

STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

June 20-21, 2022

To: Chairman and Members, Hawaiian Homes Commission

Thru: Jobie M. K. Masagatani, Executive Assistant
Office of the Chairman

From: Peter "Kahana" Albinio, Jr., Acting Administrator
Land Management Division 

Subject: Approval to Issue Conditional Right of Entry Permit to Malama Ka Aina Hana Ka Aina Inc. "MAHA," a 501(c)(3) Non-Profit, Hilo, Hawaii, TMK No. (3) 2-1-013:001(por.)

APPLICANT:

MALAMA KA AINA HANA KA AINA INC. "MAHA,"

RECOMMENDED MOTION/ACTION:

That the Hawaiian Homes Commission (HHC) authorize the issuance of a Right of Entry Permit, to "MAHA" covering a portion of the subject area identified by Tax Map Key No. (3) 2.1.013:001(por.) delineated more specifically on Exhibit "A" attached hereto consisting of approximately three hundred (300) acres, more or less, of Hawaiian home lands situated at Hilo, Island of Hawaii for caretaking purposes and in furtherance of this caretaking purpose, as an alternative lifestyle settlement as originally authorized by the Commission at its February 2000 meeting (attached hereto as Exhibit "B"), and allowed during this interim period as authorized by the Commission.

Approval and issuance of this Conditional Right of Entry Permit (ROE) shall be subject to the following conditions:

1. Authorize the Chairman to approve the issuance of a Right-of-Entry permit to "MAHA" covering the subject area cited above, and further subject to the following:
 - A. The standard terms and conditions of the most current right-of-entry permit form, as may be amended from time to time;
 - B. The premises shall be utilized strictly for caretaking purposes and in furtherance of this caretaking purpose, as an alternative lifestyle settlement as originally authorized by the Commission at its February 2000 meeting and allowed during this interim period. "MAHA" acknowledges that it is the Commission's intention to homestead this area in the long-term, pending review and completion of the required due diligence;

The intent for this ROE is to provide “MAHA” with permitted access to the subject are as DHHL implements the recommendations as submitted, proposed, and adopted by the HHC, under Agender Item No. C-1 at its February 2022 meeting (attached hereto as Exhibit “C”);

- C. After discussion with “MAHA”, authorize the Chairman of the Hawaiian Homes Commission to finalize any other terms and conditions deemed prudent and necessary and prudent to serve the best interest of the trust and its beneficiaries;
 - D. This ROE will immediately cease upon approval and issuance of a land use disposition, e.g. a lease or license.
2. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR this project will probably have minimal or no significant effect on the environment.

LOCATION:

Hawaiian Home Lands situated at Hilo, Island of Hawaii, identified as TMK No.: (3) 2-1-013:001 (por.)

AREA:

Containing approximately three hundred (300), more or less

DISCUSSION:

At the February 2022 regular meeting of the Hawaiian Homes Commission (HHC), DHHL staff presented the King’s Landing Permitted Interaction Group (“PIG”) Investigative Committee’s report on issues related to the settlement of King’s Landing under Agenda Item No. C-1. The HHC adopted the recommendation as reported and reflected in Exhibit “C” attached hereto and incorporated herein.

After the “PIG’s” most recent meeting held on June 13, 2022, a ROE Permit draft document is being crafted.

PLANNING AREA:

Keaukaha, Island of Hawaii

LAND USE DESIGNATION:

Special District Use, Hawaii Island Plan (May, 2002), Figure 4 – East Hawaii – Hawaii Land Inventory

CURRENT STATUS:

Occupied

CHARACTER OF USE:

Special District Use

CHAPTER 343 – ENVIRONMENTAL ASSESSMENT:

Triggers:

Use of State Lands

The ROE is part of a due diligence period in which DHHL will be preparing a settlement plan and Chapter 343 Environmental Assessment.

CONSISTENCY WITH DHHL PLANS, POLICIES AND PROGRAMS

DHHL General Plan (2002)

The recommended disposition is consistent with the following General Plan goals and objectives:

Land and Resource Management

Goals:

- Be responsible, long-term stewards of the Trust’s lands and the natural, historic and community resources located on these lands.

Objectives:

- Manage interim land dispositions in a manner that is environmentally sound and does not jeopardize their future uses.

AUTHORIZATION / LEGAL REFERENCE:

§171-55, Hawaii Revised Statutes, as amended, a “permit on a month-to-month basis may continue for a period not to exceed one year from the date of issuance; provided that the commission may allow the permit to continue on a month-to-month basis for additional one-year periods.”

RECOMMENDATION:

Land Management Division respectfully requests approval of the motion as stated.

Exhibit "A"
Item No. F-4

Exhibit "B"
Item No. F-4

ITEM NO: D-2
SUBJECT: Issuance of License Agreement, Pacific American Foundation,
Ualapue, Molokai

MOTION/ACTION

Moved by R. Freitas, seconded by H. Kaiua. Motion carried unanimously.

ITEM NO: D-3
SUBJECT: Issuance of General Lease, Molokai Church of the Nazarene,
Kalamaula, Molokai

THIS AGENDA ITEM WAS WITHDRAWN

ITEM NO: D-4
SUBJECT: Right-of-Entry Permit to Malama Ka Aina Hana Ka Aina, Inc.,
King's Landing, Keaukaha, Hawaii

MOTION

Moved by H. Kaiua, seconded by R. Freitas.

DISCUSSION

Commissioner Holt suggested that the agreement should address the current problems at King's Landing. She asked Mr. Murakami and NHLC to review the current problems and provide the greatest leverage possible to the current families living there. The Commission does not want to be involved in enforcement. Mr. McElroy noted that the intent is to establish self-governance. Mr. Murakami added that they want to fashion something that will not be rigid or complicated and will keep the harmony and spirit of what this ROE is all about.

ACTION

Motion carried unanimously.

ITEM NO: D-5
SUBJECT: Village 4, Villages of Laloopua Acquisition, Kealahou, Hawaii

MOTION/ACTION

Moved by H. Cho, seconded by H. Kaiua. Motion carried unanimously.

TO: Chairman and Members, Hawaiian Homes Commission
FROM: Mike McElroy, Administrator
Land Management Division

SUBJECT: Right-of-Entry Permit to Malama Ka Aina Hana Ka Aina,
Inc., King's Landing, Keaukaha, Hawaii

RECOMMENDED MOTION/ACTION

That the Hawaiian Homes Commission (HHC) authorize the Chairman to issue a new right-of-entry permit to Malama Ka Aina Hana Ka Aina, Inc. for Hawaiian home lands located at King's Landing, Keaukaha, Hawaii, as shown on Exhibit "A", further identified as Tax Map Key No. (3) 2-1-13:01, for use as an alternative lifestyle settlement.

