

PHONE (808) 594-1888

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Committee on Beneficiary Advocacy and Empowerment  
Trustee John D. Waihe'e, IV, *Chair*  
Trustee Rowena Akana, *Vice-Chair*  
*Members*

Trustee Peter Apo, O'ahu  
Trustee S. Haunani Apoliona, At-Large  
Trustee Donald B. Cataluna, Kaua'i / Ni'ihau  
Trustee Carmen Hulu Lindsey, Maui  
Trustee Robert K. Lindsey, Jr., Hawai'i  
Trustee Colette Y. Machado, Moloka'i / Lāna'i  
Trustee Oswald K. Stender, At-Large



**STATE OF HAWAII  
OFFICE OF HAWAIIAN AFFAIRS**

711 KAPI'OLANI BOULEVARD, SUITE 500  
HONOLULU, HAWAII 96813

LIEUTENANT GOVERNOR'S  
OFFICE

\*12 JUL 25 P1:52

**MEETING OF THE  
COMMITTEE ON BENEFICIARY ADVOCACY AND EMPOWERMENT  
(BAE)**

**DATE:** Wednesday, August 1, 2012

**TIME:** 1:30 p.m.

**PLACE:** OHA Boardroom, 5<sup>TH</sup> Floor

**AGENDA**

- I. Call to Order
- II. Approval of Minutes
  - A. April 18, 2012
  - B. May 2, 2012
- III. Community Concerns\*
- IV. Unfinished Business
  - A. 2012 Legislative Session Review
- V. New Business
- VI. Executive Session\*\*
- VII. Beneficiary Comments\*
- VIII. Announcements
- IX. Adjournment

\*Notice: Persons wishing to provide written testimony are requested to submit ten (10) copies of their testimony to the OHA Ka Pouhana/Chief Executive Officer at 711 Kapi'olani Boulevard, Suite 500, Honolulu, HI 96813 or fax to 594-1865, 48 hours prior to the scheduled meeting. Persons wishing to testify orally at the meeting may do so within a five (5) minute limit.

\*\*Notice: This portion of the meeting will be closed pursuant to HRS § 92-4 and HRS § 92-5(a)4.  
For further information, please call 594-1954.

Trustee John D. Waihe'e, IV, *Chair*  
Committee on Beneficiary Advocacy and Empowerment

Date

STATE OF HAWAII  
OFFICE OF HAWAIIAN AFFAIRS  
711 KAPI'OLANI BOULEVARD, SUITE 500

**COMMITTEE ON BENEFICIARY ADVOCACY AND EMPOWERMENT**

**MINUTES**

**August 1, 2012 1:30 p.m.**

**ATTENDANCE:**

Chairperson John Waihe'e, IV  
Vice-Chairperson Rowena Akana  
Trustee Haunani Apoliona  
Trustee Carmen Hulu Lindsey  
Trustee Robert Lindsey

Makana Chai  
Melissa Wennihan  
Nathan Takeuchi  
Reynold Freitas  
Shelsea Apana  
Tiona Wailehua

**EXCUSED:**

Trustee Peter Apo  
Trustee Donald Cataluna  
Trustee Colette Machado  
Trustee Oswald Stender

**ADMINISTRATION STAFF:**

Aedward Los Banos, COO  
Breann Nu'uhiwa, CA  
Jim McMahon, PUBL  
Jocelyn Doane, ADV  
Kēhaunani Abad, Ph.D., CMTY OUT  
Momilani Lazo, CEO

**BOT STAFF:**

Capsun Poe  
Crayn Akina  
Dayna Pa  
Lehua Itokazu  
Lei-Ann Durant  
Liana Pang

**GUESTS:**

Roy Benham

**I. CALL TO ORDER**

**Chair Waihe'e** calls the Committee on Beneficiary Advocacy and Empowerment for Wednesday, August 1, 2012 to order at **1:33 p.m.**

**Chair Waihe'e** notes for the record that **PRESENT** are:

MEMBERS			AT CALL TO ORDER (1:33 p.m.)	TIME ARRIVED
CHAIR	JOHN	WAIHE'E, IV	PRESENT	
TRUSTEE	ROWENA	AKANA	PRESENT	
TRUSTEE	HAUNANI	APOLIONA	PRESENT	
TRUSTEE	CARMEN "HULU"	LINDSEY	PRESENT	
TRUSTEE	ROBERT	LINDSEY	PRESENT	

At the Call to Order, **FIVE (5) Trustees are PRESENT**, thereby constituting a quorum.

