a beneficiary consultation: 1) Amendments to Land Use Designations, 2) Statewide Policy Issues, 3) Development Proposals (external), and 4) Development of DHHL Plans. The consultation meetings for the first two are held as a planning process and brought to the Commission on whether or not to adopt it. The meeting notes are part of the plan as a record of the consultation. For the statewide policy and the long-term disposition of lands, a beneficiary consultation report is provided prior to the Commission’s action on the decision-making item. The consultation report is usually provided at least a month in advance.

ACTION

Moved by Commissioner Namu’o, seconded by Commissioner Neves, to approve the motion as stated in the submittal.						
Commissioner	1	2	‘AE (YES)	A’OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo			X			
Commissioner Helm			X			
Commissioner Ka’apu			X			
Commissioner Kaleikini			X			
Commissioner Ka’upu			X			
Commissioner Namu’o	X		X			
Commissioner Neves		X	X			
Commissioner Teruya					X	
Chairman Ailā			X			
TOTAL VOTE COUNT			8		1	
MOTION: <input checked="" type="checkbox"/> UNANIMOUS <input type="checkbox"/> PASSED <input type="checkbox"/> DEFERRED <input type="checkbox"/> FAILED Motion passed unanimously- eight (8) Yes votes. One (1) Abstained.						

ADMINISTRATIVE SERVICES OFFICE

ITEM H-1 Transfer of Hawaiian Home Receipts Money at the End of the Third Quarter, FY 2021

RECOMMENDED MOTION/ACTION

Administrative Services Officer Rodney Lau presented the following:
 Motion that the Hawaiian Homes Commission approve the transfer of the entire receipts deposited in the Hawaiian Homes Receipts Fund as of March 31, 2021, to the Hawaiian Homes General Loan Fund

MOTION

Moved by Commissioner Namu`o, seconded by Commissioner Neves, to approve the motion as stated in the submittal.

DISCUSSION

Commissioner Ka`apu asked R. Lau about the impact of allowing the postponement of mortgage payments and reducing interest rates from 4.5% to 4%.

R. Lau stated a study would have to be done to look at the effect of reducing the interest rates. Also affected would be the principal portion of the monthly payments. For this quarter, pre-COVID, the interest transferred from the receipts fund was about \$1.1 to \$1.2 million. This quarter \$1 million is being transferred into the Hawaiian Homes General Loan Fund, and this tells him that the strengths of the prepayments are fairly strong. What is also involved with the receipts fund is the Department's investments. In totality, the Receipts Fund is pretty strong.

Chair Ailā stated he would ask Dean Oshiro to get together with R. Lau to answer Commissioner Ka`apu's questions in the April Commission meeting.

ACTION

Moved by Commissioner Namu`o, seconded by Commissioner Neves, to approve the motion as stated in the submittal.						
Commissioner	1	2	'AE (YES)	A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo			X			
Commissioner Helm			X			
Commissioner Ka`apu			X			
Commissioner Kaleikini			X			
Commissioner Ka`upu			X			
Commissioner Namu`o	X		X			
Commissioner Neves		X	X			
Commissioner Teruya			X			
Chairman Ailā			X			
TOTAL VOTE COUNT			9			
MOTION: <input checked="" type="checkbox"/> UNANIMOUS <input type="checkbox"/> PASSED <input type="checkbox"/> DEFERRED <input type="checkbox"/> FAILED Motion passed unanimously- nine [9] Yes votes.						

RECESS
RECONVENED

10:49 AM
10:53 AM

ITEMS FOR INFORMATION/DISCUSSION

GENERAL AGENDA

REQUESTS TO ADDRESS THE COMMISSION

ITEM J-1 Joseph Lapilio – Ka ‘Ohana O Kalaupapa

J. Lapilio was hired in January as the Executive Director of Ka Ohana O Kalaupapa. The meetings with the National Park Service (NPS) are diminishing due to miscommunication and follow-through by the NPS. One item was the NPS decision to transition their General Management Plan from an Environmental Impact Statement to an Environmental Assessment without notice to the participants. NPS announced that the meetings dealing with the Programmatic Agreement (PA) were going to end, and a draft would be sent out for Ka Ohana to review. Ka Ohana requested that the Programmatic Agreement meetings continue and Ka Ohana be invited as a signatory to the Programmatic Agreement; both requests were denied by NPS.

Ka Ohana is looking forward to the Working Group. He noted an invitation to DHHL from NPS to become a Signatory to the Programmatic Agreement, and he is highly recommending that DHHL accept the invitation. By becoming a Signatory to the PA, the Department will be able to represent Ka ‘Ohana’s interest and have an ongoing influence over the PA.

Commissioner Awo asked how many agencies have been asked to become a signatory. J. Lapilio stated three agencies are signatories and DHHL is the only invited signatory, and he is aware of an invitation going out to DLNR. Commissioner Awo asked if there is a deadline to respond to the invitation. J. Lapilio does not know the content of the letter sent separately to DHHL. Commissioner Awo asked that being a signatory would allow the Department to weigh in on any plans being considered for Kalaupapa and hit the pause button if the PA is not moving in a fair way depicting community consultation. J. Lapilio stated the Advisory Council on History Preservation relayed that signatories have the sole authority to end or terminate a Programmatic Agreement. Commissioner Awo asked what the status of DHHL is becoming a signatory.

Chair Ailā stated the letter was received, and the Department asked NPS for additional information. He stated the Department had asked the Department of Interior for clarification. The Department has a lease with the National Park Service, a legal document with requirements that are as equal or as strong regarding the Department’s role in Kalaupapa. The Department is awaiting responses from the Department of Interior and the National Park Services. It has not responded to the invitation from NPS as the Department waits on the DOI and the NPS. Commissioner Awo asked if the Department is still within the deadline or has it passed the deadline? Chair Ailā stated the Department asked for additional time to allow for the gathering of information. Chairman Ailā stated the Department hears the beneficiaries loud and clear.

Commissioner Ka’apu asked if Ka Ohana is the only association representing Kalaupapa. J. Lapilio stated it is as far as he knows. There are only two parties recognized to operate on Kalaupapa by the US Congress: NPS and Ka Ohana. Commissioner Ka’apu asked J. Lapilio to send information about what Ka Ohana does to the Commission to become familiarized with Ka

Ohana's intent, its mission, and what they are doing. Please send it to the Commission's Secretary.

ITEM J-2 Bob Douglas – DHHL Loans

B. Douglas addressed the Commission regarding the home loans available to Hawaiians. Right now, a Hawaiian cannot get a conventional home loan. They can only get a substandard product, FHA or VHA home loan with built-in mechanisms to avoid default. Hawaiians that are economically advantaged become disadvantaged because conventional home loans are not available to them. He is asking the Commission to restore conventional home loans for Hawaiians. The products available to Hawaiians are extremely limited. He and his wife refinanced from 4% to 2%, but the lender told him it would take DHHL 4-6 months to approve the refinance. He also wants to know how he can determine the actual lease terms for commercial leases.

Chair Ailā stated the Asset Management information is on the DHHL website. D. Oshiro stated that it only takes 30-60 days to approve a refinance. The 4-6 months probably had to do with transactions that involve native Hawaiian blood quantum verification.

Chair Ailā asked D. Oshiro to explain why there is a narrow group of lenders on the homelands versus outside.

D. Oshiro stated the Hawaiian Homes Commission Act requires all mortgage loans on DHHL lands to be federally insured or federally guaranteed. That is why DHHL always references the FHA program, which is government-insured, and the 184A program, which the government guaranteed. The USDA Rural Development and Veterans Administration are other government-backed programs. DHHL had a private mortgage insurance program, a conventional mortgage program set up by the previous administration. American Savings and Bank of Hawai'i used a private mortgage insurer, MGIC Investment Corporation (MGIC), and doing conventional loans. Conventional loans mean they were not government related. That program ceased because of MGIC's participation with the lenders.

FHA is an insured product, so the borrower pays the mortgage insurance premium upfront. In the fee simple world, they must pay a monthly insurance premium. The 184A program is government-guaranteed and not an insured program where the lessees pay a guaranteed fee, which is all they do. FHA has the authority to do loans using FHA products, and the Office of Native American Programs determines which lenders can do the 184A loans. The Department does not get involved with that portion.

B. Douglas stated he believes Hawaiians have a right to conventional home loans if they have the resources to pursue that. Forcing Hawaiians into FHA, USDA, or VA loans is discriminatory because those products cost more to the borrower because they are a higher risk product. He stated they are spending \$20k more for their loan because it is Hawaiian, which is built-in PMI (private mortgage insurance) over the loan's life, not upfront of a quarter-point.

Chair Ailā stated the Department does not have the authority to tell financial institutions that they have to make conventional loans available to the DHHL beneficiaries.

Commissioner Teruya stated that she and her son recently refinanced their DHHL loan. It took 30-days, it went smoothly, and it went through the normal process. She had an interest of 7.5%, and it went down to 4.0%, and the staff at DHHL was helpful through the process. She

commended the staff on the timeline. She never heard that it would take 4-5 months. If you have all of the paperwork together, it can work smoothly.

B. Douglas asked for a transcript of this. Chair Ailā stated minutes are on the website within 40 days.

ITEM J-3 Kekoa Enomoto – Pa‘upena CDC

K. Enomoto stated that her daughter Lehua Enomoto observed her advocacy from last month’s meeting. She asked her daughter to share her mana‘o. She also mentioned that the timeframe for submitting testimony made it difficult to respond to the Agendized Items.

Note: Elisabeth Ohialehua Enomoto testimony attached.

