

HAWAIIAN HOMES COMMISSION
Minutes of December 15 and 16, 2014
Meeting held at Hale Pono'i, Kapolei, Oahu

Pursuant to proper call, the 658th Regular Meeting of the Hawaiian Homes Commission was held at the Department of Hawaiian Home Lands, 91-5420 Kapolei Parkway, Kapolei, Hawaii, beginning at 9:30 a.m.

PRESENT Jobie M. K. Masagatani, Chairman
Doreen N. Canto, Commissioner, Maui
Gene Ross K. Davis, Commissioner, Moloka'i (arrived 10:20 AM)
Wallace A. Ishibashi, Commissioner, East Hawaii
David B. Kaapu, Commissioner, West Hawai'i
Michael P. Kahikina, Commissioner, Oahu
William Richardson, Commissioner, O'ahu
Renwick V. I. Tassill, Commissioner, O'ahu
Kathleen Pua Chin, Commissioner Kaua'i

EXCUSED NONE

COUNSEL Craig Iha, Deputy Attorney General

STAFF Darrell Young, Deputy to the Chairman, Office of the Chair
Norman Sakamoto, Development Officer, Office of the Chair
Niniau Simmons, NAHASDA Manager, Office of the Chair
Linda Chinn, Administrator, Land Management Division
Puni Chee, Administrator, Information & Community Relations Office
Francis Apoliona, Compliance Officer
Kip Akana, Enforcement Officer
Paul Ching, Land Agent, Land Management Division
Kaleo Manuel, Acting Manager, Planning Office
Gigi Cairel, Grants Specialist, Planning Officer
Dreana Kalili, Policy Analyst
Michelle Brown, Secretary to the Commission

ORDER OF BUSINESS

CALL TO ORDER

Chair Masagatani called the meeting to order at 9:40 a.m. She welcomed Commissioner Kathleen Pua Chin, who was sworn in prior to convening. She replaced former Commissioner Patricia Sheehan, as the Kaua'i Commissioner. Her term was effective on December 1, 2015, and she will serve until June 2017.

ROLL CALL

Commissioner Davis was on his way. Eight (8) members were present at roll call.

APPROVAL OF AGENDA

Chair Masagatani stated the minutes are a little behind so there was none to approve of this agenda.

MOTION/ACTION

Commissioner Canto moved, seconded by Commissioner Ishibashi, to approve the agenda. Motion carried unanimously.

Chair Masagatani announced that the Commission would start by convening in executive session to confer with its attorneys on the Nelson Case.

MOTION/ACTION

Moved by Commissioner Canto, seconded by Commissioner Davis to convene in executive session pursuant to HRS Section 92 5(a)(4). Motion carried unanimously.

EXECUTIVE SESSION IN

9:50 AM

The Commission anticipates convening in 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 these matters.

1. Nelson Case: "Sufficient Sums" for DHHL Funding, Richard Nelson, III, Kaliko Chun, et al. v HHC, Civil No. 09-10161507

EXECUTIVE SESSION OUT

10:17 AM

ITEMS FOR INFORMATION

OFFICE OF THE CHAIRMAN

Item C-2 Information Only- Briefing on 2014 Procurement of Professional Services for HALE Program

RECOMMENDED ACTION

None. For Information Only.

Deputy to the Chair Darrell T. Young and Special Assistant to the Chairman Kamana'o Mills presented a summary of the procurement process and the method by which the HALE program professional services were solicited and procured.

Commissioner Ka'apu stated the criteria seemed to be ambiguous and asked if the criteria can be more specific. Regarding capacity, the notice does not say how many people will be needed to do the amount of work the contract called for. He asked how the scorers would be able to determine the capacity of a vendor to meet certain requirements if this is not part of the criteria. K. Mills stated the notices are generally very broad and in this case, the State Office of Procurement changed the notice to remove language that might limit organizations from applying.

Commissioner Kahikina asked at what point do milestones come into play. K. Mills stated it would come into play during contract negotiations after the procurement process. Commissioner Kahikina asked if there is a process for challenging an award. K. Mills stated there is a five-day window after the posting of the award, for challenges. Once that period ends, the procurement period officially ends. Commissioner Kahikina asked where in the process does the committee investigate an allegation of "double dipping." K. Mills stated that this is not a factor in the procurement process, it could only happen after a contract is executed.

Commissioner Ishibashi asked if there is a chance the selection committee could have preconceived notions about any of the vendors. K. Mills stated the selection committee can only score based on the information provided in the proposal and not by what they may know about the organization. The selection committee will be held accountable if their scores are based on anything outside of what is provided in the proposal. There must be documentation of where the information came from.

Commissioner Kaapu went back to the notice and stated that there were intended outcomes listed, but that these were ambiguous.

Procurement of Professional Services for HALE Services (Kauai and Hawaii)

1. HALE Professional Services Public Notice posted on April 11, 2014. 0 Service Providers respond. Category: General Education and Training. (GS-1701). Minimum Specifications the same as posted in the February 11, 2014, public notice. As stated in the public notice, Service Providers that responded to the February 11, 2014, public notice will be considered for this service.
2. As no service providers responded to the April 11, 2014, public notice, the List of Qualified Service Providers remains unchanged. Should a new Statement of Qualifications be submitted, or an existing service provider revise their Statement of Qualifications, the Review Committee shall reconvene to consider the addition of new service providers to the List of Qualified Service Providers.
3. Selection Committee appointed on May 13, 2014.
4. Selection Committee convenes and ranks the service providers on May 22, 2014.
5. Top Ranked Service Provider declines the award. Request to enter into contract negotiations with the second-ranked service provider on June 4, 2014. (Second-ranked service provider accepts the award.)
6. Award posted on SPO website on July 24, 2014.

