

HAWAIIAN HOMES COMMISSION

Minutes of May 20, 2024

Courtyard King Kamehameha's Kona Beach Hotel Ballroom #1
75-5660 Palani Road, Kailua-Kona, Hawai'i 96740, and
Interactive Conferencing Technology (ICT) Zoom

Pursuant to proper call, the meeting of the Hawaiian Homes Commission was held both in person and via Interactive Conferencing Technology, beginning at 9:30 a.m.

PRESENT Kali Watson, Chairman
Randy K. Awo, Vice-Chairman, Maui Commissioner
Makai Freitas, West Hawai'i Commissioner
Zachary Z. Helm, Moloka'i Commissioner
Michael L. Kaleikini, East Hawai'i Commissioner
Walter Kaneakua, O'ahu Commissioner
Sanoe Marfil, O'ahu Commissioner (ICT)
Pauline N. Namu'o, O'ahu Commissioner
Dennis L. Neves, Kauai Commissioner

COUNSEL Alana Bryant, Deputy Attorney General

STAFF Katie L. Ducatt, Deputy to the Chairman
Richard Hoke, Executive Assistant to the Chairman
Leah Burrows-Nuuanu, Secretary to the Commission
Andrew Choy, Planning Office Manager
Kalani Fronda, Acting Administrator, Land Development Division
Linda Chinn, Acting Administrator, Land Management Division
Kahana Albinio, General Professional, Land Management Division
Juan Garcia, Homestead Services Division Administrator
Lehua Kinilau-Cano, NAHASDA Government Relations Program Manager

ORDER OF BUSINESS

CALL TO ORDER

Chair Watson called the meeting to order at 9:58 a.m. Nine (9) members were present at the meeting, establishing a quorum.

Chair Watson announced that Item C-1, the Commission Resolution honoring Commissioner Awo, will be presented before public testimony for agenda items. The Commission will recess for lunch at noon and convene for an executive session. The DHHL community meeting will be held at Kealakehe High School starting at 6:30 p.m.

APPROVAL OF AGENDA

MOTION/ACTION

Moved by Commissioner Neves, seconded by Commissioner Helm, to approve the agenda. Motion carried unanimously.

ITEMS FOR DECISION MAKING

REGULAR AGENDA

OFFICE OF THE CHAIRMAN

ITEM C-1 Approval of Hawaiian Homes Commission Resolution 309 – Honoring Randy Kalei Awo For His Service to the Hawaiian Homes Commission

RECOMMENDED MOTION/ACTION

Chairman Watson asked Commissioner Neves to present the following:

Motion that the Hawaiian Homes Commission accept and approve Hawaiian Homes Resolution 309 Honoring Randy Kalei Awo For His Service to the Hawaiian Homes Commission.

A slide presentation honoring Commissioner Awo was presented. Commissioner Neves read Resolution 309, Honoring Randy Kalei Awo for his Service to the Hawaiian Homes Commission.

Chair Watson stated he found Commissioner Awo to be of strong integrity and compassion, committed to the Hawaiian Homes Commission Act, and, without a doubt, one of the best Commissioners this program has ever had. His immediate response to the wildfire in Maui is reflective of his dedication to native Hawaiians. Chair Watson presented Commissioner Awo with a paddle as a token of appreciation for his service.

Commissioner Helm presented Commissioner Awo with a plaque from the State Legislature recognizing him for his commitment to public service and his dedication to Maui and its people.

Mrs. Momi Awo, wife and lifetime partner of Commissioner Awo, spoke of her husband's dedication and commitment. She thanked the Commission. She presented Commissioner Awo with a lei hulu made with love by her and her sister.

Commissioner Namu`o stated she was sad that he would not be with the Commission anymore. She learned a lot from him.

Commissioner Helm extended his mahalo to Momi Awo for allowing her husband to sit on the Commission for seven years. A huge sacrifice. He learned a lot from Commissioner Awo and will miss him.

Commissioner Neves stated he would miss Commissioner Awo. He needs to spend time with family and his mo`opuna, but he will be greatly missed. Forever a friend and brother.

Commissioner Kaneakua stated that he echoed all the sentiments of the other commissioners. He addressed Momi Awo for her hospitality, said that she reflects on their community, and thanked her for her sacrifice.

Commissioner Kaleikini recalled that when he first joined the Commission, Commissioner Awo and Commissioner Ka`apu were the leaders. He learned a lot from them. He appreciates Commissioner Awo being firm and one who spoke for the people. He wished Commissioner Awo and his wife the best of luck.

Commissioner Freitas thanked Momi Awo and the ohana for sharing him with the Commission. He thanked Commissioner Awo for what he had done for the beneficiaries.

Commissioner Marfil congratulated Commissioner Awo on his next adventure and thanked him for his wisdom and service.

Andrew Choy stated that one of his favorite moments with Commissioner Awo was when they were in the car traveling to Lahaina, and they both reflected that most of the time, when dealing with issues, the genesis is often the lack of communication. If the Commission/Department strived to communicate better, not just the Commission/Department's point of view, but make sure to go out of the way to understand other people's points of view. Then you received a call from Momi because you forgot to tell her you left the house. He mentioned Commissioner Awo's profound thoughts, his humility, and the combination he would miss. He wished Commissioner Awo well and looked forward to seeing him at beneficial consultation meetings.

Kahana Albinio stated he is, like Commissioner Awo, proud to be from Waimanalo.

Richard Hoke stated how he appreciated Commissioner Awo's point of view, being an independent person and speaker who stuck with his beliefs. It is what the Commission needs. Your voice will be missed.

Juan Garcia, on behalf of HSD, thanked Commissioner Awo for his commitment and service.

David Hoke stated that he knows the fight Commissioner Awo took on for the enforcement team. He will still call Commissioner Awo and bug him as he is still the point of contact, so it is unfortunate for Commissioner Awo that he is not retiring from that.

Leah Burrows-Nuuanu mentioned that Maui County Mayor Richard Bissen issued a Certificate of Recognition to Commissioner Awo for his remarkable service and steadfast dedication to the Hawaiian Homes Commission. She thanked Diamond Badjos for facilitating the certificates. The beneficiaries always recognize him and make the community visits better because of his relationship with the people. She thanked Momi Awo for her time sacrifice.

AG Bryant stated that she learned a lot from him and, on behalf of the Attorney General's Office, extended their thanks.

Public Testimony – Patty Teruya Thanked Commissioner Awo for all his help and guidance to her and the beneficiaries. She agreed that he was one of the best Commissioners who served.

Public Testimony – Jan Makepa expressed her mahalo to Commissioner Awo and his wife, Momi, for their sacrifice and service. He gave her the strength to imua. On behalf of the Wai'anai Valley Association, she thanked him for supporting their homestead and ROE, for standing firm, and for listening to the hearts of the people. They wished him all the best.

Public Testimony – Blossom Feiteira Commissioner Awo has never deviated from his integrity and honor. She reminisced of moments he helped to move forward: the ungulate issue and reforestation in Kahikinui, which took 30 years; King's Landing, which took 40 years for a comprehensive plan for the beneficiaries to get their leases; he pushed for enforcement and compliance in which the kupuna asked for his help, and now they have a compliance and enforcement team in their community working with other law enforcement agencies in the state; and finally the Lahaina fire working with DHHL, the community, and developers to get a trailer

set up, hired staff to help the community with access for help in the trauma-based community. He made beneficiaries a priority. Thank you.

Public Testimony – Germaine Meyers. Was saddened that this was his last meeting for the Hawaiian Homes Commission. He tirelessly advocated for enforcement compliance for all leases. He honored the Hawaiian Homes Commission Act, Section 101, with purpose.

Public Testimony – Patrick Kahawaiola`a Commissioner Awo has been a staunch supporter of the beneficiaries he represents and continued to voice Alii Prince Jonah Kuhio. He is blessed to have Commissioner Awo call him a friend, and the feeling is mutual. The challenge he sees going forward for the Department, the Commissioners, and the staff is to emulate, in his opinion, an ‘olelo noeau that speaks to hard work, “E hana pono mai pono hana, E hana pono mai pono hana; do what is right, do not just do it.” Go enjoy, rest, and spend time with the ohana because tomorrow is never promised.

Public Testimony – ‘Āinaaloha Ioane. Thanked Commissioner Awo for participating in the PIG for King’s Landing and for the recommendation that led to the creation of the King’s Landing Settlement Plan, as he is the cornerstone for the progress of this foundation. Thank you for advocating for us.

Public Testimony – Lori Buchanan. Thanked Commissioner Awo for his leadership, wisdom, sacrifice, and his servant's heart. If interested, she has about five jobs ready for him.

Public Testimony – Sybil Lopez. Commissioner Awo has been instrumental in developing her role as an advocate for her island and its beneficiaries.

Public Testimony – Kainoa McDonald. On behalf of the SCHHA Maui/Lanai mokupuni, they extend their heartfelt gratitude to Commissioner Randy Awo. He has been a mentor to her. She is honored to have known him and Aunty Momi.

Public Testimony – LuAnne Langford. On behalf of the Ho`olehua Homesteaders Association, she thanked Commissioner Awo and Commissioner Neves for attending their scholarship luau to honor Commissioner Helm.

Public Testimony – Paula Aila. She thanked Commissioner Awo, who is truly one of the best who has served on the Hawaiian Homes Commission. Commissioner Awo has dignity, respect for everyone, composure, and balance in the middle of the storm, being able to navigate through the most difficult decisions. He would do what is right for the Hawaiian people and for the Trust. There will be a few like Commissioner Awo that will come through the Commission again. She thanked him and his wife for their sacrifice.

Commissioner Awo stated he was overwhelmed and thankful for all the mana‘o and kind words. He did not anticipate the video, and he enjoyed seeing the journey and coming full circle; he expressed his gratitude. To his wife, Momi, his children, and mo’opuna, he thanked them for their support and understanding through the seven-year journey. He reminded his wife that seven years ago, he was supposed to say no because he was two years into an enjoyable retirement, but William Aila called asking him to consider. He politely told William he would get back to him and was sure it would be a hard no, but his wife reminded him of his kuleana. He told her he had her to thank and her to blame. He thanked her for always supporting him in his life’s work. He hopes that his mo’opuna will one day understand that in serving the lāhui this way, he was also acting in service to his mo’opuna. He thanked the DHHL staff, the unsung heroes who worked

really hard and were not always appreciated. He thanked Leah for what she has done for the Commission and what she will continue doing.

MOTION/ACTION

Moved by Commissioner Neves, seconded by Commissioner Helm, to approve the motion as stated in Resolution 309.						
Commissioner	1	2	AYE (YES)	A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo			X			
Commissioner Freitas			X			
Commissioner Helm		X	X			
Commissioner Kaleikini			X			
Commissioner Kaneakua			X			
Commissioner Marfil			X			
Commissioner Namu`o			X			
Commissioner Neves	X		X			
Chairman Watson			X			
TOTAL VOTE COUNT			9			
MOTION: <input type="checkbox"/> UNANIMOUS <input checked="" type="checkbox"/> PASSED <input type="checkbox"/> DEFERRED <input type="checkbox"/> FAILED Motion passed unanimously. Nine (9) Yes votes.						

RECESS **11:20 AM**
RECONVENED **11:45 AM**

Commission Secretary Leah announced that the Executive Session will be held at 1:30 pm, so lunch will also be held at 1:30 pm. The Commission will continue with the Approval of Minutes, then go to Public Testimony on Agendized Items and the Consent Agenda, and so on.

APPROVAL OF MINUTES

April 22 & 23, 2024 Regular Meeting

MOTION/ACTION

Moved by Commissioner Neves, seconded by Commissioner Helm, to approve the April 22 & 23, 2024 Minutes. Motion carried unanimously.

PUBLIC TESTIMONY ON AGENDIZED ITEMS

PT-1 Jojo Tanimoto Item F-1 and Item G-4

J. Tanimoto requested that the March Minutes be obtained. Leah stated the Minutes were uploaded to the DHHL website. J. Tanimoto testified she has a problem with ROE 485 for the Palekoki Ranch, which has 7,600 acres. She has listed impacts on the community that have not been addressed, the Palihai Stream, the Lālāmilo, and saving the resources around the marine coastal areas. For Item G-4, nothing is included in the Lālāmilo Water tank. They need water in Kawaihae and asked for a water subsidy for Kawaihae. She asked for the Commission’s help in accessing the water resource.

PT-2 Germaine Meyers Item D-14

G. Meyers testified that she hoped the Department would enforce that all 10,000 lessees complied with the occupancy of their lots. If not, they need to take a leave of absence and caretake information for the Chairman's approval and the record. Her neighbor has not done this, and she has brought this to the Department and Enforcement's attention under the Chairmanship of William Aila. What is required of one lessee is required of all lessees.

ITEMS FOR DECISION-MAKING

CONSENT AGENDA

HOMESTEAD SERVICES DIVISION

- ITEM D-2 Approval of Consent to Mortgage (see exhibit)**
- ITEM D-3 Ratification of Loan Approvals (see exhibit)**
- ITEM D-4 Approval of Homestead Application Transfers/Cancellations (see exhibit)**
- ITEM D-5 Approval to Certify Applications of Qualified Applicants for the Month of March 2024 (see exhibit)**
- ITEM D-6 Rescission of Residential Application Transfer, Rescission of Residential Application Rights Successorship, Reinstatement of Waimanalo Area/O`ahu Islandwide Residential Application of DAVID K. PRUDY, JR., and Reinstatement of Residential Application – JACOB K. PURDY**
- ITEM D-7 Commission Designation of Successors to Application Rights – Public Notice November 2015, 2021 & 2022 (see exhibit)**
- ITEM D-8 Approval of Assignment of Leasehold Interest (see exhibit)**
- ITEM D-9 Approval of Amendment of Leasehold Interest (see exhibit)**
- ITEM D-10 Approval to Issue Non-Exclusive Licenses for Rooftop Photovoltaic Systems or Certain Lessees (see exhibit)**
- ITEM D-11 Commission Designation of Successor – HAUNANI K. M. BUSH, Residential Lease No. 730, Lot No. 39, Waimanalo, O`ahu**
- ITEM D-12 Commission Designation of Successor – WENDALL M. W. KAANOI, Agricultural Lease No. 7906, Lot No. 10, Ho`olehua, Moloka`i**

RECOMMENDED MOTION/ACTION

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

DISCUSSION

Commissioner Helm questioned Item D-12 if the successor was on the property now. J. Garcia stated the property is not occupied. This is part of the Nā`iwa development.

Public Testimony for Item D-8, Kawika Kessler and his wife Kerry Kessler. They are beneficiaries of Leiali`i and acquired their lease in 2007. and were married on their lot and lived there till the Lahaina wildfire. The fire took their home and business and all they had, but the Lord blessed and provided for all their needs. They are unsure if their home is safe to live in as his wife has respiratory issues and if it flares up when they go home. They are also concerned for their keiki's health because of the toxins. Many of their neighbors are sick and have moved away. They still support the building of Lahaina, but Lahaina is no longer their home. They are

requesting a lease transfer to Waiohuli in Kula, which represents a safe environment and a stable home for rebuilding their life.

Commissioner Awo stated that it is a myth to think your home is safe just because it is standing and you have survived the fire. DHHL must be thoughtful of how this impacts the families. Families are having respiratory issues. He supports the effort for the Keislings to transfer to another location deemed safer.

Public Testimony – Lunakanawai Hauanio. We have to hold the people and departments accountable for not maintaining the basic disaster services that should have been implemented during the Lahaina wildfires. The private ownership of water is a lie because it is a public trust. There needs to be an audit of the County, federal, and state levels because there is something wrong with all of this. He brought notice to the Commission that consideration needs to be taken of the transition that is about to happen. Government to government or independence and independence is going to happen quicker than all can imagine. The documents he passed to the Commission are reminders from the Kalima case that there are beneficiaries who feel they are not being taken into consideration and redlined.

MOTION/ACTION

Moved by Commissioner Helm, seconded by Commissioner Awo, to approve the Consent Agenda as stated in the submittal.						
Commissioner	1	2	AYE (YES)	A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo		X	X			
Commissioner Freitas			X			
Commissioner Helm	X		X			
Commissioner Kaleikini			X			
Commissioner Kaneakua			X			
Commissioner Marfil			X			
Commissioner Namu'o			X			
Commissioner Neves			X			
Chairman Watson			X			
TOTAL VOTE COUNT			9			
MOTION: <input checked="" type="checkbox"/> UNANIMOUS <input type="checkbox"/> PASSED <input type="checkbox"/> DEFERRED <input type="checkbox"/> FAILED Motion passed unanimously. Nine (9) Yes votes.						

REGULAR AGENDA

OFFICE OF THE CHAIRMAN

ITEM C-2 Approval of Down Payment and Closing Cost Assistance Programs Through the Federal Home Loan Bank of Des Moines

RECOMMENDED MOTION/ACTION

NAHASDA Government Relations Program Manager Lehua Kinilau-Cano presented the following:

Motion that the Hawaiian Homes Commission approve the use of the Down Payment and Closing Cost Assistance Programs through the Federal Home Loan Bank of Des Moines on Hawaiian

Home Lands and to approve the Hawaiian Home Lands Lease Addendum to the Down Payment and Closing Cost Assistance Program through the Federal Home Loan Bank of Des Moines

These are funds outside of DHHL to assist beneficiaries. It is similar to the program used for Waiehu Kou.

