



HAWAIIAN HOME LANDS

HAWAIIAN HOMES COMMISSION · DEPARTMENT OF HAWAIIAN HOME LANDS

Kuleana Homestead Program – Draft Procedures and Policy Considerations

September 19-20, 2022



Scope of Information

I. Purpose for Presentation

Share draft program/procedure, highlight policy issues, get HHC input

II. Mo'okū'auhau of the Kuleana Homestead Program

1. 1983 Federal-State Task Force on the HHCA—Alternative Development Models
2. 1986 The King's Landing Initiative v. 1.0
3. 1992 The Kahikinui Initiative v. 2.0
4. 1998 Kuleana Homestead Program Administrative Rules
5. 1999 Kahikinui Pastoral Kuleana Homestead Leases—Lessons Learned

III. Implementing the Kuleana Homestead Program

1. Development Pipeline of Kuleana Homesteads
2. Kuleana Programmatic Goals
3. Proposed Implementation Phases and Activities

IV. Outstanding Issues for Discussion

Issues and Policy Questions for HHC discussion



History/Genealogy of the Kuleana Program

YEAR	INNOVATOR	DOCUMENTATION	MAJOR CONTRIBUTIONS
1983	Federal-State Task Force on the HHCA	Report	<ul style="list-style-type: none">• Task Force appointed by Gov and Sec. of Interior to do a comprehensive review of every facet of the Hawaiian Homes Commission Act to make recommendations on ways to accelerate the distribution of benefits to beneficiaries.• DHHL can accelerate distribution of homestead awards through “Alternative Development Models (ADMs)”• ADMs are intended to broaden the range of options for beneficiaries, and they are designed to reduce development costs for DHHL• Components of development are modified and/or combined to create alternatives, including level of land improvements, types of housing, types and levels of financing, and the level of beneficiary participation in development.• Recommended development of prototypes or pilot programs for various alternatives
1987 v. 1.0	Mālama Ka ‘Āina, Hana Ka ‘Āina, Keli‘i Skippy Ioane	Subsistence Homesteads: A Community Management Plan for DHHL, Keaukaha Tract II	<ul style="list-style-type: none">• Beneficiary initiative to place beneficiaries on the land when their bodies and minds can work the land and build a house vs. Waiting on a list• Identifies management guidelines for settling on the land, building a house, growing crops, raising animals, managing anchialine pond resources• Defines role and function of community association.• Develops a “Kanaka Code” as an affordable alternative to the Uniform Building Code that identify development benchmarks over time to ensure compliance and to accommodate the incremental nature of financing for those who cannot qualify for or don't want to take on a conventional 30-year home loan
1992 v. 2.0	Ka ‘Ohana O Kahikinui, Mo Moler	Kahikinui Conceptual Land Use Plan	<ul style="list-style-type: none">• Beneficiary homesteading alternative that allowed immediate access to land and off-grid services utilizing a large tract of land (75% of HHLs on Maui) consistent with the purposes of the HHCA• Beneficiary initiative that addressed resource management issues caused by DHHL's practice of general leasing thousands of acres to a private entity for ranching purposes which were destroying the native forest and its watershed functions



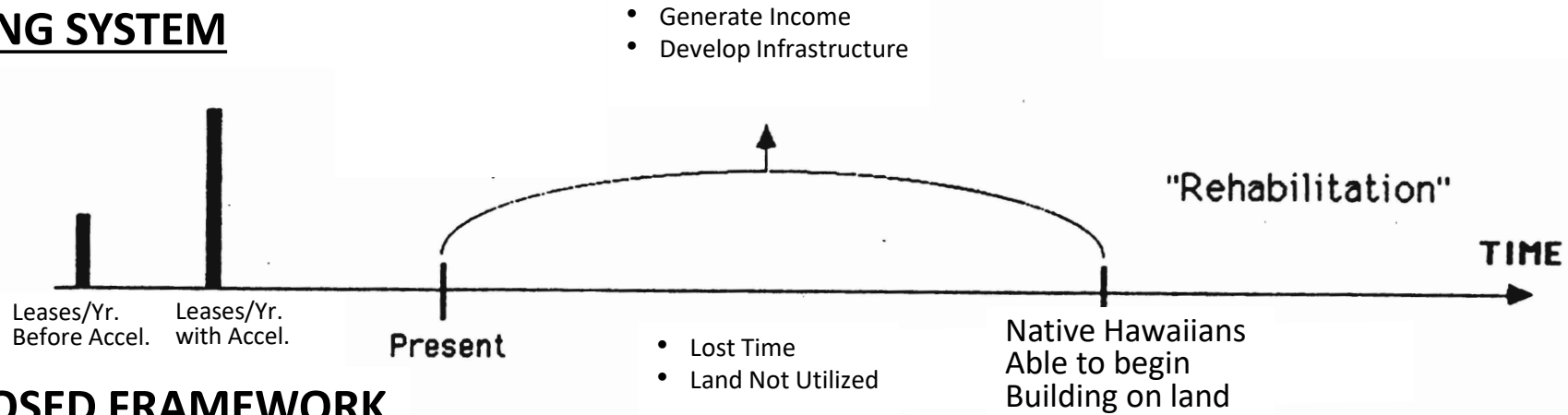
History/Genealogy of the Kuleana Program