Commissioner Kahikina asked if Michelle Kauhane could come to the table to provide testimony.

PUBLIC TESTIMONY ON AGENDIZED ITEMS

Item A-1, Michelle Kauhane, CEO of CNHA Re: Item C-2.

M. Kauhane testified that she agrees that the procurement process is very difficult but the Commission needs to explore the inherent problem when beneficiary organizations are excluded even when everyone knows they are the primary service provider in the community. The Department needs to be working on a procurement process that ensures that the beneficiaries are receiving services from those that are experienced in doing the work. It is a fact that the years prior to this contract, Hawai'i Home Ownership Center (HHOC) referred all its homestead clients to Hawaiian Community Assets (HCA) because they acknowledged that they lacked expertise on trust lands. The criteria needs to balance out how contracts are scored compared to what is in the proposals.

Chair Masagatani had a question for counsel and requested an executive session.

MOTION/ACTION

Commissioner Kaapu moved, Seconded by Commissioner Canto to convene in executive session pursuant to HRS Section 92 5(a)(4). Motion carried unanimously.

EXECUTIVE SESSION IN

10:57 AM

Chair Masagatani thanked everyone for their patience as the Commission conferred with counsel. She continued the discussion by asking K. Mills if the selection committee reviewed the proposals individually or if they could confer with each other. K. Mills stated the committee is basically locked in a room and doesn't come out until the scoring is done.

Chair Masagatani asked N. Simmons regarding contracts for the HALE Program, how many more procurements are anticipated. N. Simmons stated the procurements are tied to the housing plans, so there are two more anticipated.

ITEMS FOR DECISION MAKING

LAND MANAGEMENT DIVISION

ITEM F-1 Approval to Issue License, Honolulu Community Action Program, Inc., Nānākuli, Oahu

RECOMMENDED MOTION/ACTION

Land Management Administrator Linda Chinn presented the following:

That the Hawaiian Homes Commission (HHC) approves the issuance of a license to Honolulu Community Action Program, Inc., a Hawaii nonprofit corporation, ("LICENSEE") to use existing classroom space G-11 and G-12, each containing an area of 1,220 square feet, more or less, in Building G, as well as four (4) adjacent parking stalls and the surrounding open grassy areas adjacent to Building G, in the former Nanaikapono Elementary School, at Nānākuli, Oahu, identified by TMK No. (1) 8-9-01:004 (por.) as shown in the submittal. Licensee will use the premises for an early education and childcare program. Approval and issuance of this license shall be subject to the conditions listed in the submittal.

MOTION

Moved by Commissioner Kahikina, seconded by Commissioner Ishibashi to approve the motion as stated in the submittal.

L. Chinn stated the organization has been at the location for seven (7) years and they are asking for a renewal of the license to continue the program in the space.

Chair Masagatani stated the Department is starting a new practice where requests for long-term dispositions are first put through a beneficiary consultation in the affected community so that the community can have input into what happens. She asked Commissioner Kahikina if it would be a problem to hold off on the license until a meeting in Nānākuli can be held for beneficiary consultation. Commissioner Kahikina agreed to the beneficiary consultation.

L. Chinn stated the Planning Division will be heading to Nānākuli for a beneficiary consultation in January and can take all three-license renewals to the community.

Chair Masagatani suggested an amendment to add an additional condition that stated, "subject to the Department conducting at least one beneficiary consultation meeting for the beneficiaries of Nānākuli regarding this license."

MOTION ON AMENDMENT/ACTION

Moved by Commissioner Kahikina, seconded by Commissioner Ishibashi to amend the motion to add an additional condition: "subject to the Department conducting at least one beneficiary consultation meeting for the beneficiary community of Nānākuli regarding this license." Motion carried, unanimously.

ACTION ON AMENDED MOTION

Motion carried unanimously.

ITEM F-2 Approval to Issue License, House of Salvation Church & Bible School, Nānākuli, O'ahu.

RECOMMENDED MOTION/ACTION

Land Management Administrator Linda Chinn presented the following:

That the Hawaiian Homes Commission (HHC) approves the issuance of a license to the House of Salvation Church & Bible School, a Hawai'i non-profit corporation, ("LICENSEE") for the use of portable classroom buildings P-10 and P-11, the cafeteria, and adjacent restroom facility, in the former Nanaikapono Elementary School, identified by TMK No. (1) 8-9-001:004 (por.), and as shown in the submittal, for worship services and church-related activities.

Approval and issuance of this license shall be subject to the conditions listed in the submittal.

MOTION

Moved by Commissioner Kahikina, seconded by Commissioner Ishibashi to approve the motion as stated in the submittal.

Chair Masagatani suggested the same amendment to add an additional condition that stated, "subject to the Department conducting at least one beneficiary consultation meeting for the beneficiaries of Nānākuli regarding this license."

MOTION ON AMENDMENT/ACTION

Moved by Commissioner Kahikina, seconded by Commissioner Ishibashi to amend the motion to add an additional condition: "subject to the Department conducting at least one beneficiary consultation meeting for the beneficiary community of Nānākuli regarding this license." Motion carried unanimously.

ACTION ON AMENDED MOTION

Motion carried unanimously.

ITEM F-4 Approval to Issue Eight (8) Right of Entry Permits to Eight (8) Commercial Tour Operators to Use a Portion of Humu'ula Sheep Station as a Rest and Picnic Shelter Area, Humu'ula, Island of Hawai'i

Note: Commissioners Richardson and Ishibashi recused themselves from this discussion and vote.

