

STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

February 22-23, 2022

TO: Chairman and Members, Hawaiian Homes Commission

FROM: Peter "Kahana" Albinio, Acting Administrator
Land Management Division
Jobie Masagatani, Executive Assistant
Office of the Chairman
Staff to the Investigative Committee on King's Landing

SUBJECT: Adoption of Recommendations of the Investigative Committee on King's Landing (King's Landing Committee)

RECOMMENDED MOTION/ACTION

That the Hawaiian Homes Commission adopt the recommendations of the King's Landing Committee as outlined below:

- (1) Conduct the necessary due diligence to identify if homesteading is a viable option considering sea level rise and other environmental concerns and the anticipated length of occupancy of the land by homestead lessees, which is 199 years with an approved lease extension.
 - a. As part of the due diligence process, staff should render a recommendation to the Commission as to whether King's Landing should be set aside for award as kuleana homestead lots, consistent with section 10-3-30, Hawaii Administrative Rules. In developing a recommendation staff should consider the following:
 - i. Physical and environmental characteristics of the land;
 - ii. Excessive cost to develop the tract for any reason including: the physical characteristics of the land, the distance of the lands from existing electrical, water, wastewater disposal, communications, and other utility systems;
 - iii. Department land management plans and programs;
 - iv. Applicant interest or proposals identifying tracts of land; and

- v. Suitability for use by lessees who wish immediate access to the land for subsistence uses and who are willing to live on the land and accept an unimproved lot.
- (2) Begin discussions with the current ROE holder, M.A.H.A., regarding a new short-term land disposition that will replace ROE 274 and will allow for continued permitted use of King's Landing and presence on these relatively remote Hawaiian home lands during the transition period between today and future long-term use of King's Landing.
- a. This short-term land disposition will have a definite end date, which will transition into homestead leases (e.g., kuleana homestead leases) or another land use that respects the environmental constraints preventing homesteading and residential occupancy (e.g., park use, conservation, etc.)
- (3) The committee further recommends that the Commission place as one condition of the new land disposition that M.A.H.A. is aware that transition is highly likely and that they participate in the development and implementation of any transition plan that may be necessary. For example,
- a. If the Commission selects kuleana homestead lots as the future path, the settlement plan may require a different configuration or a different location in order to mitigate the impact of sea level rise or other environmental concerns. This may require relocation of existing occupants.
 - b. The award process will need to take into consideration those waiting for a homestead lease on Hawaii island. There is no guarantee that the current occupants of King's Landing will end up with a lease to their current location at King's Landing or even a kuleana homestead lot at King's Landing. Under both scenarios, relocation will be necessary.
 - c. If residential occupancy is not a sustainable land use, then the existing occupants will require transition out of King's Landing.

DISCUSSION

At the January 2022 regular meeting of the Hawaiian Homes Commission (HHC) the King's Landing Committee submitted its final report to the Hawaiian Homes Commission. Attached as Exhibit A is item C-2 from the January 2022 HHC meeting: the report of the King's Landing Committee (without exhibits). The complete report, including all exhibits, is included as part of the agenda packet for the January 2022 HHC meeting.

Four recommendations were tendered to the Commission, three requiring action by the Commission and the fourth a recommendation directed to the Chairman, which he has accepted.

Recommendation 4 of the King's Landing Committee is as follows:

- (4) The committee further recognizes that there are several unique issues related to what how best to proceed in this intervening period between the present situation and implementation of a longer-term land use (e.g., kuleana homestead leasing, or some other option if homesteading is not viable). Therefore, the committee recommends that a new Investigative Committee on King's Landing (King's Landing Phase 2 Committee) be established to investigate, discuss, vet, and recommend the best course of action to address the issues associated with transition that may include the terms of the new disposition, enforcement roles and responsibilities, mitigating existing environmental concerns, and use of undivided interest leases as an interim step.