Melody Dawes, Down Payment Products Manager with the Federal Home Loan Bank of Des Moines. She has been working to secure grant funds for native Hawaiians on Hawaiian Home Lands. There are three programs: the Native Hawaiian Homeownership Initiative (NAHI), the HomeStart program, and the Affordable Housing Program (AHP),

MOTION

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

DISCUSSION

Chair Watson asked if this is to subsidize some of the closing as well as the down payment for people who are NAHASDA qualified. L. Kinilau-Cano stated yes, NAHASDA. Chair Watson asked if there were any matches. M Dawes stated that there was no matching. It is strictly grant funds, no match, no requirement for asset test. Chair Watson asked if there is a 5-year retention period on this. M. Dawes stated correctly. Chair Watson asked that as long as they stay in the house for five years, they follow the loan requirements, and then the \$25k will be free and clear. L. Kinilau-Cano stated that it was correct, and there was a calculation. M. Dawes stated there is pro-rata forgiveness for every month that a buyer maintains their ownership; there is an automatic forgiveness amount. But, if they should sell their home, there credit given to the homebuyer for their original investment, time in the property, and any money they paid towards their mortgage. The FHSA has established a proxy limit; if someone sells their home under a certain limit, it is an automatic forgiveness because the assumption is it is being sold to a low to moderate-income buyer.

Chair Watson stated he appreciates making these funds available.

Commissioner Awo stated he thinks the program is good, but he is hearing about two parts. There is a \$25k down payment cap for mortgage reduction. M. Dawes stated that it pays for a down payment, closing cost, or a combination of the two.

Commissioner Awo asked if it is also considered a reduction in points as part of the loan package or if it is just a mortgage down payment. M Dawes stated they would consider points and fees to be closing costs so that it could be attributed to that as well.

He asked if the application for a grant with the Dowling Company is different. She stated it was different. The application with the Dowling Corporation is project-based funding, and it scored and was awarded competitively. He asked if she could give an idea of whether the Dowling grant was awarded and if she had any idea of the percentage. She stated that it was their project and could not comment on that.

Commissioner Neves asked what happens when a beneficiary passes within the five years; will the successor be able to carry that on or have to re-apply? She stated the funds are forgiven if a homeowner passes, and in the events of bankruptcy or foreclosure, it would be something DHHL would notify the bank or the member to request forgiveness, and the forgiveness is detailed in that Lease Addendum.

Public Testimony – Blossom Feiteira. She is in support of this item. It makes a difference for the beneficiaries to have access to these fundings.

MOTION/ACTION

Moved by Commissioner Neves, seconded by Commissioner Helm, to approve the motion as stated in the submittal.						
Commissioner	1	2	AYE (YES)	A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo			X			
Commissioner Freitas			X			
Commissioner Helm		X	X			
Commissioner Kaleikini			X			
Commissioner Kaneakua			X			
Commissioner Marfil			X			
Commissioner Namu`o			X			
Commissioner Neves	X		X			
Chairman Watson			X			
TOTAL VOTE COUNT			9			
MOTION: <input checked="" type="checkbox"/> UNANIMOUS <input type="checkbox"/> PASSED <input type="checkbox"/> DEFERRED <input type="checkbox"/> FAILED Motion passed unanimously. Nine (9) Yes votes.						

LAND DEVELOPMENT DIVISION

ITEM E-1 Acceptance of Final Environmental Assessment and Finding of No Significant Impact Determination for the Wailuku Single Family Residential Subdivision Waikapu & Wailuku, District of Wailuku, Maui Island, Hawai`i, TMK Nos. (2) 3-5-002:003 (por.)

RECOMMENDED MOTION/ACTION

Acting Administrator Land Development Division Kalani Fronda presented the following: Motion that the Hawaiian Homes Commission accept the Final Environmental Assessment and Finding of No Significant Impact Determination for the Wailuku Single Family Residential Subdivision Waikapu & Wailuku, District of Wailuku, Maui Island, Hawai`i, TMK Nos. (2) 3-5-002:003 (por.)

Senior Project Manager for Dowling Company, Darren Okimoto, and Kawika McKee with Group 70 joined via Zoom. D. Okimoto requested the Commission accept a Finding of No Impact determination for the Final EA. Funding has already been allocated so they can continue with the design and construction.

DISCUSSION

Commissioner Awo commented that this is another beautiful project and is glad that they are returning beneficiaries to the aina who have been excluded because of the high cost. He commented about the rent with the option to purchase option, saying that it is an option and not a mandated requirement.

Public Testimony – Blossom Feiteira. She supports the adoption and approval of the Draft FONSI. There were over 180 beneficiaries at the meeting a couple of weeks ago for the first offering of 52 lots. Many took advantage of the services and got their pre-qualifications.

MOTION/ACTION

Moved by Commissioner Neves, seconded by Commissioner Awo, to approve the motion as stated in the submittal.						
Commissioner	1	2	AYE (YES)	A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo		X	X			
Commissioner Freitas			X			
Commissioner Helm			X			
Commissioner Kaleikini			X			
Commissioner Kaneakua			X			
Commissioner Marfil			X			
Commissioner Namu'o			X			
Commissioner Neves	X		X			
Chairman Watson			X			
TOTAL VOTE COUNT			9			
MOTION: <input checked="" type="checkbox"/> UNANIMOUS <input type="checkbox"/> PASSED <input type="checkbox"/> DEFERRED <input type="checkbox"/> FAILED Motion passed unanimously. Nine (9) Yes votes.						

ITEM E-2 Approval of Lease Award Pi'ilani Mai Ke Kai Subdivision Phase II – Residential Vacant Lots, Anahola, Kaua'i (see exhibits)

RECOMMENDED MOTION/ACTION

Acting Administrator Land Development Division Kalani Fronda introduced Michelle Hitzeman Housing Project Branch Manager presented the following:
Motion that the Hawaiian Homes Commission approve the Lease Award for Pi'ilani Mai Ke Kai Subdivision Phase II – Residential Vacant Lots, Anahola, Kaua'i

MOTION/ACTION

Moved by Commissioner Neves, seconded by Commissioner Helm, to approve the motion as stated in the submittal.						
Commissioner	1	2	AYE (YES)	A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo			X			
Commissioner Freitas			X			
Commissioner Helm		X	X			
Commissioner Kaleikini			X			
Commissioner Kaneakua			X			
Commissioner Marfil			X			
Commissioner Namu'o			X			
Commissioner Neves	X		X			
Chairman Watson			X			
TOTAL VOTE COUNT			9			
MOTION: <input checked="" type="checkbox"/> UNANIMOUS <input type="checkbox"/> PASSED <input type="checkbox"/> DEFERRED <input type="checkbox"/> FAILED Motion passed unanimously. Nine (9) Yes votes.						

HOMESTEAD SERVICES DIVISION

ITEM D-13 Approval of Amendment of the Commencement Date for the Pu`ukapu Pastoral Leases

RECOMMENDED MOTION/ACTION

Homestead Services Division Administrator Juan Garcia presented the following:

Motion that the Hawaiian Homes Commission approve the Amendment of the Commencement date for the 184 pastoral lot leases in Pu`ukapu

MOTION

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

DISCUSSION

West Hawai`i District Supervisor James DuPont stated one concern was access to the lots. There was a wildfire in 2021 that burned 40,000 acres, mostly in the Pu`ukapu area, and emergency response is a concern. The subdivision was created in 1990, and it was understood that when the access roads were constructed to a standard acceptable by the Department, staff would be allowed to request to amend the original lease commencement date of February 1, 1991. The submittal recommends that, based on the Department's acceptance of the road on June 1, 2024, the lease commencement date be identified. This allows a route slip to be produced so the County can provide information on each lot, along with the lessees' information. It would assist the lessee should they decide to construct a home because they would now have a tax map number for their lot to take to the County to approve plans for their home construction. There are about 50 residents whose dwellings do not have building permits.

The Department created a paper map of the subdivision showing 184 lots, and the County's map showed some of the lots to be 200-400 acres in size. In 2009, the pasture lot of records was approved by the County, which allowed the County to create new plat maps showing the actual lot sizes of 15, 20, 100, and 200 acres. 4-5 lessees have been paying property taxes because their information was reported to the County. There are still about 177 lessees' information that could be reported once the lease commencement date is amended. If the Commission amends the lease commencement date to June 1, 2024, it would be considered new leases and new lessees with the 7-year real property tax exemption that would be applied to all the lots. The hope is that the land portion of the taxes will be waived so that the lessees will only pay the assessed value by the tax office on the improvements. If there are no improvements on the land, the minimum tax is \$100 per year.

Public Testimony – Marion Kanani Kapuniaia. Opposed Item D-13 until further review is conducted on the purpose, intention, and implementation of the Hawaiian Homes Commission Act, Section 208-3, 4, and 8. Until the LDD process for county approval is conducted before offering and executing leases, in her opinion, what is going on now is Kapulu and after the fact. Why should lessees be subject to property taxes for services that have not been or cannot be provided due to a lack of proper procedure and access? Roads satisfactory to the Department are ludicrous and should be roads satisfactory to the lessees until a tour is conducted with EMS, the Fire Department, and the Police Department to have them certify that the roads are safe and accessible when they need to provide services to the community. The date the issue is resolved should be the date to be exempted from taxes, seven years.

Public Testimony – Patrick Kahawaiola`a. Echoed M Kapuniai’s sentiments as it took 12 years for his infrastructure to be put in. He expressed his disapproval unless the new date is for the residents to go in when the roads are built to a standard that the lessees and emergency responders can access the properties.

Commissioner Freitas stated that whichever way this goes will make people happy, but it will not make everybody happy. The issue is the commencement date, and he thinks it best to start it with stipulations. The Department needs to have dialogue with the first responders and the County at the same meeting at the same time to discuss a strategy. Identify the leases that do not have access to their lots and if they are vacant or have homes, people living there, or somewhere else. Move forward.

J. Garcia stated that access to the lots is available for each of the 182 lots. Need to determine why the lessee feels the lot is not accessible. The Department can provide monthly status reports if the Commission requires that. The Department is committed to maintaining the roads.

Chair Watson stated it is an agricultural area and a 20 ft. gravel road should be sufficient for that area. His concern is that close to 100 lots were awarded and how to get individuals to use the land actively. Having the start date in 2024 and the 7-year exemption is helpful, but having potential builders of homes on these lands is important. Those with existing houses, do they have outstanding loans that would impact them with the start date? J. DuPont stated he is not aware of any loans.

Commissioner Neves would feel comfortable if the Fire, Police, and EMS sign off that they will service the area and the items are in the document. He would prefer to defer this to tomorrow. Commissioner Neves asked who does the maintenance. J. DuPont stated it is the Department.

Commissioner Awo was okay with deferring the item if it led to the right compromise. He would like a commitment from the Department to the capacity to do those things.

Public Testimony – Patrick Kahawaiola`a. The Hawaiian Homes Commission Act is clear that the roads do not have to be made to county standard, and the County shall maintain the roads over Hawaiian Home Lands whether the roads are of gravel or cinder. Help the beneficiaries.

Public Testimony – Marion Kapuniai. Commented about the roads not being 20 feet wide in all areas. She stated it would be good to study Section 220 of the Hawaiian Homes Commission Act.

Chair Watson stated the item is being **DEFERRED** to tomorrow.

LAND MANAGEMENT DIVISION

ITEM F-1 Approval to Annual Renewal of Right of Entry Permit(s) and Conversion to Revocable Permits, North & West Hawai`i Island (see exhibits)

RECOMMENDED MOTION/ACTION

General Professional, Land Management Division Kahana Albinio presented the following: Motion that the Hawaiian Homes Commission approve the Annual Renewal of Right of Entry Permit(s) and Conversion to Revocable Permits, North & West Hawai`i Island, and approve the four actions listed in the submittal.

- Renew all North & West Hawai`i Island Right of Entry Permit(s)_
- All respective agreement(s) shall be converted to Revocable Permit(s)

- The Revocable Permit(s) annual renewal period shall be on a month-to-month basis for up to 12 months but no longer than May 31, 2025
- Authorize the Chairman to negotiate and set for the other items and conditions that may be deemed to be appropriate and necessary

MOTION

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

DISCUSSION

Commissioner Neves stated that he noted that a couple of the items did not have a COI, and is that not one of the requirements? K. Albinio stated that is correct. Linda Chinn, Exhibit B, did a report and confirmed that all the Right of Entry Permits had an updated Certificate of Liability Insurance. Commissioner Neves stated that the PIG needs to get on the property, inspect it, and let them know that they are subject to losing their Right of Entry until the Department has access. K. Albinio stated they sent out a letter to each permittee informing them the Department would be coming for an inspection.

Commissioner Kaleikini asked about the appraised value. K. Albinio stated that for commercial and industrial leases, they look at assessed value from the real property assessment, take 8%, and give them a 50% discount off of the 8%. It is short-term.

Commissioner Namu`o commended LMD on the report, as there are now details. K. Albinio credited Linda Chinn with that.

Commissioner Neves requested that ROE 599 be removed until it is resolved.

MOTION/ACTION TO AMEND

Moved by Commissioner Neves, seconded by Commissioner Kaleikini, to remove ROE 599 until the issue is resolved and the Department is able to access the property for inspection.						
Commissioner	1	2	AYE (YES)	A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo			X			
Commissioner Freitas			X			
Commissioner Helm			X			
Commissioner Kaleikini		X	X			
Commissioner Kaneakua			X			
Commissioner Marfil			X			
Commissioner Namu`o			X			
Commissioner Neves	X		X			
Chairman Watson			X			
TOTAL VOTE COUNT			9			
MOTION: <input checked="" type="checkbox"/> UNANIMOUS <input type="checkbox"/> PASSED <input type="checkbox"/> DEFERRED <input type="checkbox"/> FAILED Motion passed unanimously. Nine (9) Yes votes.						

AMENDED MOTION/ACTION

Moved by Commissioner Neves, seconded by Commissioner Helm, to remove ROE 599 until the issue is resolved and the Department is able to access the property for inspection.						
Commissioner	1	2	AYE (YES)	A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo			X			
Commissioner Freitas			X			
Commissioner Helm		X	X			
Commissioner Kaleikini			X			
Commissioner Kaneakua			X			
Commissioner Marfil			X			
Commissioner Namu`o			X			
Commissioner Neves	X		X			
Chairman Watson			X			
TOTAL VOTE COUNT			9			
MOTION: <input checked="" type="checkbox"/> UNANIMOUS <input type="checkbox"/> PASSED <input type="checkbox"/> DEFERRED <input type="checkbox"/> FAILED Motion passed unanimously. Nine (9) Yes votes.						

ITEM F-2 Approval to Extension of Lease Term for General Leases No. 217, Harborside Investors, Kawaihae, Island of Hawai`i, TMK No. (3) 6-1-006:015

RECOMMENDED MOTION/ACTION

General Professional, Land Management Division Kahana Albinio presented the following: Motion that the Hawaiian Homes Commission approve a 10-year extension to lease term and modification of the ground lease rent so that the aggregate of the original 55-year term and the extended 10-year term span a total of 65 years for General Lease No. 217, located within Kawaihae, Island of Hawai`i, for the purpose of obtaining financing for the property.

Land Agent, Land Management Division Brigida Ayson stated the lessee plans to refinance and spend \$100,000 for improvements. The commercial lender requires at least 20 years remaining on the lease in order to refinance the existing mortgage on the lease; hence, the lessee is asking for a 10-year extension to the lease.

MOTION

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

Public Testimony – Kai Almeida. Items F-2, F-3, F-5, and F- as they are relative to the extension. In 2021, DHHL was notified of a disagreement with the DOI and the notification to the Governor. Kai Kahele sent letters to the Governor on behalf of the beneficiaries regarding Act 236. The sole responsibility of the Department is to the beneficiaries. She read the letter submitted by Kai Kahele. The lessees did not pay attention to their leases. The Department should be putting more than 50% of Hawaiians on the land.

Commissioner Awo stated Act 236 allowed the State of Hawai`i to take Hawaiian Home Lands and extend it 40 years beyond the 65-year aggregate period. He remembered that several years ago, the Commission was asked to pass this, but the Commission did not have what the federal

government provided as a warning. There was a letter from Holly Shikadda of the DOI that stated in the first paragraph, “I am writing to give you notice that the United States has a significant concern that any action by the Hawaiian Homes Commission to grant extensions of commercial leases of Hawaiian Home Lands, pursuant to Hawai`i Act 236, 2021 Hawai`i Session Laws, violates federal law and constitutes a breach of trust by the State.” That is a concern. When this law was passed, it affected DHHL, DLNR, and DOA, but it exempted UH.

K. Albinio stated for clarification, this subject is outside of that 40-year extension. The lease has an existing 55 years. Section 171-36 allows for an additional ten years for a maximum of a 65-year term. Commissioner Awo stated correctly, but he is looking at Kuhio Plaza.

MOTION/ACTION

Moved by Commissioner Neves, seconded by Commissioner Helm, to approve the motion as stated in the submittal.						
Commissioner	1	2	AYE (YES)	A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo			X			
Commissioner Freitas			X			
Commissioner Helm		X	X			
Commissioner Kaleikini			X			
Commissioner Kaneakua			X			
Commissioner Marfil			X			
Commissioner Namu`o			X			
Commissioner Neves	X		X			
Chairman Watson			X			
TOTAL VOTE COUNT			9			
MOTION: <input checked="" type="checkbox"/> UNANIMOUS <input type="checkbox"/> PASSED <input type="checkbox"/> DEFERRED <input type="checkbox"/> FAILED Motion passed unanimously. Nine (9) Yes votes.						