RECOMMENDED MOTION/ACTION

Land Management Administrator Linda Chinn presented the following:

That the Hawaiian Homes Commission approve the issuance of eight (8) Right of Entry Permits to eight (8) commercial tour operators, permitted by the University of Hawai'i at Hilo through the Office of Mauna Kea Management (OMKM) to conduct tours on the University's managed lands on Mauna Kea including the Mauna Kea Science Reserve to use a portion of Hawaiian home lands at Humu'ula, island of Hawaii, specifically at the Humu'ula Sheep Station. Exhibit "A" of the submittal shows the Mauna Kea Visitor Information Station (VIS)/Sheep Station location relative to Hawaii Island; Exhibit "B" of the submittal shows the Sheep Station location relative to

the VIS on Mauna Kea Access Road; and Exhibit "C" of the submittal marks the proposed rest/picnic shelter site layout within the Sheep Station. The Right of Entry Permits will be subject to the conditions stated in the submittal.

MOTION

Moved by Commissioner Canto, seconded by Commissioner Ka'apu to approve the motion as stated in the submittal. Commissioners Ishibashi and Richardson recused.

DISCUSSION

At the request of and in collaboration with the Office of Mauna Kea Management (OMKM), University of Hawaii, Hilo, DHHL is assisting OMKM to enhance the visitors' experience on Mauna Kea and manage commercial tour vehicular traffic on the Mauna Kea Access Road and at its facilities. The collaboration with OMKM is providing DHHL an opportunity to earn income from another source on its Humu'ula lands in accord with DHHL's Āina Mauna Legacy Program. This collaboration will help to jump-start the ecotourism program of the Āina Mauna Legacy Program.

OMKM currently permits eight (8) commercial tour companies to operate tours to the summit and to stargaze. The current practice is for the tours to rest and picnic at OMKM's Visitor Information Station (VIS) before ascending to Mauna Kea Summit to view the sunset and observatories. The VIS has only a couple of picnic tables and benches. The tour groups picnic on the sidewalks, curbs, and stonewalls in the VIS parking lot. Depending on the time of year and day light, the tours arrive at the VIS between 4:00 P.M and 6:00 P.M.; feed their passengers dinner, and allow the groups to browse the educational displays while allowing time to acclimate to the higher altitude before heading up to the Summit. After acclimating, the tour groups ascend to the Summit, (an approximately forty-five (45) minute ride) sightsee, and photograph the sunset and observatories before descending back to the VIS for star and planet gazing. The popularity of the visitor attractions and a soon to begin observatory construction project will create activity exceeding OMKM's space and traffic management capacity at the VIS.

DHHL currently has a rest/picnic shelter arrangement at its Humu'ula Sheep Station with Mr. Rob Pacheco, dba Hawaii Forest & Trail (HFT), one of OMKM's eight authorized tour operators, since April 2003. Currently, HFT is the only user of the Sheep Station as a rest/picnic shelter for its tour group and pays DHHL approximately \$24,000.00 annually. Assuming the other seven commercial tour operators have similar group counts, DHHL has the potential to gain an additional, estimated \$168,000.00 annually for an estimated total of \$192,000.00 annually from the Sheep Station property for this use. OMKM has also offered to assist DHHL (1) with financial start-up money to purchase/rent tents, picnic benches, portable toilets, and other equipment; (2) with machinery and labor to grade and prepare the access, parking, and picnic shelter sites; and (3) by sharing OMKM's accounting and operational reports with DHHL.

Commissioner Ka'apu asked if the criteria for the tour groups have been developed, to make sure they know what their responsibilities are. Land Agent Paul Ching stated the tour operators are going to be working as a group and self-policing. There is a 30-day cancellation notice if something goes wrong.

Commissioner Ka'apu stated he understood from last month's presentations that there were problems at the middle level because tourists were eating wherever they wanted and left trash all over the place. He doesn't want the problem to migrate and become the Department's problem.

Commissioner Kahikina stated that he is more worried about the general public. P. Ching stated the parcel is gated and further back from the main road, in a forested area.

Commissioner Ka'apu stated he received emails about a pool hall. L. Chinn stated that the Paniolo Preservation Society has the ROE permit to restore the two buildings on the site. They have sole access to the buildings. It is not tied to the Mauna Kea action.

Chair Masagatani asked how the \$4.00 amount was determined when some tours charge more than \$100 per person. L. Chinn stated once the license is approved, the Department will sit down with the tour operators and negotiate the details. The \$4.00 is to have access to the area. The tour operations incur the cost for the tents and bathroom supplies.

Commissioner Ka'apu asked for a timetable of when site work will occur. P. Ching stated once everyone is on board they will move forward with pricing and timetable. They can bring the timetable back to the Commission.

Chair Masagatani suggested three (3) amendments to the motion/submittal:

1. That the Hawaiian Homes Commission grants its preliminary approval ~~approves the issuance~~ of eight (8) Right of Entry Permits to eight (8) commercial tour operators, permitted by the University of Hawai'i at Hilo through the Office of Mauna Kea Management (OMKM) to conduct tours on the University's managed lands on Mauna Kea including the Mauna Kea Science Reserve to use a portion of Hawaiian home lands at Humu'ula, island of Hawaii, specifically at the Humu'ula Sheep Station. Exhibit "A" of the submittal shows the Mauna Kea Visitor Information Station (VIS)/Sheep Station location relative to Hawaii Island; Exhibit "B" of the submittal shows the Sheep Station location relative to the VIS on Mauna Kea Access Road; and Exhibit "C" of the submittal marks the proposed rest/picnic shelter site layout within the Sheep Station. The Right of Entry Permits will be subject to the conditions stated in the submittal.
2. Condition #5 Compensation to the Department of Hawaiian Home Lands (DHHL) for this use shall be determined by the Hawaiian Homes Commission at a future date ~~on a \$4.00 per person fee.~~
3. Condition #20 Added: The Department shall submit an implementation plan for the Commission's consideration prior to the Hawaiian Homes Commission granting final approval.