Chair Ailā stated there is no intent to be a gatekeeper or a racist or anything like that.

ITEM J-5 Sharmaine Taua – Nanakuli Lease Concerns

S. Taua testified and requested that DHHL investigate their neighbor for harassment, trespassing, criminal property damage, and unauthorized computer access. She has filed several police reports, but the police closed the case due to a lack of proof.

Chair Ailā stated the Commission hears her concern, and he would talk with staff to see what is possible moving forward.

Commissioner Awo stated it is difficult for the Department to take any action due to the inability to prove responsibility. S. Taua asked if there were any other Departments, they could contact?

S. Taua stated they would entertain the idea of relocation. Chair Ailā asked for her to talk with her husband and let the Department know. She stated yes because he is the lessee and not her.

ITEM J-8 Mahealani Kahanaoi – Papakōlea Lease Concern

M. Kahanaoi stated she is testifying to file a claim for the 1-acre property that her father received, which over time was reduced to 7,732 sq. ft. while her sister was the lessee. She stated the DHHL staff reduced the acreage due to development, and she has documents that show the property was a 1-acre. She said that her sister, who has since passed, was coached by Juan Garcia that the only way she will have a lease is that it will be 7,732 sq. ft., so the sister signed that lease in 2010. She stated the sister never moved on the lot until she passed in December 2020, and the house has been boarded for 7-years and still is.

Her mom did not have the lease, so how could she transfer the lease over to her daughter, M. Kahanaoi’s sister? DHHL staff went ahead and created an amendment to the lease for 7,732 sq. ft. Her attorney has presented to the Commission the violations under Section 209 of the HHC Act, the violation under Title 10-3-51, HAR. M. Kahanaoi stated the Commission stated there must be an execution of the lease before a successorship paper can be written out.

Chair Ailā stated the death certificate had been provided to the Department, who must check for successors; if none, it goes to publication. M. Kahanaoi is aware that her sister did not have any successors.

- ITEM J-4 Gina Kaniaupio – Waimanalo Lease Concerns (deferred)
- ITEM J-6 Emily Naeole – Maku`u Issues (deferred)
- ITEM J-7 Liko Wallace – Nā`iwa Homestead Association (deferred)

Note: Commissioner Kaleikini excused himself from the meeting at 12:30 p.m.

Commissioner Neves asked to add items to the executive session list. He asked for a briefing on lessees renting out their houses. He also asked for a briefing on a lawsuit relating to the Frank Lyon bribery case.

DAG Lambert stated it would be better to add it to next month's executive session agenda to allow staff time to prepare for it. The items were not agendized, and there has to be something on the agenda to indicate the topics being discussed in the executive session.

Chair Ailā stated the two items would be agendized in the executive session next month.

Commissioner Ka`apu asked how procedurally putting something on the executive session agenda would work. He thought the Commission could add things to the executive session, but it requires a vote of a certain number of Commissioners. He agreed with counsel that it would make more sense to be prepared to discuss it, but he wants to understand.

DAG Lambert stated she could confer with other counsel for an answer and get back to the Commission after the executive session.

RECESS 12:33 PM
RECONVENED 12:47 PM

MOTION/ACTION

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

EXECUTIVE SESSION IN 12:46 PM

The Commission anticipates convening an 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 *Richard Nelson III et al., v. Hawaiian Homes Commission*, Civ. No. 07-1-1663

EXECUTIVE SESSION OUT 2:09 PM

Commissioner Ka`upu referred to Item J-8- Mahealani Kahanaoi mentioned that she had a contested case hearing ongoing with the Department? Chair Ailā stated there is no open contested case with Mahealani at this time.

Commissioner Ka`upu asked if the Department should be concerned about the email from Emily Naeole, who had concerns about Maku`u. The email stated something about taking matters into her own hands. Chair Ailā said that Auntie Emily had been cautioned in the past that she does not

have the jurisdiction nor authority to assign leases. Her concern is the Department is not moving fast enough.

WORKSHOPS

OFFICE OF THE CHAIRMAN

ITEM C-2 For Information Only – Kuhio Awards: Addressing the Wait List and Successorship

RECOMMENDED MOTION/ACTION

None. For information only. Administrative Rules Officer Hokulei Lindsey presented the following:

Note: Slide presentation attached.

DISCUSSION

H. Lindsey stated the presentation is a follow-up from last month's discussion, and she developed a presentation based on last month's issues.

The Undivided Interest (UI) Award process's primary purpose was to address successorship right. It allowed for the transfer of the lease. The undivided interest awards were leases to unimproved parcels.

Commissioner Neves asked if this was another way of taking care of the kupuna dying on the list? H. Lindsey stated yes, it was an equalizing consideration for kupuna who do not see themselves developing a property or coming up on the waitlist anytime soon. Commissioner Neves stated maybe it could restrict to a one-time transfer, so it does not keep getting transferred down the line. It might give the 25% advantage over the 50%.

Commissioner Awo felt wait listers should have more parity. If the Kuhio Award attempts to offer wait listers a similar opportunity as the Undivided Interest lessees, it is something the Commission should consider.

Commissioner Ka'upu stated the UI program was limited. He asked if the Department is still using Kuhio Awards today. H. Lindsey said the Department never really moved past the concept phase. The AG's office raised legal issues, and the Department tried to figure ways around them but stalled in trying to figure that out. Commissioner Ka'upu asked why the Department stopped the undivided interest awards.

Executive Assistant Jobie Masagatani stated there were approximately 2,000 Undivided Interest leases awarded under the Kane Administration. The Department hit a low and was funding the CIP programs with the settlement money received from the State, which ended in 2015. The UI lessees were taken before the waiting list, and there was an issue of parity in terms of the date of application. The intent was to fulfill the UI obligation, and there have been challenges of UI lessees not participating, and the Department ended up with a list of UI holders. The idea is to go back to the wait list as the Department exhausts the UI list or do something like Kuhio leases, where everybody is offered the same opportunity.

Commissioner Ka'upu asked why not bring back the UI and tweak it. J. Masagatani stated one significant difference, at least conceptually talked about, once cleared for NHQ by the Commission, a beneficiary would be issued a Kuhio lease. Conceptually, there is no waiting list. The UI list is based on geographical location, so in Kapolei, there was a list for Kanehili, Ka'uluokaha'i, etc. There are different lists for UIs. For Kuhio, if the Department were to start today, you clear the NHQ and be issued a paper lease.

Commissioner Ka'upu asked what the opt-in/opt-out is? J. Masagatani stated it deals with the 26,000 people currently on the waiting list and where the transition discussion comes. Could the Department unilaterally convert the entire waitlist to Kuhio lessees? She is not sure if the Department can, but if it does not, then there will be people still on the waitlist, and then the Department ends up with the waitlist, UI list, and a Kuhio list.

Commissioner Ka'upu stated acknowledged J. Masagatani and staff who have been working on this for many years. HAR 10-3-6, to him, is the most poorly thought-out administrative rule because all it says is the Department is going to maintain the list until exhausted. It allows the Department to prioritize people because even if the Department were to create a Kuhio Lease, the Department could still prioritize people who never received an offer. Assuming a Kuhio lease is created, how does the Department deal with it. The Commission needs to have a methodology for those affected the most; the aged kupuna and people who do not have 50% successors. With the Kuhio list, even if they are lessees, you will still have people waiting.

Commissioner Awo stated he likes the concept and a conversation he is looking forward to.

Commissioner Neves asked if the Kuhio Award Concept would be a regional list and island list because he understands the UI list was in geographical order. Would the Kuhio be by the island? Will it cover only residential or residential, agricultural, and pastoral? Will there still be three lists? What is the makeup? There may be a situation where there are the Kuhio concept and the original list; how will the Department make that work?

Commissioner Ka'upu asked if the Commission could amend HAR 10-3-8 so the applicant may designate an individual relative who is at least 18-years old and at least 25% Hawaiian.

J. Masagatani stated the waiting list is a list of individuals eligible to receive an award from the Department. The Hawaiian Homes Commission Act is clear that the original lessee has to be 50% and at least 18-years of age. That is why the applicant list is native Hawaiian and waiting for an award of a lease. If the Commission wanted to do that, it would have to amend the blood quantum requirements to less than 50% to receive a lease from the Department, and that is no small undertaking. Commissioner Ka'upu stated it requires the consent of Congress.

ITEM C-3 For Information Only – Homesteads with Declarations of Covenants, Conditions, and Restrictions (DCCRs)

RECOMMENDED MOTION/ACTION

None. For information only. Grant Specialist Gigi Cairel presented the following:

Note: Slide presentation is attached.

DISCUSSION

G. Cairel stated the six DCCRs projects were created by HHFDC (Hawai'i Housing Finance and Development Corporation). The Villages of Kapolei, Lei Ali'i, and Villages of La'i'Ōpua were their projects. The DCCRs that DHHL created were projects like Waiehu Kou, Phases 2, 3, and 4.

Commissioner Awo asked if developer-created DCCRs are typical of a fee simple project. G. Cairel stated many of the DCCRs were written from a real estate perspective. Commissioner Awo stated when DCCRs are not culturally sensitive, it creates rifts. He asked if the current efforts are ensuring that even existing DCCRs, are culturally aligned. G. Cairel stated now projects have to decide whether to opt-in or not, and if they don't opt-in, the rules will not apply. If they opt-in, they will have to amend the DCCRs to include whatever location-specific cultural values they want to include. G. Cairel stated it could be done, but it would come in a second phase.