**EXCUSED** from the BAE meeting are:

MEMBERS			COMMENT
TRUSTEE	PETER	APO	MEMO – REQUESTING TO BE EXCUSED
TRUSTEE	DONALD	CATALUNA	MEMO – REQUESTING TO BE EXCUSED
TRUSTEE	COLETTE	MACHADO	MEMO - REQUESTING TO BE EXCUSED
TRUSTEE	OSWALD	STENDER	MEMO – REQUESTING TO BE EXCUSED

## **II. APPROVAL OF MINUTES**

- A. April 18, 2012
- B. May 2, 2012

Trustee Akana moves to approve the minutes of April 18, 2012 and May 2, 2012.

Trustee Apoliona seconds the motion.

Chair Waihe`e asks if there is any discussion. There is none.

Chair Waihe`e asks if anyone votes NO or ABSTAINS. There are no replies.

						1:35 p.m.
TRUSTEE	1	2	AE (YES)	A`OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
VICE ROWENA AKANA	1		X			
PETER APO						EXCUSED
HAUNANI APOLIONA		2	X			
DONALD CATALUNA						EXCUSED
CARMEN HULU LINDSEY			X			
ROBERT LINDSEY			X			
COLETTE MACHADO						EXCUSED
OSWALD STENDER						EXCUSED
CHAIR JOHN WAIHE`E			X			
<b>TOTAL VOTE COUNT</b>			<b>5</b>	<b>0</b>	<b>0</b>	<b>4</b>

**MOTION: [ X ] UNANIMOUS [ ] PASSED [ ] DEFERRED [ ] FAILED**

Chair Waihe`e notes for the record that the **MOTION CARRIES**.

## **III. COMMUNITY CONCERNS\***

None.

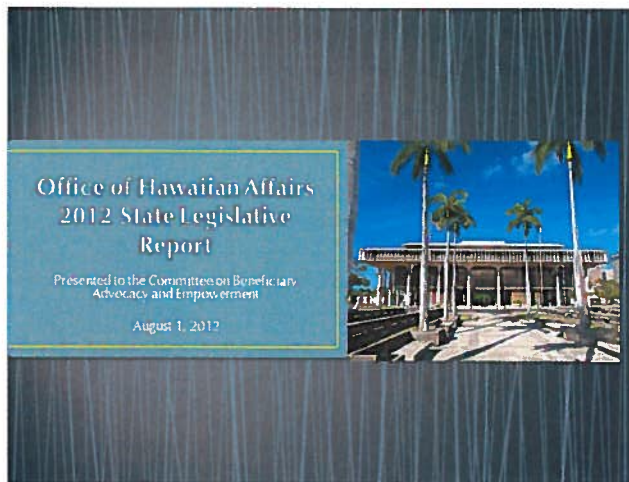
## IV. UNFINISHED BUSINESS

### A. 2012 Legislative Session Review

Chair Waihe`e turns it over to Chief Operating Officer Aedward Los Banos.

COO Los Banos recognizes Chief Advocate Breann Nu`uhiwa.

Breann Nu`uhiwa reviews OHA Staff's final report of the Hawai'i State Legislature, Regular Session 2012. The *Office of Hawaiian Affairs 2012 State Legislative Report* included in the BAE folder is summarized in the power point provided below.



### 2012 State Legislative Report

- Summary of work
- OHA Results
  - Act 15: Kaka`ako Makai Settlement
  - OHA's 2012 Legislative Package
- Results of other notable measures

### Summary of Work

- 3,600 proposed measures reviewed
- 1,000 proposed measures forwarded to staff for position recommendations
- 900 proposed measures tracked
- 430 pieces of written testimony submitted on measures with positions of comment, support or oppose that were given a hearing
  - No testimony submitted for measures with a BOI position of "monitor"
  - No testimony submitted for measures not scheduled for hearings

### OHA Results: Settlement

- Act 15: Kaka`ako Makai Settlement
  - Culminated 5 sessions of OHA legislative advocacy
  - Introduced in 2012 as part of Governor's package
  - OHA involvement
    - BOI advocacy
    - Staff support
      - Two rounds of statewide community meetings
      - Submission of testimony
      - Galvanizing beneficiary community for hearings
  - Legislature transmitted clean SB2783 to Governor 41 days into session

\*Summary of Work- in addition to written testimony staff has also worked to engage the community in the legislative process and educate legislators about Native Hawaiian issues and our beneficiaries' concerns.