MOTION

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

EXECUTIVE SESSION IN

1:40 PM

The Commission convened an executive meeting pursuant to Section 92-5(a)(4), HRS, to consult with its attorney on questions and issues pertaining to the Commission’s powers, duties, privileges, immunities, and liabilities on the following matter:

1. Discussion Regarding Telecommunications on Hawaiian Home Lands
2. Discussion Regarding the U.S. Department of Interior’s position on Act 236, SLH 2021

EXECUTIVE SESSION OUT

3:45 PM

Chair Watson reported that in an executive session, the Commission discussed telecommunications on Hawaiian Home Lands, the US Department of Interior, and the State of Hawai`i Attorney General’s position on Act 236.

ITEM F-3 Approval to Extension of Lease Term Scheduled to Expire for various General Leases, Kaei Hana I Industrial Subdivision, Waiakea, S. Hilo, Island of Hawai`i, TMK Nos. (3) 2-2060:050, :060, :058, :059, :068, :069, :057, :037, :056, :054, and :047

RECOMMENDED MOTION/ACTION

General Professional, Land Management Division Kahana Albinio presented the following: Motion that the Hawaiian Homes Commission approve a 10-year Extension of Lease Term Scheduled to Expire for various General Leases, Kaei Hana I Industrial Subdivision, Waiakea, S. Hilo, Island of Hawai`i, TMK Nos. (3) 2-2060:050, :060, :058, :059, :068, :069, :057, :037, :056, :054, and :047

Land Agent Brigida Ayson corrected General Lease 163, stating that there are two land parcels, Nos. :047 & :048 with a total land area of 40,500 sq. ft. All the general leases are in full compliance, including insurance. This is to continue earning revenue for the trust.

Public Testimony – Patrick Kahawaiola`a. In the future, general leases should be identified by name. He had to go through the TMK to find out who they were. Why is there an extension? Did they reach 55 years old, and are there any native Hawaiians? K. Albinio stated none of the general leases are native Hawaiian. Sanborn is a native Hawaiian. Regarding the extension, the expiration date is 2024.

MOTION/ACTION

Moved by Commissioner Neves, seconded by Commissioner Helm, to approve the motion as stated in the submittal.						
Commissioner	1	2	AYE (YES)	A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo			X			
Commissioner Freitas			X			
Commissioner Helm		X	X			
Commissioner Kaleikini			X			
Commissioner Kaneakua			X			
Commissioner Marfil			X			
Commissioner Namu`o			X			
Commissioner Neves	X		X			
Chairman Watson			X			
TOTAL VOTE COUNT			9			
MOTION: <input checked="" type="checkbox"/> UNANIMOUS <input type="checkbox"/> PASSED <input type="checkbox"/> DEFERRED <input type="checkbox"/> FAILED Motion passed unanimously. Nine (9) Yes votes.						

ITEM F-4 Approval to Issue Right of Entry Permit to La`i `Opua Community Development Corporation, Kealakehe, Kona, Island of Hawai`i, TMK No. (3) 7-4-021:003

RECOMMENDED MOTION/ACTION

General Professional, Land Management Division Kahana Albinio presented the following: Motion that the Hawaiian Homes Commission approve to Issue Right of Entry Permit to La`i `Opua Community Development Corporation, Kealakehe, Kona, Island of Hawai`i, TMK No. (3)

7-4-021 :003. A 2.1-acre parcel for the development of a preschool. This is subject to approval following the eight terms and conditions listed in the submittal.

Bo Kahui, Executive Director of the La'i `Opua Community Development Corporation, Board Secretary Dora Aiyo, and Board Director Charlene Ka`u presented their request for approval of the Right of Entry. B. Kahui stated he thinks they have the capacity. They will actively be seeking funding within and outside of DHHL to meet their financial goals.

DISCUSSION

Commissioner Helm asked about the \$8 million. B. Kahui stated it is a little technical. There is some due diligence to do. Commissioner Helm asked what the cost would be to build this preschool. B. Kahui stated \$12 million. For the record. B. Kahui corrected and stated the parcel is (3) 7-4-021 :002 and not 003.

MOTION/ACTION

Moved by Commissioner Neves, seconded by Commissioner Helm, to approve the motion as stated in the submittal.						
Commissioner	1	2	AYE (YES)	A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo			X			
Commissioner Freitas			X			
Commissioner Helm		X	X			
Commissioner Kaleikini			X			
Commissioner Kaneakua			X			
Commissioner Marfil			X			
Commissioner Namu`o			X			
Commissioner Neves	X		X			
Chairman Watson			X			
TOTAL VOTE COUNT			9			
MOTION: <input checked="" type="checkbox"/> UNANIMOUS <input type="checkbox"/> PASSED <input type="checkbox"/> DEFERRED <input type="checkbox"/> FAILED Motion passed unanimously. Nine (9) Yes votes.						

ITEM F-5 Approval to Term Extension, License No. 705 Approval to Extend License No. 705 to the State of Hawai`i, Department of Human Services, Kalaeloa, Island of O`ahu, TMK No. (1) 9-1-013:024 (por.) and Wailuku, Island of Maui, TMK No. (2) 3-4-011:032

RECOMMENDED MOTION/ACTION

General Professional, Land Management Division Kahana Albinio presented the following: Motion that the Hawaiian Homes Commission approve the Term Extension, License No. 705 Approval to Extend License No. 705 to the State of Hawai`i, Department of Human Services, Kalaeloa, Island of O`ahu, TMK No. (1) 9-1-013:024 (por.) and Wailuku, Island of Maui, TMK No. (2) 3-4-011:032

DISCUSSION

Chair Watson noticed that Exhibit A talks about transferring ownership of the two houses that were contracted in 2008 from DHS to DHHL. Chair Watson stated it comes with liability, and he would rather they keep it. K. Albinio stated he is assuming they gave it to DHHL because when the license expires, it all comes to the Department unless the Department wants to take it down.

MOTION/ACTION

Moved by Commissioner Neves, seconded by Commissioner Helm, to approve the motion as stated in the submittal.						
Commissioner	1	2	AYE (YES)	A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo			X			
Commissioner Freitas			X			
Commissioner Helm		X	X			
Commissioner Kaleikini			X			
Commissioner Kaneakua			X			
Commissioner Marfil			X			
Commissioner Namu`o			X			
Commissioner Neves	X		X			
Chairman Watson			X			
TOTAL VOTE COUNT			9			
MOTION: <input checked="" type="checkbox"/> UNANIMOUS <input type="checkbox"/> PASSED <input type="checkbox"/> DEFERRED <input type="checkbox"/> FAILED Motion passed unanimously. Nine (9) Yes votes.						

ITEM F-6 Approval to Issue First Amendment to Right of Entry Permit No. 727, Alpha Inc., Honokowai, Maui Island, TMK No. (2) 4-4-002:018 (por.)

RECOMMENDED MOTION/ACTION

General Professional, Land Management Division Kahana Albinio presented the following:
Motion that the Hawaiian Homes Commission approve to Issue First Amendment to Right of Entry Permit No. 727, Alpha Inc., Honokowai, Maui Island, TMK No. (2) 4-4-002:018 (por.)

MOTION/ACTION

Moved by Commissioner Neves, seconded by Commissioner Helm, to approve the motion as stated in the submittal.						
Commissioner	1	2	AYE (YES)	A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo			X			
Commissioner Freitas			X			
Commissioner Helm		X	X			
Commissioner Kaleikini			X			
Commissioner Kaneakua			X			
Commissioner Marfil			X			
Commissioner Namu`o			X			
Commissioner Neves	X		X			
Chairman Watson			X			
TOTAL VOTE COUNT			9			
MOTION: <input checked="" type="checkbox"/> UNANIMOUS <input type="checkbox"/> PASSED <input type="checkbox"/> DEFERRED <input type="checkbox"/> FAILED Motion passed unanimously. Nine (9) Yes votes.						

PLANNING OFFICE

ITEM G-3 Accept the Beneficiary Consultation Report for Hui Ho`okahua O Moloka`i's Land Use Request for MaLAMA Park Kaunakakai, Moloka`i TMK Nos. (2) 5-3-001:002: 097 & 100 and Ahonui Homestead Association's Land Use Request to Steward DHHL's `Ualapu`e Tract, Moloka`i, TMK Nos. (2) 5-6-006:017, (2) 5-6-002:024, 025, 026, 027, 002 & 036

RECOMMENDED MOTION/ACTION

Planning Office Manager Andrew Choy presented the following:
 Motion that the Hawaiian Homes Commission accept the Beneficiary Consultation Report for Hui Ho`okahua O Moloka`i's Land Use Request for Malama Park Kaunakakai, Moloka`i TMK Nos. (2) 5-3-001:002, 097 & 100 and Ahonui Homestead Association's Land Use Request to Steward DHHL's `Ualapu`e Tract, Moloka`i, TMK Nos. (2) 5-6-006:017, (2) 5-6-002:024, 025, 026, 027, 002 & 036

Close to a thousand beneficiaries were notified. The meeting was conducted on April 4, and there were seventeen participants, of which twelve were identified as Hawaiian Homes beneficiaries. Most beneficiaries support the Hui Ho`okahua O Moloka`i Land Use Request, and most support the Ahonui Homestead Association's Land Uses Request. There was a comment that Ahonui should continue to meet with the Mana`e community members before DHHL seeks the HHL Commission on their Right of Entry. So, Planning is only moving forward with the request for Malama Park today.

MOTION/ACTION

Moved by Commissioner Neves, seconded by Commissioner Helm, to approve the motion as stated in the submittal.						
Commissioner	1	2	AYE (YES)	A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo			X			
Commissioner Freitas			X			
Commissioner Helm		X	X			
Commissioner Kaleikini			X			
Commissioner Kaneakua			X			
Commissioner Marfil			X			
Commissioner Namu`o			X			
Commissioner Neves	X		X			
Chairman Watson			X			
TOTAL VOTE COUNT			9			
MOTION: <input checked="" type="checkbox"/> UNANIMOUS <input type="checkbox"/> PASSED <input type="checkbox"/> DEFERRED <input type="checkbox"/> FAILED Motion passed unanimously. Nine (9) Yes votes.						

ITEM F-7 Approval to Issue Right of Entry Permit to Hui Ho`okahua Moloka`i, Kaunakakai, Moloka`i Island, TMK Nos. (2) 5-3-001:003, :097 & :100

RECOMMENDED MOTION/ACTION

General Professional, Land Management Division Kahana Albinio presented the following:
 Motion that the Hawaiian Homes Commission approve to Issue Right of Entry Permit to Hui Ho`okahua Moloka`i, Kaunakakai, Moloka`i Island, TMK Nos. (2) 5-3-001:003, :097 & :100

DISCUSSION

Commissioner Helm asked when the organization would present the Master Plan. S. Carreira stated issuance of the Right of Entry will allow the permittee to complete the master planning process.

MOTION/ACTION

Moved by Commissioner Helm, seconded by Commissioner Neves, to approve the motion as stated in the submittal.						
Commissioner	1	2	AYE (YES)	A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo			X			
Commissioner Freitas			X			
Commissioner Helm	X		X			
Commissioner Kaleikini			X			
Commissioner Kaneakua			X			
Commissioner Marfil			X			
Commissioner Namu`o			X			
Commissioner Neves		X	X			
Chairman Watson			X			
TOTAL VOTE COUNT			9			
MOTION: <input checked="" type="checkbox"/> UNANIMOUS <input type="checkbox"/> PASSED <input type="checkbox"/> DEFERRED <input type="checkbox"/> FAILED Motion passed unanimously. Nine (9) Yes votes.						

Public Testimony – Sybil Lopez. She represents the SCHHA Moloka`i Mokupuni. She is in support of Item F-7 for Hui Ho`okahua O Moloka`i, a non-profit that is comprised of six homestead associations. Hui Ho`okahua O Moloka`i should be exempted as determining their self-governance. She hoped that the Commission would be favorable to these types of actions as stated in 43 CFR, part 47, defined under the Code of Federal Regulations of Homestead Associations. She asked the Commission to support this effort.

PLANNING OFFICE

ITEM G-1 Accept the Beneficiary Consultation Report for the General Leasing of O`ahu Parcels in Kapolei TMK No. (1) 9-1-151:058 and Moanalua TMK Nos. (1) 1-1-064:019 & 020; (1) 1-1-064:022 & 031

RECOMMENDED MOTION/ACTION

Planning Office Manager Andrew Choy presented the following:
Motion that the Hawaiian Homes Commission accept the Beneficiary Consultation Report for the General Leasing of O`ahu Parcels in Kapolei TMK No. (1) 9-1-151:058 and Moanalua TMK Nos. (1) 1-1-064:019 & 020; (1) 1-1-064:022 & 031

Land Agent Lilliane Makaila presented the slide regarding the Beneficiary Consultation. The Beneficiary Consultation was conducted on March 20, 2024, via Zoom, and 15,062 postcards were mailed out to O`ahu lessees and applicants. There were 38 participants, and 32 were identified as DHHL beneficiaries. There was concern for the Kapolei parcel’s use, which is mixed commercial or retail with traffic safety concerns. There was opposition to the proposed land use and the competitive bidding.

DISCUSSION

Chair Watson asked what the specific concerns regarding the traffic are besides increased traffic; is it the layout? L Makaila stated that one homesteader who lives near Kanehili Park stated there is increased traffic from the people leaving Hoomaka Market and driving towards the homestead instead of getting out into Kapolei Parkway. They drive fast through the homestead. There was some discussion with the leadership of Hoomaka following the beneficiary consultation, and there was a concern about a potential retail development adjacent to Hoomaka that would increase traffic.

MOTION/ACTION

Moved by Commissioner Neves, seconded by Commissioner Awo, to approve the motion as stated in the submittal.						
Commissioner	1	2	AYE (YES)	A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo			X			
Commissioner Freitas			X			
Commissioner Helm		X	X			
Commissioner Kaleikini			X			
Commissioner Kaneakua			X			
Commissioner Marfil			X			
Commissioner Namu`o			X			
Commissioner Neves	X		X			
Chairman Watson			X			
TOTAL VOTE COUNT			9			
MOTION: <input checked="" type="checkbox"/> UNANIMOUS <input type="checkbox"/> PASSED <input type="checkbox"/> DEFERRED <input type="checkbox"/> FAILED Motion passed unanimously. Nine (9) Yes votes.						

ITEM G-2 Accept the Beneficiary Consultation Report for the General Leasing of Hawai`i Island Parcels in Waiakea, Hilo TMK No. (3) 2-2-060:019

RECOMMENDED MOTION/ACTION

Planning Office Manager Andrew Choy presented the following:
Motion that the Hawaiian Homes Commission accept the Beneficiary Consultation Report for the General Leasing of Hawai`i Island Parcels in Waiakea, Hilo TMK No. (3) 2-2-060:019

L. Makaila stated the Beneficiary Consultation meeting was held on March 28, 2024, via Zoom. Six virtual participants were identified as DHHL beneficiaries. There was concern over the lack of participation, so they asked for in-person beneficiary consultations on Hawai`i Island. There was a concern for internet connectivity that may be a barrier for the Hawai`i Island beneficiaries and a desire for more leasing opportunities by subdividing the parcels and making them smaller for more tenants. A concern was expressed about the high volume of houseless people and the potential for illegal activities.

Chair Watson asked what were their thoughts on the comments face to face. She agreed and think they have the capacity to do so. Chair Watson thought so too.

MOTION/ACTION

Moved by Commissioner Neves, seconded by Commissioner Helm, to approve the motion as stated in the submittal.						
Commissioner	1	2	AYE (YES)	A'OLE (NO)	KANALUA ABSTAIN	EXCUSED
Commissioner Awo			X			
Commissioner Freitas			X			
Commissioner Helm		X	X			
Commissioner Kaleikini			X			
Commissioner Kaneakua			X			
Commissioner Marfil			X			
Commissioner Namu`o			X			
Commissioner Neves	X		X			
Chairman Watson			X			
TOTAL VOTE COUNT			9			
MOTION: <input checked="" type="checkbox"/> UNANIMOUS <input type="checkbox"/> PASSED <input type="checkbox"/> DEFERRED <input type="checkbox"/> FAILED Motion passed unanimously. Nine (9) Yes votes.						

Public Testimony – Patrick Kahawaiola`a. He stated it is about the process, and it is sad when there is that kind of participation from the island, which has the biggest industrial properties. The mailing of the postcards was received one day late, and the connectivity on this side of the island is atrocious. He is happy that Lilliane mentioned that the face-to-face meeting could work out. He objected to Item G-2 due to a flawed beneficiary consultation.

ITEMS FOR INFORMATION/DISCUSSION

REGULAR AGENDA

OFFICE OF THE CHAIRMAN

ITEM C-3 For Information Only – Summary of Legislative Session 2024

RECOMMENDED MOTION/ACTION

None. For Information Only. NAHASDA Government Relations Program Specialist Oriana Leao presented the following:

O. Leao read from the submittal of the twelve legislative proposals. Eight were included in the Governor’s Administrative package, and the Legislature passed two.