Commissioner Awo asked if the staff thought about helping associations compel the larger community to be less apathetic? Participation drives the success of the association. G. Cairel stated a lessee's understanding of what a DCCR homestead means. There starts and stops with training support to the associations. Commissioner Awo asked if the rules are delegating enforcement authority to the associations. H. Lindsey stated the idea was to partially delegate and have the association's function by assessing the rules and do the collections.

Chair Ailā stated it ultimately becomes the Commission's responsibility when communities cannot manage themselves, and the Commission is asked to get involved.

Commissioner Teruya stated she is a lessee and does not have DCCRs, and there is no association the community can go to. The Nānākuli Hawaiian Homestead should be a functional Hawaiian Homestead Association for the community. There is a lack of representation, and there has not been a meeting since 2013. She is not sure why nobody has held their association accountable. The Nānākuli Hawaiian Homestead Association should be functional if they receive general leases or funding, they should be accountable to kuka with their association. She thinks it is selfish and political that the pattern can go on. Her hope is that this discussion will help associations that want to meet, develop, communicate, and better their moku. It is a nightmare going on in "our" association in our Nānākuli area. She is hopeful that one day the Nanakuli Hawaiian Homestead Association will come up with some solution.

Commissioner Teruya stated Kanehili is not a private park anymore. G. Cairel stated that it was a private park at the time of the submittal, but it has since been open to the public.

Commissioner Teruya asked if Kaupe'a and Malu'ōhai are under the Villages of Kapolei, is it their land or DHHL land? Why are they under Villages? They do not have a Hawaiian Homestead. G. Cairel stated when DHHL acquired the lots, the Villages, and the lessees moved in, the lessees were required to be members of VOKA, Villages of Kapolei Association, the homesteaders, formed their own association, on their own, so there are Malu'ōhai and Kaupe'a. The lessees are members of the Master Villages of Kapolei Association, and they pay their dues to VOKA. G. Cairel stated that for the individual associations, the lessees could choose to join, but the DCCR is VOKA. Commissioner Teruya asked if the Malu'ōhai and Kaupe'a Associations are 501(c)3s. G. Cairel stated she does not know and will have to double-check. When Malu'ōhai works for grant funds, they go under KCDC. Her understanding is that it goes through KCDC, of which each homestead is a member, KCDC decides how to distribute amongst the individual associations.

Commissioner Teruya asked what kind of maintenance the lessees get from VOKA. G. Cairel stated it is the same services that apply to the non-homesteads.

Acting Land Development Division Administrator Stewart Matsunaga added that DHHL purchased Malu'ōhai and Kaupe'a along with Lei Ali'i and the Villages of La'i'Ōpua. The DCCRs came with the purchase of those subdivisions. VOKA maintains the planter strips within Kaiaau and Malu'ōhai Avenues. Within the subdivision, the homesteaders maintain the planter strips fronting their homes. With the fees, the homesteaders have access to the community center. Commissioner Teruya asked when beneficiaries have problems with their planters, sidewalks, yards, or trees; they should go to VOKA instead of the Department for maintenance. S. Matsunaga stated the collector roadways are considered Hawaiian Home Lands, and the City helps to maintain potholes and the roadway pavement. DHHL maintains the trees and the sidewalks. Once DHHL turns over the infrastructure to the City, then the City will provide full maintenance. The key is to turn over everything to the City.

Commissioner Ka'upu asked how many total homesteads the Department has and how many non-DCCR communities the Department has? G. Cairel stated the last count was about 50; there are over 75 homestead associations because some homesteads have more than one association. Commissioner Ka'upu asked if new homesteads are going to be subject to the DCCRs and the rules. G. Cairel stated as of 2009, the direction to the Department is no new DCCR homesteads. The newest in East Kapolei is not a DCCR; the only ones in question are the three new kuleana homesteads. Commissioner Ka'upu asked why doesn't the DCCR rules apply to every homestead the Department creates from now on? Chair Ailā stated many new developments have lessees who prefer not to have a DCCR because of what they have heard. Any new community the Department creates has the option of creating its own DCCRs. Commissioner Ka'upu stated he thinks it is a good idea that the Department require all new communities to be subject to the Department's association governing rules and have an association with the Department's participation.

G. Cairel stated as far as the declaration and covenants, the rules are consistent with the community rules that there is only a certain period where the Department is a class B member. When the lots are fully occupied, the Department's class B membership ceases. In many of the homesteads, the Department no longer has a declaring position. In non-Hawaiian homelands, associations do not go back to the developer to train or amend their DCCRs. Still, the Hawaiian homestead DCCRs, because they do not support them, go to the Department to amend their governing documents to fix and update them. The Department does not have the resources to provide that kind of support.

Commissioner Ka'upu stated he is looking at Section 10-7-18 that defines membership, and it states that the lessee shall maintain a Class A membership. Still, sub-part 2 says the declarant may maintain a Class B membership for a fixed period. Class B membership may terminate and may convert to Class A membership not later than the period the declarant terminates. He states sub-part 2 is so that the Department can maintain some degree of participation or say.

Chair Ailā stated that Commissioner Ka'upu sees a value in co-partnership. He asked Commissioner Ka'upu to share his thoughts in an open meeting of why he thinks it is beneficial and how? Commissioner Ka'upu stated he would be willing to do that.

Chair Ailā stated there is a difference between a homestead association and a development association. Homestead associations are separate and not necessarily a DCCR association.

Commissioner Teruya stated again we are going to be ignored through this whole process. G. Cairel stated she would not say ignored. Planned community associations are a specific type of non-profit. They are the homeowners association with very specific obligations laid out in the DCCR documents with a specific purpose. A community can have both a homeowners association and a homestead association. In some cases, it is beneficial because the IRS will not approve a homeowners association to be a 501c3 charitable organization. If the homeowners association does not offer a benefit, a service, or a need, you will not have members. There may be board members that do not align with the community's needs.

Commissioner Awo stated he would not support moving forward with a DCCR to become a requirement of accepting a lease. He thinks that should be determined by the various communities that are signing up and let them decide the method and manner they want to govern themselves. If the lessees decide on a DCCR, fine, but to impose that is problematic.

ITEM C-4 For Information Only – Legislative Updates 2021

RECOMMENDED MOTION/ACTION

None. For information only. Legislative Analyst Lehua Kinilau-Cano presented the following:

DISCUSSION

L. Kinilau-Cano walked Commissioners through the submittal and spreadsheet.

Chair Ailā suggested Commissioners look at the two bills from the SCHHA on the spreadsheet, aiming to remove Commissioner's discretion to do certain things.

Commissioner Awo asked about the bill that prevents the Commission from canceling a lease for unpaid mortgages; what is the prognosis for possible success?

L. Kinilau-Cano stated HB 1122 and 1124 are scheduled for hearing on March 16, 2021, at the Senate Hawaiian Affairs Committee at 1:00 p.m. Senator Shimabukuro tends to move measures, so the Department will have to see if the Ways and Means Committee will schedule a hearing.

Commissioner Ka'upu asked if the two bills are on the DHHL website or available for review. L. Kinilau-Cano stated she could send it to Leah to send to the Commissioners. Chair Ailā stated they would send the most current versions.

Chair Ailā stated Commissioners David Ka'apu, Dennis Neves, and Mike Kaleikini would be going to the floor. He has asked Senator Shimabukuro to hold off for about a week and a half to talk to Senators for support of the nominees. They need 13 votes on the floor.

Chair Ailā stated the Commission would recess till tomorrow at 9:30 a.m.

RECESS

4:57 PM

HAWAIIAN HOMES COMMISSION

Minutes of March 16, 2021 via Interactive Conferencing Technology
DHHL Main Office, Hale Pono'i, Kapolei, O'ahu, Hawai'i

Pursuant to proper call, the meeting of the Hawaiian Homes Commission was held via teleconference, moderated by Chairman William Ailā Jr., from Hale Pono'i, 91-5420 Kapolei Parkway, Kapolei, O'ahu, Hawai'i, beginning at 9:30 a.m.

PRESENT William J. Ailā Jr., Chairman
Randy K. Awo, Maui Commissioner (via videoconference) (10:26 a.m.)
Zachary Z. Helm, Moloka'i Commissioner (via videoconference)
David B. Ka'apu, West Hawai'i Commissioner (via videoconference) (10:51 a.m.)
Michael L. Kaleikini, East Hawai'i Commissioner (via videoconference)
Russell K. Ka'upu, O'ahu Commissioner (via videoconference)
Dennis L. Neves, Kauai Commissioner (via videoconference)
Patricia A. Teruya, O'ahu Commissioner (via videoconference)

EXCUSED: Pauline N. Namu'o, O'ahu Commissioner

COUNSEL Craig Iha, Deputy AG (via videoconference)

STAFF Tyler I. Gomes, Deputy to the Chairman
Leah Burrows-Nuuanu, Secretary to the Commission
Andrew Choy, Acting Planning Manager
Kahana Albinio, Acting Land Management Division Administrator
Juan Garcia, Homestead Services Division Administrator
Cedric Duarte, Information & Community Relations Officer
Stewart Matsunaga, Acting Land Development Division Administrator
Paula Ailā, Acting Contact and Awards Division Administrator
Jamilia Pacheco, Information Specialist
Michael Lowe, Information Specialist

ORDER OF BUSINESS

CALL TO ORDER

Chair Ailā called the meeting to order at 9:36 a.m. six (6) members were present via videoconference at roll call.

Pursuant to the Governor's 18th Proclamation, related to COVID-19 Emergency, Hawai'i Revised Statutes ("HRS") Chapter 92 regarding public agency meetings and records are currently suspended through April 15, 2021, 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 effectively and efficiently provide emergency relief and engage in emergency management functions.