## OHA Results: OHA Package

- 12 new proposed measures
  - 10 substantive measures
  - 2 short-form bills (charter schools, Native Hawaiian Roll Commission)
- 5 carry-over proposed measures from 2011 session
- 12 “copycat” measures proposed by legislators
- Awareness raised on critical issues (e.g., HLIP & PLDC)
- Commitments from state agencies (e.g., HLIP & Assets)

## OHA Results: Measures

- OHA 18: Data Disaggregation
  - Formally adopted
- OHA 12: Asset Limits
  - 3 copycat measures
  - One copycat measure (Rep. Jordan’s) made it to conference, then died due to quorum issue
  - DHS convened task force to conduct study and provide report to legislature before start of 2013 session
  - Policy Advocate Aulifi George represents OHA on task force

\*OHA Results: Measures – OHA 18: Data Disaggregation Resolution; Essentially the Governor has directed state agencies to comply with OMB15 to disaggregate data related to Native Hawaiians so that we can have a better sense of what is happening with the Native Hawaiian community. It also directs the agencies to make that data publicly available.

**Trustee Apoliona** asks if there is a timeline with which they must report their findings.

**Chief Advocate Nu`uhiwa** responds that there is no deadline that she is aware of, but that they will be pressuring and tracking those issues moving forward. It was actually initially introduced as a bill which would have required more than what OMB 15 requires, but it ended up as a resolution.

\*OHA Results: Measures – OHA 12: Asset Limits; was a measure that proposed to raise Asset Limits for families who were receiving certain benefits and the idea behind it was that if there is a low asset limit, families can’t accumulate wealth and then they can’t move forward to help improve their financial stability. Many states are looking to eliminate asset limits completely, we were proposing a raise in the asset limit.

## OHA Results: Measures

- OHA 14: Public Land Trust Revenues
  - Pressured non-compliant agencies to submit their reports
  - Increased agencies’ and legislators’ awareness of the problem
  - Staff will continue attempts to compel agencies to comply with Act 178
- OHA 15: Hawaiian Language Immersion Assessments
  - 4 copycat measures
  - One copycat measure expanded our proposal to include grades 5 & 6
  - Copycat measure made it to conference, then died after insertion of million dollar appropriation prompted by school bus funding controversy
  - DOE has committed to 3-part plan
    - 4 year waiver for HLIP students
    - Development of assessment created originally in ‘Ōlelo Hawai‘i for grades 3 through 6
    - Edit existing assessment to mitigate potential harm during interim period

## OHA Results: Measures

- OHA 17: ‘Ōlelo Hawai‘i Month
  - Passed by the legislature
  - Vetoes by the Governor due to Kalani English’s inserted language requiring correction of official state letterheads, documents, and symbols
  - Governor will issue proclamation declaring February ‘Ōlelo Hawai‘i month
- OHA 20: Public Land Development Corporation (PLDC)
  - Only bill challenging PLDC to receive a hearing
  - PLDC will be out for public hearings on its administrative rules from August 20 – 31<sup>st</sup>
  - Current draft of rules still fails to incorporate adequate protections for Native Hawaiian traditional and customary practices and opportunities for community input

\*OHA Results: Measures – OHA 14: Public Land Trust Revenues; the pressure of the measure caused the non-compliant agencies to submit their reports, however now the legislature interprets that as now being a moot point since reports are being submitted, additionally some legislatures feel that with the passage of the settlement bill it somehow negates the need to continue providing these reports. Staff will continue to attempt to comply fully with Act 178, because as we know the settlement pertained only to past due revenues. So there

is a continued need for agencies to submit their reports properly so that we may continue to assess the landscape with regard to land trust revenues.

**Trustee Akana** asks who were some of the legislators who felt that this was a moot issue.

**Chief Advocate Nu`uhiwa** responds that it was a consensus of the committee and the Senators present that the issue was moot and that there was no need to move it forward. (She will review her notes from that day and get back to Trustee Akana regarding who was present.)

**Trustee Apoliona** asks if Act 178 also requires the agencies to submit their reports to DLNR.

**Chief Advocate Nu`uhiwa** confirms that that is correct and that it was DLNR's outreach to OHA which prompted the inclusion of this issue in our package. If DLNR doesn't receive the reports for the agencies then they will need to cover the gap of what's provided to them and what is owed to OHA.

**Trustee Hulu Lindsey** asks if we have a fixed amount of money every year, therefore whether or not they prove that it came from those lands we will get it anyway, so in order for DLNR to break even they want to see reports that total up that money?

**Chief Advocate Nu`uhiwa** agrees and believes that in-house the figure is actually more than what we have been receiving so it is significant to receive the reports so that we can demonstrate that we are due more than what is currently being paid.