YEAR	INNOVATOR	DOCUMENTATION	MAJOR CONTRIBUTIONS
1993	Task Force created by Chairman, Gov, and OSP	Proposal for Expanding DHHL's Programs, Task Force Report to DHHL	<ul style="list-style-type: none">• Recommended a new homesteading program that responded to increasing beneficiary requests for raw land. It moved away from paternalism toward greater empowerment of beneficiaries. It offered beneficiaries an opportunity to settle on the land more quickly and allowed beneficiaries to take more control over the pace and settlement of the land—they would enjoy greater freedoms but would accept greater responsibilities.• Applied the concept of traditional kuleana land awards given in the 1850s that carried with it the responsibility to respect and care for the land. In return for wise stewardship, the land provided sustenance and well-being to its occupants. This sense of responsibility -- both to the land, and to those who share in use of the land – was the guiding principle for the “Kuleana Hou” award.• Kuleana homesteads were envisioned as undeveloped parcels supported with minimal roadways to ensure access by homesteaders and emergency vehicles including fire, ambulance, and police services.• Initially, basic needs would be provided using temporary measures:<ul style="list-style-type: none">--Homesteaders will need to carry potable water to individual Kuleana lots.--Electricity would be provided via generators, or alternative energy sources.--Sewage would be handled via portable septic systems.--Communications would be handled via cellular telephones or radios.• Development of permanent infrastructure could be handled through cooperatives, improvement associations, or by working with the county to equitably share costs, maximize economies of scale, and maintain services.
1998 v. 3.0	DHHL	Kuleana Homestead Program Administrative Rules	
1999 v. 3.0	DHHL	Kahikinui Pastoral Kuleana Homestead Lease	