DISCUSSION

Prior Commission Action

On July 27, 1984, the HHC authorized the Chairman to issue a right-of-entry permit for use of Hawaiian home lands identified as "Keaukaha Tract II" and known as "King's Landing" at Keaukaha, Hawaii. Right-of-entry No. 76 (Exhibit "B") was issued on September 24, 1986, subject to a number of conditions, principal of which are the following:

- Use of the land is granted to Malama Ka Aina Hana Ka Aina, Inc. ("MAHA") until a management plan for Keaukaha Tract II is completed and accepted.

- Persons permitted to reside on the land must be qualified native Hawaiians residing on the premises as of July 27, 1984, and either on the applicable waiting list as of the prior date, or in process of applying for an award and whose application is completed by November 30, 1984.

Background

Right-of-Entry No. 76 was issued to address the unauthorized residence on Hawaiian home lands of about 25 beneficiary families at King's Landing. The HHC action was based on the theory that, since the Department had no immediate plans to use the property for purposes authorized by the HHCA, this particular area could be used by beneficiaries seeking to establish and live in an alternative lifestyle settlement.

The King's Landing settlement has become a functioning community. As of November, 1999, approximately nine homes were occupied on the property, and all appeared to be in compliance with the environmental standards specified in the permit. MAHA has proven to be an effective coordinating entity for the residents, and operates a community building.

Departmental review of the settlement and discussion with King's Landing residents indicates situations have arisen which were not anticipated when the original permit was issued. Therefore, it is recommended that a new right-of-entry be granted to MAHA, with conditions of the original permit supplemented by additional provisions. The newly identified problems, and solutions recommended to be addressed by amended conditions, are as follows:

1. Ambiguous management authority
Right-of-Entry No. 76 is entered into with MAHA; thus, MAHA is responsible for conformity with permit conditions. However, a number of permit provisions specifically relate to individual "members", or families residing in King's Landing. This can lead to some ambiguity in management: in the event of a violation, who is responsible: MAHA or the offending member?
A clearer line of authority can be drawn if MAHA's powers and responsibilities are expanded and clarified. This will support a greater degree of self-governance by King's Landing settlers through MAHA.

2. Admission of new settlers

Right-of-Entry No. 76 authorized residents by qualified native Hawaiians on the waiting list who had resided on the property as of July 27, 1984. This definition limits eligibility to the 25 original families. With the passage of 16 years' time, many of the original settlers have moved out; our November 1999 field inspection showed that seven of

the originally authorized families were still on the property.

Staff believes that, for the reasons cited in the original permit, procedures should be established to allow new settlers to replace those who desire to relocate from King's Landing. MAHA is preparing new By-Laws, a draft of which is attached as Exhibit C. Article III of the draft by-laws would establish a process for membership. Admission qualifications would include:

- Presence on a Hawaii island waiting list
- Verification of native Hawaiian blood quantum
- Application to and acceptance by MAHA
- Completion of probationary membership

Under the permit conditions, residence would be limited to 25 families, the same number as authorized under the Right-of-Entry No. 76.

3. Individual and community standards

Homesteaders are governed by standards enunciated in the Hawaiian home land lease. King's Landing settlers are not lessees; thus, standards need to be established by other means.

MAHA has prepared a draft "Code of Malama Ka Aina Hanu Ka Aina", attached as Exhibit D. This would establish both a code of conduct binding upon members and standards of construction habitability and performance. These standards would be incorporated in the new right-of-entry, and under its' by-laws MAHA would be empowered to discipline violators.

RECOMMENDATION

Land Management Division requests approval of the recommended motion as stated.

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

RIGHT-OF-ENTRY NO. 76

THIS AGREEMENT, made and entered into as of this 24th day of August, 1986, by and between the DEPARTMENT OF HAWAIIAN HOME LANDS, STATE OF HAWAII, hereinafter referred to as "GRANTOR," and MALAMA KA AINA HANA KA AINA, INC., an incorporated association, whose permanent mailing address is P. O. Box 5174, Hilo, Hawaii, 96720, hereinafter referred to as "GRANTEE."

WITNESSETH THAT:

WHEREAS, GRANTOR owns and has sole jurisdiction over lands identified as Keaukaha Tract II, Tax Map Key 2-1-13:01, on the island of Hawaii; hereinafter referred to as "King's Landing,"

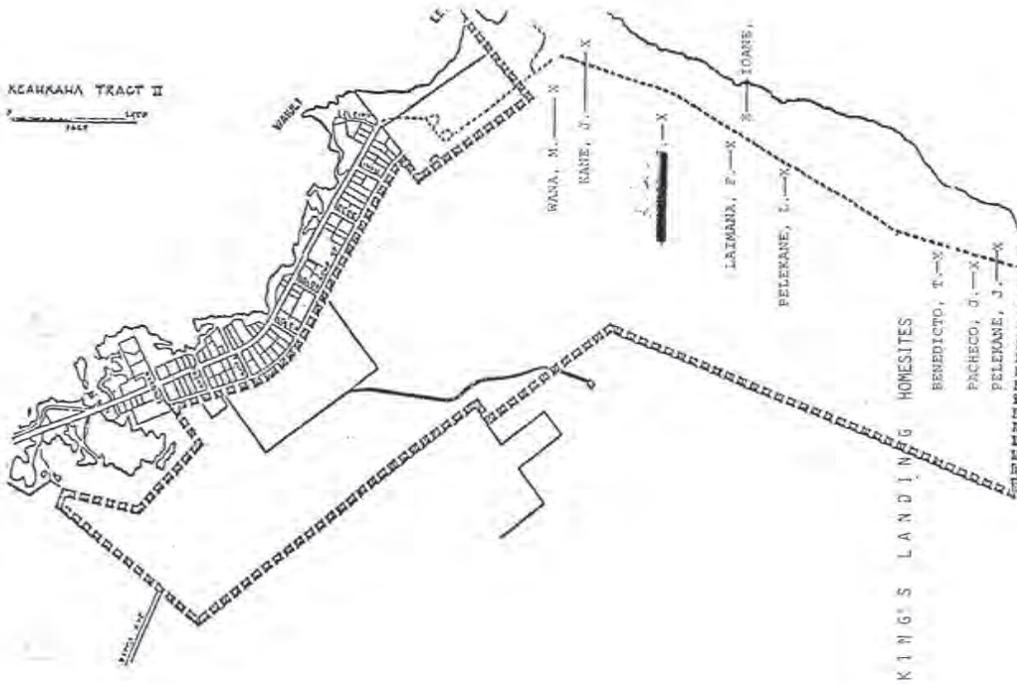
WHEREAS, GRANTOR has established as two of its principal goals: (1) the restoration of trust assets; and, (2) the acceleration of distribution of Hawaiian home lands for homesteading purposes;

WHEREAS, GRANTOR will be developing a management plan for the King's Landing area in order to attain its goal of accelerating the distribution of Hawaiian home lands for homesteading purposes;

WHEREAS, members of GRANTEE are presently utilizing and occupying portion of King's Landing; and

WHEREAS, GRANTOR is desirous of lawfully permitting members of GRANTEE continued use and occupancy by way of this right-of-entry until completion of the management plan and acceptance thereof by the Hawaiian Homes Commission or such other time as the Commission may determine;

KEAUKAHA TRACT II



KING'S LANDING HOMESTEADS

EXHIBIT "A"

ITEM NO. D-4

EXHIBIT "B"

ITEM NO. D-4

WHEREAS, at its meeting of July 27, 1984, the Hawaiian Homes Commission authorized GRANTEE to issue right-of-entry to qualified applicants on GRANTEE's waiting list for homestead awards if the applicants were residing at King's Landing on July 27, 1984; and,

WHEREAS, members of GRANTEE are qualified applicants on the GRANTEE's waiting list for homestead awards and were residing at King's Landing on July 27, 1984.

