

BOARD OF TRUSTEES

Colette Y. Machado, *Chairperson*
 Dan Ahuna, *Vice Chairperson*
 Leina'ala Ahu Isa, At-Large
 Rowena Akana, Trustee At-Large
 Keli'i Akina, At-Large
 Peter Apo, O'ahu Trustee
 Carmen Hulu Lindsey, Maui Trustee
 Robert K. Lindsey, Jr., Hawai'i Trustee
 John Waihe'e IV, Trustee At-Large



STATE OF HAWAII

OFFICE OF HAWAIIAN AFFAIRS

MEETING OF THE BOARD OF TRUSTEES

DATE: Thursday, March 22, 2018

TIME: 10:00 a.m.

PLACE: OHA Board Room, Nā Lama Kukui
 560 N. Nimitz Hwy., Suite 200
 Honolulu, HI 96817

LIEUTENANT GOVERNOR'S
 OFFICE

MAR 16 P2:13

AGENDA

- I. Call to Order
- II. Approval of Minutes
 - A. February 27, 2018*
 - B. March 7, 2018*
 - C. March 8, 2018*
- III. Public Testimony*
- IV. New Business
 - A. Committee on Beneficiary Advocacy and Empowerment
 1. 2018 OHA Legislative Positioning – Matrix 1**†. March 21, 2018
- V. Executive Session*
 - A. Consultation with Board Counsel Robert G. Klein re: questions and issues pertaining to CEO Contract Number 3147 dated November 1, 2016. *Pursuant to HRS § 92-5(a)(2), (4).*
 - B. Consultation with Robert G. Klein, Esq. re: questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities regarding Civil No. 17-1-1823-11 JPC, OHA v. State, et. al. *Pursuant to HRS § 92-5(a)(4).*
 - C. Approval of Minutes
 1. February 7, 2018
 2. February 27, 2018
- VI. Community Concerns*
- VII. Announcements
- VIII. Adjournment

*Notice: Persons wishing to provide testimony are requested to submit 13 copies of their testimony to the Chief Executive Officer at 560 N. Nimitz, Suite 200, Honolulu, HI, 96817 or fax to 594-1868, or email BOTmeetings@oha.org 48 hours prior to the scheduled meeting. Persons wishing to testify orally may do so at the meeting, provided that oral testimony shall be limited to five minutes.

**Notice: Trustees may establish or revise an OHA position on ANY proposed bill / resolution / executive message currently moving through the state legislature or other relative elected body. The Matrices, which are available for public review in the meeting room at this stated meeting, provide a brief description of each bill, the bill's number, the bill's title, the bill's intent, and the proposed and specific OHA position on each measure, current through 3/21/18. However, the Trustees both in committee and as the Board of Trustees (BOT) reserve the right to discuss any and all bills on the Matrix, as well as those that time does not permit to be placed on the Matrix, in order to discharge their fiduciary obligations as Trustees of the Office of Hawaiian Affairs.

† Notice: The 72 Hour rule, pursuant to OHA BOT Operations Manual, Section 49, shall be waived for distribution of new committee materials.

‡ Notice: This portion of the meeting will be closed pursuant to HRS § 92-5.

Colette Y. Machado

Trustee Colette Y. Machado
 Chairperson, Board of Trustees

3/16/18

Date

Office of Hawaiian Affairs
Board of Trustee Meeting
March 22, 2018
10:00 am

- II. Approval of Minutes
 - A. February 27, 2018
 - B. March 7, 2018
 - C. March 8, 2018
-

**STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS
560 N. Nimitz Highway, Suite 200
Honolulu, HI 96817**

**Minutes of the Office of Hawaiian Affairs Board of Trustees
Tuesday, February 27, 2018
10:00 am**

ATTENDANCE:

TRUSTEE COLETTE MACHADO
TRUSTEE DAN AHUNA
TRUSTEE LEINA‘ALA AHU ISA
TRUSTEE ROWENA AKANA
TRUSTEE W. KELI‘I AKINA
TRUSTEE PETER APO
TRUSTEE CARMEN HULU LINDSEY
TRUSTEE ROBERT LINDSEY
TRUSTEE JOHN WAIHE‘E IV

LISA CATALDO, ESQ., BOARD COUNSEL
JORDAN INEFUKU, ESQ

ADMINISTRATION STAFF:

KAMANA‘OPONO CRABBE, CEO
LISA VICTOR, COO
DAVID LAEHA, CFO
KAWIKA RILEY, ADV
JOCELYN DOANE, PP
STERLING WONG, PR
ALBERT TIBERI, CC
ANUHEA PATOC, PP
KUHIO LEWIS, OUTR
LISA WATKINS-VICTORINO, RES
MEHANA HIND, CE
MILES NISHIJIMA, LPD
MISTI PALI-ORIOLO, TAPS
MOMILANI LAZO, CEO
SCOTT HAYASHI, LAND ASSET
SASHA PULE-NICHOLAS, OUTR

BOT STAFF:

CAROL HOOMANAWANUI
LAURENE KALUAU-KEALOHA
LOPAKA BAPTISTE
DAYNA PA
ALVIN AKEE
CLAUDINE CALPITO
MARIA CALDERON
PAUL HARLEMAN
LEHUA ITOKAZU
MAX MUKAI
MELISSA WENNIHAN

GUESTS:

GERMAINE MEYERS
LANDEN PAIKAI

I. CALL TO ORDER

Chair Colette Machado Calls the Board of Trustees meeting to order at 10:06 am. Roll call is taken; Trustees Akana, Akina, Apo, Carmen Hulu Lindsey, Robert Lindsey, Waihe‘e and Machado are present; constituting a quorum of seven (7) trustees. Trustees Ahu Isa and Ahuna are expected to arrive shortly.

I want to acknowledge that under VI. Executive Session I’ll be moving C. to become item A. with that said. Minutes for January 31, 2018.

II. APPROVAL OF MINUTES

A. January 31, 2018

Trustee Carmen Hulu Lindsey moves the approve the Board of Trustees meeting minutes for January 31, 2018.

Trustee Robert Lindsey seconds the motion.

Chair Colette Machado – Any discussion, hearing none roll call please.

Trustee Carmen Hulu Lindsey moves to approve the Board of Trustees Meeting minutes for January 31, 2018.						
Trustee Robert Lindsey seconds the motion.						
TRUSTEE	1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEINA'ALA AHU ISA						Excused
TRUSTEE DAN AHUNA						Excused
TRUSTEE ROWENA AKANA			X			
TRUSTEE KELI'I AKINA			X			
TRUSTEE PETER APO			x			
TRUSTEE CARMEN HULU LINDSEY	x		X			
TRUSTEE ROBERT LINDSEY		x	X			
TRUSTEE JOHN WAIHE'E			X			
TRUSTEE COLETTE MACHADO			X			
TOTAL VOTE COUNT			7			2
MOTION: <input type="checkbox"/> UNANIMOUS <input checked="" type="checkbox"/> PASSED <input type="checkbox"/> DEFERRED <input type="checkbox"/> FAILED						
Motion passes with seven (7) yes votes and two (2) excused.						

B. February 7, 2018

Chair Colette Machado - The Chair would like to entertain a motion to approve the minutes of February 7, 2018.

Trustee Carmen Hulu Lindsey moves to approved the Board of Trustees Meeting minutes of February 7, 2018.

Trustee Robert Lindsey seconds the motion.

Chair Colette Machado – Any further discussion, hearing none roll call vote please.

Trustee Carmen Hulu Lindsey moves to approve the Board of Trustees Meeting minutes for February 7, 2018.

Trustee Robert Lindsey seconds the motion.

TRUSTEE	1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEINA'ALA AHU ISA						Excused
TRUSTEE DAN AHUNA						Excused
TRUSTEE ROWENA AKANA			X			
TRUSTEE KELI'I AKINA			X			
TRUSTEE PETER APO			X			
TRUSTEE CARMEN HULU LINDSEY	x		X			
TRUSTEE ROBERT LINDSEY		x	X			
TRUSTEE JOHN WAIHE'E			X			
TRUSTEE COLETTE MACHADO			X			
TOTAL VOTE COUNT			7			
MOTION: [] UNANIMOUS [x] PASSED [] DEFERRED [] FAILED						
Motion passes with seven (7) yes votes and two (2) excused.						

Chair Colette Machado - Members we need a 72 Hour Waiver for V. C. BOT 18-01 which is the approval for OHA to impose a moratorium on the use of Trustee Sponsorship and Allowance Fund (TSAAF) and CEO-initiated Sponsorships.

Trustee Robert Lindsey moves for a 72-Hour waivers for the following item:

V. New Business

C. BOT 18-01: Approval for OHA to impose a moratorium on the use of Trustee Sponsorship and Allowance Fund (TSAAF) and CEO-initiated Sponsorships.

Trustee Carmen Hulu Lindsey seconds the motion.

Chair Colette Machado calls for a roll call vote.

Trustee Robert Lindsey moves for a 72-Hour waivers for the following item:

V. New Business

C. BOT 18-01: Approval for OHA to impose a moratorium on the use of Trustee Sponsorship and Allowance Fund (TSAAF) and CEO-initiated Sponsorships.

Trustee Carmen Hulu Lindsey seconds the motion.

TRUSTEE	1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEINA'ALA AHU ISA						Excused
TRUSTEE DAN AHUNA						Excused
TRUSTEE ROWENA AKANA				X		
TRUSTEE KELI'I AKINA			X			
TRUSTEE PETER APO			X			
TRUSTEE CARMEN HULU LINDSEY		x	X			
TRUSTEE ROBERT LINDSEY	x		X			
TRUSTEE JOHN WAIHE'E			X			
TRUSTEE COLETTE MACHADO			X			
TOTAL VOTE COUNT			6	1		2
MOTION: [] UNANIMOUS [x] PASSED [] DEFERRED [] FAILED						
Motion passes with six (6) yes votes, one (1) no and two (2) excused.						

III. PUBLIC TESTIMONY

Chair Colette Machado – Members we will now proceed to Public Testimony. We have Germaine Meyers who has signed up. Please come forward Germaine.

Ms. Germaine Meyers – Aloha my names is Germaine Meyers. I am an OHA beneficiary for beneficiary advocacy and empowerment and a Nānākuli Homestead Lessee. You have before you a packet of 9 exhibits if any of them are missing please let me know.

(please read her attached testimony with attachments of 9 exhibits)

Chair Colette Machado – Thank you Germaine, Landen Paikai will be addressing us under Community Concerns. We will now move to IV. Unfinished Business, CEO.

10:14 am Trustee Dan Ahuna arrives.

IV. UNFINISHED BUSINESS

A. CEO's 15-Minutes Update on Ho'oulu Lāhui Aloha and OHA Activities

Kamana'opono Crabbe - Chair and Trustees good morning. I have three updates. The first again, just as a recap, in October of last year we had an all OHA meeting and in that meeting we moved forward with what is called the Huliau initiative. So the Huliau Initiative has elicited staff participation, management and administration a number of areas. To take a look at improving our organization. Areas include Health and Wellness programs, improving our IT capability, improving communications within operations, looking at cultural training for staff and others. One of the groups is a core value group and what we did is we looked at the history of the core values that were approved by the Board dating sometime about 2005-2006. We believe it is something that is very important for our organization to look at and move forward with. We have a core values executive group and a core values working group with the staff. The core values executive group is looking at a new employee on boarding program and in addition to that soon we hope by mid-March we will have our completed employee handbook which we have been working on for a while. Our core values working group for our staff is really looking at how we actually have a greater emphasis of talking about practicing our core values in our work environment. That initiative is moving forward. We have until this June for a lot of these different initiatives. Hopefully if not completed but in motion so that its implemented throughout the organization.