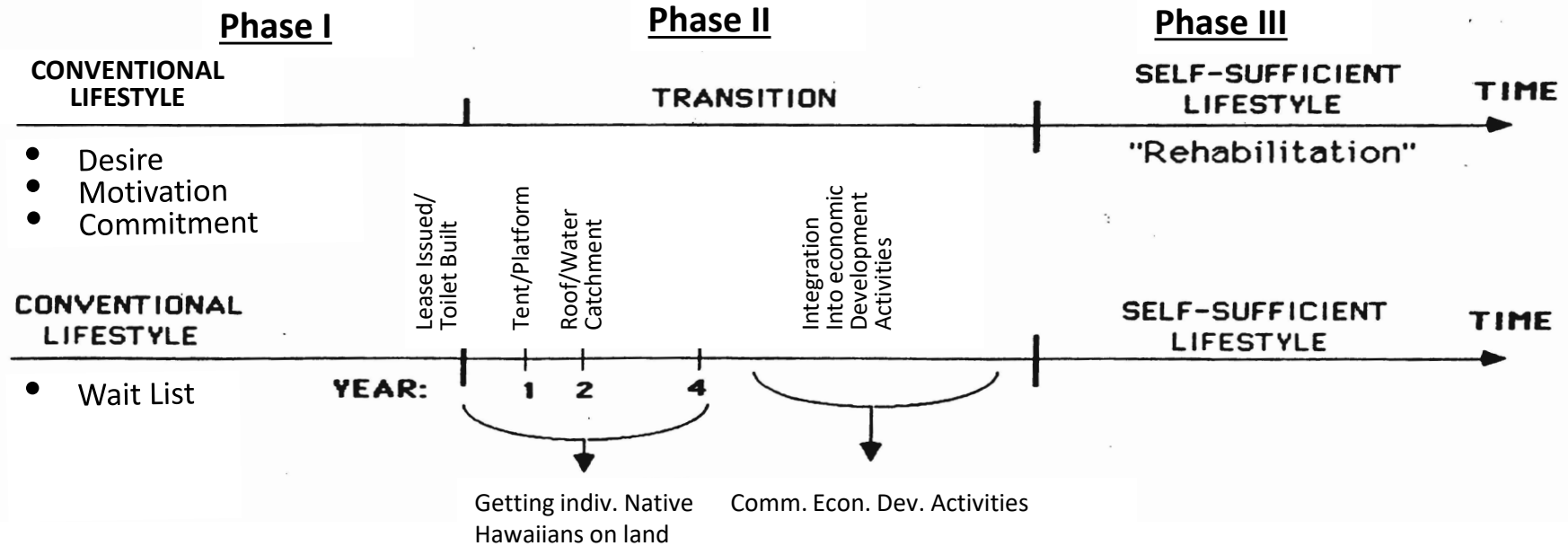


KING'S LANDING CONCEPTUAL FRAMEWORK

EXISTING SYSTEM



PROPOSED FRAMEWORK



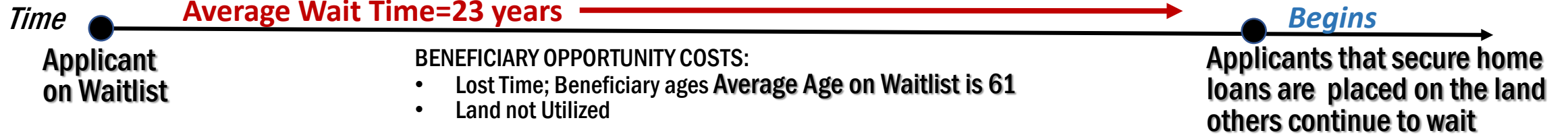


Kuleana Homestead Lease Conceptual Framework

CONVENTIONAL LEASE

DEPARTMENT REQUIREMENTS:

- Generate/Allocate funding
- Develop Infrastructure
- Meet Subdivision Requirements
- Contract Developer
- Developer builds homes to code

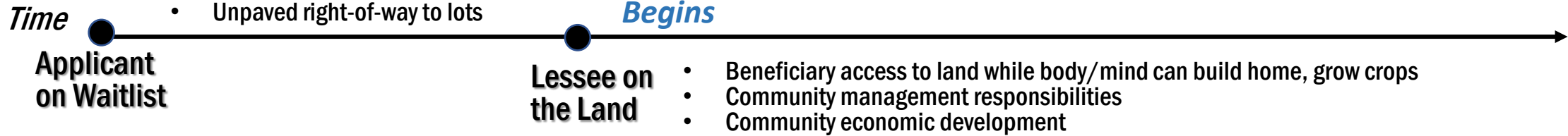


KULEANA LEASE

DEPARTMENT REQUIREMENTS:

- Settlement Plan/EA
- Metes and bounds for lots
- Unpaved right-of-way to lots

- Dept utilizes zoning exemptions to assist beneficiaries





Kuleana Homestead Program Administrative Rules

§10-3-30, Hawai'i Administrative Rules (1998)

1. **PURPOSE:** A homesteading program for settlement on unimproved available HHLs.
2. **DEFINES ROLES AND RESPONSIBILITIES:**
 - HHC: selects the site, selects the Wait List(s), approves the Settlement Plan, and approves the Building and Zoning codes, permits and permitting process
 - DHHL: works with applicants to develop the Kuleana “Settlement Plan;” DHHL constructs an unpaved right-of-way to the lots; and provides a metes and bounds description of the lots
 - APPLICANTS/LESSEE: accepts the lot ‘as is;’ participates in the homestead association; complies with association rules; and helps to maintain unpaved access to the lots.
3. **SPECIFIC GUIDANCE ON KEY PROGRAMMATIC ELEMENTS:**
 - Site Selection
 - Settlement Plan
 - Association Building/Safety Codes, Zoning, Permits, and Permitting Process.



Kuleana Homestead Program Administrative Rules

SITE SELECTION

- Physical/environmental characteristics
- Excessive cost to develop the land
- Distance from electrical, water, wastewater, and communications utilities
- DHHL's land management plans and programs
- Applicant interest/proposal identifying the site
- Suitability for Kuleana program: immediate access, unimproved lot, supports subsistence uses

SETTLEMENT PLAN

- Location and description
- Size and number of lots
- Location of community center and common areas
- Proposals for community management and economic development of adjacent trust lands, if applicable
- Plan to identify, protect, and preserve significant historical, archaeological, and biological sites
- Settlement timetable after lots are awarded

ASSOCIATION'S BUILDING/SAFETY CODES, ZONING, PERMITS, PERMITTING PROCESS

- Kuleana lessee subject to all applicable state codes, county ordinances, and departmental rules and policies governing land use, building, health, and safety unless and until the kuleana homestead association's building, health, and safety codes and permitting process become effective for that particular tract.
- The association, in consultation with a licensed architect, registered in the State, **may develop, adopt, and enforce its own zoning, building, and permitting process** on the condition that standards contained in state health codes and health and safety sections and provisions contained in the Uniform Building Code are met and that a licensed architect, registered in the State, is willing to certify all building plans as part of the community developed permitting process.
- HHC approval required.



Kahikinui Pastoral Kuleana Leases—Lessons Learned

Strengths

1. Program designed by Lessees--Good example of DHHL responding to beneficiaries
2. They didn't have to wait as long as traditional lessees to get Kuleana lease.
3. They didn't have to buy a house that was out of their financial reach. They could start small and build out their property over time.
4. Residents feel they have a lot more independence.