NOW THEREFORE, in consideration of the above premises, GRANTEE hereby grants to GRANTEE a right-of-entry authorizing members of GRANTEE to enter upon Hawaiian home lands at King's Landing to occupy and utilize those areas designated in Exhibit "A," which is attached hereto and made a part of this Agreement, subject to the following terms and conditions:

1. Term. This right-of-entry shall remain in effect until the management plan for King's Landing is completed and accepted by the Hawaiian Homes Commission and continued occupancy of said premises will interfere with the implementation of the management plan.

2. Occupation. Each member of GRANTEE occupying the premises under this right-of-entry shall be required to reside within the member's area as shown in Exhibit "A," for the term of this agreement.

3. Area of Right-of-Entry. The area to be utilized by each member under this right-of-entry shall not exceed three acres and shall be within the area designated in Exhibit "A."

4. Land Rental. GRANTEE shall pay to GRANTEE a rental of ONE AND NO/100 DOLLARS (\$1.00) for the term of this right-of-entry, payable upon demand.

5. Insurance. GRANTEE shall, for itself and its members occupying their respective designated areas in the King's Landing area under this right-of-entry, at its expense, procure and keep in force during the term of this right-of-entry, general comprehensive public liability insurance of not less than FIVE HUNDRED THOUSAND DOLLARS (\$500,000) and coverage of at least FIFTY THOUSAND DOLLARS (\$50,000) against the claims of third persons for property loss or damages. The insurance shall be obtained from an insurance company or surety company authorized to do business in the State of Hawaii. The insurance policy or policies shall name GRANTEE as an additional insured. GRANTEE shall, within thirty (30) days from the date of execution of this right-of-entry, deliver to GRANTEE'S District Project Manager at the Project Office in Kaunakā, Hawaii, a copy of the insurance policy or policies, or, in lieu thereof, a certificate or certificates issued by the insurance company or surety company showing the insurance coverage, the amount of coverage and names of the insured.

6. Sanitation. GRANTEE shall ensure that each member maintains the respective areas as shown in Exhibit "A," and improvements thereon in a clean and safe condition such that public and community health and safety would not be endangered. The offices of GRANTEE shall conduct inspections of the premises and improvements of their members occupying their respective designated areas under the terms of this right-of-entry. GRANTEE shall give its members fifteen (15) days' notice to correct any unsanitary or hazardous conditions found on the premises.

7. Utilities. GRANTEE and its members agree that GRANTEE shall not be responsible for providing any water, electricity, or any other utility services.

8. Taxes. GRANTEE agrees to pay all taxes and assessments, if any.

9. Maintenance of historical and cultural sites. GRANTEE shall be responsible for the maintenance and preservation of historical and cultural sites contained within the area covered under this right-of-entry.

10. Inspection by GRANTOR. It is expressly understood and agreed that GRANTOR, or any agent or employee of GRANTOR, may enter and inspect the area covered by this right-of-entry at any reasonable hour with seven days prior written notice except as may be otherwise necessitated by health and/or safety consideration.

11. Termination/Revocation. This right-of-entry may be terminated by GRANTEE without cause upon thirty (30) days' written notice to GRANTOR. GRANTEE shall terminate the right of any member to occupy their designated area under this right-of-entry upon giving thirty (30) days' written notice for the following reasons:

- a. That member is found to be not residing on the member's designated area; or
- b. The member's designated area is found to have unsanitary or hazardous conditions which have not been corrected after fifteen (15) days' notice from GRANTEE.

Otherwise this right-of-entry will terminate as provided in paragraph 1.

12. Removal of Improvements and Personal Property. All improvements erected or placed on the premises by GRANTEE or any GRANTEE's member shall be and remain the personal property of GRANTEE or its respective member. Upon expiration, termination, or revocation of this right-of-entry, GRANTOR

shall have the right to require GRANTEE to remove any and all improvements, personal property, and appurtenances on the land and the cost of such removal shall be borne by GRANTEE. If GRANTEE fails to effectuate such removal within thirty (30) days or such additional period as GRANTOR may for good cause allow from the date notice given by GRANTOR, GRANTOR shall have the right to remove any and all improvements, and other personal property, and appurtenances on the land and to charge the cost of removal to GRANTEE. In the event GRANTEE, pursuant to paragraph 6, terminates the right of a member to occupy the member's designated area under the terms of this right-of-entry, each member shall remove within thirty (30) days from date of termination or such additional period as may be allowed, said member's improvements and other personal property.

13. Liquidated Damages. If GRANTEE or any GRANTEE's member does not vacate the premises upon the expiration, termination or revocation of this right-of-entry, GRANTEE shall pay GRANTOR liquidated damages at the rate of TWENTY-FIVE AND NO/100 DOLLARS (\$25.00) for each day GRANTEE or any of its members remain on the premises beyond the date of revocation, expiration, or termination.

14. Court Costs. As native Hawaiian beneficiary, the members of GRANTEE reserve the right to protect their rights in a court of law. If any court action arises, GRANTEE and its members agree to pay their own court costs and attorney's fees.

15. Nontransferability of Interest. Neither GRANTEE nor any GRANTEE's member under this right-of-entry shall have the right, in whole or in part, to transfer, assign, sublet or

c. GRANTEE, by its duly appointed or elected officers, shall execute the right-of-entry on behalf of GRANTEE and its members.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

DEPARTMENT OF HAWAIIAN HOME LANDS
STATE OF HAWAII

By Georgina K. Paderen
GEORGINA K. PADEREN, CHAIRMAN
HAWAIIAN HOMES COMMISSION

GRANTOR

APPROVED AS TO FORM:

Teruoy Atorney General
STATE OF HAWAII

WALANA KA AINA HANA KA AHA, INC.
A Hawaii incorporated association

By Neil P. Toane
NEIL P. TOANE,
its President

By Joseph P. Lehman
JOSEPH P. LEHMAN,
its Vice-President

By Agnes Benedicto
AGNES BENELECTO,
its Treasurer

By Carol E. Toane
CAROL E. TOANE,
its Secretary

in any way, convey any interest in his or her designated area. Any such transfer or assignment shall be void and constitute grounds for termination by GRANTOR.