DISCUSSION

Commissioner Awo asked about SB 3236 to support initiatives for multi-family units, rentals, LIHTC, etc. He had trouble with what that bill was intended to do. One concern is that he sees the trust lands will be put into another trust, and it feels like a generic trust beyond the purview of DHHL. Does the DHHL trust land transfer to another trust that has no protection under the Hawaiian Homes Commission Act?

Chair Watson stated that it does not do that; it stays with the Hawaiian Homes Commission Trust. Just by separating our existing trust in vertical construction, we are now able to resolve the problem we have with the 15-year wait. The compliance would issue a homestead lease. With this change, the Department can now issue a homestead lease upfront for the land in the vertical construction through the LIHTC and proceed without impacting the award of a homestead lease.

Commissioner Awo stated he understood the intention, but trust land assets were being transferred into another trust. Chair Watson stated it was not going to be transferred. It is separating the two, but it still stays in the trust. The vertical construction they are creating is a unit that is separate and falls under and is used to facilitate the LIHTC approach. The homesteader still gets his homestead lease for the land. This is an option for someone who could not afford a turnkey house.

Commissioner Awo stated that the way the language is written still feels like trust assets are moving into another land trust, and that is a concern. Chair Watson stated it is a little confusing, but it is not.

Public Testimony – Patrick Kahawaiola`a. It is wonderful that the Department can get 75% of the amount and loan to people who need loans. 75% of what amount; he does not know the number. He does have serious concerns about SB 3236. Commissioner Awo asked if the Department's land trust is going into another trust. SB 3236 was taking some of the Department's lands and putting them into conservation. We need the land for our people and not for conservation, and the endangered species is the Hawaiians.

O. Leao clarified that HB2218 proposes to amend Section 215, which allows the Department to provide direct loans that are 50% of what is currently permissible according to the FHA loan limit per county. Hawai'i County is \$517,500, which means the Department can loan \$258,750. If it passes, the amount the Department would be able to lease to a beneficiary would increase to \$388,125,00 (75%)

Public Testimony – Kapua Keliikoa Kamai. Asked if the Department got the additional monies that Chair Watson asked for when it was doing all the acquisitions and rentals. Regarding rentals, she is concerned about those on the waitlist. Anything opening the doors to a non-beneficiary concerns her.

Public Testimony – Germaine Meyers. Regarding SB 3236, she heard what Commissioner Awo stated. SB 3236 came before the Judiciary, Hawaiian Affairs, and Finance. At all times, there was only one testifier, one written testimony by the Department of Hawaiian Home Lands, Chairman Kali Watson. She read the testimony and the paragraph regarding putting it into a separate trust: "In devising a legal structure to accommodate this, DHHL has determined that it will be necessary to place certain Hawaiian Home Lands in a Land Trust. This will assist those participating in these kinds of LIHTC developments of single-family, multi-unit, and high-rise projects in obtaining financing to build such projects and attract more participants. Under this legal structure, the beneficiary interest under such land trust must be clearly noted as real property. This measure clarifies that the beneficiary interest under such land trust will be deemed real property rather than personal property." While we believe that this interpretation is implicit in the current law, we would like to make sure that it is abundantly clear. She is confused about SB 3236. If you get a lease with a successor and do not pay your rent and terminate your rental lease, does it also terminate your Hawaiian Homes Lease with that project? Does our homestead lease get canceled when your rental lease gets canceled? These questions have not been answered at all. What does it mean, effective July 1, 3000?

O. Leao stated that the defective date is typically used throughout the legislative session so that the bill can go through different draft forms. The objective is to separate the land from the vertical developed with LIHTC funding with a 15-year compliance period. The bill allows the Department to grant a lease to a beneficiary prior to the completion of the 15-year compliance period.

Public Testimony – Blossom Feiteira. She understands that SB3236 is awaiting the Governor’s signature. Regarding the Chairman’s testimony of the bill, it provides that the only way this problem with LIHTC can be resolved is by taking pieces of the homestead trust and putting it into another trust, and redefining the capture from personal property to real property. The confusion is it sounds like the Chair is recommending that trust lands be separated and be put into a different trust so that LIHTC can be properly adjudicated on that land and provide them a lease so that they can retain the right to successorship. She asked for clarity in that statement from the Chair’s testimony, as well as what it is going to take to create a new land trust out of homestead lands.

Chair Watson stated that our legal counsel had put together the objective. It was their approach to separate the land from the vertical construction, which would use the LIHTC without the option to purchase financing. The land is going to be used, and it stays in the trust, and it will be used to issue the homestead leases upfront. The person who becomes the heir will have to satisfy the same restrictions and requirements in order to qualify for the LIHTC with the option to purchase. That is the way the separation is being handled. Still, more importantly, it eliminates the ability to lose that entitlement that is now not provided under the existing approach that the Department is using.

Chair Watson stated that the remaining agenda items will be taken up tonight at the community meeting or tomorrow. Tonight’s community meeting starts at 6:30 p.m. at the Kealakehe High School Cafeteria, and tomorrow’s meeting begins at 9:30 a.m.

ANNOUNCEMENTS AND RECESS

1. DHHL Community Meeting is on Monday, May 20, 2024, at 6:30 p.m., Kealakehe High School Cafeteria, 75-5000 Palani Road, Kailua-Kona, Hawai`i 96748

RECESS

5:05 PM

HAWAIIAN HOMES COMMISSION

Minutes of May 21, 2024

Courtyard King Kamehameha's Kona Beach Hotel Ballroom #1
75-5660 Palani Road, Kailua-Kona, Hawai'i 96740, and
Interactive Conferencing Technology (ICT) Zoom

Pursuant to proper call, the meeting of the Hawaiian Homes Commission was held both in person and via Interactive Conferencing Technology, beginning at 9:30 a.m.

PRESENT Kali Watson, Chairman
Randy K. Awo, Vice-Chairman, Maui Commissioner
Makai Freitas, West Hawai'i Commissioner
Zachary Z. Helm, Moloka'i Commissioner
Walter Kaneakua, O'ahu Commissioner
Sanoe Marfil, O'ahu Commissioner (ICT)
Pauline N. Namu'o, O'ahu Commissioner
Dennis L. Neves, Kauai Commissioner

EXCUSED Michael L. Kaleikini, East Hawai'i Commissioner

COUNSEL Alana Bryant, Deputy Attorney General

STAFF Katie L. Ducatt, Deputy to the Chairman
Richard Hoke, Executive Assistant to the Chairman
Leah Burrows-Nuuanu, Secretary to the Commission
Andrew Choy, Planning Office Manager
Kahana Albinio, General Professional, Land Management Division
Juan Garcia, Homestead Services Division Administrator

ORDER OF BUSINESS

CALL TO ORDER

Chair Awo called the meeting to order at 9:35 a.m. Eight (8) members were present at the meeting location establishing a quorum.

PUBLIC TESTIMONY ON AGENDIZED ITEMS

ITEMS FOR INFORMATION/DISCUSSION

REGULAR AGENDA

OFFICE OF THE CHAIRMAN

ITEM C-4 For Information Only – Status Report of DHHL Enforcement Unit Efforts and Statistics (April 16, 2024 – May 15, 2024)

RECOMMENDED MOTION/ACTION

None. For Information Only. Enforcement Unit Administrator David Hoke presented the following:

DISCUSSION

Chair Watson stated that there are a lot of abandoned or dilapidated homes, which can be a haven for trespassing and other criminal behaviors. Enforcement and Homestead Services need to work together to clean up the lots that are eyesores. The Commission will have to rely on Enforcement and Homestead Services to monitor the situation. If the Department has to re-award, then we need to move forward.

Commissioner Helm stated that there are homesteaders who do not maintain their homes, abandoned vehicles, and homeowners who are delinquent on their mortgages. Hopefully, your enforcement team will expand soon.

D. Hoke stated that vacant homes are always going to be a concern because they are open for somebody to do something that is not safe for the homestead. Enforcement will focus on That over the next couple of months. He will need to talk to the AG to find out the extent, but hopefully, he can put together a PowerPoint presentation to give the Commission an idea.

Commissioner Kaneakua asked D. Hoke to brief us on what their typical day looked like. D. Hoke stated that most of the time, they forget what island they are on. On Sunday, they flew into Kailua-Kona and stopped at three known problematic houses. We need to prioritize and remove the risks in the community. Utilize the land and put the people into their homes.

ITEM C-5 For Information Only – Oral Summary of the HHC Limited Meeting to Kalaupapa, Moloka'i, on April 24, 2024

RECOMMENDED MOTION/ACTION

None. For Information Only. Planning Office Manager Andrew Choy presented an oral summary:

The full videos may be viewed on the Department's website.

DISCUSSION

The Commissioners visited several sites on Kalaupapa, most notably the fueling station where the National Park Service and all the staff get their source of fuel. They are considering moving it more inland because of the rise in sea level. They met with beneficiaries who worked with the NPS and the DOH and got to hear their concerns about what they would like to see on the Kalaupapa Peninsula. Several Commissioners suggested that they may want to think about forming an association to help better vocalize their concerns to the Department and the Commission in the future. The day looks at where the future field facility might be located at Kalaupapa.

Public Testimony – DeGray Vanderbilt is a member of Ka `Ohana O Kalaupapa, a native Hawaiian non-profit organization that the patients of Kalaupapa conceived. The visit was constructive for the Commissioners. Superintendent Nancy Holman's comment on how to prioritize lodging facilities at Kalaupapa she mentioned three projects coming up. He asked that DHHL give the construction workers priority in lodging at Kalaupapa for the construction projects and that DHHL pass that on to NPS. He heard Andrew mention a comment an NPS worker made about organizing for their voices to be heard.

Public Testimony – Patrick Kahawaiola`a Item C-4 for enforcement to make sure the people on Keaukaha are kept safe. He wants the record to reflect that the three individuals in the Department's Enforcement Unit are doing a commendable job, especially with the flood of drugs and illegal activities on our properties. He asked the Commission and/or Enforcement to look at

the continued occupation of Humu`ula Sheep Station and the erection of gates or fencing on Manawa Road.

ITEM C-6 For Information Only – Oral Summary of the HHC Limited Meeting to King’s Landing, Honokaa, Pu`ukapu, and Kawaihae, Hawai`i Island, on May 19, 2024

RECOMMENDED MOTION/ACTION

None. For Information Only. Planning Office Manager Andrew Choy presented an oral summary:

The video of the site visit is uploaded to the Department’s website, and the full conversation can also be viewed.

DISCUSSION

The Commission got an orientation from MAHA about the history and background of the site. Then they drove to Honokaa to look at the property the Department is looking to acquire for homesteading. They drove to Waimea to view the Pu`ukapu lots and the roads. A better map is needed so beneficiaries interested in attending the site visit have a better sense of where the Commission is going. The day ended at Kawaihae to look at two homes that suffered flooding and to assess and see what could be done.

Public Testimony – Ainaaloha Ioane. Thanked the Commission and staff for coming to King’s Landing. There is still distrust from the native Hawaiian beneficiaries of DHHL due to the years of generational trauma. It is hard to fathom the relocation of Keaukaha beneficiaries to expand the airport to the greater good of the public’s interest. Chair Watson provided written testimony against a Puna bypass road through Pana`ewa.

Public Testimony – Marion Kapuniyai. The map that was provided does not show the lots visited by the Commission. It needs to show the lots discussed in the agenda item. Commissioner Freitas stated that when the items come up, a deeper discussion can be had. A. Choy stated the purpose of the Pu`ukapu site visit was to give the commissioners an understanding of the roads.

Public Testimony – Jojo Tanimoto. Thanked the Commission for visiting Kawaihae. Regarding flooding, she has been asking the Department for an evacuation plan and has sought the County’s Civil Defense to create a plan.

Public Testimony – Patrick Kahawaiola`a. Asked for a copy of the maps that were talked about yesterday and how beautiful they were. Andrew mentioned that the video/audio could be viewed on the DHHL website. However, in East Hawai`i, connectivity issues are present. There have to be better ways to communicate with the beneficiaries.

HOMESTEAD SERVICES DIVISION

ITEM D-1 HSD Status Reports

- A. Homestead Lease and Application Totals and Monthly Activity Reports
- B. Delinquency Reports
- C. DHHL Guarantees for U.S. Small Business Administration
- D. DHHL Guarantees for FHA Construction Loans

Homestead Services Division Administrator Juan Garcia highlighted applications grew by 37, and they continue to come in to get on the list. There are currently 10,049 leases issued statewide, and

the undivided interest leases awarded were about 1,500 and 739 undivided interests that need to be converted. Of the UI issued, 570 families now have a lease with a home. For loans, the delinquency rate is about 24%.

DISCUSSION

Commissioner Helm noticed that Item D-9 has 14 approvals for amendments to the leasehold interest in Ho`olehua and extended his mahalo to Juan.

Commissioner Awo stated there was a discussion of creating a Kuhio List where everybody can be placed on the equivalent to undivided if it was structured properly. One thing wait listers are challenged with is not having the ability to have a successor while they are on the list. The Kuhio List was intended to address that. J. Garcia stated that is correct. His personal opinion is that it has been far too long. They have seen a lot of applicants who have passed away, and their rights were terminated upon their death, and they did not have a 50% qualified person to take over that right. The Kuhio List was to preserve the applicant's right to pass on to someone who has the required 25% blood quantum as a successor for a lease. It is a big advantage in preserving those individuals who are applicants and do not have a 50% successor. More discussion needs to take place.

Commissioner Awo stated he thinks that is another Permitted Interactive Group (PIG) because the number of people dying on the waitlist and not having a successor is a prevalent concern. The Commission can address that concern.

Chair Watson stated that one important thing is the recognition that the Department is in a different position because of Act 279 and its aggressive efforts to obtain additional funding from various sources. The Department is working with developers and has the developer take the lead. For the people on the waitlist, the Department aggressively recruits, identifies, and offers leases. In Phase 2, if it passes and is successful with federal funding, those individuals who are interested in that particular homestead project can receive a paper lease, and the heirs will have the ability to succeed. The Department anticipates doing 6,000 leases. It is not going to eliminate the waitlist, but it will eliminate a portion that is exposed to this bad situation regarding the heirs not being able to succeed should they pass away. It is a different approach. There will be workshops and orientations to help.

Commissioner Awo stated mathematically, in spite of our good intentions to draw in developers to aggressively approach development. When there are 30,000 wait listers, it will not come in time to address the concerns of the people about dying on the waitlist. It is going to take billions of dollars to eliminate what we have on the waitlist. The Kuhio concept offers immediate relief to those people who are concerned about dying on the list.

Chair Watson stated he would like to focus his attention on what is practical and effective. It is a Commission decision. Commissioner Awo stated he is advocating for a combined approach.

Commissioner Neves stated the Commission should look into the Kuhio List and create a PIG. Chair Watson agreed to put together a PIG.

Public Testimony – Patrick Kahawaiola`a. From the perspective of the beneficiaries he represents, amend the Act if you think we should all be supporting Act 80, which is the 1/32 blood quantum. It is what it is, following the dictates of what Kuhio did as he wanted 199 years, but the people got 99 years. The addendum allows another 100 years.

Public Testimony – Germaine Meyers. The month’s report shows that Waimea’s pastoral applicants are 46, and Hawai`i’s pastoral applicants are 1,983. She brought it to attention because Item F-1, converting ROEs to RPs, is an issue because some were using the RP program to bypass the waitlist.

Commissioner Awo addressed P. Kahawaiola`a’s comments regarding the 50% blood quantum. Prince Kuhio understood that interracial marriages would significantly reduce blood quantum, so he was opposed to the 50%. He proposed 1/32nd. It was the sugar plantations and ranchers that forced a compromise. What we have now was not the intent of Prince Kuhio, so the Department is trying to find ways to deal with that issue. The 1/32nd blood quantum was established for successorship and is currently stuck in the Department of Interior’s committee. It is scary to bring it to Congress, which is divisive and not friendly to Indigenous interests. We have to understand reality, find ways to manage it and use the tools provided. The Kuhio Lease awards may be a way to address the concern of dying on the list.

Public Testimony – Bo Kahui. Received a UI award. His grandma gave hers to him, and he gave it to his son. We need to find the solution, and he thinks UI awards give that opportunity.

Public Testimony – Blossom Feiteira. She was a UI lessee, got her lot in 2017, and transferred it to her son. The UI was a good strategy as it took people off the lease. However, in terms of funding with the Legislature, the wait was 12 years, and the kupuna who took those leases passed away. If the Department and Commission are looking towards re-instating the UI program through a Kuhio Lease, there is a strategic plan in place that identifies areas for development. She recommends that the UI program be deployed for those who are ready for development. In 2005, funding for the UI program was removed and placed somewhere else because priorities changed. Funding should be intact until the development is completed. To have UI wait listers wait, they might as well go back on the waitlist.

ITEM D-13 Approval of Amendment of the Commencement Date for the Pu`ukapu Pastoral Leases

RECOMMENDED MOTION/ACTION (continuation from yesterday’s meeting)

Homestead Services Division Administrator Juan Garcia presented the following:

Motion that the Hawaiian Homes Commission approve the Amendment of the Commencement date for the 184 pastoral lot leases in Pu`ukapu

J. Garcia stated the discussion started yesterday, and the decision was to defer it till today. The Department is recommending the commencement date be June 1, 2024, to provide the County of Hawai`i with the respective names of the 182 lots to allow those beneficiaries to construct a structure, if they choose, to apply with the county.