Weaknesses

1. Their homestead lease included not only managing their lot, but they also had communal responsibilities to manage a much larger area (forest, historic sites, wildfire prevention, feral ungulates)
2. There were challenges with access—the roads were insufficient given the topography and weather conditions.
3. They still have challenges of not having individual TMKs
4. Once DHHL issued the leases, DHHL didn't follow up to provide the supports they needed. They feel “abandoned” by DHHL.
5. Future challenge: how does DHHL balance beneficiary desires for independence with the realities of a situation?

Recommendations from Kahikinui

1. DHHL needs to educate applicants about the Kuleana Lease program well in advance of getting an award so they know what they're getting into.
2. DHHL needs to provide lessees funding or create affordable loan packages.
3. After the award, lessees could have used technical assistance and funding for renewable energy, water systems, waste disposal, and economic development.
4. While DHHL does save on time and funding in terms of development of physical infrastructure improvements, there is a trade off because DHHL needs to make more of an investment in the social and training component if we are going to have a successful kuleana homestead.



III. IMPLEMENTING THE KULEANA HOMESTEAD PROGRAM

1. Development Pipeline of Kuleana Homesteads
2. Kuleana Programmatic Goals
3. Why Would a Beneficiary Want a Kuleana Lease?
4. Why would DHHL Support Kuleana Homesteading?
5. Proposed Implementation Phases and Activities



DEVELOPMENT PIPELINE OF KULEANA HOMESTEADS

TIMEFRAME	HOMESTEAD AREA/ISLAND	SETTLEMENT PLAN DOCUMENT	PASTORAL LOTS	SUBSISTENCE AG LOTS
May 1999	Kahikinui, Maui	<ul style="list-style-type: none">FEA/FONSI Kahikinui Kuleana Homestead Lots–30 Remaining Lots (105 lots developed minus 75 lots awarded=30 lots remaining)	30 new (+75 existing)	
July 2020	Pu‘u ‘Ōpae, Kaua‘i	<ul style="list-style-type: none">Pu‘u ‘Ōpae Kuleana Homestead Special Area Plan and FEA/FONSI	11	240
June 2021	Anahola, Kaua‘i	<ul style="list-style-type: none">Anahola Kuleana Homestead Settlement Plan and FEA/FONSI	14	101
Oct 2021 (in progress)	‘Ualapu‘e, Molokai	<ul style="list-style-type: none">‘Ualapu‘e Kuleana Homestead Settlement Plan and EA/FONSI	?	?
Fall 2022 (start)	Keaukaha Tract II (King’s Landing), Hawai‘i	<ul style="list-style-type: none">Development of King’s Landing Kuleana Homestead Settlement Plan and EA	?	?
TOTALS			>130	>341



Kuleana Homestead Programmatic Goals

1. Accelerate distribution of homestead leases by providing a homestead alternative that places native Hawaiian beneficiaries on the undeveloped land when they are young enough to physically be able to actively utilize the land they have settled on.
2. Maximize the potential of DHHL's land use authority and resources in order to help beneficiaries avoid unnecessary obstacles by opening new pathways to provide homestead awards to beneficiaries who cannot qualify for conventional homestead awards or who choose not to be indebted to a financial institution for the next 30-years.
3. Minimize DHHL development costs and development time by providing minimal infrastructure and by relying on beneficiary development of individual lots.
4. Activate traditional relationships to 'Āina as with traditional kuleana land awards where the granting of land carries with it, the responsibility to respect and care for the land. In return for wise stewardship, the land provides sustenance, well-being, cultural connection and continuity.
5. Deepen our ancestral relationship and knowledge of 'āina, wahi pana, place-based resources and management practices that are essential to sustain life over time.
6. Strengthen the relationship between the trust and its beneficiaries and empower beneficiaries with higher levels of individual and communal responsibilities.
7. Focus on helping the beneficiary--Minimize infrastructure costs by allowing settlement of land without improvements such as electricity, water lines, sewer systems, paved roads, and other conventional "on-grid" utilities associated with urban subdivisions.



Why Would a Beneficiary Want a Kuleana Lease?

- THIS LEASE IS NOT FOR EVERYONE.
- It's designed for the beneficiary who can handle the rigors of an off-grid, subsistence living lifestyle.
- It is for those that don't want to live in a residential subdivision with 5,000 sf lots-- who want to live an alternative lifestyle, to live off-the-land, closer to nature.
- It is for those who value community. They want to live in a community that has kuleana to manage their natural and cultural resources.
- They cannot qualify for a conventional home loan, or don't want to be locked into a 30-year home loan, so they must defer homestead awards.
- They have the ability, resources, and initiative to build their own home.
- They can start small and expand their homestead over time, as their financial resources allow.



Why Would DHHL Support Kuleana Homesteading?