PUBLIC TESTIMONY ON AGENDIZED ITEMS

Chair Ailā stated there was one public testimony submitted.

Note: Testimony is attached.

ITEMS FOR DECISION MAKING

REGULAR AGENDA

LAND MANAGEMENT DIVISION

ITEM F-1 Approval to Extension of Lease Term, General Lease No. 102, Big Island Energy Co., LLC, Pana‘ewa, Hawai‘i, TMK No. (3) 2-2-047:059

RECOMMENDED MOTION/ACTION

Acting Land Management Division Administrator Kahana Albinio presented the following: Motion that the Hawaiian Homes Commission approve the extension of lease term to General Lease No. 102, held by Big Island Energy Co., LLC.

DISCUSSION

K. Albinio introduced Paul Oliveira from Big Island Energy Co. He noted seven conditions in the submittal, which has been in place since 1966 with a 55-year lease term. Pursuant to HRS Section 171-36, the Department is authorized, with the Commission’s approval, to grant the lessee a 10-year extension not to exceed 65-years.

P. Oliveira stated Big Island Energy is a petroleum company servicing the small business operations of local companies. Chair Ailā asked if he provides fuel and petroleum products? P. Oliveira stated that is what Big Island Energy does. Land Management Agent Mark Yim stated Big Island Energy is the only remaining petroleum company on the Big Island providing petroleum service for the Hilo and Kona areas.

MOTION

Moved by Commissioner Helm, seconded by Commissioner Neves, to approve the motion as stated in the submittal.

Commissioner Teruya stated her communication from the Pana‘ewa Community Association (PCA) is that Big Island Energy is a good community partner and has never been asked to provide a community benefit package. They asked if PCA would be willing to work with the East Hawai‘i Homestead Association to negotiate a reasonable community benefit package. If they say yes, then that would be great to work with the Pana‘ewa Hawaiian Homestead East Hawai‘i Association. She stated she wanted this for the record if P. Oliveira was ever thinking of providing a good benefit package for the East Hawai‘i area.

Chair Ailā stated he appreciated Commissioner Teruya passing on the information from Pana‘ewa. He stated this is merely a lease extension, and when the Department does new long-term leases, that is a more appropriate time. Commissioner Teruya said this is for 65-years that, that is a long time. Chair Ailā stated the extension proposed is for 10-years and the increase on the rent will be based upon the appraisal.

Commissioner Helm asked how the Department determined the 20%. K. Albinio stated it is a premium fee the Department should charge because of the lease extension beyond the 55-year term. He stated this is the first, it always went up to 55-years, so he attached a premium fee for the extension beyond the 55-years. Commissioner Helm asked if this was a standard for all? K. Albinio stated again that it is the first time and he tacked it on to charge the tenant for the extra 10-years.

Commissioner Ka'upu stated he is familiar with the company and its predecessors and they are a good local company. He referred to Commissioner Teruya's comment and said he does not think she was asking the Commission to assess or to make it a requirement to the extension. He thinks that is what he heard, and he thinks he would support that decision. It does not affect the decision the Commission makes on the extension.

Commissioner Neves asked where are the facilities located? K. Albinio stated the company's facilities are behind Target and Safeway on Kuhio Avenue in an industrial area. Do they do interplane fueling. K. Albinio stated they provide the petroleum. P. Oliveira stated they haul fuel for (indiscernible). Commissioner Neves asked if this is one of two companies on the island? K. Albinio stated it is one of two. To Commissioner Teruya's comments he agrees if the company is willing to do that and he supports it outside of the lease agreement being decided on today.

Commissioner Kaleikini asked P. Oliveira what year his company took over? K. Albinio stated it was 2009, and under page 2 of the discussion is the history and inception of the lease and its status. Commissioner Kaleikini asked how much fuel Big Island Energy dispenses annually. P. Oliveira stated they haul about 2-3 million gallons annually. Regarding Commissioner Teruya's comment, he would support it if the company were willing to do that.

Commissioner Kaleikini asked why the 10-year extension. K. Albinio stated the maximum extension allowed on a 55-year lease is 10-years. Commissioner Kaleikini asked why not do another 55-years. K. Albinio stated it must go through the entire process again.

Chair Ailā stated there are current discussions in the Legislature that might allow for extensions up to 20-years. The wording in one bill notes 40-years.

K. Albinio stated Big Island Energy has been a company in good standing. They pay their rent-on time and are following all the obligations under the lease. M. Yim stated once the lease expires, all the improvements on the premises revert to the State.

Commissioner Neves asked if there is a flat rate on the rent or if there is an increase on an annual basis regarding the 10-year extension? Chair Ailā stated in the submittal it is written that there will be a new appraisal and upon the appraisal there will be a 20% premium fee for the extension. Commissioner Neves wanted to know if there would be any increases within the 10-year extension? Chair Ailā stated it appears not to be any increases, and asked if there were any reasonable suggestion(s) from the Commission? Commissioner Neves stated the increase will have to rely on the appraisal and figured out what it would be annually or every 5-years. He stated it is trying to establish a standard going forward and this is a perfect example. He stated the company's contribution is substantial as they started with seven employees and now have 39 employees.

K. Albinio stated when they have a scope for appraisal, there is a 5-year step up. Commissioner Neves stated so it follows the appraisers 5-years thought process.

Commissioner Ka'upu asked during 10-year period, the end of their lease term would the Department want to see another step up? Petroleum in the ground becomes an issue for the Department because the lease reverts to the Department. He agreed with Commissioner Neves' suggestions of step ups. However, in this case the step up is accounted for in the new appraisal and 20% premium fee for the 10-year extension.

Commissioner Helm agrees with no additional step ups.

Commissioner Neves stated if the step ups are continued as in the original lease, reduce the 20% so the company does not get hit right of the bat to continue to do business. His concern is the petroleum, in the contract is the Department protected for hazardous clean up. If the facility goes back to the Department, it now has an underground issue to clean up. He would like to make sure it is in the contract.

K. Albinio stated the current step up is based on the appraisal 20-years ago, so now a new appraisal with the fair market value is needed now.

Commissioner Kaleikini asked when can the Commission get the results of the appraisal? K. Albinio stated it is in the submittal for June 30th. He supports the 20% and would support a 5-year step up.

Chair Ailā stated he is hearing the Commission’s direction to staff is to review the old lease, get a feel for the step ups, apply a percentage of the step up within the next 10-year extension rather than the 20% premium.

Commissioner Neves stated say the company is in for 55-years, at 10-years there is a 5% increase in the rent, at 20-years there is a 5% increase, or whatever the number is. Does the original contract have that language? He asked in the original contract the step up is based on appraisals only. K. Albinio stated typically in the first appraisal the rent is determined on a new lease, which is usually a 25-year term. The first 10-years, there is a set rent, 11 to 15, 16 to 20, 21 to 25, the rent is known. Commissioner Neves stated so it is 10-years after the 25-years. So, the step up is done based on the appraisal and charged an upfront 20% fee, he is fine with that.

ACTION

Moved by Commissioner Helm, seconded by Commissioner Neves, to approve the motion as stated in the submittal. Motion unanimously passed.						
Commissioner	1	2	‘AE (YES)	A’OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo						X-late
Commissioner Helm	X		X			
Commissioner Ka’apu			X			
Commissioner Kaleikini			X			
Commissioner Ka’upu						X- late
Commissioner Namu’o						X
Commissioner Neves		X	X			
Commissioner Teruya			X			
Chairman Ailā			X			
TOTAL VOTE COUNT			6			3
MOTION: <input checked="" type="checkbox"/> UNANIMOUS <input type="checkbox"/> PASSED <input type="checkbox"/> DEFERRED <input type="checkbox"/> FAILED Motion passed unanimously- six (6) Yes votes.						

ITEMS FOR INFORMATION/DISCUSSION

GENERAL AGENDA

HOMESTEAD SERVICES DIVISION

ITEM D-1 HSD Status Reports

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

WORKSHOPS

LAND MANAGEMENT DIVISION

ITEM F-2 For information Only – DHHL 2020 Renewable Energy Projects Solicitation Status Report

RECOMMENDED MOTION/ACTION

None. For information only. Acting Land Management Division Administrator Kahana Albinio and Land Agent Allen Yanos.

DISCUSSION

K. Albinio presented the DHHL 2020 Renewable Energy Projects Solicitation Status Report.

A. Yanos introduced Planner Julie Ann Cachola. A. Yanos stated there were 10 potential sites, but due to resources, staff prioritized the sites and came up with 4 out of the 10 sites.

The solicitation from August 2020 covers 4-parcels which are Nanakuli, Ho`olehua, Kawaihae and Kalaoa on Hawai`i island. Due to delays the application deadline of October 16 was extended to December 18. There were 8 applications for the 4 parcels, and the one application for Ho`olehua was withdrawn; the application for Kawaihae was withdrawn due to non-compliance. A. Yanos thinks the lack of participation was due to the lack of a final or draft RFP from HECO. The uncertainty limited the number of applications submitted. For the Nanakuli site The Center for Appropriate and Sustainable Technology (ICAST) was selected. ICAST is a Colorado based non-profit corporation which is active developing solar projects on the mainland for lower to middle income communities. Nexamp Solar, who was selected for the Kawaihae and the Kalaoa sites, is based out of Massachusetts with over 200 projects and half are community projects.