MOTION ON AMENDMENT/ACTION

Moved by Commissioner Kahikina, seconded by Commissioner Canto to amend the motion as stated by Chair Masagatani. Motion carried. Commissioners Ishibashi and Richardson recused.

ACTION ON AMENDED MOTION

Motion carried. Commissioners Ishibashi and Richardson recused.

RECESS

12:15 PM

RECONVENE

12:20 PM

Kanehili	336
Kumuhau	51
Piilani Mai Ke Kai	72
Kalawahine Streamside	<u>92</u>
	1,192
 TOTAL	 2,059 of 9,846 (20.9%)

ITEMS FOR DECISION MAKING

HOMESTEAD SERVICES DIVISION

ITEM D-1 HSD Status Reports

- A - Homestead Lease and Application Totals and Monthly Activity Reports
- B - Delinquency Report

ITEM D-2 Ratification of Loan Approvals

RECOMMENDED MOTION/ACTION

Acting Homestead Services Division Administrator Dean Oshiro recommended the following: To ratify the approval of the loans in the submittal previously approved by the Chairman, pursuant to section 10-2-17, ratification of chairman's action, of the Department of Hawaiian Home Lands Administrative Rules.

MOTION/ACTION

Moved by Commissioner Canto, seconded by Commissioner Kahikina. Motion carried unanimously.

ITEM D-3 Approval of Consent to Mortgage

RECOMMENDED MOTION/ACTION

Acting Homestead Services Division Administrator Dean Oshiro recommended the following: To approve the consents listed in the submittal to mortgages for Federal Housing Administration (FHA) insured loans, Department of Veterans Affairs (VA) loans, United States Department of Agriculture, Rural Development (USDA, RD) guaranteed loans, United States Housing and Urban Development (BUD 184A) guaranteed loans and Conventional (CON) loans insured by private mortgage insurers.

MOTION

Moved by Commissioner Kahikina., seconded by Commissioner Canto to approve the motion as stated in the submittal.

Chair Masagatani inquired about a mortgage for \$508,620.00. D. Oshiro stated the property was appraised at over \$1 million.

Commissioner Tassill asked how the Department allowed that to happen. D. Oshiro stated the family could afford to build a big house.

ACTION

Motion carried. Commissioner Tassill opposed.

ITEM D-4 Approval of Refinance of Loans

RECOMMENDED MOTION/ACTION

Acting Homestead Services Division Administrator Dean Oshiro recommended the following:
To approve the refinancing of loans from the Hawaiian Home General Loan Fund as listed in the submittal.

MOTION/ACTION

Moved by Commissioner Canto, seconded by Commissioner Kahikina. Motion carried unanimously.

ITEM D-5 Approval of Streamline Refinance of Loans

RECOMMENDED MOTION/ACTION

Acting Homestead Services Division Administrator Dean Oshiro recommended the following:
To approve the refinancing of loans from the Hawaiian Home General Loan Fund as listed in the submittal.

MOTION/ACTION

Moved by Commissioner Canto, seconded by Commissioner Kahikina. Motion carried unanimously.

ITEM D-6 Approval to Schedule Loan Delinquency Contested Case Hearings

RECOMMENDED MOTION/ACTION

Acting Homestead Services Division Administrator Dean Oshiro recommended the following:
To authorize the scheduling of the loan delinquency contested case hearings as shown in the submittal.

MOTION/ACTION

Moved by Commissioner Canto, seconded by Commissioner Kahikina. Motion carried unanimously.

ITEM D-7 Approval of Homestead Application Transfers/Cancellations

RECOMMENDED MOTION/ACTION

Acting Homestead Services Division Administrator Dean Oshiro recommended the following:
To approve the transfers and cancellations of applications from the Application Waiting Lists for reasons described in the submittal.

MOTION/ACTION

Moved by Commissioner Kahikina, seconded by Commissioner Canto. Motion carried unanimously.

ITEM D-8 Cancellation of Deceased Applicants from Waiting List - Public Notice 2001,2012

RECOMMENDED MOTION/ACTION

Acting Homestead Services Division Administrator Dean Oshiro recommended the following:
To cancel the list of applications in the submittal, of deceased applicants pursuant to section 10–3–8 (c) and (d) of the Department’s Administrative Rules.

MOTION/ACTION

Moved by Commissioner Canto, seconded by Commissioner Kahikina. Motion carried unanimously.

ITEM D-9 Ratification of Designations of Successors to Leasehold Interest and Designation of Persons to Receive Net Proceeds

RECOMMENDED MOTION/ACTION

Acting Homestead Services Division Administrator Dean Oshiro recommended the following: To ratify the approval of the designation of a successor to the leasehold interest and person to receive the net proceeds, pursuant to Section 209, Hawaiian Homes Commission Act, 1920, as amended. This designation was previously approved by the Chairman.

MOTION/ACTION

Moved by Commissioner Canto, seconded by Commissioner Kahikina. Motion carried unanimously.

ITEM D-10 Approval of Assignment of Leasehold Interest

RECOMMENDED MOTION/ACTION

Acting Homestead Services Division Administrator Dean Oshiro recommended the following: To approve the assignment of the leasehold interest, pursuant to section 208, Hawaiian Homes Commission Act, 1920, as amended, and subject to any applicable terms and conditions of the assignment, including but not limited to the approval of a loan.

DISCUSSION

Chair Masagatani asked about #11. The lessee is transferring to three (3) unrelated individuals. This is the first request she has seen of this nature. What happens if one of them violates the lease? The interests cannot be divided.

Commissioner Kaapu asked for an amendment to remove item #11 until further notice.

MOTION ON AMENDMENT/ACTION

Moved by Commissioner Kaapu, seconded by Commissioner Tassill to amend the motion to remove #11. Motion carried, unanimously.

ACTION ON AMENDED MOTION

Motion carried unanimously.