Public testimony – Mahana Kekealani. Is the lessee of Lot 28 Pu`ukapu Pastoral homestead. Her TMK used to be 6-4-036 051-0000. Since 2005, she has been following the subdivision process for Pu`ukapu, and it has never been finalized. She followed the rules, got a building permit, and built her home in 2013. She was awarded the TMK in 2009, and up until 2014, all the letters from the Department notified her that the county had given them a paper subdivision, which is how they got their TMK. The Department had to follow up with county roads and potable water, but that did not happen. What she believes is happening is the county could not see the process through because the TMK is no longer hers. It is now back to DHHL, and her structure is deemed illegal. She paid and followed the rules that the Department is asking her to continue to follow. The Department has not followed the rules, from what she can see, as far as

the landowner and doing proper subdivision. She has no problem paying property taxes, but right now, she is not eligible for homeowners exemption when the taxes are issued because she does not have a legal subdivision. There is no way the Department is going to invest in a portable system or bring county roads. In 2014, the letter stated that was all that was left to do, but another one came out that said the Department was making the roads to the Department's standard. Something has split between the County and DHHL. She asked that the Department do due diligence before voting on this matter because there is a lot of history going back to 2005. If there was a final subdivision, somehow, they are saying there was not. She asked that the Commission defer this item and do due diligence.

Commissioner Freitas stated beneficiaries have been trying to get building permits, so he asked if M. Kekealani could expand on that. She got her building permit, and over the years, an Unexploded Ordinance (UXO) issue came up, which created a mess. The inspectors from the county said they were not coming out to inspect because they do not have jurisdiction. Those who are now going for permits are being turned away. At one point, it was because of the UXO, and the other is because it does not meet county standards. Title 11, Chapter 20 requires potable water in the 1986 subdivision code. Unless something is happening under the table (glitch) for potable water and roads, she does not know how they received subdivision approval. That is why people cannot get building permits, and many have tried. She got hers, but for some reason, after 2014, people have been turned away from the county. She followed the rules. She asked the Commission to help them and make the Department follow the rules.

Commissioner Awo asked if the vote would hurt or help her. He knows she asked for a deferral. She would have seven years without paying, but after that, unless she is proven wrong, there is no subdivision approval. She knows that they are going to tear down her structure, which is what the letters from the Department stated back in 2014, or she is going to have to pay AG rates and not be allowed a homeowners exemption. It would hurt her right now.

Commissioner Neves stated yesterday he asked that the item be deferred based on testimony from the audience. He is concerned that the Commission is not getting all the information. This needs to be deferred until it can be cleared and fixed before moving forward.

Public testimony – Joe Pacheco. He lives in Pu'ukapu and has the last 300 acres of ranch. He did an add-on to his place, and Jim signed him a letter, and he went to Kona. After going through the process of getting the prints, the county told him they had no jurisdiction out there. There is no fire hydrant, no infrastructure, no drinking water. Jim told him, as far as he was concerned, you did your due diligence. For the record, to clear it up, does the Department own the lands?

DAG Bryant stated that the State of Hawaii owns the land. Hawaiian Home Lands and DHHL are an agency of the State of Hawaii, and the State of Hawaii owns all Hawaiian Home Lands.

J. Pacheco stated his fence is being cut, and his cattle are disappearing. Who is liable for his animals disappearing? Chair Watson stated to J. Pacheco that he also leased the land.

Public Testimony—Penny Uitake. Many lessees do not understand what this is all about. A petition is in process, and the department is asked to be transparent and explain the whole plan so lessees can understand.

Commissioner Freitas stated he thinks that this needs to be deferred and figured out what can be done.

Commissioner Helm asked about the source of water and where it came from, and it was mentioned there was no fire hydrant. J. DuPont stated the source of the water for the Waimea area is from a series of reservoirs above Waimea Town that catch the water and send it to the Department of Water Supply's treatment plant. Once it is treated, it is potable. Other private wells help the county's system. During the site visit at the first tank, a water meter was assigned to the Department by the Department of Water Supply. Up to the meter, the water is potable, but once the water is sent to the first storage tank, it becomes non-potable because it is not treated to the standards required by the county and the Department of Health. It is suitable for irrigation use for cattle. To make it potable, it would need to be treated at the site, and there is a series of requirements from the DOH. Prior to 2013, when the Department put in the system, they compared the cost of building the current system against the county standard system. It was around \$70 million, and that amount is still higher today.

There is a public water system in Kawaihae, and water from Kohala Ranch is potable. The question was, is there sufficient water? The Department of Water Supply says there is insufficient water for the subdivisions. The lessees found a way, which is water catchments, to satisfy that part of the subdivision request by the county. For the last 30 years, the Department of Water Supply has been asking DHHL to develop a source in the Waimea area in anticipation of future development on Hawaiian Home Lands. It is something that needs to be explored.

Commissioner Helm stated that as long as the lessee has a clear understanding, His concern is the safety due to the past fire. J. DuPont stated that for Pu'ukapu, the Department put in four fire tanks that are serviced by the same system. There are standpipes at the fire tanks to help the Fire Department hook up and fill their tankers. The lots that were awarded in 1952 those initially awarded lots did not go through subdivision approval with the county. They are similar to the Pu'ukapu 1990 awards, where they were considered lots of records, but somehow, between the county today, there is no subdivision approval. It could go through the subdivision approval, but based on the County's AG standard, a 20 ft. wide gravel road with oil sprayed on top of that gravel. The county requires a 50 ft right of way. Does not make sense in these AG-zoned areas to have paved roads and sidewalks.

Chair Watson **DEFERRED** Item D-13.

ITEM D-14 For Information Only – Rules Related to Lessee Leave of Absence and Caretaking of Homestead Lots

RECOMMENDED MOTION/ACTION

None. For Information Only. Homestead Services Division Administrator Juan Garcia presented the following:

J. Garcia stated that pursuant to Administrative Rules Section 10-2-16(b)(4), the Commission delegated the duties to the Chairman, including the Chairman, who approved the leave of absence. However, the Administrative Rules do not contain any of the provisions regarding leave of absence (LOA). Past practices allowed for LOA to be granted to the lessees' employment, deployment of military service, health or safety, medical, and education. The LOA request was granted for one year and may be extended for an additional year. The LOA was only for the lessee and not a family member. For approval of an LOA, the lessee had to provide the reason, the name and contact information of the lessee's caretaker, and a temporary mailing address and contact information for the lessee. The caretaker is responsible for the management, security, and maintenance of the lot. Caretakers' duties may include basic repair work, keeping the lot and improvement well maintained, secured, and functioning as intended. The Hawaiian Homes

Commission Act or the Administrative Rules do not contain a definition of a caretaker. According to Merriam-Webster's Dictionary, a caretaker is "one that takes care of the house or land of an owner who may be absent." The lessee remains responsible for the terms and conditions of the lease, which include financial obligations, loans, real property taxes, lease rent, homeowners' insurance, association fees, etc.

DISCUSSION

Commissioner Neves stated the request for an LOA and who the caretaker should be should be made before going on the LOA. J. Garcia stated that it is provided and approved by the Chairman. Commissioner Neves stated the disconnect is on page 2; the lessee remains responsible for the terms and conditions of the lease. If a caretaker is not responsible for the terms and conditions of the lease, that is a big disconnect. If there is a lease violation, who is responsible? J. Garcia stated the lessee is responsible for the lease.

Commissioner Neves stated that if a caretaker brings in a tent or trailer or an unauthorized unit onto the lot, that is not allowed. J. Garcia suggested having a lessee agree to the point that the caretaker has Power of Attorney, and the lessee would be represented by an attorney in fact. Commissioner Neves stated that at least it was someone we could deal with right away instead of trying to find the lessee. There needs to be clarity on what the caretaker's responsibility is and also the responsibility of him being responsible for lease violations with the approval from the lessee.

Commissioner Helm asked if the caretaker has to be a beneficiary. J. Garcia stated no. J. Garcia stated if this body wants to create rules for LOA....

Public Testimony – Blossom Feiteira. This has been an ongoing challenge in the community, and there has not been a process. There needs to be a policy to allow the Department to respond to these complaints. The rules are unclear, so the rules need to be established clearly.

Commissioner Helm stated the lessees can be gone and rent it out to non-beneficiaries. Who is monitoring that?

Public Testimony – Kauai Almeida. It has become a problem criminally. The lessee has the lease, and they are responsible. This is the first time she has heard that you can exit your lot for a time and not be responsible. That does not work. In the lease, you can lose your lease. Another thing is when a lessee passes away, and the family does not notify the Department. The lot is left vacant, and houseless people move in, and then it becomes an enforcement problem. No matter what, it is the lessee's pilikia. The lessees should be made accountable for their leases. The Department cannot keep up with its waitlist.

PLANNING OFFICE

ITEM G-4 For Information Only – Draft DHHL Kawaihae Regional Plan 2024 Update

RECOMMENDED MOTION/ACTION

None. For Information Only. Planning Office Manager Andrew Choy presented the following:

Lilliane Makaila presented the item with a slide presentation.

- There were substantive revisions.
- Address the need for affordable potable water
- Provide options for non-potable water

- Find a new water source
- The revisions will be incorporated into the Final Plan
- The intent is to return to the Commission on July 15-16, 2024, and ask for adoption
- The PUC approves the water rates paid to Kohala Ranch and is the highest rate
- Kohala Ranch's preference is that DHHL find a new source

DISCUSSION

Andrew Choy stated within the Water Agreement with Kohala Ranch, there is a provision that says within two years, it would no longer serve the Department. In the long term, finding another source is critical to the health of that community. The solution would be to go through the Administrative Rules process to re-evaluate the water rate schedule. The long-term solution would be to find another source(s). Commissioner Freitas stated that, as discussed in the past, long-term solutions are not cheap. Andrew stated that the Board from Kailapa was in the audience, too.

Public Testimony – Kailapa Community Association Board. Jeannette Kaulukukui introduced Shauna Kaulukukui, President, and Brandy, Treasurer. Brandy stated she thought the fiscal year was a calendar year and did not know it would come up in July. In July, they will pay \$75 per month as a flat service fee on top of their current water rate. 30% of their community are elderly and have a fixed income. The other 40% are low-income families. The water rates are a strain. It is not feasible to grow food. Some families are paying \$200. The request is for immediate relief and for solutions to come up soon.

S. Kaulukukui stated her house is under construction, but nothing is being built now, and she still pays \$121 for her water bill. For their pavilion, they pay \$300 every two months for water, and the pavilion is used every Sunday for Church.

Commissioner Helm asked what the basic cost is for using the shower and the toilet and not doing yard service. The bill for one, for example, is \$241 every two months.

Commissioner Neves stated that the water policy includes a disconnection and reconnection fee. L. Makaila stated she could look into that.

J. Kaulukukui stated that there is technology today like water desalination reverse osmosis, and maybe those options can be explored. The documents provided mention the options they have for water. She encouraged the Commission to move forward.

Public Testimony – Jojo Tanimoto. Asked Planning to look into the 10 million gallons of water in Lālāmilo water storage, which could be an opportunity for Kawaihae and Kailapa to get water. She asked Planning to include that in their recommendations with the Regional Plan.

Note: Slide presentation attached.

LAND MANAGEMENT DIVISION

ITEM F-8 For Information Only – Implementation of Act 236 SLH 2021 and request for extension of General Lease No. 202, Prince Kuhio Plaza, LLC, Waiakea, Hawai`i Island, TMK Nos. (3) 2-2-047:066: & 073

RECOMMENDED MOTION/ACTION

None. For Information Only. General Professional Land Management Division Kahana Albinio presented the following:

Daniel Kay is with the Prince Kuhio Plaza. He stated that because of the short term that is left, it is difficult for them to continue leasing and making capital improvements. They have done \$19 million in the past 4-5 years and plan to do another \$14.5 million more in improvements to the property, but a lot of that is hindered because of the financing. That is why they are asking for an extension to extend those projects and generate more long-term leases to generate revenue for the property.

DISCUSSION

Chair Watson stated he understands the need to get an extension to amortize his investment. What thoughts have been given about the benefit package to native Hawaiians? D. Kay stated his team is working on a benefits package and working on presenting the Commission with some options. Chair Watson asked about the makeup of his existing tenants and what percentage of the native Hawaiian business is. D. Kay stated less than 5%, and the others he is not sure about it. K. Albinio stated Exhibit B has some information. Chair Watson stated that the Department will need a lot more details and concrete efforts on Prince Kuhio Plaza's part and that it needs to strengthen the benefits package.

Commissioner Awo stated that the Department is currently faced with a letter from the Department of Interior, which is taking a strong position against extensions beyond the 65-year practice that is in place. There is an AG's opinion that the Department can extend beyond the 65-year lease period.

Public Testimony – Kauai Almeida. The Plaza is run down, and two beneficiaries have stored there and have pilikia with management. They do have the pop-up makeke and Merry Monarch.

Public Testimony – Patrick Kahawaiola`a. The letter from the DOI to DHHL, whereby there is a disagreement, a dispute, or a breach of trust, may have occurred. From the State Attorney's position, DHHL can do it, but the DOI disputes it. Declaratory Judgment should quickly be filed to see if, in fact, the stated can do what it says it can do or if the DOI prevails. The Walmart was built without a permit. All that was needed was an engineer's stamp. The County of Hawai`i has an MOA signed by DHHL Chairman Soon and Mayor Kim in 2000. That should be revisited for our people in Pu`ukapu. The MOA is good for Hawaiian Home Lands. He asked that the Commission look at that.

Public Testimony – Kainoa McDonald. Challenged the Department to consider other options. She thanks the Chair for asking for a stronger package from the entity. The Commission has a fiduciary responsibility to its beneficiaries. A full review must be completed.

ITEM G-9 For Information Only – King’s Landing Kuleana Homestead Settlement Plan, Draft Environmental Assessment, Waiakea, Hawai`i Island TMK Nos. (3) 2-1-013:001:007, 008 and 149

RECOMMENDED MOTION/ACTION

None. For Information Only. Planning Manager Andrew Choy and Planner Julie Cachola presented the following:

Barbara Natell is the Project Manager for Group 70, the Consultants for the King’s Landing Kuleana Homestead Settlement Plan and the Draft Environmental Assessment Anticipated Finding of No Significant Impact. The purpose is to:

- Update HHC on the status of the King’s Landing Kuleana Homestead Settlement Plan Project
- Request HHC approval for an Anticipated Finding of No Significant Impact determination for the Draft Environmental Assessment.
- DOT is potentially still planning to send their runway East, which would affect the homestead communities

Andrew Choy stated that DOT mentioned that they were conceptually contemplating expanding the airport East. Our plans concerned them because they impacted their expansion. It was made clear to DOT that their plans need to take into consideration its impact on the Department’s ability to provide homesteading opportunities to the beneficiaries, and it is DOT’s kuleana to mitigate against our ability to provide homesteading to our beneficiaries, not the other way around. The Department does not accommodate the expansion of the airport at the expense of reducing the number of homesteading opportunities for our beneficiaries. It is with that that the Department is trying to work out an amicable solution with the airport, but the Department did draw its line in the sand.

DISCUSSION

Chair Watson stated, on behalf of the Commission, we are definitely going to oppose that expansion. We need to put together a letter and get that out. We have already suffered enough regarding the acquisition of our homestead lands for that airport. We need to support King’s Landing.

Public Testimony – Ainaaloha Ioane. It is a historical time for MAHA, and is supportive of the Draft EA. She thanked Chair Watson for taking a strong approach in the support of King’s Landing.

Public Testimony – Patrick Kahawaiola`a. He asked if the EA covered the airport and if it reflected the people in Keaukaha. Will the people be able to rebuild and build with the noise? The wastewater plant’s treated wastewater is now in the bays where they fish. What is good for one is good for all. Keaukaha had an EA, and we have not received anything yet about the airport for Keaukaha.

Note: Slide presentation attached.

J AGENDA

REQUEST TO ADDRESS THE COMMISSION

ITEM J-1 Bo Kahui – La`i `Opua Community Development Corporation

Kapiolani Spencer is a resident of La`i `Opua, Phase 1. She testified Doug Begley of Ikaika `Ohana knew that there was a water issue and that he was paying for the water. That is a lie because he was not paying for it. Her first water bill was \$800, and the others had a bill of \$2000 plus. She believes that is why families are getting eviction notices. She got Doug Begley to pay for her high-water bill. There are issues of broken promises.

B. Kahui stated that La`i `Opua CDC has four priority projects: (1) La`i `Opua CDC Water Source Development; (2) Native Hawai`i Culturally Based Preschool; (3) Village Community Park; and (4) Honokōhau Boat Parking Initiative. He thanked the Commission for approving the Right of Entry for the school. He went through the slides for the school planning guide.

ITEM J-4 Kaulani Almeida – Pana`ewa Hawaiian Home Lands Community Association

K. Almeida stated they will be fencing their 12-acre Kamoleao parcel to try and restore the forest. He thanked David Hoke and his team for helping remove the houseless from the area. She just found out that the Commission did not initiate the moratorium that she spoke about. She wanted a letter from the Commission stating that their association was the official board. The resolution of the leadership was not resolved; thus, the money held could not go anywhere. She was told the letter would include the following: when she receives official capacity, another event will happen. It is going to be catastrophic for their community. It regards the DHHL's MOA 2015 amendment to the 2013 amendment regarding the monies that were received as a community benefit contribution.