J. Cachola stated they consulted with beneficiaries that would be most affected by the renewable energy project for each of the selected sites. On October 14, 2020, a BC (beneficiary consultation) meeting was held in Nanakuli with Nanakuli and Princess Kahanu lessees. On October 29, 2020, a BC meeting was held for the Moloka`i lessees and applicants, and on December 8, 2020 a BC meeting was held in Kawaihae with the lessees there. A BC meeting was not held for Kalaoa because their recent 2020 update, one of the priority projects identified by beneficiaries was a renewable energy initiative at the solicited site. These first BC meetings were to provide information regarding the selection of the site, the energy projects, and the upcoming RFP from HECO.

Unlike other RFP's this RFP specifies a certain type of renewable energy development called Community Based Renewable Energy (CBRE), aka community solar. There was at least one HECO representative at each of the BC meetings to explain the CBRE concept and how it works and the potential benefits to the community.

J. Cachola stated the staff is preparing for their next round of BC meetings which will begin at the end of April 2021 or the beginning of May. for Nanakuli, Kawaihae and Kalaoa. The Developer will be attending the meetings and introduced to the community, and the beneficiaries will get to hear their proposal firsthand.

The outcome of the BC comments will be fed into the negotiations process for lease terms. After the second round of BC meetings, the Department can start fulfilling its statutory requirements. Chapter 171-99.3, Renewable Energy, notes that anytime an agency or board leases public lands for renewable energy development, there are certain things that must happen. One is to conduct two public hearings on the island where the project is happening, After the two public hearings the Commission can render a decision on the right-of-entry permit and the due diligence purposes which can be converted into a general lease when all conditions are met.

Commissioner Helm asked why the Moloka'i applicant decided to pull out? A. Yanos stated he is not sure, but his understanding is that there were objections to HECO's participation. J. Cachola stated there was an issue because HECO decided that their development arm would be able to submit a proposal for CBRE project on Moloka'i. Potential developers were upset saying there is no competition because HECO would choose their developer. There is land next to the existing power plant that HECO is making available for free for any developer, as opposed to DHHL who would charge rent. They were also looking to produce agricultural activities under the solar but the DHHL land was not conducive for agricultural activities.

Commissioner Neves asked if it would provide solar to a specific community will it bleed off the grid? J. Cachola stated it is all to the grid, not independent houses. The CBRE's proposal is that there are subscribing-organizations that work with the developer. For DHHL all the proposals address low to moderate income groups. Commissioner Neves asked if it was not limited to a specific geographical location? J. Cachola stated it does not have to be.

Commissioner Kaleikini asked if the two hearings were separate from the beneficiary consultations? J. Cachola stated correct. Commissioner Kaleikini asked when would it be the appropriate time to include community benefit discussions? J. Cachola stated it was already discussed at the first beneficiary consultation meeting and it will also be part of the discussions at the April and May meetings. J. Cachola stated the public hearings are conducted by the Commission.

Commissioner Teruya asked if there were any discussions on the solar recommendation for the regional plan. J. Cachola stated it was a major issue in Nanakuli and it was not proposed in Nanakuli. Commissioner Teruya stated she noticed lots of opposition in Nanakuli regarding the site, Nanakuli Ranch. She stated she does not think there were any discussions on solar projects during the beneficiary consultation on the Regional Plan update. Then the BC on the Nānākuli solar in October 14, 2020, shocked some of the participants. Commissioner Teruya stated she talked with HECO and they do not want to go into an area and not have a good relationship with the community.

Commissioner Teruya stated she looked at the information on ICAST where it stated, "if they chose to participate", and asked what does that mean? J. Cachola stated ICAST is a social

enterprise organization, and their focus is how the community can benefit economically from a project. HECO's idea is everyone whoever does not want to be in can opt-out. Everyone in benefits from a reduced electric bill. J. Cachola asked to show the Commission the site via her screen if it would help. Commissioner Teruya asked if a beneficiary consultation could be held at the Ranch and the developer attend? If the community would set up the microphones and the chairs, would it be possible that they can host their consultation at the Ranch grounds? J. Cachola stated they can host any consultation with the developer on their own. J. Cachola stated they could talk about that.

Chair Ailā mentioned to J. Cachola not to commit to that not without some consultation without the Department of Health. J. Cachola agreed.

Commissioner Teruya asked J. Cachola if she could consider that? The neighborhood boards have opened, and everybody is wearing masks. She stated they meet every month in person with social distance. Commissioner Teruya stated with the tiers opening she is requesting to see if the Nanakuli Ranch, and they will prepare everything PPE requirements and social distance, and chairs and microphones, to have a beneficiary consultation at the Ranch and host it there. She asked that somebody follow up and get back to her. Chair Ailā stated the Department has time before the next beneficiary consultation is scheduled and confirmed.

Commissioner Teruya asked what was the main opposition from the beneficiaries during the Nanakuli beneficiary consultation? J. Cachola stated the regional plan issue, an issue of wanting more direct benefits and an issue of the location.

Commissioner Neves asked for clarity regarding the community solar, is that benefit for beneficiaries as well as the public? J. Cachola stated it is open to subscribers. Commissioner Neves stated the added benefit to the Department would be the general lease of the land and is open to beneficiaries and non-beneficiaries. Chair Ailā stated it also includes those on the waitlist not just lessees.

Commissioner Kaleikini stated this is a fantastic opportunity.

Commissioner Helm asked if a subscriber is awarded, what kind of profit will the subscriber make and what kind of revenues will the Department gain? A. Yanos stated it boils down to how big the project will be and the acreage needed. The applicants have not yet had an opportunity to look at the land yet. A. Yanos stated that they are not able to share the project specifics with the public yet.

RECESS

11:06 AM

RECONVENED

11:16 AM

MOTION/ACTION

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

EXECUTIVE SESSION IN

11:19 AM

The Commission anticipates convening an 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 Kuhio Awards: Addressing the Wait List and Successorship
2. Discussion on Michael J. Tacub, Jr. v. Hawaiian Homes Commission, et al., Civ. No. ICCV-20-0000300 and CAAP-20-0000665

The Commission further anticipates convening an executive meeting pursuant to Section 92-5(a)(4), HRS, to discuss the acquisition of real property and Section 92-5()(4), HRS, to consult with its attorney on questions and issues pertaining to the Commission's powers, duties, privileges, immunities, and liabilities on the following matter:

1. Land Exchanges and Acquisitions on the islands of Hawai'i and O'ahu.

EXECUTIVE SESSION OUT

1:06 PM

ANNOUNCEMENTS AND ADJOURNMENT

NEXT MEETING

The next meeting will be held on April 19 & 20, 2021, Interactive Conference Technology

MOTION/ACTION

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

ADJOURNMENT


1:07 PM

Respectfully submitted:



William A. Ailā Jr., Chairman
Hawaiian Homes Commission

Prepared by:



Leah Burrows-Nuuanu, Commission Secretary
Hawaiian Homes Commission

Attachments:

- 1) Public Testimony – Pat Kahawaiolaa
- 2) Slide Presentation Item C-2
- 3) Slide Presentation Item C-3
- 4) J Agenda Testimony – J-3 Kekoa Enomoto

Burrows-Nuuanu, Leatrice W

From: Pat Kahawaiolaa <kcaiprez@gmail.com>
Sent: Monday, March 15, 2021 6:45 PM
To: Burrows-Nuuanu, Leatrice W
Subject: [EXTERNAL] Comments

Aloha Chair Aila,

I'm Patrick L. Kahawaiolaa a native Hawaiian as defined pursuant to the HHCA, 1920, c..42, 42 Stat 108, 67th Congress, as amended July 9, 1921. I'm the current President of the Keaukaha Community Association (KCA) and we are the second oldest homesteads settled with 61 lessees in December 16, 1924 as Kuhio Settlement.. I try to listen to the entire halawai today by ZOOM, to keep our community of 1459 people according to the 2010 Census informed as to was being discussed and because of the COVID-19 pandemic where we cannot reach those in our community face to face, the challenges of Connectivity even Zoom was not possible.. So I come with my observations of the meeting today.

Per Deputy Gomes said of the 2009 Beneficiary Consultation Policy... "...does not Explicitly identify proposed legislation as one of the four types of Proposals that REQUIRES Beneficiary Consultation (BC)..." however in hindsight many of the Commissioner articulated the "...BC is a PRIORITY in advancing this initiative..." (Casino Gaming)

The discussion had on UNDIVIDED INTEREST (UI) lead by Comm Awo was also interesting however are Undivided Interest lot, and Kuhio Awards SPECIFICALLY REQUIRED UNDER THE HHCA, 1920? If so where in said Act does it say that? Also asked was how was UI & Kuhio Awards created, for whom and where was it created? Kuhio Awards NEVER moved past its conceptual stage BECAUSE OF LEGAL ISSUES...like where is it in the Act and if the Act was Amended where's the documents to create a KUHIO LIST/AWARD or was it a "unilateral" decision to convert Kuhio Leases?

Mahalo to Comm Kaapu for raising the issue although this scheme was started by Chair Micah Kane, it was furthered along by then Chair Jobie Masagatani.. I also heard a lot about Opportunity & Parity for whom? Parity cannot occur unless we have a BC!!

Most lessees are living on their parents awards and they WAITED in line on a list... so parity is few, far and in between.. you can ONLY achieve PARITY & OPPORTUNITY only After a BC!

Will the question on its Legality be addressed in tomorrow's televised viewing? In closing that discussion Comm Kaapu is correct with his assertion that to CONSENT OF THE UNITED STATES WAS NECESSARY TO AMEND SAID ACT.. I would implore all our Commissioners to read the Organic Documents of the HHCA, 1920 as amended which states in its Preamble

Title 1 Definitions

Section 1. This Act may be cited as the "Hawaiian Homes Commission Act, 1920

Section 2. That when used in this Act the term "Hawaiian Organic Act" **means** the Act entitled "...An Act to provide a **government** for the Territory of Hawaii ..." **approved** April 30, 1900 as amended....