ITEM D-11 Approval of Amendment of Leasehold Interest

RECOMMENDED MOTION/ACTION

Acting Homestead Services Division Administrator Dean Oshiro recommended the following: To approve the amendment of the leasehold interest as listed in the submittal.

MOTION/ACTION

Moved by Commissioner Canto, seconded by Commissioner Kahikina. Motion carried unanimously.

ITEM D-12 Approval to Issue Non-Exclusive Licenses for Rooftop Photovoltaic Systems for Certain Lessees

RECOMMENDED MOTION/ACTION

Acting Homestead Services Division Administrator Dean Oshiro recommended the following: To approve the issuance of a non-exclusive license to allow the Permittee to provide adequate services related to the installation, maintenance, and operation of a photovoltaic system on the premises leased by the respective Lessees in the submittal. The non-exclusive license is necessary as the Lessee cannot issue his/her own licenses.

MOTION/ACTION

Moved by Commissioner Kahikina, seconded by Commissioner Ka'apu. Motion carried unanimously.

LAND MANAGEMENT DIVISION

ITEM F-2 Approval of Request to Surrender General Lease, General Lease No. S-4123, Douglas K. Takata, Honolulu, Oahu

RECOMMENDED MOTION/ACTION

Land Management Division Administrator Linda Chinn recommended the following: That the Hawaiian Homes Commission grant its approval to the request to surrender General Lease No. S-4123, demised to Douglas Kumiomi Takata, Trustee, located at Shafter Flats Industrial Subdivision, Moanalua, Honolulu, Island of Oahu, further identified by Tax Map Key No. (1) 1-1-64:018. The approval granted shall be subject to the conditions listed in the submittal.

MOTION

Moved by Commissioner Davis, seconded by Commissioner Kahikina to approve the motion as stated in the submittal.

ACTION

Motion carried unanimously.

ITEM F-5 Ratification of Actions taken by Chairman, Hawaiian Homes Commission, Statewide

RECOMMENDED MOTION/ACTION

Land Management Division Administrator Linda Chinn recommended the following: That the Hawaiian Homes Commission ratify the consents and approvals listed in the submittal, granted by the Chairman, Hawaiian Homes Commission.

DISCUSSION

Since the last Commission meeting, the Chairman of the Hawaiian Homes Commission has granted her consent to the items listed in the submittal. L. Chinn stated there is one typo in General Lease No. 217. It currently reads HAWAI'I ISLAND GLASS, INC. But it should read KAWAIHAE INDUSTRIAL DEVELOPMENT CORPORATION.

MOTION

Moved by Commissioner Davis, seconded by Commissioner Kahikina to approve the motion as stated in the submittal.

Commissioner Chin asked if general lessees can sublease. She asked for more information on the formula used for subleases.

Chair Masagatani deferred decision making on F-5 until the Tuesday agenda. L. Chinn will provide subleasing information to Commissioner Chin to review.

Note: Item F-5 was deferred to Tuesday agenda.

ITEM F-6 Ratification of Defaults and Revocation, Statewide

RECOMMENDED MOTION/ACTION

Land Management Division Administrator Linda Chinn recommended the following:
That the Hawaiian Homes Commission ratify the Notices of Default/Revocation issued to the parties highlighted in the submittal.

DISCUSSION

General Leases were provided with a 60-day cure period. Termination action will be taken against those who fail to cure within the prescribed period.

Notices of default/revocation requiring HHC ratification
General Leases

Island	GLNo	Lessee	Monthly Rent	Total Due
Hawaii	146	WKL Enterprises *	0.00	0.00
Hawaii	166	Elton Kaku	\$1,691.67	\$3,383.34
Hawaii	178	Hokuloa, Inc.	\$3,927.36	\$29,159.52
Hawaii	265	The Agency, Inc.	\$1,175.00	\$7,050.00
Hawaii	266	Leleiwi Electric	\$1,458.33	\$13,097.96
Hawaii	268	Ivan Mochida Contracting	\$941.66	\$2,806.08

* *Failure to provide updated list of sub-lease tenants*

MOTION/ACTION

Moved by Commissioner Davis, seconded by Commissioner Kahikina to approve the motion as stated in the submittal. Motion carried unanimously.

ITEM F-7 Approval of New Revocable Permit Program

RECOMMENDED MOTION/ACTION

Land Management Division Administrator Linda Chinn recommended the following:
That the Hawaiian Homes Commission grants its approval to the New Revocable Permit Program as shown in the submittal and exhibits.

DISCUSSION

Authority to Issue Revocable Permits

The authority for the Department of Hawaiian Home Lands to issue revocable permits can be found in the (i) Hawaiian Homes Commission Act, 1920, as amended, Section 204 (2), (ii) Hawaii Revised Statutes, Chapter 171, Section 171-55, Permits, as amended, and (iii) Hawai'i Administrative Rules, Title 10, Department of Hawaiian Home Lands, Chapter 4, Management of Hawaiian Home Lands, Subchapter 1, Land Management, Section 10-4-1 Lease of Lands.

Commissioner Kahikina asked that this item be deferred to the Tuesday agenda. Chair Masagatani agreed and moved decision making to the Tuesday agenda.

Note: Item F-5 was deferred to Tuesday agenda.