Commissioner Awo stated, from memory, that when this first came up, the Commission was told that association business and conflict resolution rests with the associations. The reason is that the forming of associations is a form of self-governance within communities. The unresolved issue continued for such a long time that funding was not distributed to Pana`ewa. He has since learned that this is currently being prosecuted in circuit court, so litigation has to play out before decisions can be rendered.

K. Almeida stated she wants to request a contested case hearing on this matter because of a disagreement when she was elected to the PHHLCA in 2018. She asked why the Commission interferes with that sovereignty. She wants to know how a staff person can initiate paperwork going forward and say the Commission cannot say anything about it.

(Husband Name) stated that litigation is holding this up. It all started because a staff member interfered with the election, which his wife won in 2018.

Commissioner Awo stated whether or not the Commission has the authority to act while in litigation is something that has to be referred to the AG. This did not start with the Commission. The Commission was told associations resolve their disputes. Today, nothing is resolved. He does not know the answer for her, but the Commission, the Department and the AG should pursue it.

Chair Watson stated a letter was put together by him in consultation with Commissioner Mike Kaleikini, who was actively looking at the situation on both sides. They had conversations with the Attorney General, and looking at it from a different perspective, he agreed with Commissioner Kaleikini's recommendation to move forward. The letter was sent out to resolve the situation, acknowledging Kauilani Almeida as the elected president and being recognized by the department. The Commission is moving forward and will distribute the funding based on the MOA of this Commission. There are certain conditions laid out in the letter, which acknowledge and explain how that process will work. Chair Watson apologized for the information not being transmitted in a timelier fashion. This should not have occurred because it was resolved. Close to \$400,000 has been sitting in the bank, and the Commission wants to get it out so you folks can use it for your initiatives and the different associations.

RECESS for Contested Case Hearing 1:30 PM
RECONVENED 2:40 PM

ANNOUNCEMENTS AND ADJOURNMENT

A. Next Regular HHC meeting – June 17 & 18, 2024, 9:30 a.m., Hale Pono`i, 91-5420 Kapolei Parkway, Kapolei, O`ahu

ADJOURNMENT 3:00 PM

Respectfully submitted:



Kali Watson, Chairman
Hawaiian Homes Commission

Prepared by:



Leah Burrows-Nuuanu, Commission Secretary
Hawaiian Homes Commission

Attachments:

- 1) Public Testimony Sheets (8)
- 2) Public Testimony - Jojo Tanimoto
- 3) Public Testimony - Kainoa Lei MacDonald SCHHA Maui/
Molokai Mokuuni
- 4) Public Testimony - Kailapa Community Association
- 5) Public Testimony - Kainoa Lei MacDonald AHHA
- 6) Public Testimony - Kalani Tassil Maui Homestead
Beneficiary Association
- 7) Public Testimony - Lunakanawai Hauanio - DOI



PUBLIC TESTIMONY on AGENDIZED ITEMS

INSTRUCTIONS TO ADDRESS THE COMMISSION:

- Testimony on Agendized Items Only
- Please limit comments to 3 Minutes
- *NEW* Testimony can be given at the start of the meeting OR when the item is called. Please check one :

AGENDA ITEM(s) D-14, G-4

Start of Meeting

When ITEM is addressed:

Blossam Feikira

NAME

05.26.2024

DATE

Ku Pono Kales Oka Sina

Advocacy Director

ORGANIZATION

TITLE

blossam@kpkoa.org

EMAIL ADDRESS

COMMENTS:

Check here if you have written testimony for Distribution:



PUBLIC TESTIMONY on AGENDIZED ITEMS

INSTRUCTIONS TO ADDRESS THE COMMISSION:

- Testimony on Agendized Items Only
- Please limit comments to 3 Minutes
- *NEW* Testimony can be given at the start of the meeting OR when the item is called. Please check one :

AGENDA ITEM(s) _____

Start of Meeting

When ITEM is addressed:

Kecilia Almeida

5/20/24

NAME

DATE

Pinacat Home Lands

President

ORGANIZATION Assoc.

TITLE

panacat@hlc.org.mt - com

EMAIL ADDRESS

COMMENTS:

F-2, F-3, F-5 F-8

Refine extension tags left can only
Recommend extend to

Check here if you have written testimony for Distribution:

30 yr loan



PUBLIC TESTIMONY on AGENDIZED ITEMS

INSTRUCTIONS TO ADDRESS THE COMMISSION:

- Testimony on Agendized Items Only
- Please limit comments to 3 Minutes
- *NEW* Testimony can be given at the start of the meeting OR when the item is called. Please check one :

AGENDA ITEM(S) C-1, C-2, E-1, F-1, D-1, G-1
EXCO Session #2

Start of Meeting

When ITEM is addressed:

Blossom Feiteira

05-20-2024

NAME
Ku Pono Kalo Oka Aina
 ORGANIZATION

DATE
Advocacy Dir
 TITLE

blossom@kpkca.org
 EMAIL ADDRESS

COMMENTS:

Check here if you have written testimony for Distribution:



PUBLIC TESTIMONY on AGENDIZED ITEMS

INSTRUCTIONS TO ADDRESS THE COMMISSION:

- Testimony on Agendized Items Only
- Please limit comments to 3 Minutes
- *NEW* Testimony can be given at the start of the meeting OR when the item is called. Please check one :

AGENDA ITEM(s) D-13

Start of Meeting

When ITEM is addressed:

M Kapuniai
NAME

5/20
DATE

ORGANIZATION

TITLE

EMAIL ADDRESS

COMMENTS:

Check here if you have written testimony for Distribution:



PUBLIC TESTIMONY on AGENDIZED ITEMS

INSTRUCTIONS TO ADDRESS THE COMMISSION:

- Testimony on Agendized Items Only
- Please limit comments to 3 Minutes
- *NEW* Testimony can be given at the start of the meeting OR when the item is called. Please check one :

AGENDA ITEM(S) D-13

Start of Meeting

When ITEM is addressed:

MARANA Keelokalani

5/21/24

NAME

DATE

Ahi Hoika Puuikapu

ORGANIZATION

TITLE

anahuluigit@gmail.com

EMAIL ADDRESS

COMMENTS:

Check here if you have written testimony for Distribution:



PUBLIC TESTIMONY on AGENDIZED ITEMS

INSTRUCTIONS TO ADDRESS THE COMMISSION:

- Testimony on Agendized Items Only
- Please limit comments to 3 Minutes
- *NEW* Testimony can be given at the start of the meeting OR when the item is called. Please check one :

AGENDA ITEM(S) E-4, B-7, C-1

Start of Meeting

When ITEM is addressed:

Bo Kahni

NAME

5/20/24

DATE

Lakopna etc

ORGANIZATION

TITLE

bo.kahni65@gmail.com

EMAIL ADDRESS

COMMENTS:

C-1: Comments Only

E-4: at start of item

B-7: comment after full report

Check here if you have written testimony for Distribution:



PUBLIC TESTIMONY on AGENDIZED ITEMS

INSTRUCTIONS TO ADDRESS THE COMMISSION:

- Testimony on Agendized Items Only
- Please limit comments to 3 Minutes
- *NEW* Testimony can be given at the start of the meeting OR when the item is called. Please check one :

AGENDA ITEM(S) E-3

Start of Meeting

When ITEM is addressed:

Moku Medeiros

NAME

5-21-2024

DATE

ORGANIZATION

TITLE

g3medeiros@gmail.com

EMAIL ADDRESS

COMMENTS:

Check here if you have written testimony for Distribution:



PUBLIC TESTIMONY on AGENDIZED ITEMS

INSTRUCTIONS TO ADDRESS THE COMMISSION:

- Testimony on Agendized Items Only
- Please limit comments to 3 Minutes
- *NEW* Testimony can be given at the start of the meeting OR when the item is called. Please check one :

AGENDA ITEM(s) E-6

Start of Meeting

When ITEM is addressed:

M KARUNIAI
NAME

5/23
DATE

ORGANIZATION

TITLE

EMAIL ADDRESS

COMMENTS:

Check here if you have written testimony for Distribution:

May 20, 2024

Hawaiian Homes Commission

Re: Agenda items:

- 1-Planning, G4-FYI. Kawaihae Regional Plan draft 2024. Consider inclusions, Exhibit A, Page 57-New Water Source.
- 2-Land Management, F4. OBJECTION to-Approval for Annual Renewal of Right-of-Entry for #485-Palekoki Ranch, until issues are mitigated.

Aloha

My name is JoJo Tanimoto and I am a residential homesteader in Kawaihae.

I am requesting that this body of Commissioners consider inclusion of the following information into this presentation by the Planning Department.

First, I'd like to request a copy of March 2024 minutes- with my testimony and Commissioner Freitas's comments. Somehow the audio was turned off, on YouTube as well. And maybe the Attorney can explain why and how this will not occur again.

The first Regional Plan was approved in 1992, by R.M. Towill Co. The second was approved in 2010. Here we are in 2024, updating the 1992 Plan. Since 1992, there have been many changes in the communities around us. Kawaihae Community has tried to keep up with their proposals to move forward, and the homestead has tried to keep the Department updated. Unfortunately, the natural resources once identified for the homestead is being bought or used by the communities around us.

For this Regional Plan presentation today, I hope the Commission will help Kawaihae move forward with planning and construction of new residential awards. In the Exhibit A matrix, you will notice 1-there is no option for hauling water, cost to haul the water to the reservoirs in the Kailapa Subdivision. 2-You notice there is no column for the capacity of water available to the options listed.

3-Lastly, I would ask this Commission's help to include water transmission from the Lalamilo 10 MG reservoir to Kawaihae's future residential development. To my knowledge, this water transmission is coming for the development of more commercial and industrial needs, instead. Please consider identifying this water source for ACT 279, the water is coming here already. I have communicated this request to Planning, but it is not included. Kawaihae needs more water.

4-Also, this presentation clearly states this community's request for lower water rates. The community suggests that the Department pay this water subsidy, prior to 2018; or in the alternative, the Revenue entities in Kawaihae bear these costs. These entities pay Department of Water Supply water rates; now and in the future planning. Clearly, this needs to be included in the LMD rate charge evaluation plan.

.....

For Item F1-Land Management Division (LMD). Approval of Annual Renewal of Right-of-Entry permit to No. 485-Palekoki Ranch, until mitigation issues affecting the Kawaihae community, is resolved.

TMK: 6-1-001:003, is 7,600 acres of approximately 10,000 acres of the Kawaihae homestead. This area encompasses:

- 1-Historic sites, burial sites, etc.
- 2-Palihae Stream, Makahuna gulch, Honokoa Gulch, Kai Opae Gulch and and some streams and Pu'u.
- 3-Pelekane Watershed.

There is no signage and inspection procedures for at least these sacred areas. Some of the problems identified to the Commission over the last 7 years, have not been mitigated.

- 1-No lock on the water tank fence at the top of the Kailapa Subdivision. This process keeps DHHL insurance indemnity, but not me when these trespassers end up in my yard.
- 2-No access for an evacuation plan for Kailapa Subdivision.
- 3-No access to site view the desal water resource, and the Grant is expiring.
- 4-No infrastructure, because revenue from Commercial and Industrial entities on homestead lands, give 50% discounts on rent fees-and no increases to reflect current economy and infrastructure needs.

I seek this Commission's support since LMD does not conduct Beneficiary Consultation. The result is my comments are here for you, since you decide without the homesteaders having a voice.

Mahalo for the opportunity to share my concerns.
Aloha



c/o Commission Secretary Leatrice W. Burrows-Nu`uanu
Department of Hawaiian Home Lands
91-5420 Kapolei Parkway
Kapolei, Hawai`i 96707
Telephone (808) 620-9504
Email: leatrice.w.burrows-nuuanu@hawaii.gov

RE: C-1 Approval of Hawaiian Homes Commission Resolution 309-Honoring Randy Kalei Awo for His Services to the Hawaiian Homes Commission

Mahalo to the DHHL staff on Resolution On behalf of the SCHHA Maui/Lana`i Mokupuni we want to extend our heartfelt gratitude for our Commissioner Randy Awo. Support for Commissioner Randy Awo was submitted to Governor Josh Green's office in Feb. 2024. We asked for support of an extension that comes as a "carry over" to the end of May of 2025. Commission assignments have not required governor appointment or Senate confirmation. Randy has shown exemplary leadership and dedication in protecting the Hawaiian Homes Commission Act of 1920, its trust lands, and its beneficiaries.

Since 2020 during the pandemic together we have forged a relationship on building homestead advocacy & policy, he has become a mentor to me in this journey while living in San Antonio Texas. There will always be many other issues that warrant the attention of Hawaiian Homes Commissioner, but none that he engages with beneficiaries on the waitlist. In the face of adversity in our homestead of Leiali`i and Lahaina's neighboring communities, which is intertwined with struggles encompassing social, economic, and political complexities, Randy continues to open pathways that are crucial to overcome bureaucracy. His relationships with agencies, communities and government ease the challenges faced by others. Commissioner Randy Awo's leadership qualities are direly needed to guide us through the social, economic, and political challenges that impact us on Maui and statewide homestead communities.

Being born & raised on Maui with genealogical ties dating back 120+ years to my relatives of Kukahiko and Naehu `Ohana. Moving back home from the continental USA as kuleana has called me home to do work specifically on Hawaiian Homes Trust Lands beneficiary advocacy and bring solutions with others in this time of great change! We are seeing more and more

beneficiaries step up and be heard because of Randy's 'ike to navigate the nuances of the politics, it has been a profound journey for many of us! My favorite moments with Randy when bringing agenda items to him to review in preparation of Maui Moku-puni meetings were what I will fondly remember as "wholly shit" moments. I knew we were on to something!

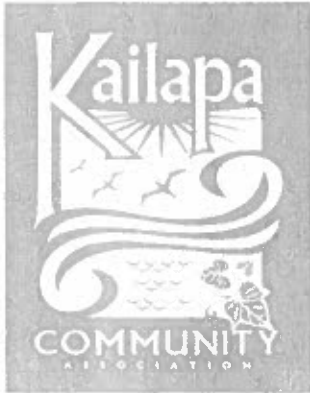
I am honored to have had a chance to spend this time with you Commissioner Awo, a big mahalo nu nui to Auntie Momi and the entire 'Awo ohana for sharing your special kane with us! Looking forward to engaging with the new Maui Commissioner ~ those are some very big shoes to fill, together. In ending this with a olelo noe'au - "he po'i na kai uli, kai ko'o, 'aohe hina puko'a - The sea is deep and rough, the coral rock remains standing" This has to do with resilience of our people no matter how rough things may seem we continue to remain standing together. I will be waiting with a bottle of wine in hand here on Maui - Me ke aloha nui

Kainoa Lei MacDonald

Kainoa Lei MacDonald

SCHHA Maui/Lana'i Moku-puni Council

Association of Hawaiians for Homestead Lands (AHHL) Secretary/Moku Honu director



Dear Kailapa residents,

February 22, 2024

I hope this letter finds you well. On behalf of your board members, we would like to request your attendance and support at the DHHL meeting on February 28. We will express our concerns about the increasing service fees on our water bill.

Currently, we are charged a monthly service fee of \$60.45 in addition to our water usage costs. Kailapa residents then receive a bimonthly bill from DHHL with our service charges totaling \$121.00. In contrast, neighboring communities like Kohala Ranch, Kohala Estates, and Kohala By The Sea, also receive water from Kohala Ranch Water Company and pay their lower service fee of \$26.35 per month. The monthly difference in fees for a Kailapa resident is \$34.00 more. The reason for our higher service fee is because DHHL engages Pural Water Company for water system management and services within our subdivision.

The rising fees are affecting our community, especially those on fixed incomes—30% are elders on social security and 40% are low-income families with young children or multigenerational households. The fees will continually increase and impact us even more.

To address this, we will request assistance to reduce or eliminate the service fees for our water. This is an initial step to reduce our water costs, a short-term solution. Eventually, we will propose a beneficiary consultation meeting to secure a water supply that is more affordable. The last meeting with DHHL to discuss water costs was in 2018.

We ask for all community members to support our efforts and attend this next meeting on February 28 at 6:30pm. The collaborative discussions we share will aim to explore solutions to alleviate the financial burden on our community. Your presence will strengthen our position.

Mahalo,

**Shawna Kaulukukui *Brandie Oye *Tiga Kailimai
*Tommy Silva *Isabelle Kalaau-Catrett*

Kailapa Community Association – Board of Directors

Kailapa Community Association

61-4016 Kai ʻŌpae Place
Kamuela, Hawaiʻi 96743
www.kailapa.org
808-769-4046

Mission

To empower Native Hawaiians living in Kohala, specifically the Kailapa Community, supporting physical, mental, spiritual, and cultural health of people and place.