With these guiding principals in directing the Territory now the State of Hawaii and the Hawaiian Homes Commission to guide them in their OBLIGATIONS and FIDUCIARY DUTIES to the trust corpus the Beneficiaries...and **no other governmental entity**

The dialog with Comm Kaapu on DCCR's was troubling to a point that those HFDC lands given to the Department was for the most parts given to CORRECT of the abuses by Governor's Executive Orders (EO) during the Territory and I speak from first hand experiences by the illegal encroachment by Territory & State in the expansion of the Hilo Airport for one example... we were eventually repaid by "shitcanned" from HFDC which came with the dreaded DCCR's... although very commendable Com Kaapu your slant on fee simple CANNOT be articulated as if "lands having the status of a Hawaiian Home lands" can or should be treated as "fee simple" clearly as we come up on the 150th year of Celebration of Prince Jonah Kuhio Kalaniana'ole Piikoi birth and the Centennial of the HHCA, 1920.

Many of the dialogs and discussion had today by all the input from the HHC I did not hear to much about the Act and a lot about the HAR Title 10... that's the guide the Commission and Department should be using to manage and dispose of the lands and use what Alii Kuhio fought in Congress and died trying to help putting his people back to the 'aina.

I am in no position to dictate to this esteemed body of men and women for your dedicated service to better conditions of the native Hawaiians but to try and point in what Kuhio tried to do for his people in pointing to the Statutes and Provisions of the Act that if properly followed is like your kuleana commissioner is KUPAIANAHA...

I heard of Strategic Planning, Consultations before Action, Parity, Opportunity, Transparency but I would want you all to think about the legal implications of not consulting with beneficiaries, ignoring the pleas for guidance, frustration and continued Confusion on many levels and I'll end that note....

VACANT LOTS BEING SOLD ... Department believes it's a "private" transaction...NO The lessee paid nothing for the land, was exempt for taxes for first 7 years but can sell 1 acre for instance for \$25K how is that possible... Land with a house on the land is a private transaction between two native Hawaiians.. 'Aole Vacant lots. Vacant agricultural lands that have laid VACANT FOR OVER 35 Years with no action taken but then chase a prospective lessee by REQUIRING them to build in 2 years or lose their right to use the lands.

Why was Contested Case Hearing created and codified by Statutes if you're not going to apply judicially to those who fail to comply.

This is a call for HELP... Not keep the same old excuses that more money is needed by he Department to help the Beneficiaries.

I have a lot more to say but because we need to do ZOOM I will reserve the rest of my diatribe when we can meet face to face..

Mahalo for all the work you all are doing in spite of COVID.

E hana pono .. mai pono hana.... do what is Right.. do not Just do it

My number 808-937-8217 I called be reached anytime anyone like kukakuka.

'Owau me ka ha'aha'a

Patrick L. Kahawaiolaa

--

Sent from Gmail Mobile Keaukaha Smiles 'Owau me ka ha'a ha'a (I humbly remain) Patrick L. Kahawaiolaa



HAWAIIAN HOME LANDS

HAWAIIAN HOMES COMMISSION · DEPARTMENT OF HAWAIIAN HOME LANDS

C-2

**Kuhio Award Concept: Addressing the Wait List and
Successorship**

March 15-16 2021



Roadmap

- HHCA
 - Lease conditions
 - Successorship
- HAR
 - Waiting list
 - Successorship
- Undivided Interest Awards
- Kuhio Award Concept



Lease Conditions

- HHCA 208
 - Original lessee must be native Hawaiian, as defined, and 18 years old
 - Lessee may transfer, with DHHL approval, to another native Hawaiian(s)
 - Lessee may also transfer, with DHHL approval, to one-quarter Hawaiian relatives:
 - Spouse, child, grandchild

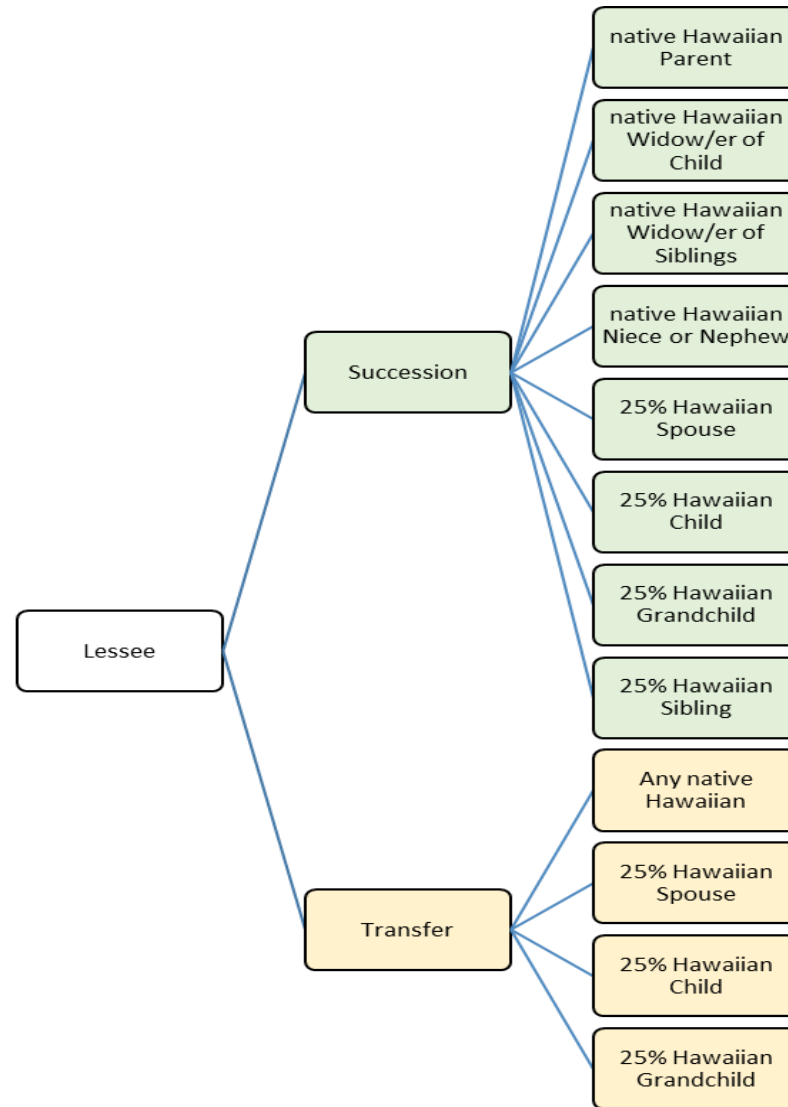


Successors to Leases

- HHCA 209
 - Designated successor can be:
 - One-quarter Hawaiian relatives of the lessee: spouse, children, grandchildren, sibling, or
 - native Hawaiian parent, widow/er of the children, widow/er of the sibling, or nieces or nephews
 - If no designated successor, the DHHL may select from qualified relatives:
 - Spouse
 - If none, then children
 - If none, then grandchildren
 - If none, then siblings
 - If none, then native Hawaiian father, mother, widow/er of the children, widow/er of the siblings, or nieces or nephews



Lessee Transfer & Succession





Waiting Lists

- HAR 10-3-6
 - The department shall maintain waiting lists until the lists are exhausted.



Transfer of Application Rights

- HAR 10-3-8
 - An applicant may designate an individual relative who is at least 18 years old and a native Hawaiian:
 - Spouse
 - Child
 - Grandchild
 - Widow/er of a child
 - Sibling
 - Widow/er or a sibling or
 - Niece or nephew