**Trustee Akana** states that this is an old issue and suggests that OHA hire it's own auditors to inventory the land.

**Chief Advocate Nu`uhiwa** responds that this bill initially started off calling for an audit and when it went through its various revisions before it was introduced in the package it went to a resolution. Previously we discussed that we would like the State to pay for an audit because we were due these funds, however if the board is open to hiring an auditor and paying for it because it is a priority then administration can move forward with that.

\*OHA Results: Measures – OHA 15: Hawaiian Language Immersion Assessments; the proposal was to have the state assessment for Hawaiian Language Immersion students in grades 3 & 4 to be developed in 'Ōlelo Hawai'i, currently the assessments are being translated from the English test to 'Ōlelo Hawai'i very poorly.

\*OHA Results: Measures – OHA 20: 'Ōlelo Hawai'i Month; This would've been the first law enacted in 'Ōlelo Hawai'i since the 1940's.

\*OHA Results: Measures – OHA 20: Public Land Development Corporation (PLDC); There were a number of bills this session challenging the PLDC, everything from repealing the bill that created it to making changes with respect to labor ours specifically focused on traditional and customary rights and revenues due to OHA to make sure that the PLDC wouldn't be exempt from considering those things. Unfortunately the bill didn't pass so we will have to advocate on a different level to protect those things, so Policy Advocate Jocelyn Doane has been carefully watching the PLDC and we've been submitting comments on their administrative rules development. They will be out for public hearings on those rules from August 20-31, 2012 and we are currently working on a campaign to educate our beneficiaries about those concerns and make sure that they make their voices heard with respect to the issue.

**Trustee Akana** asks if staff could provide to the trustees when the hearings will be and where.

**Chief Advocate Nu`uhiwa** responds that it is printed in the current issue of Ka Wai Ola and that they will also email the schedule to the trustees.

**Trustee Apoliona** asks whether or not testimony will be submitted for these hearings.

**Chief Advocate Nu`uhiwa** calls on Public Policy Advocate Jocelyn Doane to answer.

**Public Policy Advocate Doane** responds that testimony will be submitted and continues to inform the committee that staff has been attending the corporation's meetings from the beginning and have suggested language changes to the rules.

**Trustee Akana** asks if staff could also provide a copy of whatever is being sent to the PLDC to the trustees so that they have the information when they attend the hearings.

**Public Policy Advocate Doane** agrees and states that they will send a copy of the current three letters that have been sent to the PLDC, as well as a white paper that has been created to help understand the chapter.

**OHA Results: Measures**

- OHA 4: Cultural Impact Assessments
  - OHA staff has worked with Environmental Council on proposed administrative rule changes
  - Full Council expected to consider proposed revised version of Environmental Impact Statement administrative rules that includes cultural impact assessment requirements
- OHA 7: Native Hawaiian Rights Training Course
  - OHA has worked with University of Hawai'i Law School to develop course, and course will be offered on voluntary basis this fall

**Other Notable Measures**

- Natural and Cultural Resource Measures
  - SB755
  - HB2398
  - SB3003 SD1 HD2
  - HB2806 HD2 SD2 CD1
  - SB2854
- Criminal Justice
  - HB2515 & SB2776
- Education
  - SB2545
- Measures Proposing OHA Funding or Administrative Placement

\*Two carryover measures from the 2011 session that were still moving in the 2012 session and those were measures related to Cultural Impact Assessments and a Native Hawaiian Rights Training Course.

\*OHA Results: Measures – OHA 4: Cultural Impact Assessments; Would have set standards and parameters for the cultural impact assessment that is required to be done in conjunction with environmental assessments and environmental impact statements. There does have to be an assessment of a proposed project's impact on cultural practices but there aren't developed standards about what that's supposed to involve. So we have proposed creating standards for that. The bill was not formally enacted.

\*OHA Results: Measures – OHA 7: Native Hawaiian Rights Training Course; Would have proposed that certain employees of identified state agencies have a mandatory training course on Native Hawaiian Rights and Trust Responsibilities regarding water and land as it pertains to Native Hawaiians. This was an attempt to educate people who have a tremendous impact on our resources about what the law requires of them and the state with regards to Native Hawaiian Rights. The notion of it being mandatory was troublesome. We have been approached by a number of people interested in taking the course, so we are planning to offer this course in the Fall of 2012. We are also thinking of reintroducing this bill during the 2013 session.