16. Organizational status of Grantee and its members. GRANTEE agrees to submit to GRANTOR a copy of its Articles of Incorporation as a non-profit association, a copy of its association by-laws, and a list of its members participating under this right-of-entry.

17. Change of condition or circumstances: notice. Each party to this Agreement agrees to inform the other in the event there is any substantial change in the status of a party or the condition or circumstances in the area.

18. This Agreement shall not apply to those members of GRANTEE who were not qualified applicants on GRANTOR's waiting list for residential homesteads as of July 27, 1984, and were not residing at King's Landing on that date.

19. Other Conditions. It is expressly understood and agreed that:

- a. Members of GRANTEE shall not interfere with access along or over roads and fishing trails at King's Landing, or along or over the shoreline and ocean abutting King's Landing.
- b. GRANTEE's representatives shall participate in the development of the management plan for the King's Landing area which participation shall include but not be limited to membership on the advisory committee as part of the management plan development. Such management plan to include but not be limited to considering prototype alternative lifestyle settlements.

STATE OF HAWAII

Notary Public

On this 10th day of September, 1985,

before me appeared KELII W. IOANE, JAMES PELEKANE, AGNES BENEDECTO,
AND CAROL R. IOANE, to me personally known, who, being by me duly
sworn or affirmed, did say that they are the President,
Vice-President, Treasurer, and Secretary, respectively, of MALA'S
KA AIKA HANA KA AINA, INC., an incorporated association, and
that the instrument was signed in behalf of the association by
authority of its Board of Directors or Trustees, and KELII W.
IOANE, JAMES PELEKANE, AGNES BENEDECTO, and CAROL R. IOANE
acknowledged the instrument to be the free act and deed of the
association and that the association has no corporate seal.

Notary Public

NOTARY PUBLIC, STATE OF HAWAII

My Commission expires: 9/14/87

STATE OF HAWAII)
CITY & COUNTY OF HONOLULU) ss

On this 21st day of September, 1986

before me personally appeared Georgiana K. Fedeken, to me
personally known, who, being by me duly sworn, did say that she
is the Chairman of the Hawaiian Homes Commission and the person
described in and who executed the foregoing instrument and
acknowledged to me that she executed the same freely and
voluntarily for the use and purposes therein set forth.

Notary Public

NOTARY PUBLIC, State of Hawaii

My commission expires: 9/1/87

DRAFT
(Feb. 16, 2000)

BYLAWS OF
MALAMA KA'AINA HANA KA'AINA, INC.

Article I - Establishment

- A. The location of the principle office of this corporation shall be at King's Landing, Keaukaha Tract II.
- B. The board of directors may designate other locations as required or necessary to conduct the corporation's business or further the purposes of the organization.

Article II - Purposes of the Organization

- A. This corporation is being formed as a 501(c)(3) tax-exempt organization for purposes specified in section 501(c)(3) of the Internal Revenue Code, including, for such purposes, the making of distributions to organizations that qualify as exempt organizations under section 501(c)(3) of the Internal Revenue Code, or corresponding section of any future tax code.
- B. Malama Ka'aina Hana Ka'aina, Inc.'s intent is to specifically operate as a nonprofit organization for the benefit of the public. Malama Ka'aina Hana Ka'aina, Inc. (hereinafter, "MAHA") is authorized to undertake any activities which are necessary to achieve its objectives. Its mission is limited to exclusively religious, charitable, educational, and cultural purposes. The objectives of the organization are:
 - 1. To preserve and protect the cultural, historical, and archeological heritage of the area designated by TMK 2-1-13-1, otherwise known as Keaukaha Tract II (hereinafter, "King's Landing").
 - 2. To help maintain the proper ecological balance of marine life on the shoreline and in the surrounding waters off King's Landing.
 - 3. To serve as a democratically-controlled governing entity for the families living at King's Landing.
 - 4. To educate and increase the knowledge of the Native Hawaiians and their families in the art of alternative subsistence living.
 - 5. To create a cultural school in the King's Landing area to teach the children of Hawaii cultural aspects of ancient Hawaiian living, which shall include, but not be limited to, the following:
 - a. Heiau building
 - b. Fishing
 - c. Earning
 - d. Laulaha weaving
 - e. Hula
 - f. Hawaiian language

- g. Medicinal plants
- 6. To facilitate and support research into the history and significance of the cultural aspects of the area.
- 7. To assist the full-time residents of Kings Landing in obtaining long term leases for the purposes of living and farming on the Kings Landing TMK area.
- 8. To operate as a democratically-controlled entity that exercises governance powers over the conduct of human activity within King's Landing, subject only to the terms of whatever license, permit or lease that may be issued to MAHA by the Hawaiian Homes Commission.

Article III - Membership

- A. **Eligibility:** Any person meeting the following criteria shall be eligible for membership:
 - 1. Any full time resident of Kings Landing is eligible for membership in the corporation. A full time resident is defined as a person who:
 - i. Is at least 21 years old
 - ii. Is a native Hawaiian (as confirmed by acceptance of the applicant's application by the DHHL).
 - iii. Has applied to and qualified for a lease from Hawaiian Homes and who is currently on the Hawaiian Homes waiting list.
 - iv. Resides in the Kings Landing area. A person resides in the Kings Landing area if the person currently lives in a home at Kings Landing full time.
 - v. Spends at least ten percent of his or her time each week at the home in Kings Landing engaged in promoting one of the purposes of MAHA outlined above, unless the person is away on business, vacation, or medical purposes.
 - 2. Any spouse, dependent or heir of persons qualifying under paragraph A, who resides full time in the Kings Landing area.
 - 3. Any person qualified above, who has proven his or her desire to assist the residents of Kings Landing and is voted into membership by a majority of the members of the organization.
- B. **Effect of MAHA membership:** All members of MAHA must be accepted as members, remain duly eligible members of MAHA, and abide by any rules established by MAHA pursuant to these bylaws in order to be covered under any permit, license or lease that may be issued by the Hawaiian Homes Commission to MAHA for the use and occupation of King's Landing. No other party may claim any right to reside at King's Landing without qualifying for membership and being a member of MAHA recognized by the Board. By maintaining membership in MAHA, each member agrees to participate in the activities of MAHA in order to allow the corporation to effectively govern the use of areas within King's Landing under the terms of any license, permit or lease that the Hawaiian Homes Commission may grant to MAHA.