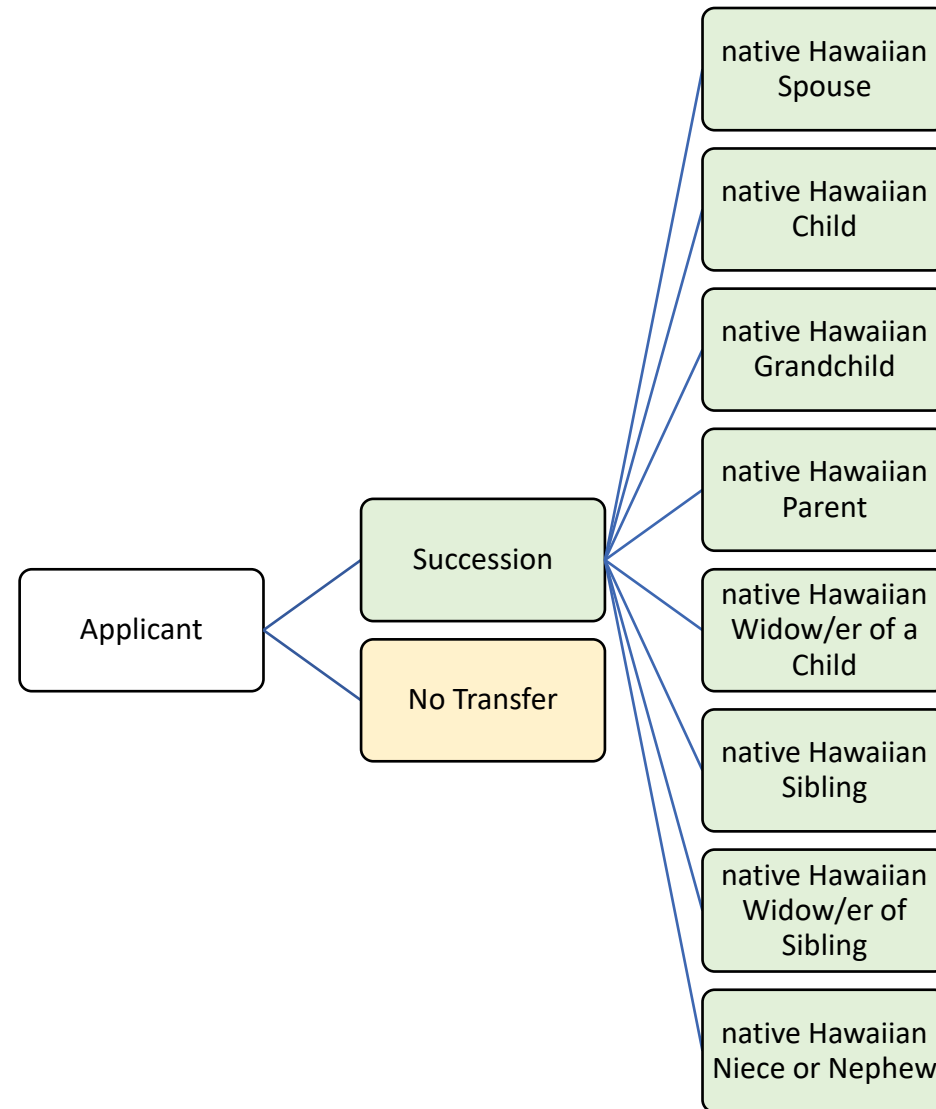


Transfer of Application Rights

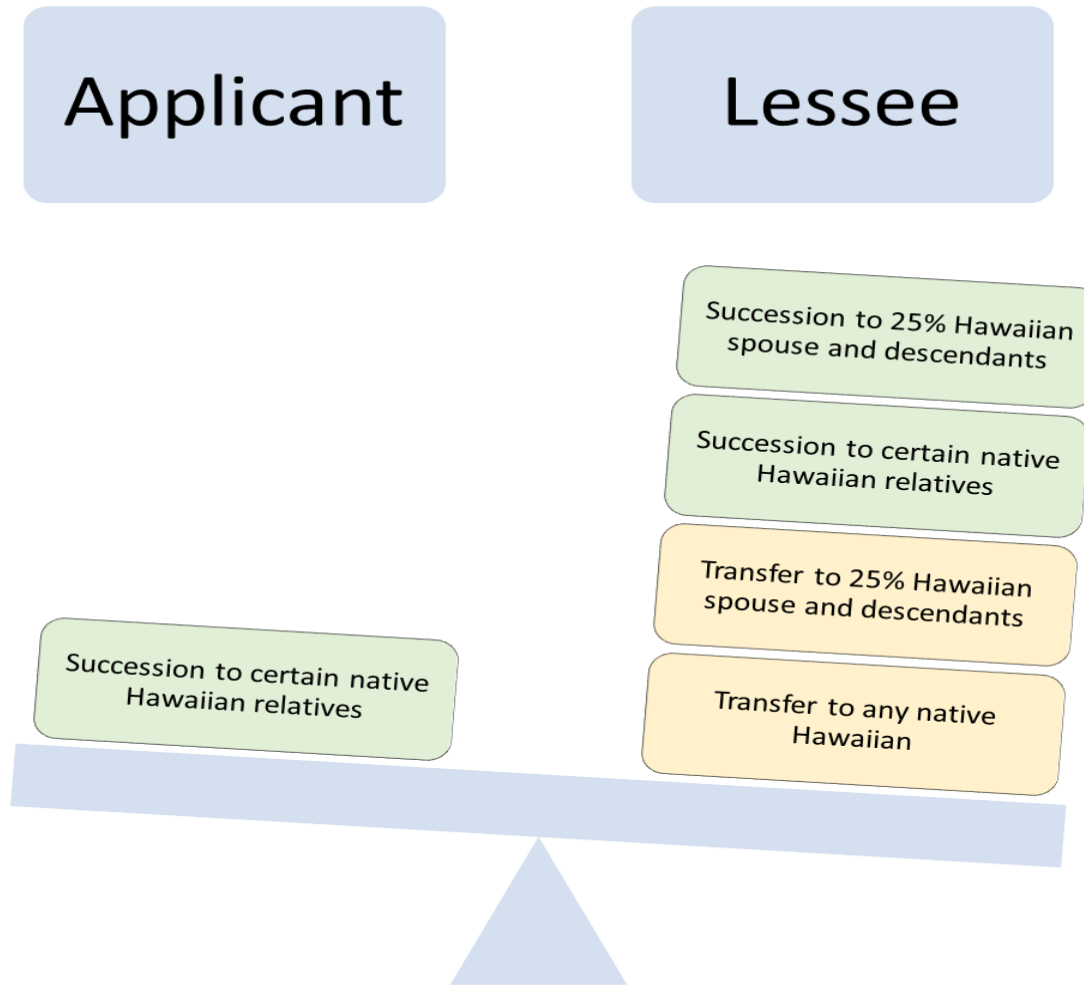
- HAR 10-3-8
 - If no designated successor, the commission may designate a successor applicant who is at least 18 years old, a native Hawaiian, and has requested to succeed to the application:
 - Spouse
 - If none, then children
 - If none, then grandchildren
 - If none, then siblings
 - If none, then native Hawaiian father, mother, widow/er of the children, widow/er of the siblings, or nieces or nephews



Applicant Transfer and Succession



Transfer and Succession Comparison





Undivided Interest Awards

- Awarded leases to unimproved parcels without specifying the interest of each lessee by percentage or description
- Intended to provide time to prepare for a residential award: finances and credit, relocation
- Allowed for the transfer of the lease

- Awarded from 2005 to 2008



Kuhio Award Concept

- Award a “paper” lease to waitlist applicants, which would allow them to plan for their family through transfer and succession rights equal to those of a lessee.
- Policy questions:
 - Is this really a waiting list by a different name?
 - Does this prioritize 25% over 50%?
- Implementation issues:
 - Conversion: opt-in/opt-out process, department capacity and staff time
 - Transfer and successorship
- Legal issues



Mahalo



DEPARTMENT OF HAWAIIAN HOME LANDS

www.dhhl.hawaii.gov



HAWAIIAN HOME LANDS
HAWAIIAN HOMES COMMISSION
DEPARTMENT OF HAWAIIAN HOME LANDS

Homesteads with DCCRs

Hawaiian Homes Commission

Item C-3

March 15 – 16, 2021

Agenda

- **Background**
 - What are the “DCCR Homesteads”
 - New Hawaii Administrative Rules Chapter 10-7
- **Update on DHHL Implementation**
 - Policy Level
 - Department Level
 - Community Outreach

Definitions

- DCCRs – Declaration of Covenants, Conditions and Restrictions
- Planned Community Association – a specific type of nonprofit, by law, requires homeowners to automatically be members; mandatory dues and assessments to operate the association; and documents (ie DCCRs) that bind homeowners

DCCRs only applies to 18 homesteads located statewide.

There are no DCCR homesteads on Moloka'i.