Vision

Ehuehu i Ka Pono
Thrive in balance

Board of Directors

Shawna Kaulukukui
Brandie Oye
H. Tommy Silva
Isabelle Kalaau-Catrett
Tiga Kailimai

Contact
board@kailapa.org
office@kailapa.org

HAWAII, MAI 4 21 11:00 AM

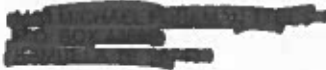
Hawaii Utility Business Services LLC
 P.O. Box 1526
 Kamuela, HI 96743
 hubsik@gmail.com

Book: 29 Account: 34 Bill Date: 03-01-2024

DUE BY: 03-29-2024 Amount Due: \$ 225.27

ACH Automatic Payment, Do Not Pay:

DUE AFTER 03-29-2024 Amount \$ 225.27



Service Address
 KW 34
 66674498

*** Return this portion with your payment ***

Book: 29 Account: 34	Activity	Days	Serv Code	Service Description	Prior Reading	Present Reading	Usage	Charges
Service Address KW 34 66674498	Prev Balance			02-01-2024				208.88
	Adjustment							.00
	PAYMENT			02-26-2024				208.88
	Net Balance							00
From: 01-31-2024	BA	30	WA	WATER - KRWC	5806700	5830550	23850	167.75
To: 03-01-2024	BA	30	PCA	POWER COST ADJ- KRWC	5806700	5830550	23850	37.52
Bill Date: 03-01-2024	BA		MT	KRWC- 5/8" METER RC				20.00
Read Date: 03-29-2024				Total New Charges				225.27
Due Date: 03-29-2024								
Next Read Date: 04-02-2024								
PLEASE MAKE CHECK PAYABLE TO KOHALA RANCH WATER CO. PCA IS \$1.5731/G								
DUE BY: 03-29-2024 ACH AUTOMATIC PAYMENT							225.27	
DUE AFTER: 03-29-2024							225.27	



Department of Hawaiian Home Lands - West Hawaii District Office

P.O. Box 125
Kamuela, HI 96743
Phone: (808) 887-6053
Fax: (808) 887-6056

Office Hours
7:45 a.m. to 4:30 p.m.
Monday thru Friday

Payment Hours
8:00 a.m. to 4:00 p.m.
Monday thru Friday

Send payment to:
State of Hawaii
Department of Hawaiian Home Lands
P.O. Box 125
Kamuela, HI 96743

Account Number	Bill Date	Amount Due	Amount Paid
6003600	4/5/2024	\$241.80	

Isabel Kalaau-Catrett
P.O. Box 353
Kapaau, HI 96755

Please make checks payable to:
Department of Hawaiian Home Lands

DHHL COPY

Please detach and return this copy with your payment. Thank You.

CUSTOMER COPY

Please retain this copy for your records.

Account Number	Name and Premise		Billing Period			
6003600	Isabel Kalaau-Catrett LOT 165 Kawaihee Res U-1, HI 96743		2/2/2024 to 4/5/2024			
Trans Date	Description	Meter#	Previous Reading	Current Reading	Usage	Amount
	Previous Balance					\$120.90
4/5/2024	Water Usage	46684509	100	100	0	\$0.00
4/5/2024	Service Charge					\$120.90
	Current Bill					\$120.90
	Amount Due Upon Receipt					\$241.80

Past Due			
60 days:	\$120.90	120 days:	\$0.00
		180+ days:	\$0.00

Messages

Payments can be dropped off at the West Hawaii District Office DROP BOX. Contact information (name and phone number) required on all drop-box payments. Be sure to include the payment stub portion of your bill or write your account number on your check. If paying cash, please use the exact change if not any overage will be credited to your account.

New Administrative Rules for Department water systems were approved in June 2021 and may be found at: <https://dhh1.hawaii.gov/hhc/department-of-hawaiian-home-lands-administrative-rules/dhhl-administrative-rules-management-of-water-systems/> The rules address water bill delinquencies and over consumption starting as of July 2021 billing cycles. Letters will be mailed to those that are affected.

Department of Hawaiian Home Lands - West Hawaii District Office

(808) 887-6053



Department of Hawaiian Home Lands - West Hawaii District Office

P.O. Box 125
Kamuela, HI 96743
Phone: (808) 887-6053
Fax: (808) 887-6056

Office Hours
7:45 a.m. to 4:30 p.m.
Monday thru Friday

Payment Hours
8:00 a.m. to 4:00 p.m.
Monday thru Friday

Account Number	Bill Date	Amount Due	Amount Paid
6015400	2/2/2024	\$579.12	

Send payment to:

State of Hawaii
Department of Hawaiian Home Lands
P.O. Box 125
Kamuela, HI 96743

Kawaihae Kailapa Community Association
61-4016 Kaiopae Place
Kawaihae, HI 96743

Please make checks payable to:
Department of Hawaiian Home Lands

DHHL COPY

Please detach and return this copy with your payment. Thank You.

CUSTOMER COPY

Please retain this copy for your records.

Account Number	Name and Premise		Billing Period			
6015400	Kawaihae Kailapa Community Association LOT 34 Kawaihae Res U-1, HI 96743		12/8/2023 to 2/2/2024			
Trans Date	Description	Meter#	Previous Reading	Current Reading	Usage	Amount
2/2/2024	Previous Balance					\$261.45
2/2/2024	KAILAPA PRESERVE	6015400	1294	1301	7000	\$196.77
	Service Charge					\$120.90
	Current Bill					\$317.67
	Amount Due Upon Receipt					\$579.12

Past Due			
60 days:	\$261.45	120 days:	\$0.00
		180+ days:	\$0.00

Messages

Payments can be dropped off at the West Hawaii District Office DROP BOX. Contact information (name and phone number) required on all drop-box payments. Be sure to include the payment stub portion of your bill or write your account number on your check. If paying cash, please use the exact change if not any overage will be credited to your account.

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Kamuela, HI 96743
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Office Hours
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Monday thru Friday

Payment Hours
8:00 a.m. to 4:00 p.m.
Monday thru Friday

Send payment to:

State of Hawaii
Department of Hawaiian Home Lands
P.O. Box 125
Kamuela, HI 96743

Account Number	Bill Date	Amount Due	Amount Paid
6000660	4/5/2024	\$750.70	

Shawna Kaulukukui
61-4045 Makaili Pl.
Kamuela, HI 96743

Please make checks payable to:
Department of Hawaiian Home Lands

DHHL COPY

Please detach and return this copy with your payment. Thank You.

CUSTOMER COPY

Please retain this copy for your records.

Account Number	Name and Premise		Billing Period			
6000660	Shawna Kaulukukui LOT 66 Kawaihae Res U-1, HI 96743		2/2/2024 to 4/5/2024			
Trans Date	Description	Meter#	Previous Reading	Current Reading	Usage	Amount
	Previous Balance					\$629.80
4/5/2024	Water Usage	10568104	65	65	0	\$0.00
4/5/2024	Service Charge					\$120.90
	Current Bill					\$120.90
	Amount Due Upon Receipt					\$750.70

Past Due			
60 days:	\$175.08	120 days:	\$120.90
		180+ days:	\$333.82

Messages

Payments can be dropped off at the West Hawaii District Office DROP BOX. Contact information (name and phone number) required on all drop-box payments. Be sure to include the payment stub portion of your bill or write your account number on your check. If paying cash, please use the exact change if not any overage will be credited to your account.

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Department of Hawaiian Home Lands - West Hawaii District Office

(808) 887-6053









c/o Commission Secretary Leatrice W. Burrows-Nu`uanu
 Department of Hawaiian Home Lands
 91-5420 Kapolei Parkway
 Kapolei, Hawai`i 96707
 Telephone (808) 620-9504
 Email: leatrice.w.burrows-nuuanu@hawaii.gov

May 20, 2024

Aloha mai e na Hawaiian Homes Commissioners,

My name is Kainoa MacDonald, Moku Honu Director, Secretary Association of Hawaiian for Homestead Lands as identified under 201.6 of the Hawaiian Homes Commission Act of 1920 and federally defined Homestead Associations under 43 (CFR) Code of Federal Regulations 47/48.

The purpose and vision of the The Association of Hawaiians for Homestead Lands (AHHL), founded in 2008, is a national Homestead Beneficiary Association (HBA) registered under 43 CFR Part 48.6 with the U.S. Department of Interior, to represent the interests and provision of services to native Hawaiian citizens defined in the Hawaii Constitution and the Hawaiian Homes Commission Act of 1920 (HHCA). Our mission is dedicated to ***Ending the Hawaiian Homelands Wait List***, of which 29,000 of our people languish on a State government Waitlist to receive a homestead lot award.

The discussion on SCHHA Maui/Lanai/Oahu Mokupuni Council meeting on Thursday May 16th on the following agenda items: Executive Session #2 Discussion regarding the U.S. Dept of Interior's position on Act 236 SLH2021 and F-8 Information Only-Implementation of Act 236 and request for extension of general lease of 202- Prince Kuhio Plaza.

In 2021 the legislature enacted, and Governor Ige signed into law, HB499 then became Act 236. When powerful non-Beneficiary interests have hired DC lobbying firms to influence federal officials in Washington to get DoI to change course in protecting our native Hawaiian interests regarding Act 236. A Compilation of Recorded Votes by Hawaii State Legislators on HB499 was provided by SCHHA's policy team on Public Land Leasing - This law gives the state authority to issue any lands held or

administered by the state, well beyond **60 years** DLNR, DoA, ceded lands, etc. UH was exempted. SCHHA, as a coalition of homestead associations and HHCA policy advocates, opposed this law in 2021, especially because it included Hawaiian Homelands. While we don't have powerful lobbyists we can stand on our democracy and federal standing under 43 CFR Part 47/48.

In October 2022, a small group of policy advocates from Sovereign Council of Hawaiian Homestead Associations (SCHHA) leaders traveled to Washington DC, shared the issue with the DOI and with members of the Hawaii Delegation, requesting their review. There are **clear trust violations** of the HHCA, as well as the Hawaii Admissions Act. DoI and Congressman Kahele agreed to review it.

Copies of these correspondence have been given to this commission by Luna Haunio in his testimony earlier today. We ask for a review and consideration of these letters by the Department of Interior; it provides significant concerns to grant extensions of commercial leases that violate federal law of Act 236. The SCHHA policy team called for an investigation by the DOI Inspector General, following up on the DoI Solicitors letter to the Attorney General.

On a letter dated 10/13/22 by Robert T. Anderson then DOI Solicitor to Holly Shikada State of Hawaii Ag's office states I quote:

The United States understands that in mid-October the Commission intends to consider an application for a 40-year lease extension under Act 236 by a commercial lessee of Hawaiian homelands. The United States believes that it would be imprudent for the Commission to entertain granting any lease extensions under Act 236 relating to the Hawaiian homelands until after the requirements detailed in 43 C.F.R. part 48- including summaries of all consultations conducted with the beneficiaries— are complete, as required by the Admission Act, the HHCA, and the Recovery Act.

“Why is this Commission still on the same path, the policy is in place. There should be a moratorium on this until such time that the beneficiaries can consult with the Department of Interior is completed. We keep seeing these breaches of trust obligation like rentals, deviating farther away from Act 279 on spending of the \$600 million going to developers and non-Hawaiians” I am including this quote from the AHHL Chair Mike Kahikina who participated in many meetings & advocacy on this matter.

I challenge the department to consider other options for non-beneficiary organizations who are interested in leasing our trust lands for commercial purposes, including the Prince Kuhio Hilo mall, would do so in partnership with Homestead Beneficiary Associations (HBA) as defined in 43CFR, and in compliance with HHCA Section 207 Mercantile purposes. If not, this Commission has a fiduciary responsibility to its beneficiaries, DO NOT ignore the clear breach of trust, if you allow this action to pass next month until a full review and beneficiary consultation across the pae'aina can be completed- **'Aole to any implementation of Act 236 or any request for extension of general lease of 202- Prince Kuhio Plaza.**

c/o Commission Secretary Leatrice W. Burrows-Nu`uanu
Department of Hawaiian Home Lands
91-5420 Kapolei Parkway
Kapolei, Hawai`i 96707
Telephone (808) 620-9504
Email: leatrice.w.burrows-nuuanu@hawaii.gov

May 20, 2024

Aloha mai e na Hawaiian Homes Commissioners,

My name is Kalani Tassil, from Maui Homestead Beneficiary Association (HBA)- Paukukalo Hawaiian Homestead Association as identified under 201.6 of the Hawaiian Homes Commission Act of 1920 and federally defined Homestead Associations under 43 (CFR) Code of Federal Regulations 47/48. I am submitting my testimony in writing, due to the lengthy agenda items at this past Monday and Tuesday Commission meeting.

I attended the SCHHA Maui/Lanai/Oahu Moku-puni Council meeting on Thursday May 16th where there was discussion on the following agenda items: Executive Session #2 Discussion regarding the U.S. Dept of Interior's position on Act 236 SLH2021 and F-8 Information only-Implementation of Act 236 and request for extension of general lease of 202- Prince Kuhio Plaza.

In 2021 the legislature enacted and Governor Ige signed into law, HB499 then became Act 236. When powerful non-Beneficiary interests have hired DC lobbying firms to influence federal officials in Washington to get DoI to change course in protecting our native Hawaiian interests regarding Act 236. 'Aole HB499 - This law gives the state authority to issue any lands held or administered by the state, well beyond **65 years** DLNR, DoA, ceded lands, etc. UH was exempted. SCHHA, as a coalition of homestead associations and HHCA policy advocates, opposed this law in 2021, especially because it included Hawaiian Home Lands. While we don't have powerful lobbyists we can stand on our democracy and federal standing under 43 CFR Part 47/48.

In October 2022, a small group of policy advocates from Sovereign Council of Hawaiian Homestead Associations (SCHHA) leaders traveled to Washington DC, shared the issue with the DOI and with members of the Hawaii Delegation, requesting their review. There are **clear trust violations** of the HHCA, as well as the Hawaii Admissions Act. DoI and Congressman Kahele agreed to review it.

I am providing copies to review and consider these letters to this Commission from the Department of Interior, it provides significant concerns to grant extensions of commercial leases that violate federal law of Act 236. Attached is the correspondence received by the SCHHA policy team in 2022, calling for an investigation by the DOI Inspector General, following up on the DoI Solicitors letter to the Attorney General.

By extending this lease for 65 years will set a precedent on other properties of Hawaiian Homestead land belonging to the beneficiaries & what's the benefit for the beneficiaries? How does this action help those on the waitlist? Why does a managing company have to be from the mainland? I believe there are NHO's (Native Hawaiian Organizations) in Hawaii that can manage Prince Kuhio Plaza or any other future Commercial projects or other existing ones.

As Commissioners it is your Fiduciary kuleana to serve the beneficiaries & to do what is best for the beneficiaries. I strongly oppose the extension of the lease on HB499 then became Act236.

Mahalo

Kalani Tassill - President

Paukukalo Hawaiian Homestead Community Association inc

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COMMITTEE ON TRANSPORTATION & INFRASTRUCTURE
SUBCOMMITTEE ON AVIATION
SUBCOMMITTEE ON HIGHWAYS AND TRANSIT

COMMITTEE ON ARMED SERVICES
SUBCOMMITTEE ON TACTICAL AIR AND LAND FORCES
SUBCOMMITTEE ON READINESS

Congress of the United States
House of Representatives
Washington, DC 20515

November 22, 2022

The Honorable Mark Lee Greenblatt
Inspector General
U.S. Department of the Interior
1849 C St, NW
Washington, DC 20240

Dear Inspector General Greenblatt,

I write today to request that your office investigate the role of improper and potentially undisclosed lobbying efforts to influence the Department of Interior's actions regarding the State of Hawaii's Department of Hawaiian Home Lands (DHHL) decision to implement a recently-enacted state law that has major implications for beneficiaries of the Hawaiian Homes Commission Act of 1920 (HHCA).

The spirit and intent of this legislation is to return native Hawaiians to their lands with prompt and efficient placement in order to support self-sufficiency and self-determination. As you may know, the HHCA established a federal land trust of approximately 200,000 acres to create a permanent homeland for native Hawaiians, to build homes, farms, ranches and otherwise engage in commercial, industrial or economic mercantile activities. The spirit and intent of this legislation was to economically and socially uplift the native Hawaiian people, yet because of persistent challenges to the trust, over 28,000 applicants are still on the waitlist for a homestead. As a result of recent decisions by entities at the State level responsible for HHCA administration, significant future resources that could benefit the trust and its beneficiaries could be undermined.

In 2021, the State of Hawaii enacted Act 236, relating to extensions of public land leases. Act 236 amends the Hawaii Revised Statutes (HRS), Chapter 171, to authorize the Board of Land and Natural Resources to extend the terms of certain leases of public lands for up to 40 years. Although Act 236 makes no mention of the lands held in trust for beneficiaries of the Hawaiian Homes Commission Act, the Department of Hawaiian Home Lands and the Hawaiian Homes Commission has decided to apply Act 236 to its leasing terms and provisions for its general (commercial, industrial and utility) land leases. Specifically, DHHL intends to grant a 40 year extension on the lease of property for DHHL tenant Prince Kuhio Plaza LLC, a shopping mall on

Hawai'i Island who's parent company is Brookfield Properties, a North American commercial real estate company.

The application of Act 236 to lands under trust per the HHCA is currently a violation of the Hawai'i Admissions Act and of the compact that exists between the United States of America and the State of Hawai'i regarding the administration of the HHCA. The Department of Interior has already expressed serious concerns that the DHHL and the Hawaiian Homes Commission's actions in this regard violate Federal law. On October 13, 2022, the Office of the Solicitor wrote to the State of Hawai'i Attorney General to express that Act 236 must be reviewed by the Office of Native Hawaiian Relations, the Secretary of the Interior and approved by the United States Congress before being implemented, since this legislation would increase encumbrances of Hawaiian Home Lands.