Second is we also have a strategic planning work group. In December we presented the Executive office, myself, Albert and Lisa presented on the operations plan. We have a separate strategic planning working group with myself, Dr. Lisa Watkins-Victorinio, Mehana Hind, and Carla Hostettler research manager. We met recently a couple weeks ago, we met with SPIRE, Chair Machado and Trustee Carmen Hulu Lindsey to go over that process and some areas where we feel we could have some commonality and agreement moving forward. I believe there was some concern about timing how much we can complete by either summer or the end of this calendar year. I believe Chair Machado is considering and Ad Hoc committee on strategic planning so we are standing by right now.

Lastly, there have been many efforts throughout the organization, Public Policy, I really want to acknowledge them, Chief Advocate Kawika Riley, Public Policy Manager Jocelyn Doane, Lead specialist Wayne Tanaka and others in addition to Sterling Wong. We are at a very critical point because our bill has not been heard by WAM on the Senate side which is the Finance committee and then on the House side which is the Finance Committee as well. So our bill hasn't been heard by them and what that means if it is not heard it may not move forward. So Chair and I have been talking to leadership on both sides in the Senate and the House and even Cabinet members from the Governor's office to see what that status is. We've worked really hard to this point, there is support but

it's a very sensitive right now whether or not we will make the cross over. That is why within these next couple days there will be constant reach out by myself, Jocelyn Doane and her team as well Chair. But I thought that update is for you to know because this is our major bill before the Legislature. We are quite optimistic up to this point. That is the end of my updates Chair.

Chair Colette Machado – Any questions? I believe in the BAE Committee you folks will be receiving updates on those public land trust measure too. The WAM meeting is at what time tomorrow does anyone know?

Jocelyn Doane – 11:15 am.

Chair Colette Machado – The BAE is at 1 o'clock tomorrow? Does anyone know?

(conversation indiscernible)

Trustee Robert Lindsey – The BAE is at 10.

Jocelyn Doane – (conversation indiscernible)

Trustee Robert Lindsey – I just have a quick question for Kamana'opono Crabbe. Kamana'opono Crabbe has as we are closing out our Strategic Plan is it possible for each Strategic Priority for the past 10 years to determine how much we have spent resource wise on each priority and the reason I ask this questions is I think it will help us determine how serious we were in supporting those priorities.

Kamana'opono Crabbe – Yes, actually if you recall Trustees, every year we give annual update. Lisa Watkins-Victorino and her research staff will be compiling the totality of each year in terms of each strategic priority and each strategic result and how much has contributed, not only grants, there have been other efforts. For example, public policy efforts, research efforts, community engagement efforts to look at the real big picture of all of our investment in terms of financial and human resources into that. That will be compiled hopefully by the end of the calendar year to go into what we call a strategic plan close out community report. That will be on behalf of the organization to exactly show how much we invested in the Strategic Plan in each priority result and then what were some of the highlights in terms of some mile stones, what was accomplished and there are some areas where we may have not had much progress.

V. NEW BUSINESS

A. Committee on Beneficiary Advocacy and Empowerment

1. 2018 OHA Legislative Positioning – Matrix 1. February 14, 2018

Chair Colette Machado – Members we will move on to item V. New Business these are committee referrals I will call on Trustee Robert Lindsey for item A. 1. 2018 OHA Legislative Positioning – Matrix 1 dated February 14, 2018.

Trustee Robert Lindsey moves to approved Administration's recommendation on **NEW BILLS (items 1-66) and BILL POSITIONS FOR RECONSIDERATION (Items 67-73) on the OHA Legislative Positioning Matrix dated 02/14/2018.**

- **Add HB 2147 from SUPPORT>COMMENT**

Trustee Dan Ahuna seconds the motion.

Chair Colette Machado – Any discussions members? Hearing none roll call vote.

Trustee Robert Lindsey moves to approved Administration's recommendation on NEW BILLS (items 1-66) and BILL POSITIONS FOR RECONSIDERATION (Items 67-73) on the OHA Legislative Positioning Matrix dated 02/14/2018.

- Add HB 2147 from SUPPORT>COMMENT

Trustee Dan Ahuna seconds the motion.

TRUSTEE	1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEINA'ALA AHU ISA						Excused
TRUSTEE DAN AHUNA		X	X			
TRUSTEE ROWENA AKANA			X			
TRUSTEE KELI'I AKINA			X			
TRUSTEE PETER APO			X			
TRUSTEE CARMEN HULU LINDSEY			X			
TRUSTEE ROBERT LINDSEY	x		X			
TRUSTEE JOHN WAIHE'E			X			
TRUSTEE COLETTE MACHADO			X			
TOTAL VOTE COUNT			8			1
MOTION: [] UNANIMOUS [x] PASSED [] DEFERRED [] FAILED						
Motion passes with eight (8) yes votes and one (1) excused.						

2. 2018 OHA Legislative Positioning – Matrix 1. February 21, 2018

Chair Colette Machado – Members we are now on V.A.2. this one we will have two actions. It was a bifurcation. I will call on Trustee Dan Ahuna since he Chaired the meeting.

10:27 am Trustee Leina'ala Ahu Isa arrives.

Trustee Dan Ahuna moves to approve Administration's recommendation on NEW BILLS (Item 1-8) and BILL POSITIONS FOR RECONDISERATION (Items 9-15) on the OHA Legislative Positioning Matrix dated 02/21/2018.

Trustee Robert Lindsey seconds the motion.

Chair Colette Machado – Any discussion on action number 1. Hearing none, roll call vote please.

Trustee Dan Ahuna moves to approve Administration's recommendation on NEW BILLS (Item 1-8) and BILL POSITIONS FOR RECONDISERATION (Items 9-15) on the OHA Legislative Positioning Matrix dated 02/21/2018.

Trustee Robert Lindsey seconds the motion.

TRUSTEE	1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEINA'ALA AHU ISA			X			
TRUSTEE DAN AHUNA	X		X			
TRUSTEE ROWENA AKANA			X			
TRUSTEE KELI'I AKINA			X			
TRUSTEE PETER APO			X			
TRUSTEE CARMEN HULU LINDSEY			X			
TRUSTEE ROBERT LINDSEY		X	X			
TRUSTEE JOHN WAIHE'E			X			
TRUSTEE COLETTE MACHADO			X			
TOTAL VOTE COUNT			9			
MOTION: [] UNANIMOUS [x] PASSED [] DEFERRED [] FAILED Motion unanimously passed with nine (9) yes votes.						

Chair Colette Machado – Trustee Dan Ahuna action number 2 from the Committee.

Trustee Dan Ahuna moves to approve changing the positioning SB3090 from COMMENT >SUPPORT WITH AMENDMENTS on the OHA Legislative Positioning Matrix dated 02/21/2018.

Trustee Robert Lindsey seconds the motion.

Chair Colette Machado – Any discussion on action number 2 for this referral from the BAE Committee, hearing none roll call vote.

Trustee Dan Ahuna moves to approve changing the positioning SB3090 from COMMENT >SUPPORT WITH AMENDMENTS on the OHA Legislative Positioning Matrix dated 02/21/2018.

Trustee Robert Lindsey seconds the motion.

TRUSTEE	1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEINA'ALA AHU ISA			X			
TRUSTEE DAN AHUNA	X		X			
TRUSTEE ROWENA AKANA			X			
TRUSTEE KELI'I AKINA			X			
TRUSTEE PETER APO			X			
TRUSTEE CARMEN HULU LINDSEY				X		
TRUSTEE ROBERT LINDSEY		X	X			
TRUSTEE JOHN WAIHE'E			X			
TRUSTEE COLETTE MACHADO			X			
TOTAL VOTE COUNT			8	1		
MOTION: [] UNANIMOUS [x] PASSED [] DEFERRED [] FAILED Motion passes with eight (8) yes votes and one (1) no vote.						

B. Committee on Resource Management

1. RM 18-03: Moratorium on Fiscal Reserve Spending

Chair Colette Machado – Members we are now on item V. B. 1. RM 18-03: Moratorium on Fiscal Reserve Spending. I'd like to call on Trustee Carmen Hulu Lindsey.

Trustee Carmen Hulu Lindsey moves to approve a moratorium on the use of Fiscal Reserve Funds until specific policy changes are approved by the Board of Trustees.

Trustee John Waihe'e IV seconds the motion.

Chair Colette Machado – It's been moved and seconded any discussions? Hearing none, roll call vote.

Trustee Carmen Hulu Lindsey moves to approve a moratorium on the use of Fiscal Reserve Funds until specific policy changes are approved by the Board of Trustees. Trustee John Waihe'e IV seconds the motion.						
TRUSTEE	1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEINA'ALA AHU ISA			x			
TRUSTEE DAN AHUNA			X			
TRUSTEE ROWENA AKANA			X			
TRUSTEE KELI'I AKINA			X			
TRUSTEE PETER APO			X			
TRUSTEE CARMEN HULU LINDSEY	X		X			
TRUSTEE ROBERT LINDSEY			X			
TRUSTEE JOHN WAIHE'E		X	X			
TRUSTEE COLETTE MACHADO			X			
TOTAL VOTE COUNT			9			
MOTION: [x] UNANIMOUS [] PASSED [] DEFERRED [] FAILED Motion unanimously passed with nine (9) yes votes.						

C. BOT 18-01: Approval for OHA to impose a moratorium on the use of Trustee Sponsorship and Allowance Fund (TSAAF) and CEO-initiated Sponsorships

Chair Colette Machado – Members we are on V. C. BOT 18-01: Approval for OHA to impose a moratorium on the use of Trustee Sponsorship and Allowance Fund (TSAAF) and CEO-initiated Sponsorships. I'd like to call on Trustee John Waihe'e IV the co-chair of the Ad Hoc Committee on Grants.

Trustee John Waihe'e IV moves to approve for OHOA to impose a moratorium effective February 27, 2018 on the use of Trustee Sponsorship and Allowance Fund (TSAAF) and CEO-initiated Sponsorships and the immediate return of the unused balance of the TSAAF to OHA. This moratorium will remain in effect until the Ad Hoc Committee on Grants and Sponsorships recommends policies and procedures to the Board of Trustees for its approval.

Trustee Robert Lindsey seconds the motion.

Chair Colette Machado – Trustee Rowena Akana, then Trustee Keli'i Akina.

Trustee Rowena Akana – Thank you Chair, I would like to amend the motion to have the deadline moved to March when our quarterly report is due. Because some of us may have commitments. I have a commitment to Charter School and one other commitment so if this moratorium begins today I'm not able to meet the

commitments that I think are important for our beneficiaries. I do think it's unfair that it would happen today and I think it would be more fair for all of us is the moratorium commenced in March when our quarterly reports have to be turned in anyway. And at that time it gives us enough time to do our calculations and turn in whatever monies is leftover and all of that. So do I have a second to the motion.

Trustee Keli'i Akina – May I ask my esteem colleague to defer until I've had something to say before she acts on her motion.

Trustee Rowena Akana – Ok.