Total of 18 properties with DCCRs



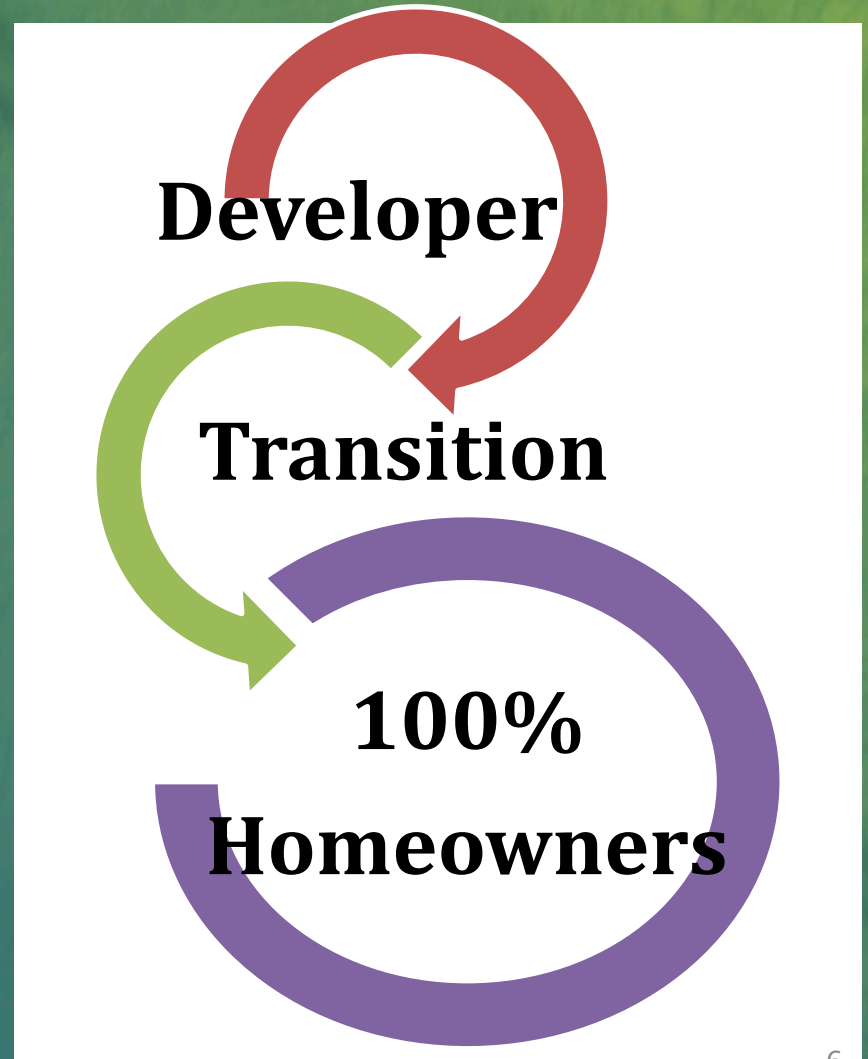
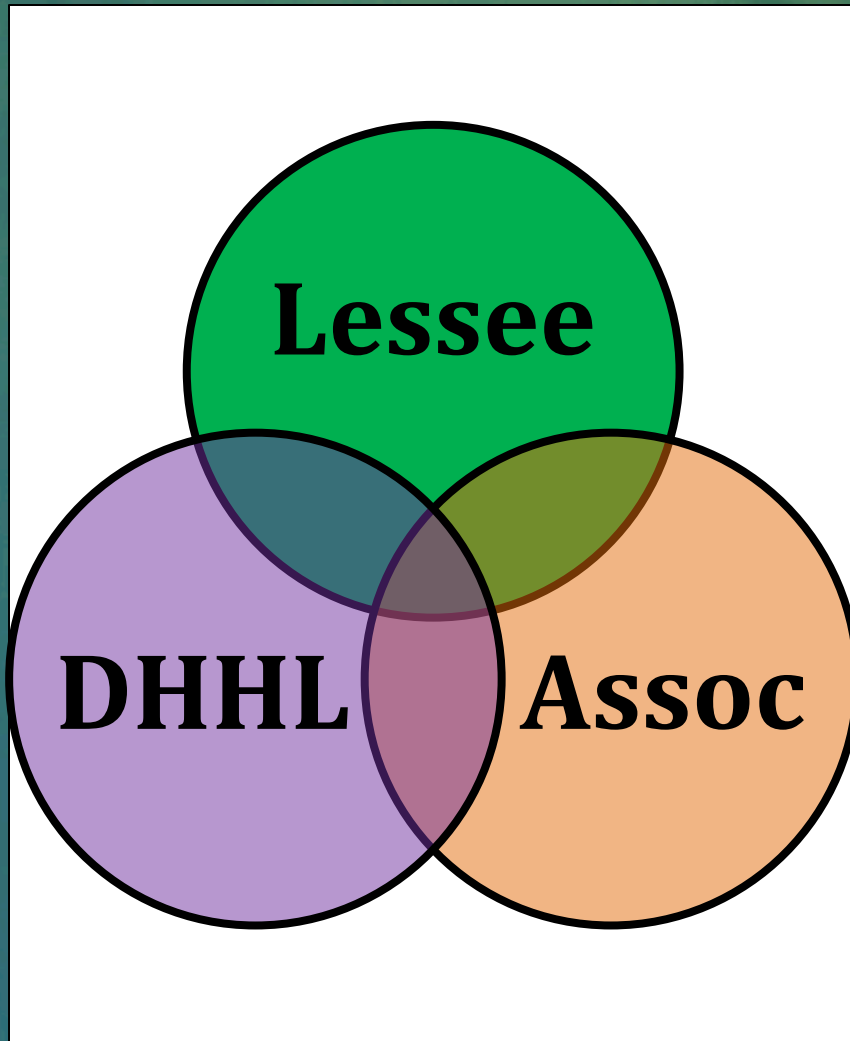
Every DCCR homestead is different, based on location and governing documents

WHO are these DCCR Homesteads

Homesteads in **BOLD** are properties where DCCRs came with the land at the time DHHL acquired the property

OAHU	MAUI	KAUAI	HAWAII
Kalāwahine	Kahikinui	Pi'ilani Mai Ke Kai	Discovery Harbor
Kaupe'a	Leiali'i		La'i 'Ōpua
Kaupuni	Waiehu Kou 2		Lālāmilo
Kumuhau and Kaka'ina	Waiehu Kou 3		
Malu'ōhai	Waiehu Kou 4		
Princess Kahanu	LĀNĀ'I		
Waiāhole	MOLOKA'I (none)		

Key Differences



HAR Chapter 10-7

DCCRs, Multi-Family, Rental Housing

Hawaii Administrative Rules Chapter 10-7

- Statewide Beneficiary Consultation complete – April – July, 2018
- Public Hearings complete – February – March, 2019
- HHC approval of Final Rules – June 2019
- Governor Signed Rules – August 2019

New Rules effective August 2019

HAR Chapter 10-7

Key Provisions for DCCR Homesteads

- 10-7-2 Applicability of chapter
- 10-7-4 Native Hawaiian cultural values
- 10-7-17(c) Period of declarant control
- 10-7-22 Budget
- Subchapter 4 Obligations of the Lessee
- Subchapter 5 Enforcement of Governing Documents



HAWAIIAN HOME LANDS
HAWAIIAN HOMES COMMISSION
DEPARTMENT OF HAWAIIAN HOME LANDS

Moving Forward

Next Steps

Policy level: Function before Form

- **Re-visit goals and objectives of the DCCR model**
- **Applicability to Kuleana Homesteads**
Explore options
- **Determine level of support to Associations**

Department level:

- **Clarify Division roles and responsibilities**
- **Develop procedures**

Community outreach

- **Community Outreach on the New Admin Rules**
- **Choose to opt-in**

Next Steps: Community Outreach

Community outreach

- **Community Outreach on the New Admin Rules**
 - Research homestead governing documents
 - Conduct initial kickoff meeting with each homestead
 - Conduct community meetings to review HAR 10-7
- **Choose to opt-in**
 - Assist homestead to take a vote whether to “opt-in”, per HAR Chapter 10-7-2(b)

Priority homesteads are those
where DHHL created the DCCRs

Long Term Programmatic Framework

- **Involve community throughout process**
- **Concept phase – research and analysis**
- **Formulate policy – seek HHC action**
- **Operational Plan**
 - **Clear division roles and responsibilities**
 - **Procedures**

THEN IMPLEMENT

- **Monitor, Evaluate, Adjust**



HAWAIIAN HOME LANDS
HAWAIIAN HOMES COMMISSION
DEPARTMENT OF HAWAIIAN HOME LANDS

Mahalo!



HAWAIIAN HOME LANDS
HAWAIIAN HOMES COMMISSION
DEPARTMENT OF HAWAIIAN HOME LANDS

Mahalo !

Aloha DHHL Administrative Leaders and Commissioners,

‘O Elisabeth Ohialehua Enomoto ko‘u inoa. Mai Kāne‘ohe a me Mānoa mai au.

Noho au i Wisconsin. My name is Elisabeth Ohialehua Enonmoto. I am from Kāne‘ohe and Mānoa, and I live in Wisconsin. I was a former Kamehameha Schools-Kapalama employee who was a Social Studies and English teacher, then a high school curriculum coordinator. Now I am the Head Volleyball Coach at Beloit College in Wisconsin, a small liberal arts college. Kekoa, my mother, will be reading this testimony for me.

I have observed and seen evidence of intentional obstacles and barriers preventing our Hawaiian people from their right to live on Native homelands; of constant red tape and inequitable procedures blocking access to and the use of Native homelands; and Kekoa Enomoto’s continual space on the J-Agenda to get the attention of leaders and commissioners and force them to listen, respond, and be accountable to homeland issues. I believe that these observations are evidence of racist behaviors, attitudes, and policies that exist in this Hawaiian Homestead space. I’ll use my mother’s benevolent mission to help Hawaiians on the waitlist and other beneficiaries as an example. Everytime Kekoa Enomoto is seen on this DHHL agenda as wanting to testify, there are Hawaiian leaders who are negatively saying aloud or thinking to themselves, “Oh, oh, there goes Kekoa again, complaining about something. That Hawaiian needs to stop and let things go!” It is this kind of racist thinking where Hawaiians think that someone like Kekoa is a trouble-maker and attempts to “manipulate us into seeing that people as the problem, instead of the policies that ensnare them” (Kendi, page 8). For the Hawaiians who believe that they are not racist, yet allow people to openly attack or talk about my mother in a negative manner behind closed doors, all you are claiming is “...neutrality, “I am not a racist, but neither am I aggressively against racism” (page 9). According to NY Time Bestselling author, Ibram Kendi, author of *How to Be an Antiracist*, “there is no neutrality in the racism struggle,” because “the opposite of racist isn’t not racist, it is antiracist.” Kendi explained it:

One endorses either the idea of a racial hierarchy as a racist, or racial equality as an antiracist. One either believes problems are rooted in groups of people, as a racist, or locates the roots of problems in power and

policies, as an antiracist. One either allows racial inequalities to persevere, as a racist, or confronts racial inequalities, as an antiracist. There is no safe space of “not racist.” The claim of “not racist” neutrality is a mask for racism (page 9).

I appeal to the DHHL leaders and commissioners to be more accepting of the feedback and constructive criticism that come from our Kupuna like Kekoa. In order to move forward, it is important to continue looking for more opportunities for accountability, transparency, and active collaboration with the Hawaiian people. I ask this group to look for those gaps in procedures and those deficient measures that prevent the community from being a part of this homestead process. It is imperative that you leaders and commissioners are aggressively looking for policies that are confining or handcuffing Hawaiians proper access to Native Homelands -- then aggressively change these policies to get our people back on the land. Listen and respond to Pa'upena's plea for ROE access to the land! Finally, please think positively and honor our Kupuna who choose to volunteer their time to help our nation of Hawaiians. Thank you for your time.