EXHIBIT "C"
ITEM NO. D-6

- C. Process for Member Acceptance. To be designated a qualified member of the organization, full time residents must apply to and be accepted by the Board of Directors. The Board shall base its selection criteria on, at a minimum, the applicant:
 - a) Agreeing in writing to abide by the bylaws and rules of MAHA.
 - b) Participating in the preparation, amendment and adoption by the Hawaiian Homes Commission of a management plan as a basis for future land use in the area.

From time to time, the Board may adopt and prescribe additional criteria in accordance with the provisions and procedures contained in Article ____.

- D. Probationary Period of Membership: Upon the acceptance by the Board of any prospective member of the corporation, that person shall be placed on probation, during which time they must meet certain minimum performance requirements to build a safe and habitable residence on their section of King's Landing designated by the Board, including, but not limited to:
 - a) Within 12 months of Board acceptance for probationary membership, the probationary member must complete the frame, flooring and roof of the structure; and
 - b) Within 18 months of applying for membership, the probationary member must complete the residence structure so that it is inhabitable occupied full time by the probationary member.

Upon satisfactory performance of the conditions above, the Board may act to grant the probationary member regular membership status, subject to the person's continued compliance with the Code of Conduct.

- E. Assessment: All probationary and regular members shall pay a one-time membership fee of \$10.00 and monthly dues of \$5.00 to MAHA for the expenses of the corporation. The Board may amend this schedule of fees from time to time as required to meet expenses of the corporation.

- F. Code of Conduct: All members, probationary and regular, are subject to a code of conduct. At a minimum, the Code shall prohibit any criminal activity by any member, establish any requirements for notice to the offending member, the process for investigating and reviewing allegations of violations, and prescribe sanctions for any violation, which shall include fines, warnings, reprimands, suspension or permanent removal or expulsion from the King's Landing area by DHHH, in accordance with the provisions of Article ____ The Board shall adopt the Code prior to granting any membership status to any applicant. Prior to the imposition of sanctions, the member shall be entitled to reasonable prior notice of the violation and an opportunity to be heard before the Board of Directors. Any final decision on reported violations shall be based on the determinations of the Board and a formal report to the Department of Hawaiian Home Lands.

- G. Membership Register and Map: The secretary of the Board shall maintain a register of all acceptances of probationary and regular memberships, as well as any terminations of memberships. The register shall specify the name of each qualified and terminated member, and designate the location of each such member's current residence on an appropriate map designating the locations of each residence at King's Landing. The secretary shall retain this membership register at the organization's principle office and shall be periodically update and provide a copy to the Department of Hawaiian Home Lands.

- H. Nature of Membership Rights: The rights of full time members in this organization shall be continuous and non-transferable. These rights shall cease upon the termination of the person's membership or upon his or her death. Any person seeking to succeed to the residence of a deceased or terminated member must qualify as a member in the same manner as provided in these bylaws.

- I. Member Obligations Upon Termination of Membership: Any member may resign from the organization by delivering a written resignation to the President or Secretary. His or her membership dues will not be refunded. Once a person has resigned or been terminated as a member of the corporation, he or she must remove all of his or her personal possessions from the location at which he or she resided at King's Landing and leave the area free of any debris, personal articles, garbage or waste. Unless otherwise directed by the Board, the same person must dismantle any structure used as a residence or any other improvements to the property for which he or she is responsible. If the board does elect to allow the former member's residence to remain in place, the member shall not have any right to seek reimbursement for the cost of improvements.

Article IV - Membership Meetings

- A. Place of Membership Meetings: All meetings of the membership shall be held at a location in King's Landing designated by the Board.
- B. Date of Meetings: A meeting of the members of the organization shall be held during the first four months following the close of each fiscal year from January 1 through December 31 at such time and place as may be determined by the Board of Directors. At such annual meetings, plans for the ensuing year shall be discussed and other business pertaining to the organization shall be acted upon.
- C. Special Meetings: Special meetings of the members may be called at any time by the Board of Directors or the President upon request of twenty percent of membership.
- D. Notice: A written notice of any regular membership meeting shall be given. The notice shall be posted or hand delivered not less than five (5) days before the meeting. The notice shall state the date, time, and place of the meeting. If the meeting is being held for election purposes, notice should contain the names of all

nominees/candidates. Notices for special meetings shall be the most reasonable means of notifying members by the most effective means available.

E. Quorum: The quorum at the annual and the special meetings shall consist of not less than five (5) members.

F. Decisions of the Membership: A majority of full time resident members attending the meeting called shall decide by vote any question brought before such a meeting, unless otherwise required by law or by these by-laws.

G. Vote: All members have one vote. There shall be no proxy.

H. Procedure: Robert's Rules of Order shall be used for conducting the corporation's meetings, where there is any dispute as to the applicable procedure to use.

Article V - Board of Directors

A. Composition: There shall be a Board of Directors consisting of not less than five (5) members and not more than eleven (11). At any given time, the membership of the board shall consist of an odd number of directors and officers. All Directors shall serve for no compensation. The initial officers of the corporation shall serve as the initial Board of Directors. Within 180 days of the initial meeting of the board, its members may fill up to the nine (9) vacancies on the board by majority vote.

B. Qualifications: To qualify for the Board of Directors, a person must be a full-time resident of Kings Landing as defined below, and have lived in his or her dwelling for at least two (2) years.

C. Power to Act: Subject to the limitations and requirements of the State of Hawaii, all activities of the corporation will be conducted, and all powers of the corporation shall be exercised, by and under the direction of the Board of Directors. The Board of Directors shall conduct the business of the organization and, whenever there is conflict, shall accede to the wishes of the membership as determined at the annual and special meetings. Any decision made by the majority of the directors present at a meeting duly held will qualify as an act of the Board of Directors, unless prohibited by the Articles of Incorporation, or federal or state laws.

D. Term of Office: Each director shall be elected by the membership at the annual meeting and shall serve a term of four (4) years. There shall be no limit in the number of terms that a member may serve as Director.

E. Parameters of Meetings: The primary location of Board Meetings shall be designated by the Board. The Board shall determine the frequency of meetings. All meetings shall be open to members of the Association. The Board shall establish a schedule for regular meetings, which shall be a designated time and date, at a

designated place. The Secretary of the Board shall provide written notice to all members of the schedule for regular board meetings.

F. Special Meetings: The President may call a special meeting in cases of emergency or other exigent circumstances, provided that he/she provides notice reasonably calculated to inform, and give reasonable opportunity to attend to, all members of the Board.

G. Quorum: The quorum for any meeting of the Board shall be a majority of the sitting members of the Board.

H. Removal and Vacancies: A Director may resign from office providing written notice is given to the Secretary. A member of the Board of Directors may be removed from office by a two-thirds vote of the members in attendance but not less than a quorum for just cause, where a quorum is possible. Board members in question may not vote. The remaining members of the board may replace any director who has resigned or been removed by a majority of the remaining votes. Appointed board members shall serve out the terms of those they have replaced.