Trustee Keli'i Akina – Thank you very much it may have some bearing. I would like to speak to this measure and I'd like to open up with two words of praise. First of all, Madame Chair I do want to praise you for taking seriously the audit and putting this measure forth. I think that is a good signal to the public that we take seriously the public scrutiny of our finances. The second measure of praise is this; I want to thank those Trustees who've already begun to responds to the problem of inappropriate Trustee spending. In fact, I know there is one for sure because she sent a memo to all of us and put it on her Facebook and I'd like us to commend Trustee Leina'ala Ahu Isa for identifying some inappropriate spending and returning to OHA approximately \$1,400 and also explaining to the public that it was because she was in her beginning term in OHA and did not understand the rules completely. I think that is a good thing to do. I also that other Trustees have done so or are in the process of paying back to the Trust any inappropriate spending. I think that is a good thing and I think that is something that the press should show that voluntarily that the Trustees are doing the right thing. I think I'd like to say that is the right medicine to apply to Trustee spending. It speaks to our integrity, it allows us to lead by doing what is right and it deals with the reality of the figures. I have to apologize to my staff, I woke them up last night and was texting with them between 1 and 2 o'clock in the morning. Because I had a big question I woke up with. Coming here today we didn't have a chance to talk about it because of sunshine laws. How badly did Trustee's spending damage the trust? How badly did inappropriate Trustee Account spending hurt beneficiaries? I wanted to see the figures. I have two charts to show you that answer that questions. I have handouts and it will be on the board.

(handouts are distributed to Trustees; they have been attached to the minutes)



Trustee Allowance Spending in Perspective

State Audit FY 2015 & 2016

Prepared by: Trustee Keli'i Akina

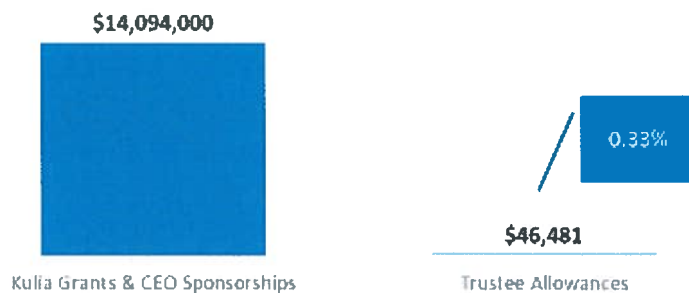
Date: 2/27/2018

Trustee Keli'i Akina – I am going to suggest that the moratorium on Trustee Allowance spending is not the right medicine because it will have very little effect upon the Trust. If you take a look at this handout which is Trustee Allowance Spending in Perspective. It actually looks at the figures. I know we've all looked at the audit and we've had these figures for many, many months but I hadn't until yesterday really taken a look. If you take a look at the first chart.



Inappropriate Spending “Flagged” by Auditor

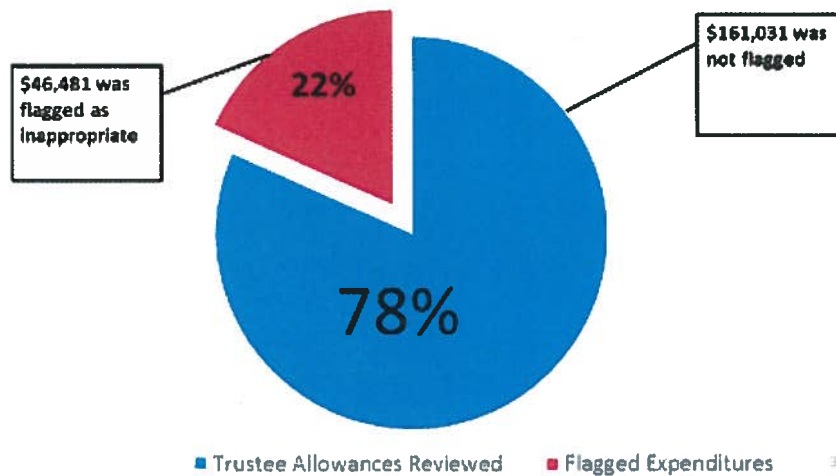
- A total of \$14,140,481 in expenditures were “flagged by the State Auditor
- Inappropriate Trustee Allowance expenditures represent 0.33%



Analysis of State Audit, BQT 2/27/2018

The bar chart on the left shows the Kūlia grant and the CEO-Sponsorships that were flagged by the auditor as being inappropriate. I am not here to debate whether they were inappropriate. But we do have on record that they were flagged as inappropriate. That is \$14,094,000. Trustee Account spending in comparison was only \$46,481. That is approximately \$23,000 a year. That is less than one Trustee account. In terms of percentages of the overall amount that was flagged in the audit, inappropriate Trustee Account spending was less than 1%, in fact it was 1/3 of 1% approximately \$2,000 per month. The point I want to make by this chart is that a moratorium on that spending will have virtually no impact upon the Trust what so ever. But the second puts it in perspective.

Breakdown of Inappropriate Trustee Allowance Expenditures



I am a professor and I give grades, I know Trustee Leina‘ala Ahu Isa give grades. I don’t know what scale she uses but if we take a look at this we can give the Trustees the grade. This is the breakdown of inappropriate Trustee Allowance expenditures in the two years of 2015 and 2016. The auditor flagged \$46,481 which is 22% of all the funds that the Trustees over saw in their personal Trustee Accounts. 78% was not flagged as inappropriate. By my book that is a grade of B-. I don’t know if you give B- or a C in the Akina household when a child comes home with a B- we don’t punish them. We incentivize them to get an A. I want to say that the right medicine is Trustees paying back.

Therefore, I want to go to my conclusion. That’s this, focusing on encouraging to voluntarily pay back is the right medicine. There is an easy way to do it for Trustee who don’t have the cash flow they can make payments. I am sure that would be acceptable. For Trustees who think that some of the things pointed out by the Auditor aren’t correct they can make a public statement to give the actual facts. That is the good medicine. If we take this measure of imposing a moratorium, we take away the real message. If you go back to the first chart. The first chart shows that inappropriate Trustee Allowance spending is less than 1/3 of 1% of real problem. Many months ago fellow Trustees we were given confidentially the report by the Auditor in which this was pointed out.

We’re sitting here today talking about something that rather manini which is Trustee spending accounts. Trustees who are flagged in their spending accounts might feel guilty about dealing with the real problem and that is the Kūlia grants and CEO sponsorships. That is something that we have to talk about and we should be agendizing that instead. Therefore, I’d conclude with this. That we amend today’s motion to remove Trustee Spending accounts from the moratorium call and that we voluntarily as Trustees commit to paying back any inappropriate amounts or explaining them. That would not only include the Trustees at this table but there were two other Trustees in 2015 and 2016 whose spending was also flagged by the auditor, I won’t mention their names. But I think that we trust them to hold the highest standard of honor and invite them to participate with the remaining Trustees. That is my proposal that we amend this so that we do not have a moratorium on Trustee spending.

Trustee Rowena Akana – Is that a motion?

Trustee Keli‘i Akina – That is my motion do I have a second.

Trustee Rowena Akana – I second.

Trustee Keli'i Akina – Thank you and thank you for deferring.

Chair Colette Machado – Any more discussion.

Trustee Dan Ahuna – I just liked to weigh in on all of this. First of all, we represent our beneficiaries. I think it's important that we as Trustees talk about all of this it's very, very important. I don't know about deadlines; I don't think we need a deadline because we might feel it's appropriate to get rid of everything so why have a deadline. It's important that we all talk about it together as Trustees and I feel it is the right way to do it. I believe the moratorium is a good way to approach I want to find results; I want to make sure that we can resolve it. One of the big issues on Kauai is a lot of our beneficiaries don't qualify for grants they have a hard time writing grants. This fund helps a lot of the people on Kauai so I want to make sure, I like it but I want to correct it, I want to make sure we are doing the right thing. The moratorium is a good thing Chair.

Chair Colette Machado – In response to the total action request if you turn to page 4 in your write up it describes to you why this action was necessary. It describes an immediate moratorium and immediate return of the unused balance of the TAASF to OHA.

- a. assure OHA's beneficiaries that no further spending will be made from the TSAAF and the CEO-initiated Sponsorships while OHA works on amendments to its policies and procedures; and

Voluntarily of you folks is not something that will work. Policies and procedures and amendments that is what we have to concentrate on.

- b. give adequate time for the Ad Hoc Committee to develop and recommend changes to the policies and procedures for the Board of Trustees' consideration and approval.

We move on it says:

Approving this action item as it is currently written will implement the following:

- A moratorium will be imposed on the use of the TSAAF and the CEO-initiated Sponsorships effective immediately upon approval by the Board of Trustees on February 27, 2018. This moratorium will remain in effect until the Ad Hoc Committee on Grants and Sponsorships recommends policies and procedures to the Board of Trustees for its approval;
- Requests that are in process as of February 27, 2018 should be processed as usual. "In process" means the request was received with the proper documentation, reviewed and recommended for approval, and is currently in the process of obtaining the appropriate signature(s) for approval or waiting for a check to be processed. Any requests that have been received prior to February 27th, but not reviewed and recommended for approval should not be processed and requests received on or after February 27, 2018 should not be processed;

So if Trustee Rowena Akana is trying to give an individual such as the Charter Schools she can do that now it doesn't matter that she wait till March. It can be done prior to this date when we take action. It should not hold any of you if you want to give any giving before the end of this day you can still give that. What I am asking here is that you understand that this is vitally important for this organization. The mission of OHA not us as individuals, but as this organization stands and us as BOT elected officials. If you read down.

- Trustees will immediately return to OHA the unused balance of the TSAAF; make checks payable to the Office of Hawaiian Affairs and deliver it to the OHA CEO; and
- Trustees will follow the reporting requirements in the current TSAAF Internal Guidelines and Procedures (May 2016) and will submit to the OHA CEO the Trustee Quarterly Sponsorship and Annual Allowance Expenditure Report (“TQSAAER”) for the 3rd quarter of FY2018, which will cover the period from January 1, 2018 up to February 27, 2018. The 3rd quarter TQSAAER is due within 15 calendar days and due no later than March 14, 2018.
- The moratorium excludes sponsorships approved in the OHA FY2018-2019 Biennium Budget in Action Item RM #17-07 for:
 - Community Outreach & Engagement;
 - Federal Advocacy;
 - Papahānaumokuākea;
 - Legacy Land Manager;
 - Land Stewardship;
 - Strategic Priorities & Results Initiatives; and
 - Legacy Sponsorships – Prince Lot Hula Festival

So these are some of the discussions that we’ve had very thoroughly in the Ad Hoc Committee. This is not a capricious move to look at a penalty for any one of you Trustee, but to look at a whole approach to try to return back the confidence of the people of Hawaii and also to the mission of OHA to be preserved and protected. At this point I’d like to call on Albert Tiberi or Raina to clarify some of the issues that were raised by Akina with regards to the Trustee spending in perspective and his graphs.

Again these were unaudited numbers these were issues that were presented in the audit, it was a quick span of less than 25% of the spending that took place so those things have to go on the record because we have people that are looking at us.

Trustee Rowena Akana – Madame Chair I would like to hear form the other member of the Ad Hoc Committee. I really think it is unfair that the Chairman of the board and only one other member sits on this Ad Hoc Committee and makes rules for everyone on this board. This is not fair, this is the kind of leadership that you have provided for us in the last year and it is unfair.

Trustee Leina‘ala Ahu Isa – Talk nicely please.

Trustee Rowena Akana – Oh hush up, hypocrite and I am going to get to you.