PLANNING OFFICE

ITEM G-2 Approval of Recommendations for Agriculture Peer-to-Peer Pilot Grant Awards

RECOMMENDED MOTION/ACTION

Acting Planning and Program Manager Kaleo Manuel and Grant Specialist Gigi Cairel presented the following:

That the Hawaiian Homes Commission (HHC) approves a \$200,000 allocation from the Native Hawaiian Rehabilitation Fund (NHRF) to fund the following organizations for agriculture peer-to-peer pilot grants:

- | | |
|----------|---|
| \$93,968 | to Waimea Hawaiian Homesteaders Association, Inc. for training and a greenhouse building program on agriculture homestead lots in Waimea, Hawai'i. |
| \$70,000 | to Makakuoha Cooperative , through its fiscal sponsor Molokai Community Service Council, Inc., for natural farming systems training and demonstration projects on agriculture homestead lots in Ho'olehua and Kalama'ula, Molokai. |
| \$36,032 | to Kaala Farm Inc. (KFI) for training on starting practitioner gardens on KFI's 98-acre site (DHHL License No. 724) and on homestead lots in Waianae, Oahu |

MOTION

Moved by Commissioner Canto, seconded by Commissioner Davis to approve the motion as stated in the submittal.

DISCUSSION

This year, the Department launched a pilot grant program to provide financial assistance for peer-to-peer learning and training projects that will increase agriculture lessee and applicant capacity to undertake commercial or subsistence agriculture production. Eligibility for this pilot grant was for beneficiary organizations and was expanded to include other 501(c) (3) nonprofits with a land disposition from the Department and engaged in agriculture educational activities. The Department intended to reach out and engage other nonprofits with agriculture expertise.

Commission Ka'apu stated he liked the program but wanted to see the metrics of how many people the projects will touch.

ACTION

Motion carried unanimously.

ADMINISTRATIVE SERVICES OFFICE

ITEM H-1 Transfer of Hawaiian Home Receipts Money at the End of the Second Quarter, FY 2015

RECOMMENDED MOTION/ACTION

Administrative Services Officer Rodney Lau presented the following:

That the Commission approve the transfer of the entire receipts deposited in the Hawaiian Home Receipts Fund as of December 31, 2014, to the Hawaiian Home General Loan Fund.

MOTION/ACTION

Moved by Commissioner Canto, seconded by Commissioner Davis to approve the motion as stated in the submittal. Motion carried unanimously.

MOTION/ACTION

Moved by Commissioner Canto, seconded by Commissioner Davis to convene in executive pursuant to HRS 92-5 (a)(4). Motion carried unanimously.

EXECUTIVE SESSION IN

4:10 PM

The Commission anticipates convening in 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 these matters.

1. Policy to Provide Preference to native Hawaiians in DHHL's General Leasing Program
2. License No. 372 to Waimana Enterprise Inc.

EXECUTIVE SESSION OUT

5:30 PM

RECESS

5:30 PM

HAWAIIAN HOMES COMMISSION
Minutes of December 15 and 16, 2014
Meeting held at Hale Pono'i, Kapolei, O'ahu

PRESENT Jobie M. K. Masagatani, Chairman
Doreen N. Canto, Commissioner, Maui
Gene Ross K. Davis, Commissioner, Moloka'i
Wallace A. Ishibashi, Commissioner, East Hawaii
David B. Kaapu, Commissioner, West Hawai'i
Michael P. Kahikina, Commissioner, Oahu
William Richardson, Commissioner, O'ahu
Renwick V. I. Tassill, Commissioner, O'ahu
Kathleen Pua Chin, Commissioner Kaua'i

EXCUSED NONE

COUNSEL Craig Iha, Deputy Attorney General

STAFF Darrell Young, Deputy to the Chairman, Office of the Chair
Norman Sakamoto, Development Officer, Office of the Chair
Niniau Simmons, NAHASDA Manager, Office of the Chair
Linda Chinn, Administrator, Land Management Division
Puni Chee, Administrator, Information & Community Relations Office
Francis Apoliona, Compliance Officer
Kip Akana, Enforcement Officer
Paul Ah Yat, Enforcement Office
Kaleo Manuel, Acting Manager, Planning Office
Gigi Cairel, Grants Specialist, Planning Officer
Stewart Matsunaga, Community Development Manager, Land Development
Michelle Brown Secretary to the Commission

ORDER OF BUSINESS

CALL TO ORDER

Chair Masagatani called the meeting to order at 1:10 PM

ROLL CALL

Nine (9) members were present at roll call.

ITEMS FOR INFORMATION

GENERAL AGENDA - Requests to Address the Commission

ITEM J-1 John P. Kalu'au, Native Hawaiian General Services, South Point, Hawai'i Island

J. Kalu'au stated he has been leasing land at South Point for more than 10-years. Mr. Kaniho blamed him for the damage caused by the recent fire. He felt those allegations were serious and that he needed to say something about the allegations. His kuleana was to protect the 5,000 acres he leases. He isn't responsible for the fire burning anyone else's property. If anyone is to blame, its DHHL for allowing all kinds of activities and not managing the area properly. He stated if Mr.

Kaniho is not able to take care of his parcels, he is willing to take care of it for him. No one will worry about fires if he can take care of it.

He stated DHHL needs to do a better job of protecting the historical sites in South Point. There are five different sites already identified that the Department isn't taking care of.

ITEMS FOR DECISION MAKING

OFFICE OF THE CHAIRMAN

ITEM C-1 Approval of a Memorandum of Agreement Between the State of Hawai'i Department of Hawaiian Home Lands (DHHL) and the County of Kaua'i (County) Regarding Issuance of Affordable Housing Credits.

RECOMMENDED MOTION/ACTION

Policy and Program Analyst Dreana Kalili presented the following:

That the Hawaiian Homes Commission:

- 1) Grant approval in principle to the terms and conditions to enter into a Memorandum of Agreement Between the State of Hawaii Department of Hawaiian Home Lands (DHHL) and the County of Kauai (County) Regarding Issuance of Affordable Housing Credits; and
- 2) Grant authorization to the chairman to finalize and execute the Memorandum of Agreement containing substantively similar terms described herein, pending legal review by the Department of the Attorney General, to be ratified by the Commission at a future meeting.