I. Liability: The Directors of the corporation shall not be personally liable for the debts, liabilities, and other obligations of the corporation, unless they have violated their fiduciary duties to the corporation. The Officers and Directors of the corporation are indemnified to the fullest extent of the laws of the State of Hawaii.

J. Corporate obligations: The Board is authorized to obtain liability insurance, or enter into applicable contracts, as may be required from time to time in order to fulfill its purposes.

Article VI - Officers of the Corporation

A. Composition: The Board of Directors shall select from amongst them the officers of the corporation. There shall be at least four (4) officers: President, Vice-President, Secretary, and Treasurer. Each officer shall serve a term of two (2) years or coincide with his or her term as a Board member. There is no limit on the number of terms an officer may serve. An officer is automatically a member of the Board of Directors.

B. Qualifications: All officers shall be Native Hawaiians.

C. President: The President shall:

1. be the principal officer of the organization;
2. oversee the business affairs of the organization;
3. preside over all business meetings of the members and the board;
4. sign all contracts and other instruments authorized to be executed, unless the signing and execution are specifically delegated by these bylaws or by

the Board of Directors or are required by law to be performed by some other officer or agent of the organization.

5. perform such other duties as are incident to the office or required by the Board of Directors.

6. The President may appoint committees or delegate duties as may be required by the Board or as required to effectively implement the programs and decisions of the Board.

G. Vice-President: The Vice-President shall assist the President and shall be an ex-officer member of all committees. In the absence of the President, the Vice-President shall assume the powers and duties of the President. In case of a vacancy in the office of the President, the Vice-President shall automatically become President and serve out the unexpired term of the predecessor in office.

H. Secretary: The Secretary shall keep the minutes of all meetings of all members and the Board of Directors. The Secretary shall:

1. see that all notices of meetings of members and the Board of Directors are given as required by these bylaws;
2. ensure proper maintenance of organizational records;
3. keep an official membership roll with names of all members;
4. sign with the President all contracts and other instruments authorized to be executed, unless the signing and execution are expressly delegated by these bylaws or the Board of Directors, or are required by law to be performed by some other officer or agent of the organization;
5. such other duties as incident to the office or are required by the President.

I. Treasurer: The Treasurer shall:

1. receive all money and funds paid to the organization;
2. have charges and custody of and be responsible for all funds and securities of the organization;
3. ensure proper keeping and maintenance of the organization's books and accounts;
4. assure that all money and funds of the organization are deposited to the credit of the organization in such banks or other depositories as shall be designated by the Board of Directors;
5. make certain that all payments and disbursements of the organization's funds are for organization purposes as directed by the Board of Directors;
6. see that all expenditures are duly authorized and are evidenced by proper receipts and vouchers;
7. make to members at the close of the fiscal year and at such other times as directed by the Board such reports and financial statements regarding the finances of the organization as may be directed by the President or the Board of Directors; and

8. in general perform all other duties incident to the office of Treasurer and as may be assigned by the President.

J. Corporate Records: The organization's books and accounts shall be open for inspection by any member of the organization and shall be audited from time to time as required by law or directed by the Board of Directors.

K. Subordinate Officers: The Board of Directors may from time to time employ such subordinate officers and employees as the affairs of the organization may require at such salaries and on such terms and conditions as may be determined by the Board of Directors.

Article VII - Removal from Office

A. Removal: Any officer or director may be removed from office upon the vote of the majority of the board, after due notice and opportunity to be heard is provided to the affected individual.

B. Failure to Attend Board Meetings: In the event that a board member fails to attend more than 2 consecutive meetings, or more than one-half of the meetings of the Board in any calendar year, the other members of the Board may act to reprimand, suspend, remove, or take any other appropriate action against the offending director after prior written notice at least seventy-two hours prior to the meeting at which action is taken. The Board shall provide written notice to the director affected of any action taken pursuant to this part.

C. Succession: In the event of vacancies due to death, resignation, disqualification, or removal, the Board may immediately replace the individual from amongst those residing at King's Landing and who are members of the Corporation.

Article VIII - Committees

A. Executive Committee: The President shall establish an executive committee to advise him or her on the daily business for the corporation. The executive committee shall consist of the officers of the Board. The committee shall assist the President in establishing agendas for meetings, informing him of critical issues that need action by the Board or its officers, and advising him or her of important concerns of the Corporation that might not be addressable by the full Board by the next special or regular meeting.

B. Standing Committees: The Board may authorize the President to establish such other committees that may be necessary to effectively execute the policies of the Board. The number and membership of each committee shall be determined by the President. The committees may include, but not be limited to, the following:

- Rules Committee: This committee shall draft the criteria for membership and the Code of Conduct. The committee shall recommend, for Board adoption, any additional criteria and parameters for membership in the corporation membership in addition to those specified in Article III(A) and the Code of Conduct for residing at King's Landing as provided for under Article III(F), by which each member of the Corporation shall abide. Periodically, the committee may recommend amendments to these rules and the Code of Conduct for the Board to adopt.

- Membership Committee: This committee shall advise the board on membership issues, screen applicants for membership, and make recommendations to the Board on whether members have violated any rules of the Corporation while living at King's Landing. The committee shall advise the Board on actions that should be taken by the Board to accept or disqualify members. The committee shall preliminarily review all complaints against any member and investigate whether violations of Corporation rules have occurred. The committee shall also review and recommend any proposed sanctions, including fines, reprimand, suspension or expulsion of members, to the Board for the violation of any established rule.

Article IX - Actions on Behalf of the Corporation

- A. From time to time, the President may enter into and/or execute contracts on behalf of or in the name of the corporation, as authorized by the board at a duly convened meeting, and the corporation shall be bound by such action.
- B. All checks, drafts or other orders of payment of money, notes, or other evidences of indebtedness issued in the name of the organization shall be signed by the President and Treasurer. The Board of Directors may expressly delegate authority to sign such instruments and other organization documents to some other officer or agent(s) of the organization. The delegation of authority to sign may be general or confined to specific instances.
- C. All corporate funds may be deposited into accounts as directed by the Board of Directors.
- D. The Board of Directors may, on behalf of the corporation, accept any gifts, bequests, or other monetary devices as may be used for the nonprofit purposes of the corporation.

Article X - Corporate Records

- A. The Secretary shall maintain all corporate records, including minutes, financial reports, correspondence, and other related documentation.
- B. There shall be no corporate seal.

- C. Any director or member of the Corporation may inspect any corporate record.
- D. Any qualified person seeking copies of any corporate record shall pay the reasonable cost of copying.
- E. The Secretary shall be responsible for the filing of annual report required by law.