- Maximizes HHC authorities and exemptions in order to provide a homesteading option to ensure that all applicants can receive a homestead lease, regardless of financial capacity, credit history, capital, or collateral. Ensures that applicants are not skipped over and left to die on the Wait List.
- Provides a homesteading option that does not require beneficiaries to incur long-term financial indebtedness.
- Requires minimal infrastructure which lowers development costs and decreases time for the Dept to award homestead leases.
- Maximizes beneficiary involvement in the planning, development and management of their homestead lot and the natural and cultural resources that sustains the homestead community.
- Provides independence and freedom for beneficiaries to control the timing and extent of the development of their homestead lots, as their needs and resources require.



Kuleana Homestead Program Implementation

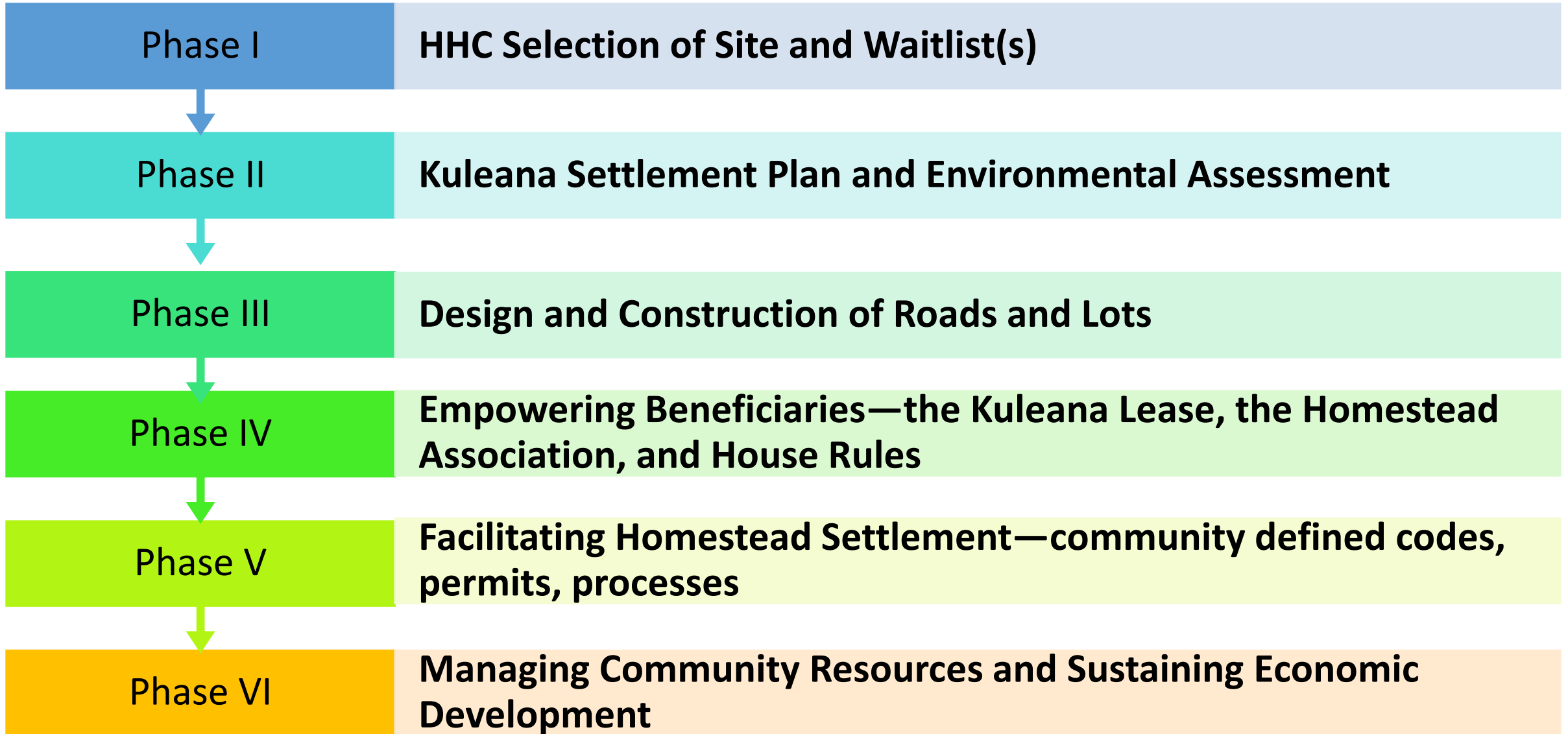
TIME-FRAME	Phase I: Identification of Kuleana Project	Phase II: Planning	Phase III: Roads and Lot Surveys	Phase IV: Offer & Award, Lease Execution, Homestead Association	Phase V: Lot Development and Homestead Settlement	Phase VI: Community Management/Economic Development
HHC	<ul style="list-style-type: none"> ◆ Identify tract/parcels for Kuleana Homesteading. ◆ Determine which wait list(s) to use. 	<ul style="list-style-type: none"> ◆ Approve Settlement Plan 2. Note DEA/AFONSI. 3. Approve BC report on EA/FONSI 4. Approve FEA/FONSI. 5. Approve budget request for engineering, design and construction of roads and the survey of lots. 		<ol style="list-style-type: none"> 1. Approve Kuleana leases 2. Note workshop participation rates, assn survey results. 	<ol style="list-style-type: none"> 1. Site visit? 	<ol style="list-style-type: none"> 1. Informed about Assn ec dev projects and progress.
DHHL	<ul style="list-style-type: none"> ◆ Kuleana designation based on land or applicant interest/proposal. 2. Request funding to develop Settlement Plan/EA 	<ol style="list-style-type: none"> 1. Procure and contract planning firm. 2. Develop Kuleana Homestead Settlement Plan 3. Secure current Topo map 4. Develop Environmental Assessment/FONSI 5. Identify Rough Order of Magnitude (ROM) estimates for engineering, design and construction of 'rural' roads and the survey of lots. 	<ol style="list-style-type: none"> 1. Engineer and Design 'rural' roads 2. Complete Metes and Bounds Survey of lots. 3. **File Plat map with county; county issue TMks 	<ol style="list-style-type: none"> 1. Construct 'rural' roads 2. Conduct formal Orientation Session and Lot Selection to award all lots. 3. Monitor Opt In/Out 4. Compile survey results, assist with community documents and formation of homestead association (what conditions should be in lease – parking lot) 	<ol style="list-style-type: none"> 1. Association training and grant writing support for lessee infrastructure (water catchment, composte toilets, solar/wind, battery bank). 	<ol style="list-style-type: none"> 1. Ongoing monitoring and support