MOTION

Moved by Commissioner Canto, Seconded by Commissioner Davis to approve the motion as stated in the submittal.

DISCUSSION

This Memorandum of Agreement (MOA) is based on Act 141, Session Laws of Hawaii, 2009, and Act 98, Session Laws of Hawaii, 2012. The pilot program established by these acts allows the Department to receive affordable housing credits from each county, and then transfer these credits to housing developers to provide incentives for private sector developers to build affordable homes on Hawaiian home lands. Since 2009, the Department has worked with each county to request and acquire affordable housing credits for completed units in homestead communities. This pilot program has resulted in successful private-public partnerships through the exchange of credits creating resources for the Department to further develop homestead lots.

ACTION

Motion carried unanimously.

Note: Both F-5 & F-7 were deferred from the Monday agenda.

LAND MANAGEMENT DIVISION

ITEM F-5 Ratification of Actions taken by Chairman, Hawaiian Homes Commission, Statewide

RECOMMENDED MOTION/ACTION

Land Management Division Administrator Linda Chinn recommended the following:
That the Hawaiian Homes Commission ratify the consents and approvals listed in the submittal, granted by the Chairman, Hawaiian Homes Commission.

DISCUSSION

Since the last Commission meeting, the Chairman of the Hawaiian Homes Commission has granted her consent to the items listed in the submittal. L. Chinn stated there is one typo in General Lease No. 217. It currently reads HAWAI'I ISLAND GLASS, INC. But it should read KAWAIHAE INDUSTRIAL DEVELOPMENT CORPORATION.

MOTION

Moved by Commissioner Davis, seconded by Commissioner Kahikina to approve the motion as stated in the submittal.

Chair Masagatani reminded everyone the items were started the day before. It was deferred to allow Commissioners to ask staff questions. Commissioner Chin had specific questions about subleases. The motion was made and seconded at the previous discussion.

Commissioner Chin asked if the leases were reviewed periodically. L. Chinn stated the leases are reviewed every-ten-years. Commissioner Ka'apu stated the Department should consider looking at the leases every five years.

ACTION

Motion carried unanimously.

ITEM F-7 Approval of New Revocable Permit Program

RECOMMENDED MOTION/ACTION

Land Management Division Administrator Linda Chinn recommended the following:
That the Hawaiian Homes Commission grants it approval to the proposed Revocable Permit Program as shown on Exhibit "A," and the process as shown on Exhibit "B."

MOTION

Moved by Commissioner Richardson, seconded by Commissioner Davis to approve the motion as stated in the submittal.

DISCUSSION

Authority to Issue Revocable Permits

The authority for the Department of Hawaiian Home Lands to issue revocable permits can be found in the (i) Hawaiian Homes Commission Act, 1920, as amended, Section 204 (2), (ii) Hawaii Revised Statutes, Chapter 171, Section 171-55, Permits, as amended, and (iii) Hawai'i Administrative Rules, Title 10, Department of Hawaiian Home Lands, Chapter 4, Management of Hawaiian Home Lands, Subchapter 1, Land Management, Section 10-4-1 Lease of Lands.

The Ad Hoc Advisory Group's recommendation is to task Land Management Division (LMD) to look beyond the month-to-month use as prescribed under the old Revocable Permit Program. The Ad Hoc Advisory Group recommends that:

1. DHHL conduct a thorough inventory of lands not currently leased under its homesteading program. Using the Island Plans, Regional Plans, and other land assessment reports LMD will identify parcels that are suitable for either a short-term month-to-month permit or longer-term general lease.
2. Offer long-term general leases or licenses for lands for which development is not planned in the next twenty years. Lands not designated for revenue generation in the Island or Regional plans and not expected to be developed for years out based on DHHL's financial

resources would be considered for a shorter term general lease or license that will follow the HRS Chapter 171 process including public auction.

3. On lands that are only available and suitable for short-term use, a new permitting process is recommended. This is the basis for the new Revocable Permit program.

The New Revocable Permit Program

The Hawaiian Homes Commission has, in the past, issued position statements on the issuance of Revocable Permits, based on its statutory authorities. The following statements are still valid and prudent and are recommended to be incorporated into the new program.

- 1) All available Hawaiian home lands that are not immediately required for native Hawaiian homesteading, general leasing, and/or other purposes for long-term durations should be available to the general public for month-to-month tenancy through the issuance of Revocable Permits;
- 2) Annual revenues from available lands should be maximized through good land management practices conducted on lands utilized by way of revocable permits;
- 3) The acreage of available lands utilized under revocable permits should be reduced while increasing DHHL's revenues that are derived from such land dispositions;
- 4) The Chairman should be given the authority to amend and terminate Revocable Permits (HHC to approve new RP issuance); and
- 5) Agricultural use for more than 40 acres must consider the possible impact to native Hawaiian farmers on the same island concerning the availability of water, market share, and product pricing.

The basic program will include the following actions:

- 1) Identification of non-homestead parcels that are suitable for disposition on a month-to-month basis; and
- 2) Formulation of a new permitting system, not founded on a "first come, first served" basis, for lands envisioned to be developed in the nearer future.

Implement a competitive process for disposition of such lands by issuing requests for proposals on an annual or semi-annual basis.

- Month-to-month land dispositions should not be automatically renewed each year. DHHL should conduct a review of each disposition three (3) months prior to expiration and determine whether to continue with the RP.
- Establish the proper method of determining appropriate rents, either by fair market appraisal or prudent in-house analysis of the fair market rent.
- Allocate DHHL staff time to conduct compliance reviews of each permit on an annual basis. If violations are found, DHHL should move expeditiously to have permit holder cure the violation or move to cancel the permit.
- Consult with outside commercial real estate expertise to assist in determining whether revenues are being maximized for DHHL.
- Initiate steps to promulgate administrative rules for the new revocable permit program.
- Create a manual of internal procedures for DHHL staff to follow regarding issuance, compliance review, and enforcement of permits.