Chair Colette Machado – Myself, Trustee Waihee, the CEO David Laeha, Lōpaka Baptiste, Misti Pali-Oriol and Monica Morris. These are the members of the Ad Hoc Committee. They can tell you I say very little in the discussions. I allow them to have free and full review. If you know Misti Pali-Oriol she used to work with the grants program she is now in Community Outreach. Your allegations trying to brow beat them to come up with this recommendation is not true.

Trustee Rowena Akana – Yes you have. We let’s hear form John he is the other person. You do all the talking. Let’s hear from him.

Chair Colette Machado – I am just trying to give a report and to respond to your folks motion on the table. I am allowed to have free and full discussion also.

Trustee Rowena Akana – But you are not allowing him free and full discussion.

Chair Colette Machado – I did not ask him to weigh in on this at this time. But you probably can after we hear from.

Trustee John Waihe'e IV - I don't know what you want me to weigh in on.

Trustee Rowena Akana – I don't trust her but I will trust what you said.

Trustee John Waihe'e IV – First of all its not just Trustee Allowance that the moratorium is affecting. It is also the CEO-initiated sponsorships. So I don't know, you guys haven't really defended that part as to why that shouldn't happen. Secondly, it's not that complicated. We are putting a moratorium on these things until we can write policies that tighten it. So it's not a recommendation that is complicated to explain.

Trustee Rowena Akana – We understand that John, but I think the only thing we are feeling is that the thing comes down today. That doesn't give us enough time, you know how much work it takes to do all your arithmetic and copying and doing everything. You can't turn in everything tomorrow it's ridiculous. That is not a realistic timetable. It's like a reaction.

Trustee John Waihe'e IV – That is open to discussion.

Trustee Rowena Akana – Well she is cutting off discussion.

Chair Colette Machado - I am not cutting off the discussion Trustee Rowena Akana. You cutting me off because I am the Chair of this board. You have not allowed me to have free and full discussion on this matter since it's the oversight of the Ad Hoc committee. Trustee Keli'i Akina then Albert.

Trustee Keli'i Akina – First of all let me thank Chair for reading the motion and pointing out the good work that has been done by the Committee. I clarify that we are not calling for a defeating of this motion. There should be a moratorium and that has been expressed well by the Chair. The only thing I am calling for is the moratorium exclude Trustee spending accounts because the audit flagged in appropriate expenditures of over \$14 million. Trustee spending accounts are less than 1/3 of 1% of all of that. There is a better medicine to apply is that to allow our Trustees to pay back voluntarily at this time and show leadership. That is the only amendment that is on the floor. I would appreciate hearing from the other Trustees where you stand on that. It's just simply to say let's have a moratorium as presented on CEO sponsorships and other matters as recommended by the Committee but let's leave out the Trustee spending accounts because the better course would be to realize that, that is such a small amount. Now here is something important I want to say very clearly. If we punish Trustees by putting a moratorium and calling for an immediate return of their account money, not only is that the wrong medicine, it is taking attention away from the fact that we have to look at the \$14 million that was spent and examine the administration in that. I would not to believe that anyone on this table it trying to protect the administration from scrutiny. It's been several months since we have known that they need to be examine and that is the result of the audit is. This board has our findings today, our discussion in front of our beneficiaries. They are not trying to nitpick in terms of Trustees spending accounts which is miniscule they want to know what has happened to the \$14 million and the process by which that has been spent and what we are going to do to correct that. That is why I have one simply proposal and that is let's accept the moratorium as provided by simply take out Trustee Spending accounts. I would appreciate what the fellow Trustees have to say to that.

Trustee Carmen Hulu Lindsey - I have one concern about the motion and that is the legacy sponsorships are not outlined, I am very concerned about the Merrie Monarch Festival, the Keiki Hula Festival I don't see them listed here. There may be other legacy sponsorships that we give each year that may fall within the period we are under this moratorium. Can that be made more clearly?

Chair Colette Machado – Are there additional identified legacy sponsorships outside of the Prince Lot Hula Festival that should have been concluded.

Kamana‘opono Crabbe – Actually those sponsorships are not included here but because they are already part of the Budget process that is actually allocated automatically as part of the Community Engagement sponsorships. They will not be included in this action item.

Carol Hoomanawanui – Madame Chair, specifically for Merrie Monarch, Keiki Hula that is actually considered advertising. So at this board you know it as legacy sponsorships but on the accounting side its actually budgeted in advertising. So that is not affected this action item.

Trustee Rowena Akana – Can you tell us what is?

Carol Hoomanawanui – So right here as you see, Trustees just so you know this sponsorship is taken directly out of your action item, these are the action items that when you pass the biennium budget for fiscal year ‘18- ‘19 go to table 21, in the grants budget there is grants and sponsorships that the Trustee had approved for ‘18- ‘19. This is the sponsorships that you have approved. The CEO-initiated sponsorships which is administered by the TAP program that is the CEO sponsorships that the auditor had referred to in the audit report that was criticized. Community outreach also has sponsorships, Federal Advocacy, we have our Washington DC Bureau that has sponsorships, Paphānaumokuākea their program has sponsorships as well. The legacy land and management, as well as the land stewardship also have sponsorships. These are not really sponsorships in the sense that it’s like a sponsorship of supporting tables this is in the land and property management program, this is actually to do a community based land stewardship but the program was directed by the controller at that time to place it here. But it’s not really a sponsorship. In any case you did approve that. Then you have the strategic priorities and result initiative I think Ka Pouhana is in a better position to explain those as well as the legacy sponsorship and the only that was identified in this budget was the Prince Lot Hula Festival.

Under the SPRI these are initiatives that Ka Pouhana did at administration level that basically covered the different Strategic Results. So ESS is Economic Self Sufficiency, you have Culture and you also have land that was budgeted. On table 21, what we are saying in this action item that it’s only the CEO-Initiated Sponsorships which were criticized in the Audit Report as well as the Trustee sponsorships that would be affected by this moratorium. All the other ones as your Ad Hoc committee had discussed they didn’t want to impact the programmatic ones.

Chair Colette Machado – Trustee Peter Apo.

Trustee Peter Apo – You commented earlier on the Keiki Hula (conversation indiscernible)

Carol Hoomanawanui – In terms of accounting purposes. On the accounting side its listed as Advertising it is a different object code it is not considered sponsorship. But here at the board table you have historically considered Keiki Hula, Prince Lot, Merrie Monarch, Kamehameha School Song Contest as legacy.

Trustee Peter Apo – In order for keiki hula (conversation indiscernible)

Carol Hoomanawanui – No its protected right now because it’s not included in sponsorships is what we are saying its included in advertising. The moratorium is only on these sponsorships that are listed here.

Trustee Peter Apo – My understanding of the legacy events that as we go through each biennium the legacy event automatically pop up.

Kamana‘opono Crabbe – Correct.

Carol Hoomanawanui – Trustee like you said going forward if it is the board's desire you can actually put in a line item so that its specific that the board is clear that you do want this. But right now as it is in your biennium budget that is covered.

Chair Colette Machado – My intent of this action is not to extend it beyond the next fiscal year. We would work 90 days at the committee level to come up with the specifications for your consideration through a workshop and then an action item. That would become effective but that would take us all the way down to June 30th. When the new fiscal year starts on July 1st we will be able to implement this on a different level. Because we already pass the biennium but we just have to have a better eye how we understand these things. This is not a permanent moratorium. The committee needs 90 days to work out some of the details and some the specification and how we use it for the future use which would be for 2019 starting July 1st. this is all the intent of this action to allow us time to do the deliberation and work to allow for your input.

Carol Hoomanawanui – Can I recommend something for the board for consideration? Some of the discussion that the Trustees, and Trustee Rowena Akana was talking about there is a concern about closing it out. What you can do is adjust, have the moratorium be today so that the moratorium actually effective today. In terms of giving the money, typically as Trustees know that you normally have 15 calendar days at the end of the quarter to turn in your report. In that case the 15 days from today would be March 14th. It's possible to implement the moratorium today and have the Trustees turn in their report as well as the funds the same day you are having them turn in the report which is March 14th. Unless Trustees feel there is more time needed. You can adjust the time on when the Trustees need to turn in the funds but implement the moratorium today. So when the Trustees have the calculate how much to turn it they actually are using today as the day. But you can turn in those funds and the report at a later time. Which is right now in the implementation we are listing March 14th and that would be typically 15 calendar days the due date.

Trustee Leina'ala Ahu Isa – What Trustee Akina you wanted to amend the motion.

Trustee Rowena Akana – We already did.

Trustee Leina'ala Ahu Isa – I don't agree with the voluntary part. You will never get it back.

Trustee Carmen Hulu Lindsey – I just wanted to say that I know the Chair paid hers back. So I think voluntary we have some very credible people on this table. So don't say that about your colleagues.

Trustee Keli'i Akina – Madame Chair, I'll make my comment in just a moment. But first I am delighted to hear that you also paid back that anything that was questionable and I commend you for that I think that is true leadership and I believe others on the board are also prepared to do that. I wanted to respond to Carol, I basically agree with what Carol is suggesting with reference. I think that you are right this is very workable. But as it applies to the CEO sponsorships and here is my concern. The CEO sponsorship and broader than that the Kūlia Grants which I know we are not talking about were flagged by the Auditor as no following rules, he said they were broadly interpreted and arbitrarily enforced and at time disregarded. Therefore, I support madam Chair the moratorium on CEO sponsorships. I am only asking for us to remove the section that has to do with Trustee spending accounts because a. we can be voluntarily, trusting the Trustees to respond they are under great public scrutiny and b. once again compared to the \$14,090,000 figure its less than 1/3 of 1%. It's like using the wrong medicine to solve the problem. I think we don't want to punitive at this point.

Chair Colette Machado – I don't want you to use the word punitive that's not what it means, its brining some respect to the Trustees and the way we spend our resources. That is all that is.

Trustee Keli'i Akina – I will use a different terminology, in fact the things that you mentioned about what the committee was doing in terms of reviewing policy we are doing it. We can continue to do that whether we have

this motion or not. I think we don't lose anything by excluding the Trustee accounts from this. We can still develop good policy and better policy. Thank you.

Carol Hoomanawanui – Trustees just as a reminder that the audit report covered four things, your Fiscal Reserve spending which is why the Auditor looked at the Kūlia what they termed as the Kūlia Initiatives, at this board you know it as board initiatives. Because they were looking at how you used your fiscal reserve and funding these initiatives, such as things as the Lunalilo Homes, that process came in to play. That process on the Kūlia Initiatives which is the action item that came out of the RM Committee is putting a moratorium on the fiscal reserves. The bulk of the amount that was in question you already put a moratorium on that. There are other things that the Auditor criticized. One was the CEO sponsorship the other was the Trustee Allowance, both of those were criticized hence the reason why the Ad Hoc Committee is recommending that both of them be a moratorium until such time you look at these. Going back to the amount which is true Trustee Akina's staff what they show is a small amount however you need to put in to context that the Auditor only looked at two fiscal years 2015 and 2016 and they only did a sampling which means they only looked at 25% of all of the expenditures that you did. So because of that and it's not so much just the amount that we need to consider, and it's not intended to be punitive, what it is, is looking at the Trustees and saying we need some leadership that the imposition or the discipline spending will start here at the Board and what way to do that over funds that you personally, individually have control over and you are making those decisions. That is the other thing to consider. Not just the amount of how much they brought up but showing leadership and saying yes, we can discipline ourselves.

Trustee Keli'i Akina – Thank you.