It is recommended that the members of the King's Landing Phase 2 Committee include: Commissioners David Kaapu, Michael Kaleikini, Randy Awo, and Chair William Aila.

ANNOUNCEMENT



Effective February 22, 2022, Chair William Aila has appointed an investigative committee of the Hawaiian Homes Commission pursuant to Hawaii Revised Statutes section 92-2.5 and Hawaii Administrative Rules section 10-2-16(b)(1). Members of the King's Landing Phase 2 Committee include: Commissioners David Kaapu, Michael Kaleikini, Randy Awo, and Chair William Aila. The purpose of the King's Landing Phase 2 Committee is to investigate, discuss, vet, and recommend the best course of action to address the issues associated with transition between the present status quo and the preferred long-term land use of King's Landing. Such issues may include but are not limited to the terms of the new disposition, enforcement roles and responsibilities, mitigating existing environmental concerns, and use of undivided interest leases as an interim step.

STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

January 18-19, 2022

TO: Chairman and Members, Hawaiian Homes Commission

FROM: Peter "Kahana" Albinio, Acting Administrator 
Land Management Division
Jobie Masagatani, Executive Assistant 
Office of the Chairman
Staff to the Investigative Committee on King's Landing

SUBJECT: Report of the Investigative Committee on King's Landing to the Hawaiian Homes Commission (King's Landing Committee)

RECOMMENDED MOTION/ACTION

None. For information only.

DISCUSSION:

At the November 2020 regular meeting of the Hawaiian Homes Commission (HHC), an investigative committee was appointed to examine issues related to the settlement at King's Landing, Hawaii island (King's Landing Committee or committee). The members of the committee included Commissioners Michael Kaleikini, David Kaapu, Randy Awo and Chair William Aila, Jr.

The purpose of the committee was to identify a path for a solution to King's Landing (Exhibit 1). The committee met via Teams on five separate occasions: March 18, 2021, May 6, 2021, June 29, 2021, December 13, 2021, and December 28, 2021. On July 29, 2021, the committee and staff conducted a site visit to King's Landing and met with leaders of the Malama Ka 'Aina Hana Ka 'Aina, Inc. (M.A.H.A.) non-profit corporation, the current grantee of Right of Entry No. 294, and other beneficiaries currently residing at King's Landing.

BACKGROUND

1. Location –

The principal area under consideration by the committee is the area identified in Right of Entry (ROE) no. 274 (Exhibit 2). This area is located at Keaukaha Tract II, Tax Map Key No. 2-1-13:01, at Keaukaha, District of South Hilo, Island of Hawaii and shown as Exhibit A in the attached Exhibit 2. Hereinafter, the location will be referred to as "King's Landing".

2. Brief History –

On July 27, 1984, The HHC authorized the Chairman to issue a ROE permit to M.A.H.A. for use of King's Landing, until a management plan for King's Landing was completed and accepted. ROE No. 76 was issued on September 26, 1986.

On February 29, 2000 the HHC authorized the Chairman to issue a new ROE permit to M.A.H.A. for use as an alternative lifestyle settlement. The minutes and submittal from this February 2000 item are attached as Exhibit 3.

ISSUES

The committee spent a lot of time identifying and discussing the issues that currently impact King's Landing. These issues bucket into the following four general interrelated areas:

(1) Environment

King's Landing's close proximity to the ocean and unique environmental qualities create challenges to the long-term development of the area for homesteading. While sea level rise and the treatment of wastewater were discussed briefly by the committee, the committee fully anticipates that other issues will arise as the due diligence is undertaken to evaluate the site for long-term homestead leases.

(2) Land Disposition

Several discussions were held with counsel regarding the existing ROE and future potential land dispositions from DHHL to address the unique situation at King's Landing.

(3) Trespassing and Enforcement

Trespassing and enforcement were also a major topic of discussion for the committee given King's Landing remote location and allegedly increasing number of unauthorized occupants engaged in drugs or other illicit activities. The committee also observed that some of the current tension related to trespassing and enforcement stem from the alleged permissions granted by original M.A.H.A. members to friends and family (who may not be members of M.A.H.A. or who may not be beneficiaries) to occupy homes and lots in King's Landing.