**DHHL Educational Support	<ol style="list-style-type: none"> 1. Develop Kuleana Homestead Lease FAQs, educational workshop series, curriculum, and videos. 	<ol style="list-style-type: none"> 1. Develop Initial outreach and Kuleana 101 workshop, the basics, pros and cons of Kuleana. 2. Complete production of kuleana homestead educational workshop series. 	<ol style="list-style-type: none"> 1. Develop workshop material for homestead association— Bylaws, Articles, Survey, [responsibilities per HARS, relationship of lessee to assn, assn to DHHL, assn to HHC, assn to community, etc.] 	<ol style="list-style-type: none"> 1. Develop Kuleana Homestead lot development and infrastructure workshops 2. Develop Subject-matter workshops (ag/pastoral) 	<ol style="list-style-type: none"> 1. Assist in activating Assn Design Committee (community code in lieu of county building code) 	<ol style="list-style-type: none"> 1. Ongoing support (what level of support – parking lot)
INTERESTED APPLICANTS	<ul style="list-style-type: none"> ◆ (optional) A group of applicants can express interest or present a proposal for Kuleana homesteading. 	<ol style="list-style-type: none"> 1. Applicants on selected Waitlist(s) are invited to participate in the Planning Process 2. Applicants on remaining Waitlist(s) and Lessees are informed about the Kuleana Homestead Settlement Plan and EA/FONSI during Beneficiary Consultation meetings. 3. Applicants begin the Kuleana workshop series. 	<ol style="list-style-type: none"> 1. Complete online kuleana educational workshops. (parking lot) (need to communicate rules and regulations that they have to comply with like DOH; minimum requirements) (would be valuable to involve successors) 	<ol style="list-style-type: none"> 1. Complete online kuleana educational workshops on homestead association 2. Complete online survey regarding Assn Bylaws, Articles of Incorporation, House Rules, etc. 3. Opt in or out. 	<ol style="list-style-type: none"> 1. Complete Kuleana Homestead Workshops (<i>Can we consider having the beneficiary complete this before lease signing?</i>) 2. Complete Subject-matter workshops (how-to workshops). 3. Participate in Assn training workshops 	<ol style="list-style-type: none"> 1. Participation in Assn community work days and Assn projects. 2. (Educate successors and new lessees with basic kuleana lease workshop)