As of this letter's writing, there are a total of three lobbyists who represent Prince Kuhio Plaza, LLC, owned by Brookfield Property Partners, L.P., who have registered in accordance with the Lobbying Disclosure Act of 1995 (LDA). These parties registered as of the second half of 2022. Information has come to my attention from Department of Interior employees that both registered lobbyists, and potentially lobbyists who have not registered properly in accordance with LDA requirements, have engaged multiple DOI staff on Act 236 implementation. These conversations may have started as early as 2021, which may violate the LDA's requirements for registration within 45 days of making a lobbying contact or being first employed by a client.

While the Department of Interior acted in accordance with the law in determining the State's misapplication of Act 236, I am concerned that improper or possibly undisclosed influence was expressed to Department of Interior officials on this matter. I believe it is in the Department's best interest to make any outside influence on this matter publicly transparent as the current action violates Federal law and could shortchange beneficiaries. I also request that you assess to what extent these improper or undisclosed lobbying efforts have affected Department of Interior personnel. While the Department is addressing the issue caused by the State's actions head-on, the public should be allowed to fully understand and evaluate any outside influences that may be trying to impact decision-making in the Federal government. In addition, lobbying that is working to subvert federal lobbying laws must be addressed promptly to prevent future violations.

In addition to my investigation request, I respectfully request the following information from the Department of Interior regarding this matter:

1. Any available details—including names, dates, and the content of any emails and telephone records—of conversations between Department of Interior staff and both registered and unregistered lobbyists between 2021-2022 regarding Act 236; and

2. Any additional available details—including names, dates and the content of any emails and telephone records—of conversations between Department of Interior staff and both registered and unregistered lobbyists regarding the lease extension for Prince Kuhio Plaza LLC, owned by Brookfield Property Partners, L.P.

I respectfully request a response no later than December 16, 2022. If you have any questions, please contact my Chief of Staff Christy Wagner at Christine.Wagner@mail.house.gov.

Sincerely,

A handwritten signature in black ink, appearing to be 'Kaiali'i Kahele', written in a cursive style.

Kaiali'i Kahele
Member of Congress

cc: The Honorable Deb Haaland, Secretary of the Interior
Senator Brian Schatz
Senator Mazie Hirono
Congressman Ed Case

Encl: October 13, 2022 Letter from Solicitor General Anderson to State Attorney General Shikada

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COMMITTEE ON ARMED SERVICES
SUBCOMMITTEE ON TACTICAL AIR AND LAND FORCES
SUBCOMMITTEE ON READINESS

Congress of the United States
House of Representatives
Washington, DC 20515

October 14 2022

The Honorable David Ige
Governor of Hawaii
Executive Chambers
State Capitol
Honolulu Hawaii 96813

RE: Act 236, 2021, Hawaii Session Laws

Dear Governor Ige:

I write with deep concern regarding the Department of Hawaiian Home Lands (DHHL) meeting on September 19, 2022, and public comments made by DHHL officials regarding a DHHL lease extension (agenda item F-5).

HB 499 became law as Act 236 in 2021. Upon review of this newly-enacted law, I had concerns regarding the subsequent impact of this legislation on the Hawaiian Homes Commission Act (HHCA). I requested an opinion from the Department of Interior (DOI) to determine if a review was necessary by the Secretary of the Interior as required by the Admissions Act (73 Stat. 5 §4). On August 17, 2021, I received a response from the DOI (attached) which stated that, consistent with the limitations in the State of Hawaii Admissions Act, the HHCA cannot be amended unless the Secretary determines they are either effective pursuant to the requirements outlined in 43 C.F.R. part 48.45(a) or they have been approved by Congress. The DOI found that since Act 236 would have a substantive impact to the HHCA, Act 236 cannot be applied to leases on DHHL trust lands until the State of Hawaii receives the consent of the federal government.

On May 11, 2022, the DOI sent a letter to DHHL Chairman William J. Ailā, Jr. regarding Act 236 and their response to the State of Hawaii Attorney General (AG) opinion. While the AG's opinion states that Act 236 does not require the consent of the United States because it does not seek to amend the Hawaiian Homes Commission Act (HHCA), DOI disagrees. The Department states in their May 11th letter that Act 236 would directly allow for additional encumbrances to be placed on Hawaiian home lands which would trigger the need for Secretarial review and consent of the United States. In addition, they write that to comply with 43 C.F.R. §48.15, the

State must either amend Act 236 or enact entirely new legislation to specify that the State is seeking to amend the HHCA and provide the legally required materials for DOI to review.

At the September 19, 2022, Hawaiian Homes Commission Regular Meeting, DHHL emphasized that they do not believe they require Department of Interior consent because they disagree with the DOI's determination, and they are "being a bit bold" and want to "push the envelope" regarding this specific lease extension and eventually other DHHL commercial lease extensions.

On October 13, 2022, the DOI sent a letter to Attorney General Shikada conveying that the United States has significant concerns about actions by DHHL regarding the extension of commercial leases. The Department has requested that lease extensions should not be granted until after all the requirements detailed in 43 C.F.R. part 48 are completed.

I am writing to convey my deep concern that DHHL intends to circumvent the DOI and not comply with the requirements laid out in the Admissions Act for consent by the United States for all substantive changes by applying the provisions in Act 236 with DHHL commercial lease extensions. To avoid legal action by the United States against the State of Hawai'i, I am requesting your intervention to address this issue with DHHL. If you have any questions, please contact my Legislative Director, Kana Smith, at Kana.Smith@mail.house.gov.

Sincerely,

A handwritten signature in black ink, appearing to be 'Kaiali'i Kahele', written in a cursive style.

Kaiali'i Kahele
Member of Congress

cc: The Honorable Holly T. Shikada, Attorney General
William J. Ailā, Jr, Chairman
Tyler Gomes, Deputy to the Chairman
The Honorable Lorraine Inouye, Chair of the Senate Committee on Water and Land
The Honorable David Tarnas, Chair of the House Committee on Water and Land
Patricia Kahanamoku-Teruya, Commissioner
Russell Kaupu, Commissioner
Randy Awo, Commissioner
Pauline Namu'o, Commissioner
Zachary Helm, Commissioner
Dennis Neves, Commissioner
Michael Kaleikini, Commissioner

Attachment: Kahele Letter to ONHR
Department of Interior Letter to Congressman Kahele
Department of Interior Letter to Chairman Ailā
Department of Interior Letter to Attorney General Shikada



United States Department of the Interior
OFFICE OF THE SOLICITOR
Washington, D.C. 20240

October 13, 2022

The Honorable Holly T. Shikada
Attorney General, State of Hawai'i
425 Queen Street
Honolulu, Hawai'i 96813

Re: Act 236, 2021 Hawai'i Session Laws

Dear Attorney General Shikada:

I am writing to give notice that the United States has significant concerns that any actions by the Hawaiian Homes Commission (Commission) to grant extensions of commercial leases of Hawaiian home lands pursuant to Hawai'i Act 236 (2021 Hawai'i Session Laws) violate Federal law and constitute a breach of trust by the State.

Act 236 amends chapter 171, Hawai'i Revised Statutes (Chapter 171), to authorize the Board of Land and Natural Resources to extend the terms of certain leases of public lands for up to 40 years. The Hawaiian Homes Commission Act (HHCA) allows the Department of Hawaiian Home Lands (DHHL) to lease Hawaiian home lands not required for homesteading to members of the general public "on the same terms, conditions, restrictions, and uses applicable to the disposition of public lands in chapter 171[.]" Your office opined that because Act 236 amends Chapter 171 to allow extension of certain leases of public lands within the State generally, including Hawaiian home lands, such home lands are exempt from the requirements of the Hawai'i Admission Act, the HHCA, and the Hawaiian Home Lands Recovery Act (Recovery Act), or 43 C.F.R. Part 48.¹

The State concluded that Act 236 does not require Secretarial review or Congressional approval based, in part, upon its reading of the 2018 analysis by the Department of the Interior of Act 173 (2014 Hawai'i Session Laws).² Act 173 proposed to amend HHCA § 204(a)(2) by adding an additional proviso to permit DHHL to enter into certain leases of improvements on Hawaiian home lands not required for homestead leasing under section 207(a) of the HHCA.³ The Department concluded that Act 173 required Congressional approval and in discussing its reasoning stated that:

The Department agrees that if the State were to amend chapter 171, maintaining the same procedure for public lands as for the home lands, it could do so,

¹ See letter to William J. Aila, Chairperson, Hawaiian Homes Commission from Craig Y. Iha, Deputy Attorney General (Dec. 10, 2021).

² Letter from the Department of the Interior to the Hawaiian Homes Commission (Jan. 24, 2018) ("2018 Decision Letter").

³ 2018 Decision Letter at 1.

provided such amendment to chapter 171, as determined by Secretarial review, *does not conflict with the HHCA and section 4 of the Admission Act.*⁴

This highlighted language above makes clear that any proposed amendment must not conflict with the HHCA and section 4 of the Admission Act. The State’s analysis of Act 236 does not consider the requirements of those governing statutes.⁵

In compliance with the Admission Act, and as a compact between the State and the United States relating to the management and disposition of the Hawaiian home lands, the State adopted the HHCA, as amended, as a law of the State through Article XII of its Constitution “subject to amendment or repeal only with the consent of the United States, and in no other manner.” The compact “between Hawaii and the United States strictly limits the manner in which Hawaii may manage the homelands and the income they produce.” *Price v. Akaka*, 928 F.2d 824, 826 (9th Cir. 1990). Paramount among the limitations imposed on the State’s management of the Hawaiian home lands is the prohibition against increasing encumbrances on home lands without congressional approval.⁶ Act 236, as the State acknowledges, would have the effect of authorizing DHHL and the Commission to increase encumbrances on Hawaiian home lands. Accordingly, Act 236 must be reviewed by the Secretary and approved by Congress.

The United States understands that in mid-October the Commission intends to consider an application for a 40-year lease extension under Act 236 by a commercial lessee of Hawaiian home lands.⁷ The United States believes that it would be imprudent for the Commission to entertain granting any lease extensions under Act 236 relating to the Hawaiian home lands until after the requirements detailed in 43 C.F.R. part 48—including summaries of all consultations conducted with the beneficiaries—are complete, as required by the Admission Act, the HHCA, and the Recovery Act.

I respectfully request your prompt attention to this matter to avoid unnecessary conflict between the United States and the State, which for more than 60 years have worked cooperatively and collaboratively to ensure that our respective responsibilities under the HHCA are faithfully executed.

Sincerely,



Robert T. Anderson
Solicitor

⁴ 2018 Decision Letter at 15, n. 23 (emphasis added).

⁵ As was noted in the Department’s May 11, 2022, letter to Chairman Ailā, our Act 173 analysis was unequivocal that “any state enactment (including amendments to chapter 171 or other chapters it references, such as chapter 102) that meets any of the [criteria expressed at 43 C.F.R. § 48.20], or otherwise impacts the provisions of the HHCA, has no effect on the management of the Trust unless approved by the Secretary or Congress.” See letter to William J. Ailā, Chairperson, Hawaiian Homes Commission from Joan M. Mooney, Principal Deputy Assistant Secretary Exercising the Delegated Authority of the Assistant Secretary - Policy, Management and Budget (May 11, 2022).

⁶ Section 4 of the Admission Act provides in part: “[A]nd the encumbrances authorized to be placed on Hawaiian home lands by officers other than those charged with the administration of said Act, shall not be increased, except with the consent of the United States[.]” An increase in encumbrances is not “administration.”

⁷ Monthly meeting of the Commission, September 19, 2022, discussing October 17 and 18 hearing agenda.



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

William J. Ailā, Jr., Chairman
Hawaiian Homes Commission
91-5420 Kapolei Parkway
Honolulu, Hawai'i 96707

Dear Chairman Ailā:

Subject: Act 236, 2021 Hawai'i Session Laws

Thank you for your letter dated February 16, 2022, regarding the above referenced matter. The Department has reviewed your letter and the opinion of the State of Hawai'i Attorney General ("AG Opinion") that Act 236, Session Laws of Hawai'i 2021 ("Act 236"), does not require the consent of the United States because it does not seek to amend the Hawaiian Homes Commission Act ("HHCA") and does not affect Hawaiian home lands such that United States consent is required. For the reasons articulated below, the Department believes that Act 236 would have a direct effect of allowing for additional encumbrances to be placed on Hawaiian home lands which would trigger the need for Secretarial review and Congressional approval. As such, pursuant to 43 C.F.R. § 48.50, because Act 236 would implicate one of the factors outlined in 43 C.F.R. § 48.20, Act 236 can have no effect on the HHCA until all administrative procedures and responsibilities outlined in 43 C.F.R. Part 48 occur.

This letter is not intended to serve as the Secretary's formal review of Act 236 pursuant to 43 C.F.R. § 48.20. Rather, this letter serves as notice that Act 236 can have no effect on the HHCA or the Trust pursuant to 43 C.F.R. § 48.50, because Act 236 would impact at least one of the criteria listed in 43 C.F.R. § 48.20 and the administrative procedures outlined in 43 C.F.R. Part 48 have not yet occurred. Our initial review of Act 236 suggests that it would allow for the additional encumbrance of Native Hawaiian home lands. Specifically, if applied to Hawaiian home lands, Act 236 would allow for the extension of lease terms in excess of the previous lease duration limitation as previously provided for in Chapter 171 of the Hawai'i Revised Statutes. These potential lease extensions would constitute an additional encumbrance on Hawaiian home lands as articulated by 43 C.F.R. § 48.20. As such, unless and until the administrative procedures and responsibilities outline in 43 C.F.R. Part 48 are performed by you, the Secretary, and as necessary Congress, Act 236 cannot have any effect on the provisions of the HHCA or the administration of the Trust pursuant to 43 C.F.R. § 48.50.

The AG Opinion suggests that because Act 236 amends Chapter 171 of the Hawai'i Revised Statutes ("Chapter 171") to allow extension of certain leases of public lands within the State of

Hawai‘i (“State”) generally, the inclusion of Hawaiian home lands is incidental and therefore not covered by the requirements of the Hawai‘i Admission Act, the HHCA, the HHLRA, or 43 C.F.R. Part 48. The AG Opinion does acknowledge that Act 236 “allows [the Department of Hawaiian Home Lands] to extend the terms of its leases of Hawaiian Home Lands that it has issued under HRS chapter 171.”¹ Notwithstanding this acknowledgement, however, the AG Opinion goes on to suggest that the change authorized by Act 236 can occur without the review of the Secretary or approval of Congress. The AG Opinion relied on the Department’s analysis of Act 173, Session Laws of Hawai‘i 2014, concerning leases of certain DHHL property for this conclusion.² The AG Opinion unfortunately overlooked a key part of our analysis of Act 173:

Consistent with the limitations in the Admission Act, the HHCA, the HHLRA, and other Federal laws, any state enactment (including amendments to chapter 171 or other chapters it references, such as chapter 102) that meets any of the [criteria expressed at 43 C.F.R. § 48.20], or otherwise impacts the provisions of the HHCA, has no effect on the management of the Trust unless approved by the Secretary or Congress.

More fully stated, the AG Opinion ignores the provision in 43 C.F.R. § 48.50, which provides that any “state enactment that impacts any of the criteria in 43 C.F.R. § 48.20 shall have no effect on the provisions of the HHCA or administration of the Trust.” The AG Opinion admits that Act 236 would allow for the extension of the terms of leases on Native Hawaiian home lands in excess of the number of years previously allowed. As such, Act 236 appears to be a “legislative action that directly or indirectly has the effect of . . . [a]llowing for additional encumbrances to be placed on Hawaiian home lands by officers other than those charged with the administration of the HHCA” as outlined in 43 C.F.R. § 48.20. Therefore, pursuant to 43 C.F.R. § 48. 50, Act 236 shall have no effect on the provisions of HHCA or the administration of the Trust because it directly impacts a criterion articulated in 43 C.F.R. § 48.20.

Finally, if the State intends to allow for the extension of lease terms in excess of the previous lease duration limitation in Chapter 171 to have effect on the provisions of the HHCA or administration of the Trust, then the State would have to either amend Act 236 or enact entirely new legislation to specify that the State is seeking to amend the HHCA and submit the materials and information required by 43 C.F.R. § 48.15.³ The Secretary would then undertake her analysis pursuant to 43 C.F.R. §§ 48.20 and 48.25.

¹ Letter from Craig Y. Iha, Deputy Attorney General, to William J. Aila, Jr., Chairperson, Hawaiian Homes Commission (Dec. 10, 2021).

² See Letter from Scott J. Cameron, Assistant Secretary for Policy, Management and Budget U.S. Department of the Interior to Jobie Masagatani, Chairperson, Hawaiian Homes Commission, (Jan. 24, 2018).

³ Similarly, these requirements and procedures would apply to any other amendments to HRS Chapter 171 that the State intends to have effect on the provisions of the HHCA or administration of the Trust, i.e., Act 215, 2017 Hawai‘i Session Laws.

Again, thank you for your letter and the AG opinion. Please let us know if you have any questions.

Sincerely,

Joan M. Mooney
Principal Deputy Assistant Secretary
Exercising the Delegated Authority of the Assistant Secretary - Policy, Management and Budget

Cc: Congressman Kai Kahele, U.S. House of Representatives