Several members of M.A.H.A. also raised their own concerns regarding trespassing and enforcement during the site visit and via e-mail correspondence to the Commission. Specifically, they talked about the challenges they were encountering securing the entrance gate and preventing non-M.A.H.A. members and other outsiders from entering and occupying King's Landing

(4) Long Term Land Use and Land Disposition

The current members of M.A.H.A. recognize their situation is precarious because they do not have a lease to the lot where their home is currently located. Consequently, members raised as a request the possibility of a homestead lease being made available.

It is the understanding of the committee that members of M.A.H.A. have discussed with other beneficiary leaders the lessons learned from Kahikinui, Maui, the only existing kuleana homestead lot community on Hawaiian home lands. Based on these exploratory discussions, the committee understands that the leadership of M.A.H.A. has asked the Commission to consider kuleana homestead leases for King's Landing.

This option, if pursued for King's Landing, would require beneficiary input in the development of the settlement plan and would need to consider existing applicants waiting for an award of a homestead lot on Hawaii island. There is no guarantee that the current members of M.A.H.A. will ultimately receive a kuleana homestead lease at King's Landing.

RECOMMENDATIONS

- (1) Conduct the necessary due diligence to identify if homesteading is a viable option considering sea level rise and other environmental concerns and the anticipated length of occupancy of the land by homestead lessees, which is 199 years with an approved lease extension.
 - a. As part of the due diligence process, staff should render a recommendation to the Commission as to whether King's Landing should be set aside for award as kuleana homestead lots, consistent with section 10-3-30, Hawaii Administrative Rules. In developing a recommendation staff should consider the following:
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 - v. Suitability for use by lessees who wish immediate access to the land for subsistence uses and who are willing to live on the land and accept an unimproved lot.
- (2) Begin discussions with the current ROE holder, M.A.H.A., regarding a new short-term land disposition that will replace ROE 274 and will allow for continued permitted use of King's Landing and presence on these relatively remote Hawaiian home lands during the transition period between today and future long-term use of King's Landing.

- a. This short-term land disposition will have a definite end date, which will transition into homestead leases (e.g. kuleana homestead leases) or another land use that respects the environmental constraints preventing homesteading and residential occupancy (e.g. park use, conservation, etc.)
- (3) The committee further recommends that the Commission place as one condition of the new land disposition that M.A.H.A. is aware that transition is highly likely and that they participate in the development and implementation of any transition plan that may be necessary. For example,
- a. If the Commission selects kuleana homestead lots as the future path, the settlement plan may require a different configuration or a different location in order to mitigate the impact of sea level rise or other environmental concerns. This may require relocation of existing occupants.
 - b. The award process will need to take into consideration those waiting for a homestead lease on Hawaii island. There is no guarantee that the current occupants of King's Landing will end up with a lease to their current location at King's Landing or even a kuleana homestead lot at King's Landing. Under both scenarios, relocation will be necessary.
 - c. If residential occupancy is not a sustainable land use, then the existing occupants will require transition out of King's Landing.
- (4) The committee further recognizes that there are several unique issues related to what how best to proceed in this intervening period between the present situation and implementation of a longer-term land use (e.g. kuleana homestead leasing, or some other option if homesteading is not viable). Therefore, the committee recommends that a new Investigative Committee on King's Landing (King's Landing Phase 2 Committee) be established to investigate, discuss, vet, and recommend the best course of action to address the issues associated with transition that may include the terms of the new disposition, enforcement roles and responsibilities, mitigating existing environmental concerns, and use of undivided interest leases as an interim step.

It is recommended that the members of the King's Landing Phase 2 Committee include: Commissioners David Kaapu, Michael Kaleikini, Randy Awo, and Chair William Aila.