


STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

January 21, 2025

TO: Chairman and Members, Hawaiian Homes Commission

FROM: Juan Garcia, Administrator
Homestead Services Division 

SUBJECT: **Investigative Committee on Leaves of Absence and the Lessee Appointed Caretaker of the Homestead Lot Lot(s)**

RECOMMENDED MOTION/ACTION

Motion to Approve the recommendations as listed, and direct the Department to implement the following:

1. **Draft Interim Policies and Finalize Required Forms:**
 - a) Develop and publish an interim policy to provide immediate guidance while formal rule amendments are pursued.
 - b) Revise and standardize DHHL Leave of Absence request forms.
2. **Seek Commission Approval of Interim Policy**
3. **Training and Communication:**

Conduct training sessions for DHHL staff on the updated policies and communicate changes clearly to lessees.
4. **Monitor and Evaluate:**

Develop and implement a monitoring process to evaluate the effectiveness of the interim policy and identify areas for improvement before formal rulemaking.
5. **Formal Rulemaking:**

Undertake the process of amending administrative rules to ensure clarity and enforceability of Leave of Absence agreements.

DISCUSSION

At the July 15-16, 2024, regular meeting of the Hawaiian Homes Commission (HHC or Commission), an investigative committee was appointed to study, evaluate, and recommend policies, guidelines, and strategies related to the use of caretakers by lessees during extended absences. The committee members included Michael Kaleikini, Dennis Neves, and Sanoë Marfil, who served as chair.

BACKGROUND

Under Section 10-2-16(b)(4) of the Department of Hawaiian Home Lands (DHHL) administrative rules, the Chairman of DHHL has the authority to approve leaves of absence. However, the rules lack specific guidelines or policies governing leaves of absence.

Historically, leaves of absence have been approved for lessees required to be off island for reasons such as:

1. Military deployment,
2. Temporary relocation by an employer or religious organization,
3. Medical treatment,
4. Pursuing higher education, or
5. Health and safety concerns.

Leaves of absence are typically granted for up to 12 months, with the option for lessees to request extensions beyond the initial period.

INVESTIGATIVE COMMITTEE ACTIVITIES:

The committee convened on September 6, October 4, October 31, and December 4, 2024, to examine the following areas:

1. Existing administrative and policy frameworks,
2. Development of an interim policy pending formal rule amendments,
3. Revision and creation of necessary DHHL forms,
4. Drafting a leave of absence agreement, and
5. Defining responsibilities of lessees and caretakers.

The committee considered the following:

1. Existing administrative and policy matters;
2. Development of an interim policy until appropriate administrative rules may be amended;
3. Revisions/creation of necessary DHHL forms;
4. Creation of a leave of absence agreement;
5. Responsibilities of the Lessee(s) and the caretaker;
6. Adding "Other" as an additional reason for requesting a leave of absence, which is to be approved at the discretion of the Chair.

Staff that participated in the discussions included Hokulei Lindsey, Deputy Attorney General, Leah Burrows-Nuuanu, HHC Secretary, and Juan Garcia, HSD Administrator.

KEY CONSIDERATIONS:

1. Expanded Leave Eligibility:

The committee proposed allowing leaves of absence for cases where a lessee plans to accompany a qualified relative(s) (spouse, child, grandchild, or sibling with at least 25% Hawaiian blood, as defined by Section 209 of the Hawaiian Homes Commission Act) who are being relocated.

2. Incarceration-Related Leaves:

Discussions addressed the complexities of handling lessee incarceration and DHHL's ability to pursue administrative hearings when lessees cannot represent themselves.

3. Duration of Leave:

The committee recommended maintaining the 12-month limit on leaves of absence, with discretionary authority for the Chairman to approve extensions beyond this period.

4. Information Gathering:

The DHHL will gather and review details such as:

- o Compliance with lease conditions,
- o Whether the lessee is directly impacted,
- o The role of qualified family members in the request, and
- o Validity of reasons for leave, including military deployment, employment, religious assignments, medical treatment, higher education, health and safety.

RECOMMENDATION

Staff respectfully requests approval of the motion as stated.

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS
LEAVE OF ABSENCE REQUEST

Hawaiian Homes Commission
P.O. Box 1879
Honolulu, Hawaii 96805

Dear Chairman of the Department of Hawaiian Home Lands:

I, _____, a Lessee with the Department of Hawaiian Home Lands, request your approval of my absence from my homestead lot for the period:

From: _____ (MM/DD/YYYY) **To:** _____ (MM/DD/YYYY)

Res/Pas/Ag (circle one) Lease No. _____, Lot No. _____, situated at

(Area/Island):

Will the caretaker reside on the homestead lot? Is the residence a DHHL-approved and County permitted dwelling? If yes, provide address:

Res/Pas/Ag (circle one) Lease No. _____, Lot No. _____, situated at

(Area/Island)

The person (caretaker) who will be responsible to care for and maintain my homestead lot on my behalf is:

First Name, M.I., Last Name

who is my _____ (Relationship).

Caretaker's contact information:

Mailing Address: _____

Email Address: _____

Telephone/Cell Number(s): _____

In case of an emergency – Alternate Contact Information:

(Name/Relationship to caretaker): _____

Mailing Address: _____

Email Address: _____

Telephone/Cell Number(s): _____

Lessee's contact information during Leave of Absence:

Mailing Address: _____

Email Address: _____

Telephone/Cell Number(s): _____

Additional Information: _____

Attestation

I attest that the above information is true and correct, and I understand that this request is valid for the period approved by the Department. Following the expiration of my leave of absence, I will need to re-apply for a leave of absence from my homestead. I understand and agree that I am responsible for providing the Department with updated contact information for me and my caretaker. Furthermore, I understand that this is only a request that needs to be approved by the Chairman of the Department of Hawaiian Home Lands. If approved, I understand that I remain responsible for all conditions and obligations contained in my lease. If my appointed caretaker fails to properly care for my homestead as required by my lease, I am responsible and any lease violations occurring during my leave of absence may be subject to a contested case hearing, including lease cancellation.

Attached are documentation from my employer, organization, or medical facility that is requiring my absence from my homestead lot.

Lessee Signature: _____ Date: _____

Caretaker Signature: _____ Date: _____

Staff Name: _____ Initial/Date _____

For Staff Use Only: Chairperson Signature _____ Date: _____ Leave of Absence Expiration Date: _____