Trustee Leina'ala Ahu Isa – Right, thank you Carol for that. Trustee Keli'i Akina knows because we got our PHD's that when you look at percentages and you take it in to that it is deceiving. Trustee Allowance \$22,200, 9 Trustees so you put that into context. I want to apologize I didn't mean that I'm criticizing with all due respect Trustee Hulu, my colleagues here. But I was just referring to that part because past experience, I've only been here three years now, what Carol said just the quarters, past experience shows me that what I said is true so I just wanted apologize.

Trustee Keli'i Akina – Thank you very much. Carol thank you for stating your point. The strongest argument that you made was that we are only looking at a slice of the information two years, 2015 and 2016. That might indicate that there may be a broader problem. I think we have to keep our statistic straight. If you can put back my second chart, the pie chart. If what you are saying is correct we are dealing with a two-year slice of the pie, then what we should see statically is that if we go to 5 years or go to 10 years that that 78% figure is the real figure. What this figure shows is that in the 2-year sample only 22% of the Trustees spent was flagged as inappropriate. In other words, 78% pass muster, this is a grade of at least B+, so Carol correctly if we extrapolate from 2 years to 5 years we can say the most reasonable extrapolation is that Trustees is performing at a B+ grade level. I think that is the important point. Fellow Trustees I just want to close that comment by saying this, we got a big problem to deal with its well into the millions, \$14 million or more and it involves a conversation about our administration, that is the conversation we need we don't need to be having a conversation about tiny amounts by Trustees that don't amount to much. I think we need that conversation.

Chair Colette Machado – I just want to acknowledge that the Ad Hoc committee that through action that was approved by this board conducted its due diligence. This is the findings, you have copy of the report and this is what we are recommending. To assume that this is something that I am promoting to the committee to bring to you has been identified by Trustee Akana is false. We need to make good on what we are doing and I have to tell you due diligence is not easy when you have to do the work yourself. We had no work from administration there was just the staff and committee members that prepared all the materials for review.

Trustee Rowena Akana – I just want to say that the Trustee Allowance, I am not going to defend our misspending but when you folks looked at, John I am speaking to you, when you looked at the rules of how the Trustees spend money you have to be really clear because some of the things that the Auditor called out was strictly unfair on the

Trustees. One was ok, we are allowed to communicate with our beneficiaries, buying stamps and sending mail out that is something legislator do as well. They shouldn't be ding us for those kinds of things. They shouldn't be questioning us giving money to a sister organization like the Native Americans who are helping us with sovereignty or some of our initiatives that are locally here that they help us on the Federal level. These people don't understand, the Auditors are nickel and dime people and everything is black and white, but they have to be reminded that we are mission oriented and so part of our mission is to be self-identified as Native Hawaiians. To this effort we have people in the Federal Government who help us. We have allies through the Indian Community so giving to those organizations should not be held against us because they are our brothers and sisters who are helping us on the Federal Level. I am talking about the policies that need to be tightened. Some of the things that the Auditor called out on Trustees were unfair because they were not looking at our mission. They were only looking at dollars and cents they weren't looking at the mission that is all I want to say. So with that whatever.

Carol Hoomanawanui – The Action item before the Trustee today, you are looking in taking a moratorium so that you can look at the policies going forward and how that should be shaped. You can take in to consideration some of the comments that the Auditor has made. We do have some resources that is available from the Ethics Commission and how they deal with the Legislator's Allowance so the Ad Hoc Committee is also looking at that. Now as far as Trustees reimbursing, this is going forward, it's great to hear that Trustees have already taken the initiative to pay back or be accountable for the Trust from what is going behind. Now that is a different action, a different matter that is up to the Trustees to make that determination and that should be done. This action going forward is looking at those policies.

Can we look at Trustee Akina's graph, the \$14 million? If you look at this graph Trustees when you see the Kūlia grants, and CEO sponsorships the moratorium that was passed out of RM Committee basically takes care of the Kūlia Grants. If you wanted to put a moratorium and an action to do a moratorium on the Kūlia Grants to give further assurance. But the Kūlia Grants you already took care of that on the action item on the Fiscal Reserve. The CEO sponsorship the moratorium is taking that into consideration that current action item you have before you. In addition to what is on your right hand side is the Trustee Allowance. Basically you as a board you are addressing these issues temporarily that the Auditor had brought up. My comment about what the Auditor did in terms of the sampling, means that there could have been even bigger amounts that the auditor could have found if the sampling size was bigger. They only looked at 25% they are not looking at your full 100%. Having said that it could be actually bigger that is why we want to say let's address these issues.

Trustee John Waihe'e IV – I don't think it's prudent to try and imply that we may have been even worst then what was identified. I mean either we are going to do this or not. I feel like the more we talk the more we're making things worst.

Trustee Peter Apo - You know the Auditor's report largely what we was responsible for is to see what our policy said and whether if we are in violation of policies. That is all it does. It does not address the quality of the spending or those people who benefited from the money. The policies are a separate question that I will speak about when we get into executive session. What we are doing now with the Trustee Allowances to me is seeking redemption like we did something wrong. You know what every dime I spent I am proud of out of my Trustee Allowance. Helping Ohikilolo and the people out in Waianae to establish a learning center to save a sacred site was money well spent. I really object to people telling me that, that is ill spent money. I was not in violation of any policy that we set up to govern how we spent it. I realize there were some violations by some Trustees but nothing is ever perfect so those who were in violation are those you try to hold accountable. But for us to come out and blanket and present a picture like we all violated some law is totally insane. I am proud of what I did and I want to stand by it. I support this motion.

Chair Colette Machado – Trustee Dan Ahuna you want to say something, if not we will take the amended motion.

Trustee Dan Ahuna – For me something happened and I just want to say this there is “I” in team but there is a “m” for me. Its consistently used on this table, “I”, “me”, nobody is representing the true beneficiary out there. The beneficiaries who we represent and we talk about Keiki Hula and all of this, this only brings back a memory of my son. My son was a 3x Keiki Hula they won, but what happened recently, what people don’t understand is my own personal son got affect by all this. To me it’s not fair how people are just using this audit just to their own advantage. I am begging you Trustee Machado to have this moratorium. I think our leadership on this table is reckless right now and we need help. Because everybody knew in the State of Hawaii that my son was sick. And everybody thought that I was giving money to my own son which is not true and those were the kind of things that were coming out of all of this. For me it’s not fair and I even wrote an email to you but I didn’t want to open it up to the Board to have it but when I am hearing all of this everybody talking about themselves I am very, very hurt by it. Because my son opened up his social media one day and he didn’t want to go to school. He is not free of cancer but he is cancer free right now I am very happy we go to the hospital every 6 months. He has a malignant cancer and he doesn’t deserve all of this stuff, his dad didn’t donate to himself. I am sorry but we are reckless here on this table. It’s not about us it’s about our beneficiaries and we need to protect them. We need to protect our beneficiaries. I don’t want to hear who you gave money to, our money goes to Native Hawaiians. You guys should ask yourself who else you should be giving the money too. “I”, “me” lets protect those out there, lets protect them. Let’s protect the people out there. We need this moratorium and I ask you for your help to have this moratorium. It’s not fair to our beneficiaries.

Trustee John Waihe’e IV – I want to speak to Trustee Akina's amendment. Just to clarify my point of view on this. That is, I agree we should be focused on the \$14 million I don’t agree that putting a moratorium on the Trustee Allowance distracts from that. In fact, I feel like as long as the Trustee Allowance issue is on the table and it’s not resolved that’s what has been distracting from the \$14 million since the day the audit came out. I read an article in the major newspaper that talked about how we wasted \$14 million and then immediately to stuff like \$35 for Christmas lights. I am like how are you complaining about \$14 million and that is the example you come up with unless we bought half a million Christmas lights. I feel like as long as the Trustee Allowance is not dealt with they are always going to go to that and equate it with the \$14 million misspending. Until we can separate those two we are not going to be able to focus on it. At least in the court of public opinion and that’s why we should do it for that reason.

Trustee Leina’ala Ahu Isa – I wanted to clarify I was the one, it wasn’t Trustee Ahuna that gave to the son. I gave it. Because I asked Ernie Kimoto if it was ok if I could give since a native Hawaiian and he did have surgery and I was with Trustee Ahuna in San Francisco when all of this happened and I saw how they suffered traveling back and forth and I wrote the check but I did give it back I reimbursed because the Auditor said.

Chair Colette Machado – We have an amended motion on the board. I only going recognize you if you want to correct the motion. Because you made the motion and it was seconded by Trustee Akana. Is there any corrections on the motion that you would like to make before we take action and I call for a roll call?

(Trustee Keli’i Akina reiterates his amended motion)

Trustee Keli’i Akina moves to approve for OHA to impose a moratorium effective February 27, 2018 on the use of CEO-initiated Sponsorships. The moratorium will remain in effect until the Ad Hoc Committee on Grants and Sponsorships recommends policies and procedures to the Board of Trustees for approval.

Trustee Rowena Akana seconds the motion.

Chair Colette Machado – Roll call vote please.

Trustee Keli'i Akina moves to approve for OHA to impose a moratorium effective February 27, 2018 on the use of CEO-initiated Sponsorships. The moratorium will remain in effect until the Ad Hoc Committee on Grants and Sponsorships recommends policies and procedures to the Board of Trustees for approval. Trustee Rowena Akana seconds the motion.

TRUSTEE	1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEINA'ALA AHU ISA					X	
TRUSTEE DAN AHUNA					X	
TRUSTEE ROWENA AKANA		x		X		
TRUSTEE KELI'I AKINA	x			X		
TRUSTEE PETER APO				X		
TRUSTEE CARMEN HULU LINDSEY				X		
TRUSTEE ROBERT LINDSEY					X	
TRUSTEE JOHN WAIHE'E					X	
TRUSTEE COLETTE MACHADO					X	
TOTAL VOTE COUNT				4	5	
MOTION: [] UNANIMOUS [] PASSED [] DEFERRED [5] FAILED						
Motion failed with four (4) yes votes and five (4) no votes						

Chair Colette Machado - We will go back to the main motion.

Trustee Keli'i Akina – Chair may I speak to the main motion. What I want to point out now is that the CEO sponsorships comprise only \$94,000 as Trustee Waihee point out earlier the media is looking at the \$14 million and although we know that Carol pointed out that, that was dealt with in an earlier motion, the fact is this moratorium is not the right medicine to apply in dealing with the administration. We are dealing with only \$94,000 here of CEO sponsorship. This moratorium makes it look like we are taking decisive action when we are not. We have to deal with the Administration oversight of the \$14 million and I think that is something that has to be center focus that's got to be the message that comes out today. Therefore, this moratorium ends up diverting attention therefore I will vote no and encourage Trustees to vote no on the moratorium because we want to deal with the core issue. We want to be seen by the public and we want to adhere to our own integrity to deal with the overall results of the audit and that is the real medicine. We should not be sitting here talking about small amounts we should be talking about the overall misspending that was pointed out by the Auditor therefore I would urge my fellow Trustees to vote no to this motion as I will. I thank you.

Trustee Carmen Hulu Lindsey – Madame Chair, I think we should make it very clear and I think tried to do that. What the Kūlia Grants is comprised of? Basically the fiscal reserve was thrown into the Kūlia Grants and a lot of that monies that is part of the \$14 million that Trustee Akina is referring to are the Fiscal Reserves that we all approved. And that should be delineated because there has never been a discussion to show what comprises that \$14 million.