Article VIII - Financial and Legal Restrictions

- A. The corporation shall comply with all appropriate federal and state laws governing 501(c)(3) nonprofit organizations, and shall refrain from campaigning, or supporting specific candidates for public office. Nothing in these bylaws shall be construed to prevent any individual member of the corporation from engaging in such activities on an individual basis.
- B. The corporation's 501(c)(3) prohibits private benefit to individuals associated with the organization. Accordingly, the members, including directors of the Board, and the officers, shall refrain from obtaining any personal financial benefit from the expenditures and actions of the board. This prohibition shall not prevent members from accepting reimbursement for travel, administrative, and incidental expenses incurred on behalf of the Corporation in connection with actions authorized or ratified by the Board. Any compensation made to other individuals must be for specific services rendered for the benefit of the Corporation, or to promote the tax-exempt activities of the group.
- C. Under the restrictions related to Organizational Finances, pursuant to IRC § 509(a):
 - the corporation shall distribute its income of the specified time period in a timely manner so as to avoid imposition of any taxes under Section 4942 of the IRC
 - Pursuant to IRC § 4941(d), the Corporation officers, directors and members shall not engage in any self-dealing
 - Pursuant to IRC § 4943, the Corporation shall not retain any excess business holdings
 - The Corporation shall not make any investments that would subject it to taxation under IRC § 4944
 - The Corporation shall not make any taxable expenditures that would fall under the requirements of IRC § 4945(d).

Article IX - Amendment of Bylaws

Members of the corporation have the power to adopt, amend or repeal these Bylaws as allowed by law, and new Bylaws may be adopted with the approval of the Board of Directors.

Article X - Conflicts

- A. If the provisions of the Bylaws are in any way conflicting with the corporation's Articles of Incorporation, the Article of Incorporation take precedence.
- B. If any portion of the Bylaws is found to be invalid or unenforceable, for whatever reason, the remainder of the Bylaws shall still be effective.
- C. Any references in the Bylaws to the Articles of Incorporation shall relate to the Articles of Incorporation of Malama Ka Aina Hana Ka Aina, Inc. executed on October 27, 1999 and filed with the State of Hawaii Department of Commerce and Consumer Affairs.
- D. All references to sections of the Internal Revenue Code refer to the Internal Revenue Code of 1986 as amended, or to corresponding amendments to the IRS tax code.

DRAFT
February 17, 2000
CODE OF MALAMA KA AINA HANA KA AINA
King's Landing
Keaukaha Tract II

Preamble:

The Hawaiian Homes Commission has granted Malama Ka Aina, Hana Ka Aina (hereafter, "MAHA") a right of entry permit from the use and occupancy of the area known as King's Landing, Keaukaha Tract II. Under this disposition of trust land to MAHA, the Commission desires to delegate to MAHA the exclusive power to regulate and manage all oversight and monitoring functions necessary to maintain peace and harmony amongst the residents of King's Landing who are members in good standing of MAHA.

Furthermore, the Commission has executed this disposition in order to allow MAHA to assume exclusive responsibility for determining the standards of acceptable conduct of residents and the basis for enforcement action by the Commission. The HHC intends to defer and delegate all daily management responsibility over King's Landing to MAHA under the terms and conditions established under the revocable permit no. ____ in order to establish clear standards for conduct by members of MAHA, and the basis for any enforcement action by the Commission, pursuant to a duly authorized action of its Board of Directors, MAHA adopts and ratifies this Code to govern the actions of MAHA members who are residents at King's Landing and the standards for occupying portions of the area.

CODE OF CONDUCT:

CRIMINAL CONDUCT: All MAHA members shall not engage criminal conduct at King's Landing, including, but not limited to:

- Physical assault
- Terroristic threatening
- Unauthorized discharge of firearms
- Theft
- Trafficking in or storing stolen property

OTHER STANDARDS OF CONDUCT:

1. No member shall discharge firearms for hunting or other proper use except at the times and in the areas established by MAHA, as publicly posted on the community bulletin board.
2. No member shall allow pets or other domesticated animals to damage the property of any other member. Any member suffering damage from the

actions of a pet or animal of another member shall report violations to any officer of MAHA. After three reported incidents, any member whose property has been damaged by another member's pet or animal shall have the right to remove, shoot or otherwise eliminate the pet or animal.

- 3. No member of MAHA may vacate his residence for more than 1 week at a time nor for more than a total of 30 days in any given calendar year, without the express written consent of the MAHA Board of Directors.
- 4. No person may occupy any portion of King's Landing under the terms of a revocable permit no _____ unless he or she is a probationary or regular member of MAHA, under the terms and conditions specified in this Code and the bylaws of MAHA.

KANAKA CODE:

Paruzise. This code specifies the standards of habitability and performance by MAHA members in completing construction on the principal dwelling at King's Landing. *Probationary Membership.* Before any person is granted regular membership in MAHA, he or she shall be a probationary member, as governed by the bylaws of MAHA, until MAHA determines that there has been satisfactory compliance with the standards enumerated in this code, the Code of Conduct, and other applicable provisions of the bylaws of MAHA.

Performance Standards:

- 1. All members must first install an acceptable dry hole toilet at the commencement of construction of any dwelling within King's Landing.
- 2. All members must, within one year from the date of commencement of construction, demonstrate satisfactory progress in constructing a habitable dwelling. The evidence of satisfactory performance shall be the completion of flooring of the dwelling.
- 3. All members may be subjected to an inspection of their residence by the Membership Committee of the Board of Directors, or its delegated inspector, upon reasonable notice. Unless unusual circumstances demand shorter notice, the Membership Committee, or its inspector, may enter any residence to inspect the property for compliance under this code upon 72 hours written notice. Unusual circumstances may include the necessity to preserve the life or health of a resident, to prevent the commission of a crime, or to prevent destruction of property.

AGREEMENT WITH MAHA:

All members of MAHA shall sign a written agreement indicating their intent to be bound to the terms and conditions established under this Code. This agreement shall specify that the current or prospective resident at King's Landing shall agree to vacate his

or her residence if it is determined by the Board of Directors of MAHA that the individual has violated the standards imposed by this Code.

PENALTIES AND SANCTIONS:

Any violation of the provisions above may be grounds for appropriate penalties and sanctions against a regular or probationary member, as determined by the Board of Directors of MAHA. These penalties and sanctions may include suspension from membership, fines, or expulsion from King's Landing, as determined by the Board of Directors upon the notice and opportunity to be heard provided for in the bylaws of MAHA.

AMENDMENTS

The Board of Directors may, from time to time, amend any part of this Code, in the same manner as that prescribed for amending the bylaws of MAHA.

FACSIMILE COVER PAGE

To : Mike McElroy (Business Fax)

From : Alan T. Murakami

Sent : 02/18/2000 at 10:11:22 AM

Pages : 4 (Including Cover)

Subject : MAHA Code

I've attached a draft of the proposed MAHA code for your review. Please advise if this is the direction you contemplated taking to process the staff report on this matter before the HHC at its next meeting.