◆ = From Kuleana Administrative Rules §10-3-30, HARS

** = Requires a policy call on what DHHL will support.



Implementation Phases and Activities





Phase I: HHC Selection of Site and Waitlist(s)

Site Selection

BASED ON LAND ASSESSMENT
Unimproved Available Hawaiian
Home Lands

or

BASED ON APPLICANT INTEREST
A group of applicants can express
interest or present a proposal for
Kuleana homesteading

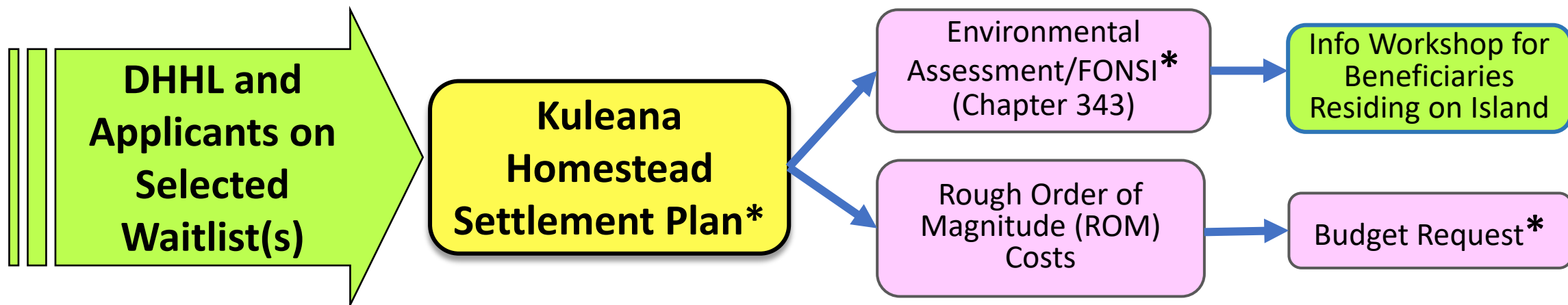
§10-3-30(c) **The Commission's decision to use a tract for Kuleana homestead lots, shall consider:**

- Physical and environmental characteristics of the land;
- Excessive cost to develop the tract;
- Distance from existing utilities;
- Existing DHHL land management plans and programs;
- Applicant interest or proposals identifying tracts of land; and
- 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.

Waitlist Selection

The Commission determines which homestead wait list, or which combinations of wait lists, should be used to make Kuleana Lease awards.

Phase II: Kuleana Settlement Plan and EA



Kuleana Settlement Plan Content-- HARS §10-3-30(e)

1. Location and description of land;
2. Size and number of lots;
3. Community center and common areas;
4. Proposals for community management and economic development of adjacent DHHL lands;
5. Plan for the identification, protection and preservation of significant historical, archaeological, and biological sites; and
6. Settlement timetable to commence after the award of the lots.

* HHC Approval Required for:

- Kuleana Settlement Plan
- Final Environmental Assessment/Finding of No Significant Impact
- Budget request for engineering, design and construction of roads and the survey of lots.



Phase III: Design and Construction

1 *Homestead Roads*

- Engineer and design “rural” roads, unpaved right-of-way to each awarded lot
- Swales to manage drainage?

2 *Individual Lots*

- Survey lots
- Identify metes and bounds descriptions for each lot
- File Plat map with county; county issues TMKs

3 *Secure County Support and Services*

- Secure County support of kuleana program, rural standards and individual off-grid utilities
- Issue maps to coordinate county services (fire, ambulance, police) for homestead lessees
- Request that the County issue TMKs based on the Plat map DHHL submits.