Carol Hoomanawanui – At that time, in that time period the Kūlia Grants were funded from the Fiscal Reserve. This year in the budget you actually budgeted \$500,000 as Kūlia Grants to use. But at that particular time yes that was the Fiscal Reserve was used for Kūlia. That information can be made available to the Trustees and what the Auditor considered. Just so you know Trustees, if you remember when you use Fiscal Reserve that comes before the Board and 6 votes are needed to approve that. Every Kūlia Initiative that was used by Fiscal Reserve meant that the Trustees have to approve that.

Trustee Carmen Hulu Lindsey – So doing those years of the audit, the \$6 million that we gave to DHHL was Fiscal Reserve because it was part of the Kūlia.

Carol Hoomanawanui – What the Auditor did was in the report they considered, the termed something discretionary, and they put all different things in the discretionary including the CEO sponsorships, the Kūlia Initiatives, so Kūlia Initiatives are things that did not go through the normal grants process your normal competitive process that you normally have which are the community grants as well as the ahahui. So that is what they identified as discretionary spending. They kind of threw a mixed bag in there but majority for it was for the Kūlia. Now the \$6 million that we site given to DHHL, that didn't come from Fiscal Reserve but when the report went over to the Auditor they just saw that as initiatives on the spreadsheet that was given to them so they calculated that in there.

Trustee Carmen Hulu Lindsey – So that is part of the \$14 million as well as the \$3 million to Charter Schools. So we are up to \$9 million of the \$14 million.

Carol Hoomanawanui – Yes.

Trustee Carmen Hulu Lindsey – The scholarships for higher education that is part of the \$14 million.

Trustee Dan Ahuna – This is a great conversation to have.

Chair Colette Machado – We are not talking about the fiscal reserve though we are back here to the motion to establish the moratorium.

Trustee Carmen Hulu Lindsey - I wanted the people to see that the Kūlia Initiative of \$14 million had some very legitimate voted on initiatives. That's \$9 million of the \$14 million.

Trustee Keli'i Akina – More reason to vote no on the moratorium.

Trustee John Waihe'e IV – I realize it's not related to this motion.

Chair Colette Machado – We ready to go for the motion. It's been moved and seconded. This is the main motion by Trustee John Waihe'e IV seconded by Trustee Robert Lindsey. Roll call vote please.

Trustee John Waihe'e IV moves to approve for OHOA to impose a moratorium effective February 27, 2018 on the use of Trustee Sponsorship and Allowance Fund (TSAAF) and CEO-initiated Sponsorships and the immediate return of the unused balance of the TSAAF to OHA. This moratorium will remain in effect until the Ad Hoc Committee on Grants and Sponsorships recommends policies and procedures to the Board of Trustees for its approval.

Trustee Robert Lindsey seconds the motion.

TRUSTEE	1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEINA'ALA AHU ISA			X			
TRUSTEE DAN AHUNA			X			
TRUSTEE ROWENA AKANA				X		
TRUSTEE KELI'I AKINA				X		
TRUSTEE PETER APO				X		
TRUSTEE CARMEN HULU LINDSEY			X			
TRUSTEE ROBERT LINDSEY		X	X			
TRUSTEE JOHN WAIHE'E	X		X			
TRUSTEE COLETTE MACHADO			X			
TOTAL VOTE COUNT			6	3		

MOTION: [] UNANIMOUS [x] PASSED [] DEFERRED [] FAILED

Motion passes with six (6) yes votes and three (3) no votes.

Chair Colette Machado – That was a great discussion. Thank you members. We are now on IV. Executive Session. I'd like to entertain a motion to recuse ourselves in to Executive Session.

Trustee Rowena Akana – Point of clarification, that this was a policy so doesn't policy take two votes.

Chair Colette Machado – It's really not a policy it's an action.

Trustee Rowena Akana – No this is a policy that we are setting up for Trustee Allowance. Just like Trustee Allowance was a policy.

Albert Tiberi – Lisa I don't know if you talked to Judge about this. But we are just putting moratorium on the policy you are not changing or amending it. So we can have further discussion on it his recommendation is that it was one vote but we can revisit with him based on your concern.

Trustee Rowena Akana – Yes you are amending the policy because you are cutting it off.

Albert Tiberi – We are suspending the policy. We will revisit with Judge Klein.

VI. EXECUTIVE SESSION

Chair Colette Machado – Members I would like a motion to recuse ourselves into Executive Session pursuant to 92-5 (a)(4).

Trustee John Waihe'e IV motions to move into Executive Session Pursuant to HRS§92-5(a)(4).

Trustee Dan Ahuna seconds the motion.

Chair Colette Machado – Roll call vote please

Trustee John Waihe'e IV motions to move into Executive Session Pursuant to HRS§92-5(a)(4). Trustee Dan Ahuna Seconds the motion.						
TRUSTEE	1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEINA'ALA AHU ISA			X			
TRUSTEE DAN AHUNA		x	X			
TRUSTEE ROWENA AKANA			X			
TRUSTEE KELI'I AKINA						Not present at vote
TRUSTEE PETER APO			X			
TRUSTEE CARMEN HULU LINDSEY			X			
TRUSTEE ROBERT LINDSEY			X			
TRUSTEE JOHN WAIHE'E	x		X			
TRUSTEE COLETTE MACHADO			X			
TOTAL VOTE COUNT			8			1
MOTION: [] UNANIMOUS [x] PASSED [] DEFERRED [] FAILED Motion passed with eight (8) YES votes and one (1) excused.						

The Board resolved into Executive Session at 11:34 am.

- A. Consultation with Board Counsel Robert G. Klein on OHA's powers, privileges, and liabilities regarding Hi'ilei Aloha LLC employees. Pursuant to HRS §92-5(a)(4).**

- B. Consultation with Attorney William Yuen, Esq. re: questions and issue pertaining to the board's powers, duties, privileges, immunities and liabilities regarding Hi'ilei Aloha LLC and Ho'okele Pono LLC. Pursuant to HRS § 92-5(a)(4).**
- C. Consultation with Robert G. Klein, Esq. re: questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities regarding Civil No. 17-1-1823-11 JPC, OHA v. State, et. al. Pursuant to HRS § 92-5(a)(4).**
- D. Approval of Minutes**
 - 1. December 21, 2017**
 - 2. January 31, 2018**

The Board reconvenes into Open Session at 12:35 pm.

VII. COMMUNITY CONCERNS

Chair Colette Machado – Community Concerns we have Germaine Meyers.

12:39 pm Trustee Leina'ala Ahu Isa leaves the meeting.

Ms. Germaine Meyers – Aloha, my name is Germaine Meyers. I am an OHA beneficiary for beneficiary advocacy and empowerment and a Nānākuli Homestead lessee. What you have before you is my testimony from earlier. I thought it would be for those who didn't show up they would have a template of the letter that I had spoke about earlier that could be given to beneficiaries.

On purpose I worked in a multibillion dollar industry, the bank industry. In our lost prevention training in human resources we learned strategies of how people with access to our money managers that have the authority and access to manage millions of dollars and bank tellers and bank managers with access to a bank vault of cash can become negligent. We learned about strategies and one of them I saw witness earlier. If I'm not following the rules and I have mud on my hands, what's the best move to make to protect myself from becoming liable for breaking the rules. Making other people negligent too so that more people have mud on their hands. More people are breaking the rules so that if my negligence and rule breaking come to the surface I can say it's not just me so and so get mud on their hands. So and so broke the rules. Earlier I saw the discussion about the Trustee Allowance and a motion was suggested to be made by Trustee Akina about looking at the fact of the negligence. On page 41 of the audit that Auditor started off by saying end of paragraph he highlighted administration allowed non-compliant spending. The Trustees are not the only ones at fault for misspent allowance funds. Trustees file a report of their respective expenditures with the administration however we found that in many cases questionable or non-compliant expenditures were allowed by the administration. Procedure errors did not result in corrective actions is the next paragraph. The auditor stated in some situations there were clear violations of procedures but not corrective action was taken either by the Board Chairperson or the Administration.

So earlier what I witnessed was what happens when somebody allows somebody else to break the rules. When the negligence comes to surface this is what I learned in the bank industry on how managers that have hands on millions of dollars will not say well my bank manager also did this, and the bank manager will now say well the teller also did this. In the packet that I gave you earlier if you look on the exhibit 9 it says who is responsible for approving and disbursing OHA Checks. OHA's CEO and his hired administrative staff approved and disbursed over \$107.8 million worth of checks and transfers issued by OHA in the Audited fiscal year 2015 and 2016 and you have the figures there with only one exception. \$400,000 of the combined checks issued by 9 Trustees for the Trustee Allowances and you have it there on your paper as well. At the bottom of exhibit 9 approved by the Board of Trustees? Only if the Chairman of the ARM Committee and the Chairman of the Board of Trustees both posted it on the ARM Committee and the Board of Trustees meeting agendas according to sunshine law in order for it to be discussed, deliberated and decided to approve or deny the request. If the CEO failed to bring it to the

Chairman and if the Chairman filed to post it on the ARM Committee and the Board of Trustees meeting agenda the request were not approved the Board of Trustees. In the other exhibits that I shown you I have given you examples of negligence and on exhibit 6 I wanted to go over with you quickly how there was \$18.832 million that went over the 5% spending allowance.

So Trustees this Chief Executive Officer started in January 2012 till the present however in 2012 all the way to 2016 there was an over spending of \$18.6. Now someone might be saying oh the reserves was over spend by \$3 million in a year because it wasn't included in the 5%. But if you look at 2013 and look at what 5% equals to its 18.5 add \$3 million to that it comes to \$21 million why was \$28 million over drawn. I provided for you other negligence like not coming to the board and saying this like exhibit A shows you. Trustees I think you need to reconsider Mona Bernardino's her salary. Because you know she is the second highest person in all of OHA. She only manages assets \$18 million, whereas my CEO and CFO actually handles \$640 million. Or if she is making that much money how much money do you have in the LLCs. Is it equal to what we have at OHA? If you open up the books, we will know.

So I wanted to just point out again about the negligence on page 21 it said 9 out of 10 action items were risked fiscal reserve funding. We tested lacked required information, again not following the rules and then Carol had stated earlier Trustees regarding you Trustee Allowance only a little bit was sampled. So if the little only had this much but that means if he is saying that 9 out of 10 action items for fiscal reserve funding that was tested lacked required information, 9 out of 10 imagine if he sampled 100 would that mean 99 out of a 100 was lacking required information. If the auditor sampled 1,000 of the fiscal reserve administration action would it be 999 violated and lacked the require information. It really goes all across the board and I hope the Chair would allow me to say what people keep asking me.