I have not cleared this version with Skippy yet, but I think it captures what concepts he conveyed to me. I assume we will have some time to review and amend this draft prior to final approval.

Exhibit "C"
Item No. F-4

ITEM D-15 Commission Designation of Successor –HAZEL W. PU, Residential Lease No. 5518, Lot No. 117, Lualualei, O`ahu

RECOMMENDED MOTION/ACTION

Homestead Services Division Administrator Juan Garcia presented the following:
Motion to approve the Consent Agenda Item D-15 listed for the Commission's consideration.

MOTION

Moved by Commissioner Teruya, seconded by Commissioner Awo, to approve agenda Item D-15. Motion unanimously passed.

DISCUSSION

Commissioner Ka'apu stated this was approved in November 2021 for Christopher and Kathleen to accept it. The submittal states that the rights of Christopher and Kathleen do not vest until it is signed. The submittal also states that Christopher died last year, and the Department has not received his Death Certificate. Further in the discussion, the successorship claim for Hazel Pu was received after the Department had published it in the newspaper in 2019. It did not note when the successorship claims came in, but the lease for Christopher, if he had put in his claim in 2019 and it was not brought forward until 2021 of November when it was approved, that is a couple of years. Had it come forward sooner, then maybe his heirs would be entitled to successorship or his interest. The Department asks that the Commission accept, but it cannot be signed because Christopher is dead. He is not sure what the Department is asking the Commission.

J. Garcia stated he did not realize Christopher was deceased. The information he received, the only difference here compared to the action approved by the Commission previously; he stated that when the Department came before the Commission last year, there was no information provided to an outstanding loan. In proceeding with the completion of the transaction in drafting the document, the Department discovered there was an outstanding loan. The Department affirmed that there is an existing loan and that the successors are accepting lease subject to the outstanding loan.

Commissioner Ka'apu stated he does not know what is trying to be accomplished because he is dead and has no interest.

Chair Ailā deferred Item D-15 till this afternoon or tomorrow for further clarification.

REGULAR AGENDA

OFFICE OF THE CHAIRMAN

ITEM C-1 Adoption of the recommendations of the Investigative Committee on King's Landing

RECOMMENDED MOTION/ACTION

Executive Assistant Jobie Masagatani presented the following:
Motion 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 the sea-level rise and other environmental concerns and the anticipated length of land occupancy 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, Hawai'i 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 to mitigate the impact of sea-level rise or other environmental concerns. This may require the relocation of existing occupants.
 - b. The award process will need to consider those waiting for a homestead lease on Hawai'i 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.

MOTION

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

DISCUSSION

J. Masagatani stated there is no ulterior motive by the staff to establish this as a park.

Commissioner Ka‘upu asked if the Department is trying to pull it back from residential or other state agencies may tell the Department that it can no longer do residential, so the Department has to build in this flexibility.

Commissioner Ka‘apu stated King’s Landing is full of alkaline ponds along the shoreline. He raised the concern of whether or not certain areas in King’s Landing would be sufficient for homesteading. Depending on the environmental studies, the shape of King’s Landing may change; one lot may be too close to the ocean or a sensitive area, and that boundary would have to move up. It is not to do away with the homesteading but to make sure that the homestead fits the allowable environmental footprints. Currently, they have cesspools, and the Department of Health is trying to get rid of the cesspools.

Commissioner Neves stated it depends on environmental constraints. They think the Department is going to turn it into a park, and they will kick us out. He thinks the part of the park should have been left out. Environmental, safety, wastewater is all that was needed to say; adding the park just stirred up anxiety.

ACTION

Moved by Commissioner Awo, seconded by Commissioner Helm, to approve the motion stated in the submittal.						
Commissioner	1	2	‘AE (YES)	A’OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo	X		X			
Commissioner Helm		X	X			
Commissioner Ka‘apu			X			
Commissioner Kaleikini			X			
Commissioner Ka‘upu			X			
Commissioner Namu‘o						X
Commissioner Neves			X			
Commissioner Teruya			X			
Chairman Ailā			X			
TOTAL VOTE COUNT			8			
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.						

HOMESTEAD SERVICES DIVISION

ITEM D-8 Approval to Cancel Applications of Non-Qualified Applicants (see exhibit)

MOTION

Moved by Commissioner Ka‘apu, seconded by Commissioner Neves to convene in an executive session pursuant to Section 92-J-1, HRS, related to government records maintained by the Department of Hawaiian Home Lands that are not required to be publicly disclosed.

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.

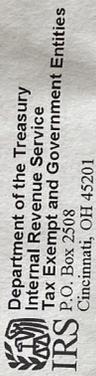
RECOMMENDATIONS

- (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:
 - 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.
- (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.

Exhibit "D"
Item No. F-4



MALAMA KA AINA HANA KA AINA INC
PO BOX 1133
HILO, HI 96721

Date: 05/26/2022
Employer ID number: 99-0344737
Person to contact: Name: Customer Service
ID number: 31954
Telephone: (877) 829-5500
Accounting period ending: December 31
Public charity status: 170(b)(1)(A)(iv)
Form 990/990-EZ/990-BK required: effective date of exemption: May 15, 2017
Contribution deductibility: 165

Addendum applies:
No
DLN: 26053538005292

Dear Applicant:

We're pleased to tell you we determined you're exempt from federal income tax under Internal Revenue Code (IRC) Section 501(c)(3). Donors can deduct contributions they make to you under IRC Section 170. You're also qualified to receive tax deductible bequests, devises, transfers or gifts under Section 2055, 2106, or 2522. This letter could help resolve questions on your exempt status. Please keep it for your records.

Organizations exempt under IRC Section 501(c)(3) are further classified as either public charities or private foundations. We determined you're a public charity under the IRC Section listed at the top of this letter.

Based on the information you submitted with your application, we approved your request for reinstatement under Revenue Procedure 2014-11. Your effective date of exemption, as listed at the top of this letter, is retroactive to your date of revocation.

If we indicated at the top of this letter that you're required to file Form 990/990-EZ/990-N, our records show you're required to file an annual information return (Form 990 or Form 990-EZ) or electronic notice (Form 990-N, the e-Postcard). If you don't file a required return or notice for three consecutive years, your exempt status will be automatically revoked.

If we indicated at the top of this letter that an addendum applies, the enclosed addendum is an integral part of this letter.

Letter 947 (Rev. 2-2020)
Catalog Number 35152P

For important information about your responsibilities as a tax-exempt organization, go to www.irs.gov/charities. Enter "4221-PC" in the search bar to view Publication 4221-PC, Compliance Guide for 501(c)(3) Public Charities, which describes your recordkeeping, reporting, and disclosure requirements.

Sincerely,

Stephen A. Martin

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements

Letter 947 (Rev. 2-2020)
Catalog Number 35152P