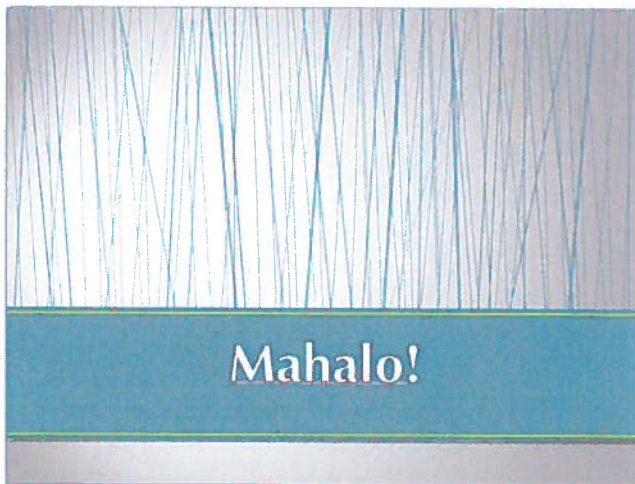
\*Other Notable Measures – There were a number of notable measures we've gone over over the course of the session. There were a few themes occurring.

\*Other Notable Measures – Natural and Cultural Resource Measures; There were a number of bills proposing broad exemptions for development that would bypass State and County permitting processes. The concern was that traditional and customary rights would not be protected if they were bypassed.

\*Other Notable Measures – Criminal Justice; There were two bills that we supported that were enacted. One will allow for probation instead of jail for certain second time drug offenses and reduce the maximum probation for certain felonies from 5 to 4 years. The other reduces the delay in producing pre-trial risk assessments, increases the membership of the Hawaii Paroling Authority and increases victim restitution payments.

\*Other Notable Measures – Education; We were in support of this bill that passed which establishes a state office and advisory board that's focused on improving education for children ages 5 and under.

\*Other Notable Measures – Measures Proposing OHA Funding or Administrative Placement; The BOT adopted a policy to "take a position of Oppose on any legislative measure that places an entity into OHA, or that requires an OHA funding allocation, without prior consultation with, and approval by, the Board of Trustees." The only bill that was enacted that OHA will be funding is the 'Aha Moku Advisory Committee which is required by law.



**Trustee Hulu Lindsey** asks what contributions did the lobbyists who were hired do towards legislation.

**Chief Advocate Nu`uhiwa** replies that the tracking and lobbying of all the bills was done by staff and that the lobbyists were hired to primarily work on the Settlement matters.

**Trustee Robert Lindsey** thanks Breann and staff for all of their hard work throughout the session.

**Trustee Akana** recommends that at the next meeting there be an update regarding the contract of the lobbyist who were hired to assist with the settlement bill.

**Trustee Waihe`e** responds that it was taken up at the Board Level and will follow up with the Board Chair to see if it should be discussed at the BAE Committee.



## **V. NEW BUSINESS**

None.

## **VI. EXECUTIVE SESSION\*\***

None.

## **VII. BENEFICIARY COMMENTS\***

None.

## **VIII. ANNOUNCEMENTS**

Trustee Waihe`e thanks the entire Public Policy / Advocacy staff for all of their hard work throughout the legislative session.

## **IX. ADJOURNMENT**

Trustee Akana moves to adjourn the BAE meeting.

Trustee Robert Lindsey seconds the motion.

Chair Waihe`e asks if any members vote NO or ABSTAIN. There are no dissenting votes.

							2:48 p.m.
TRUSTEE		1	2	AE (YES)	A`OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
VICE ROWENA	AKANA	1		X			
PETER	APO						EXCUSED
HAUNANI	APOLIONA			X			
DONALD	CATALUNA						EXCUSED
CARMEN HULU	LINDSEY			X			
ROBERT	LINDSEY		2	X			
COLETTE	MACHADO						EXCUSED
OSWALD	STENDER						EXCUSED
CHAIR JOHN	WAIHE`E			X			
TOTAL VOTE COUNT				5	0	0	4

**MOTION: [ X ] UNANIMOUS [ ] PASSED [ ] DEFERRED [ ] FAILED**

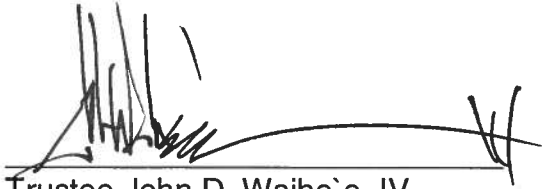
Chair Waihe`e adjourns the BAE meeting at 2:48 p.m.

Respectfully submitted,



Melissa Wennihan  
Trustee Secretary  
Committee on Beneficiary Advocacy and Empowerment

As approved by the Committee on Beneficiary Advocacy and Empowerment on August 22, 2012.



Trustee John D. Waihe'e, IV  
Chair  
Committee on Beneficiary Advocacy and Empowerment

ATTACHMENTS:

- Notice of Excused Absence (4)
- Community Sign-In Sheet dated August 1, 2012