The keep asking me, you know Germaine the Trustees had approved a forensic audit it's going to happen there is going to be a forensic audit. I say when did the Trustees approve the forensic audit, they said last year started the conversation remember Trustee Akana was on the Board. They had proved that eventually March, April, I don't know. I say no the conversation started February. Then it was approved by the time Budget was discussed. But here is the thing that was interesting. What is interesting is that on page 9 and 10 of the State Audit Report, the State Auditor tells me Germaine someone who understands fiscal that they were here in your house, in your hale, they were interviewing people between November 2016 through May of 2017. They were in your house. Now what Trustee knowing that they are interviewing you would come to the board table and go, no, he just went uncover stuff but I not going like one audit I not going like go further into it. When you have the auditor in your house, bring on the audit, bring on. Because he was in here until May 2017. But was is interesting is when he left this is February 2018 and Kanoe has yet to come to our Hawaiian Affairs committee or email me and say Germaine the contract is signed sealed and delivered. Why? Why a simple contract I've worked with contracts as an administrator why did it take so long if it was so important when the auditor was here November 2016 to May 2017 audit was very important. Why after May 2017 to February 2018 all of a sudden not as important to get that buggah done. That is the question to myself. So I have bank experience, I've work in the bank industry I look at these things with a different eye then the rest of you. So I just wanted dot make that aware and I just thank ke akua that he has given me this opportunity to come before you, he has given me this assignment to look through what's going on. And I do come with different eyes and I'm sorry that its doesn't agree with your eyes. I'm looking at the future of my nieces and nephews. So do I want you guys to follow the rules? When I was at the bank industry we not going let nobody not follow the rules, they can walk off with millions of dollars. Thousands of dollars everyday a bank teller can walk away. So do rules matter to Germaine, yes. Do I tell my family that rules matter, yes? I believe when you took on the fiduciary obligation, fiduciary duty of a Trustee, when you told me elect you, when you put your name on the ballot I believe that rules matter to you. I am going to say it once and I am going to say it twice and I am going to say it till my last breath you need to look at the fact that the CEO is negligent and the Chairman of the Board is negligent because you handle look at my exhibit, you have control over the agenda and you have control over the checkbooks and transfers. That is what my training had taught me in the bank industry over billions of dollars. That is why you don't see banks getting money stolen because they understand this and they don't tolerate it. E hana kakou.

Chair Colette Machado – Thank you Germaine. Our next speaker is Landen Paikai.

Mr. Landen Paikai - Aloha Chair, Trustees, fellow people in the gallery my name is Landen Paikai. I am a beneficiary and also a candidate for the Office of Hawaiian Affairs Trustee at large. I am addressing a few issues. I am glad I was able to speak during the community concerns because it allowed me to see the fire the passion that is here at this table.

The first thing I am going to address is the OHA Audit. As addressed earlier in the meeting by Trustee Apo the Audit focused on the policies and whether they were followed or not and its skewed representation of what OHA truly does with the money. In my opinion the audit shows there are problems in all levels. Not just the administration level but also at the Trustee level. Now with that being said Trustees, you make the call 9 of you are the Administrator boss you make the call everything comes to the Board, you make the decision. What I normally do when I am talking to beneficiaries I try to make it as simplistic as possible. So I am going o talk about football I am sure Trustee Dan Ahuna will get this.

You the Trustees are the coach or the offensive coordinator signaling the plays like bench marks or spending initiatives etc. into the CEO's ear. In this case he is the quarter back. Now the quarter back will in turn take the play, explain it to the offensive huddle which is the OHA staff liners. They will in turn execute. Now when execution is not done that's when you get rid of the quarter back because he is the captain of the team right. What I want to know as the beneficiary is what did you tell him to do? What did you explain to him to do? Because I don't see it as a beneficiary talking to other beneficiaries we don't see it, which means that you not communicating effectively to the greater good or to the greater community. Now, you talking in Ka Wai Ola, I see you guys showing up on Facebook on Instagram and some of the other social media platforms. But we not talking to the general public. You realize that as a Trustee we're voted by all of Hawaii so we need to be talking to all of Hawaii.

Kūlia Initiative also known as Board Initiatives as a beneficiary I don't know the difference but I was made aware of the difference or in this case it's the same thing. So let's not confuse the public, let's not confuse our beneficiaries. Let's tell them exactly what it is a Kūlia Initiative is a board initiative it happened at the Board level. We did it.

Secondly, what I want to address is this problem that we see in Hawaii with our native Hawaiians, with the lāhui, it's a full time problem. We see it every day you see it every day. But we have people on this board who thinks that they can give a part time solution to this full time problem. I think not. I think not. Now, you get paid to be here, Germaine and myself we take time out of our schedule to be here to advocate for our beneficiaries. I am sur you do too. But let's not fix this full time problem with part time solutions. Don't tell me you guys are going to spend 20 hours a week trying to fix our problems that our Hawaiians face. That your Hawaiians face. Don't tell me that. Tell me that you spending 40, 60, 80 hours we work 40 hours a week plus we give every ounce of our time to make sure our beneficiaries are heard. Let's not waste that.

Lastly, open communication, let's talk again to everyone. Let's let them know that OHA does good, OHA goes great in the community. Trustee Peter Apo said he is proud of the money that he spent. He should be proud. You should be proud of the money that you spend. In your Trustee money that you are allotted that you spend on Native Hawaiians on Hawaiians. I am sure that the CEO and his line staff are proud of the money that they spend. So let's cut the crap, cut the crap get back, get focused, realign ourselves this was a good kick in our ass. A good kick, swift kick in our okoles. Let's take that discipline, lets focus, realign ourselves and move forward. That's the kind of leadership that we need at this table. That is the kind of leadership that we need at the admin level, that's the kind of leadership that the employees of OHA need. They need this they don't need this pilikia, they don't need the trouble, they don't need fighting among each other. We already see it every day as a Hawaiian we already see people bickering, complaining, people talking bad about us. We represent 20% of this population, everyone is looking at us and laughing. So let's make a change, let's do something different. Mahalo for allowing to share.

Chair Colette Machado – Thank you Landen.

Trustee Rowena Akana – Mr. Paikai, I just want to say Thank you for taking the time. You are Laura's son.

Mr. Paikai- Yes.

Trustee Rowena Akana – For some of the things that came out in the audit just to say this to you, we were kind of surprised ourselves that you see the Kūlia Grants used to be Board Initiatives, used to be a long time ago. But we had no idea that the former CFO had changed the format of how she was placing things in categories. All of a sudden the Kūlia Grants became something else but was still called Board Initiatives. All those Kūlia Grants that were listed was not our initiatives it didn't come from the Board; it came from the Administrative Staff. So a lot of things have been misaligned and that's another thing we are going to have to take up in our policies to make sure that our administration is actually lining up things the way we set them up and not change them all around because auditors are confused the Trustees get confused. That's not an excuse that is to say that we need to do better.

Chair Colette Machado – Landen all I can say is that every action, every appropriation requires the vote of this table, the Trustees. So I just want you to understand that we are responsible too because no action can be taken unless we make that decision.

Mr. Paikai – I am passionate about it.

Trustee Rowena Akana – And you should be.

Mr. Paikai – I feel that we are very under represented as Hawaiians and for me to see it I've found success for myself and my mom has done a great job of taking care of us as a single mom. She is proud to be here; she shows up every day. But there are more and more people like her in this office who are proud to represent the lāhui and I feel that our Trustees need to be just as proud. I am sure you are just as proud to be here at this table to bring back integrity and trust to the Office of Hawaiian Affairs. I am so tired of people talking negatively about OHA because I know how much good it has done.

Trustee Rowena Akana – Thank you.

Trustee Peter Apo – First of all (conversation indiscernible) does not allow us to talk to each other. That is a really, really big one. Can you imagine a Hawaiian Civic Club trying to conduct business but they cannot talk to each other? (conversation indiscernible)

Mr. Paikai – I understand and I've been talking to numerous people about HRS Chapter 10. We need to know what we can and cannot do.

Chair Colette Machado – Thank you Landen.

VIII. ANNOUNCEMENTS

None

IX. ADJOURNMENT

Chair Colette Machado –Any announcements? I'd like to entertain a motion to adjourn.

Trustee Carmen Hulu Lindsey moves to adjourn.

Trustee John Waihe'e IV seconds the motion.

Chair Colette Machado – Roll call.

Trustee Carmen Hulu Lindsey moves to adjourn. Trustee John Waihe'e IV seconds the motion.						
TRUSTEE	1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEINA'ALA AHU ISA						Not present at vote
TRUSTEE DAN AHUNA			X			
TRUSTEE ROWENA AKANA			X			
TRUSTEE KELI'I AKINA			X			
TRUSTEE PETER APO			X			
TRUSTEE CARMEN HULU LINDSEY	X		X			
TRUSTEE ROBERT LINDSEY			X			
TRUSTEE JOHN WAIHE'E		X	X			
TRUSTEE COLETTE MACHADO			X			
TOTAL VOTE COUNT			8			1
MOTION: <input type="checkbox"/> UNANIMOUS <input checked="" type="checkbox"/> PASSED <input type="checkbox"/> DEFERRED <input type="checkbox"/> FAILED Motion passes with eight (8) yes votes and one (1) excused.						

The meeting was adjourned at 1:01 pm.

Respectfully submitted,

Dayna Pa, Board Secretary

As approved by the Board of Trustees on _____.

Colette Y. Machado, Chairperson
Board of Trustees

Attachments:

1. Testimony from Germaine Meyers with attached Exhibits 1-9
2. Trustee Allowance Spending in Perspective – Powerpoint prepared by Trustee Keli'i Akina

OHA Board of Trustees Meeting, February 27, 2018. Public Testimony of Germaine Meyers, OHA Beneficiary

Aloha my name is Germaine Meyers. I'm an OHA Beneficiary for Beneficiary Advocacy and Empowerment and a Nanakuli Hawaiian Homestead Lessee.

I come to you today to provide public testimony to speak on my data, views, and arguments regarding today's agenda items 5-B, 5-C, 6-A, and 6-B.

Two days ago on Sunday, February 25, 2018, Chair Machado addressed today's agenda items 5-B, and 5-C, which are the Moratoriums on Fiscal Reserve Spending, Trustee Sponsorship, CEO Sponsorship, and Trustee Allowance Fund when she made the following clarifying statements:

The media have distorted some of the basic findings of the recent State Audit of OHA. Much of the confusion stems from the auditor's use of the term "discretionary spending."

...the media twisted the auditor's findings to suggest that millions in OHA funds were "misspent" or not directed to Native Hawaiians. This is patently false.

I AGREE.

I am in agreement that both the media and the Chair are correct.

- 1) Were millions in OHA funds misspent? **True**
- 2) Were millions of OHA funds not directed to Native Hawaiians? **False**

I will clarify for you why I made these true/false assessments.

Why do I feel that it's true that millions of dollars were misspent?

First I looked up the word misspent. Misspent is the past tense verb of misspend.

Not Mr. Spend. MisSpend.

Misspend is defined as:

Spend (one's time or money) foolishly, wrongly, or wastefully.

There are (4) synonyms of the word Misspend. They are:

Misused, Misapplied, Wasted and Squandered.

Today, I provided for you in the packet marked with Exhibits 1-9, the data and facts of how OHA misused, misapplied, wasted, and squandered millions of dollars of OHA Trust funds.

I would like to now address my agreement with the false statement.

I agree with Chair Machado it is a false statement that millions of OHA funds were not directed to Native Hawaiians. It's true, OHA funds were directed to Native Hawaiians.

Certain Native Hawaiians.

I will **now** provide for you data and facts of how OHA gave funds to certain Native Hawaiians **and denied all Native Hawaiians**.

OHA publicizes in their Ka Wai Ola newsletter, OHA.org website, and other forms of mass media that are disbursed to All Native Hawaiians the deadline announcements and application information regarding how to apply for OHA's Competitive Community and Ahahui Grant Process.

When my friend and I came to OHA to apply for grants, we were only given information about OHA's Competitive and Ahahui Grant Process.

OHA's Grant staff, CEO, and Chairman of the Board, have never publicized via mass media or given information to ALL Native Hawaiians about the 1) Kulia Initiative awards, 2) CEO Sponsorships, and 3) Trustee Allowance Funds.