Phase IV: Empowering Beneficiaries



Kuleana Lease
for
Homestead Lot



Homestead
Community
Association



House Rules,
Codes, Permits,
Processes

Areas of Kuleana



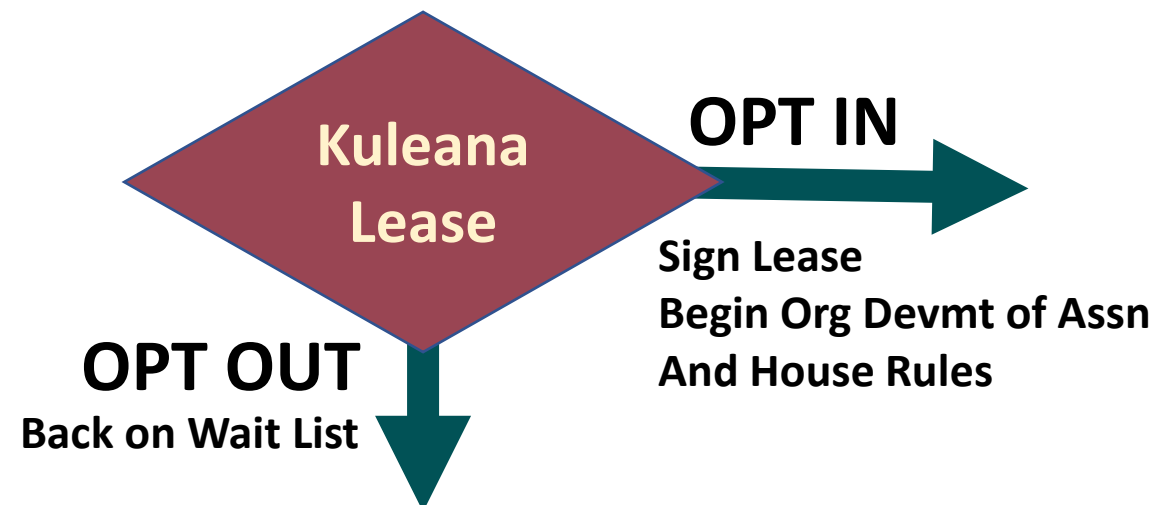
Phase IV: Empowering Beneficiaries

EDUCATIONAL WORKSHOP VIDEO SERIES FOR KULEANA HOMESTEAD LESSEES AND 'OHANA

- 1 THE HHCA, HHC, and DHHL**, assistance programs, how to engage, FAQ's, assigned staff kuleana and contact information.
- 2 KULEANA LEASE:** requirements, opportunities, supports, assistance, information--home construction, off-grid utilities, community work responsibilities, lease transfers, designating your successor.
- 3 TYPE OF LEASE:** (Subsistence Ag/Pastoral): requirements, opportunities, supports, assistance, information—area-specific info, training programs, facilities, resources.
- 4 HOMESTEAD ASSOCIATION:** Bylaws, Articles of Incorporation, House Rules, the Design Committee, membership dues, Election of Officers and Board members, grantwriting. Survey of Homestead Skills and Resources.

LESSEE ORIENTATION, INFORMATION, AND DECISION

- Site Visit
- Lot Map Codes
- Lease Review--conditions, timeframe
- Homestead Association
- The Design Committee
- Education and Assistance Available
- Opt In/Opt Out
- Lot Selection
- Sign Lease





Phase V: Facilitating Homestead Settlement

THE UNIQUE OPPORTUNITY OF A KULEANA HOMESTEAD LEASE

- DHHL's policy is to require all lessees to meet county building codes:
 - Building codes ensure public health and safety; ensures that buildings have structural strength and stability, sanitation, light and ventilation, and unobstructed paths to leave buildings in case of fire or other hazards.
 - If the lease is surrendered or cancelled, the value of all improvements on the property will be appraised and paid to the lessee upon surrender or cancellation.
 - It will make it easier to secure homeowner's insurance which is usually required in order to get a home loan.
- However, DHHL has land use authority that could allow DHHL to promulgate and follow its own building code(s).
- The Kuleana Lease allows DHHL to utilize its land use authority to help beneficiaries settle on the land as their resources allow.
- The Kuleana Administrative Rules states that lessees are subject to all state, county, and departmental rules and policies until the homestead association's building, health, and safety codes and permitting process becomes effective.
- The Rules allow Kuleana Homestead Associations to consult with a licensed architect to develop, adopt, and enforce its own zoning, building, and permitting process provided that the standards contained in state health codes and health and safety sections are met and that a licensed architect is willing to certify all building plans. No kuleana zoning, building, health and safety codes and permitting processes are approved by the HHC.



Phase V: Facilitating Homestead Settlement

ACTIVITIES

- Association training and grant writing support for lessee infrastructure (water catchment, compose toilets, solar/wind energy systems, battery storage).
- Assist in activating Association Design Committee and development of community codes/permits instead of county building codes
- Complete Kuleana Homestead Workshops
- Complete Subject-matter workshops
- Participate in Association training workshops



Phase VI: Community Management/ Economic Development

- Participation in community workdays and community projects
- Community management of natural and cultural resources in the area provide opportunities to restore sites and restore ecosystem functions
- Management responsibilities provide opportunities to build knowledge and skills
- Management responsibilities could be related to economic development
- Pursue community-based economic development activities



OUTSTANDING ISSUES FOR DISCUSSION

1. Level of DHHL support:

- **Financial Support:** If the potential applicants are those that cannot meet financial qualifications for conventional home loans, what kind of financial assistance can we provide to facilitate settlement?
- **Information/Technical Assistance Support:** Can DHHL provide information on water, sewer, energy, communication alternatives, rules and regs, alts, potential vendor, prices, potential vendors, funding options, pros and cons, etc.? Can DHHL provide lessee contact information to the Association to ensure lessee participation?
- **Educational Support:** Can DHHL facilitate lessees to assist in their development of Association By-Laws and Articles of Incorporation? Can DHHL provide board training?

2. **Lease Conditions:** How much time will lessees need to settle on the land? Requirements that were in Kahikinui's DCC&Rs need to be incorporated in the Kuleana Lease, including: settlement requirements and participation in the homestead association.

3. **The Timing of Workshops:** As proposed, initial contact with Applicants would convey general informational about the kuleana program/lease. Detailed training workshops pertaining to site development, home construction, infrastructure, etc. are proposed later in the process. What information would applicants need to know in order to opt in or opt out of the Kuleana Lease?

4. **Alternative Building Codes, Permits, and Permitting Process:** While Kuleana Homestead Associations can develop their own codes, permits, and permitting process, should DHHL contract the development of model codes, permits, and permitting process to assist Kuleana homestead communities?



Mahalo



DEPARTMENT OF HAWAIIAN HOME LANDS

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