Once approval is granted for the proposed Revocable Permit program by the Hawaiian Homes Commission, staff will conduct beneficiary consultation meetings statewide to inform beneficiaries and tenants of DHHL on this new program prior to bringing the final program to the Hawaiian Homes Commission.

Commissioner Kahikina stated there is a man in Nānākuli who has been managing the land next to his lease for 20 years. Where is the policy and procedures to allow beneficiaries to apply for that

land? D. Young stated the beneficiary consultation process will bring these concerns out for everyone to discuss, prioritize and formulate a recommendation.

Commissioner Kaapu asked the Department to consider a competitive process for all general leases, even the back-yard type.

Chair Masagatani felt the beneficiary consultations are important to help beneficiaries understand the program and to provide beneficiaries with an opportunity to give feedback to the Department.

L. Chinn stated there is a typo on page 3 of Exhibit B. She asked to strike the citation of “(HHCA§101(b)(5))”

ACTION

Motion carried unanimously.

ITEMS FOR INFORMATION

PLANNING DIVISION

ITEM G-2 For Information Only - Community-Based Economic Development Project Updates Statewide

RECOMMENDED

None; For Information Only.

Grants Specialist Gigi Cairel provided the Commission with a progress update of the initial eight (8) community-based economic development (CBED) projects that were each awarded a \$250,000 DHHL grant and land disposition under the Kulia I Ka Nu'u- Strive for Excellence program (Kulia).

Commissioner Ka'apu asked what if anything is the Commission's role. Chair Masagatani stated the briefing was meant to get all the information before the Commission to understand what the issues are.

G. Cairel spoke to the next three tables that outlined the beneficiary organizations and non-profits that have land dispositions. She stated many of the Native Hawaiian and beneficiary organizations with dispositions that have non-profits that work with them to serve beneficiaries and their families.

Commissioner Canto asked what qualified an organization for a gratis lease. G. Cairel stated most homestead organizations with community centers are gratis. It also depends whether the service provider is providing a service to DHHL beneficiaries.

GENERAL AGENDA

Requests to Address the Commission

ITEM J-3 Jeff Gilbreath, Executive Director Hawaiian Community Assets

J. Gilbreath is the Executive Director of Hawaiian Community Assets (HCA), a native Hawaiian beneficiary-established and controlled housing counseling agency that is certified by the Department of Housing and Urban Development. Their mission is to build the capacity of low- and moderate-income communities to achieve and sustain economic self-sufficiency with a focus

on Native Hawaiians. Since 2000, they have delivered financial education, housing counseling, and financial products to help native Hawaiian beneficiary families secure and sustain homeownership.

J. Gilbreath stated his testimony is a continuation of the testimony he provided last month that the Hawaiian Homes Commission was incapable of objectively awarding HALE program contracts to service providers.

He submitted a completed Government Record of Request to request the scoring and ranking sheets from the HALE program selection committee. He has not received the score sheets as of this morning, after a month since his request.

There have been many instances over the past 20 years where institutional discrimination has been at the table and standard practice of ignoring requests of Native Hawaiian controlled organizations for public records. He asked the Commission to support the beneficiary organizations and the beneficiaries they serve.

Chair Masagatani asked Administration Services Officer Rodney Lau for a status of the score sheet request. R. Lau stated the score sheets would be released for all the vendors shortly.

ITEM J-4 Kimo Kelii, Second Vice President Nānākuli Hawaiian Homestead Community Association

K. Kelii provided a presentation of the various issues facing the Nānākuli Hawaiian Homestead community. In 1992, they surveyed their community to prioritize projects and concerns and formed five (5) committees. Over the years leadership has come and gone, but the committees have been diligent. Their interpretation of their bylaws is that when a new election is held, the old chairpersons are relieved of their duties, and the new leadership takes over.

The old Cemetery Committee chairperson is not willing to give up the position and return all equipment and inventory. The Committee chairperson used the cemetery to fundraise money through booths, in community parades for her family. He asked the Commission to issue a cease and desist letter to the chairperson.

Over the years, Department changes have left homestead associations vulnerable to the whims of the different administrations. He has had meetings with DHHL staff in the past which rendered a written agreement about the management of the cemetery, but now staff says there is no such agreement. If the Department cannot find it, what can be done to do another one? If the Department must take back the cemetery, he is fine with it. He just wants to make sure the Department takes care of it.

ANNOUNCEMENTS AND ADJOURNMENT

NEXT MEETING

The next regular monthly meeting will be held on January 20, 2015, in Kapolei, Oahu.

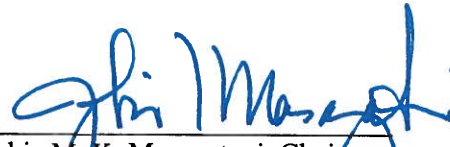
MOTION/ACTION

Moved by Commissioner Ka'apu, seconded by Commissioner Canto to adjourn the meeting. Motion carried unanimously.

ADJOURNMENT

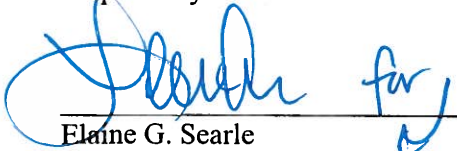
4:53 p.m.

Respectfully submitted:



Jobie M. K. Masagatani, Chairman
Hawaiian Homes Commission

Prepared by:



Elaine G. Searle
Secretary to the Commission

APPROVED BY:

The Hawaiian Homes Commission
At Its Regular Monthly Meeting On

June 19, 2018



Jobie M. K. Masagatani, Chairman
Hawaiian Homes Commission