Neither have any notices been sent specifically by the CEO and Chairman of the Board to all OHA Native Hawaiian Beneficiaries that were **denied** an OHA Community and Ahahui Grant, or **denied** an OHA Loan.

As an example, I've created a letter that could have been mailed to every denied requestor, as follows:

NOTICE TO ALL NATIVE HAWAIIANS

OTHER OHA OPPORTUNITIES

(OOO)

OHA'S FLEXIBLE, NON-COMPETITIVE PROCESS

Dear **Denied** Native Hawaiian Competitive Grant or Loan Requestor:

Although you were denied the opportunity to receive an OHA Competitive Community or Ahahui Grant, or OHA Malama or Business Loan, **as the two most powerful leaders that control all of OHA's resources**, we the CEO and the Chairman of the Board of Trustees would like to take this opportunity to inform you of OHA'S flexible, non-competitive process.

If you meet **one or more of the following criteria**, you may be eligible.

Is your request:

- unique,
- time-sensitive,
- a critical need,
- the need of an indigent,
- a one-time payment, non-recurring (annual events do not qualify)
- you do not have a written budget,
- you do not have IRS exempt-tax status
- your organization was involuntarily dissolved by the State
- your organization did not comply with the State's annual filing submission deadline,
- your event is a music-event,
- you may be in violation of our nepotism policy, self-interest policy or conflict of interest policy,
- you were unable to submit your request before the competitive grant deadline, **OR**
- your request falls within the time period after the competitive grants were awarded and before the next competitive grant cycle begins again.

If you said 'yes' to one or more of the above criterias, you may be eligible for one or more of the following flexible non-competitive financial resources that the CEO and Chairman of the Board of Trustees created and manage:

1. Kulia Initiative Arbitrary Award,
2. Fiscal Reserve Award,
3. CEO Sponsorship, or
4. Trustee Allowance Fund.

If you're interested, please complete one or more of the attached applications related to these OHA non-competitive opportunities.

Best regards,
OHA CEO and OHA Chairman of the Board of Trustees
E HANA KAKOU

Germaine Mayers
Feb. 27, 2018

Exhibit 1

Audit of the Office of Hawaiian Affairs Report No. 18-03

WHAT WE FOUND

WHY DID THESE PROBLEMS OCCUR?

WHY DO THESE PROBLEMS MATTER?

See pages 1 and 2 of Audit Report No. 18-03

Exhibit 2

Audit of the Office of Hawaiian Affairs Report No. 18-03

WHAT WE FOUND

In FY2015 and FY2016, OHA spent nearly double as much on discretionary disbursements (\$14 million) as it did on planned, budgeted, and properly publicized, vetted, and monitored grants (\$7.7 million)

FY2015 & FY2016

\$14 million

Non-Competitive Awards

Unplanned
Unbudgeted
Unpublicized
Unvetted
Unmonitored

\$7.7 million

Competitive Grants

Planned
Budgeted
Publicized
Vetted
Monitored

Exhibit 3

Audit of the Office of Hawaiian Affairs Report No. 18-03

WHY DID THESE PROBLEMS OCCUR?

OHA's vague rules guiding its discretionary
[non-competitive \$14 million] spending are:

- 1) broadly interpreted
- 2) arbitrarily enforced
- 3) at times, disregarded

For instance, we found several occasions in which
**OHA's chief executive officer (CEO) ignored "do
not fund"** recommendations from Administration
personnel and **funded Sponsorships, contrary to
written guidelines.**

Exhibit 4

Audit of the Office of Hawaiian Affairs Report No. 18-03

WHY DO THESE PROBLEMS MATTER?

...not only do OHA's spending irregularities pose risks-- both great and small -- to the Native Hawaiian Trust Fund, they appear to violate the OHA trustees' solemn fiduciary obligation to their beneficiaries that they will administer the trust **fairly, equitably, and without self-interest**. In other word, this form of behind-the-scenes giving is inherently inequitable to OHA's many other beneficiaries who may be in need of financial assistance, but are unaware of who and how to ask for help.

Exhibit 5

Audit of the Office of Hawaiian Affairs Report No. 18-03

Non-competitive Awards versus Competitive Grants FY2015-FY2016

Non-Competitive Arbitrary Awards

<u>Kulia Initiatives</u>	<u>CEO Sponsorships</u>	<u>TOTAL</u>
\$13.1 million	\$0.5 million	\$13.6 million

Competitive Grants

<u>Community Grants</u>	<u>Ahahui Grants</u>	<u>TOTAL</u>
\$7.5 million	\$0.2 million	\$7.7 million

<u>Non-Competitive Awards</u>	<u>Competitive Grants</u>
Unplanned	Planned
Unbudgeted	Budgeted
Unpublicized	Publicized
Unvetted	Vetted
Unmonitored	Monitored

Trustee Allowance FY2015-FY2016

\$22,200/Trustee/Year	TOTAL
\$44,400/Trustee x9 Trustees	\$0.4 million

Feb. 27, 2018

Exhibit 6

Audit of the Office of Hawaiian Affairs Report No. 18-03

Trust Fund Spending Limits Versus Actual Withdrawals

FISCAL YEAR	FIVE PERCENT (5%) SPENDING LIMIT	WITHDRAWN FROM TRUST FUND	OVER 5% SPENDING LIMIT BY
2011	\$18.8 million	\$19.032 million	\$0.232 million
2012*	\$18.7 million	\$19.6 million	\$0.9 million
2013*	\$18.5 million	\$28 million	\$9.5 million
2014*	\$17.9 million	\$24.5 million	\$6.6 million
2015*	\$17.1 million	\$18 million	\$0.9 million
2016*	\$17.3 million	\$18 million	\$0.7 million
TOTALS:	\$108.3 million	\$127.132 million	\$18.832 million

***Current Chief Executive Officer (CEO) - January 2012 to Present**

CEO Negligence

- In a 5-year period from 2012 to 2016, the current CEO **failed** to monitor the Trust Fund withdrawals to comply with the 5% spending limit.
- In a 5-year period from 2012 to 2016, the current CEO and his hired administrators **spent \$18.6 million over the 5% spending limit.**

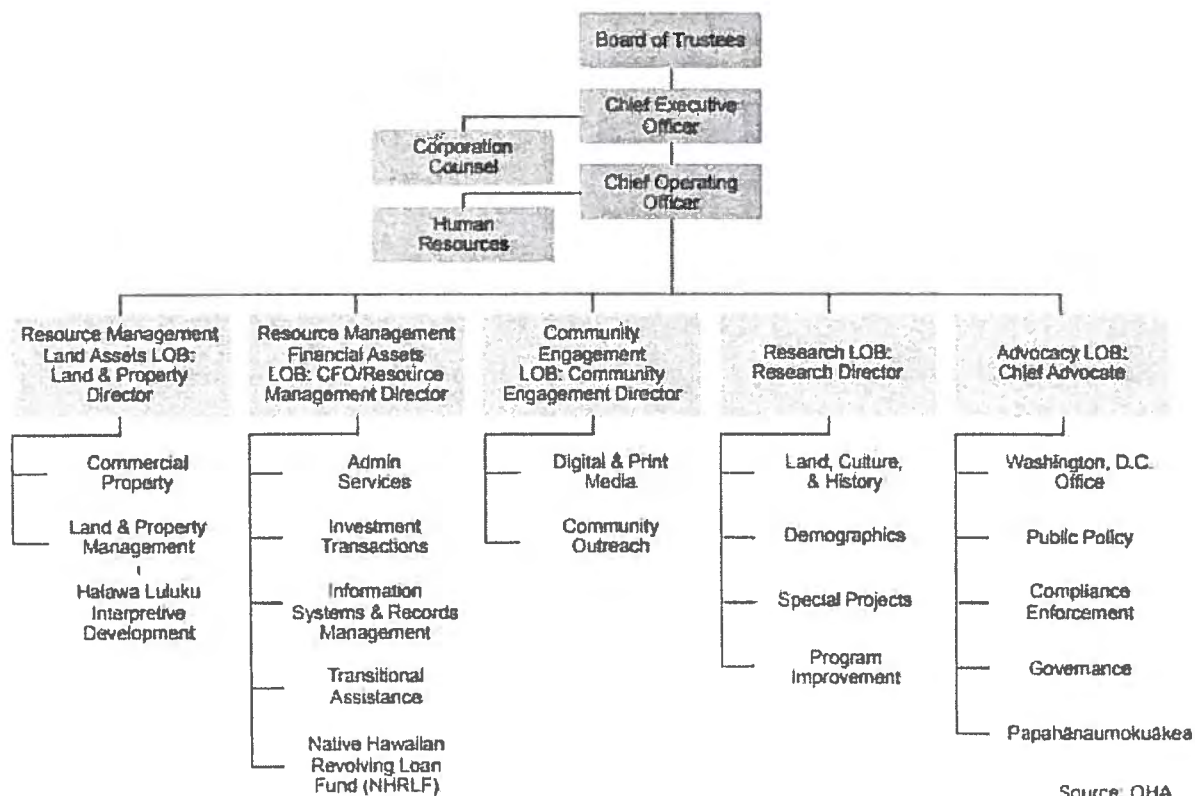
Exhibit 7

Audit of the Office of Hawaiian Affairs Report No. 18-03

OHA ORGANIZATION CHART

Assets. As of December 2016, OHA had 179 positions. Exhibit 1.1 details OHA's organization.

Exhibit 1.1
OHA Organization Chart



- OHA's Organization Chart (above) fails to include OHA CEO-managed Limited Liability Corporations (LLCs).
- LLCs are managed by OHA's CEO, CFO, and COO
- As of December 2016, OHA had **179 positions**. This count fails to include the LLCs employee count

Exhibit 8

Audit of the Office of Hawaiian Affairs Report No. 18-03**INEQUITABLE COMPENSATION**

	<u>Annual Compensation</u>	<u>Other Comp.</u>	<u>Assets</u>	
			<u>OHA*</u>	<u>LLCs**</u>
Kamana'opono Crabbe, OHA CEO	\$149,570	\$4,511	\$640M	
Lisa Victor, OHA COO	\$138,513	\$4,484	\$640M	
Hawley Iona, OHA CFO	\$119,508	\$4,310	\$640M	
Mona Bernardino, LLCs COO	\$136,591	\$16,027		\$18M

	<u>Employee Count</u>		<u>Core Personnel Expense</u>	
	<u>OHA</u>	<u>LLCs</u>	<u>OHA*</u>	<u>LLCs</u>
Kamana'opono Crabbe, OHA CEO	179		\$14.4M	
Lisa Victor, OHA COO	179		\$14.4M	
Hawley Iona, OHA CFO	179		\$14.4M	
Mona Bernardino, LLCs COO		???		???

Compensation are according to Hiilei Aloha LLC's 2016 Form 990

*OHA Assets and Core Personnel Expense are according to OHA 2016 Annual Report

**LLCs Assets are according to Hiilei Aloha LLC and Subentities 2015 Consolidated Financial Statement

CEO Negligence

- CEO is managing the LLCs.
- CEO **fails** to disclose LLCs organization structure in State Audit.
- CEO **fails** to disclose LLCs total employee count in State Audit.
- CEO **fails** to disclose LLCs total core personnel expense in State Audit.
- CEO **overspends** on LLCs core personnel expense by giving LLCs COO Mona Bernardino an **inequitable compensation** compared to OHA's COO and OHA's CFO.

Exhibit 9

Audit of the Office of Hawaiian Affairs Report No. 18-03

WHO'S RESPONSIBLE FOR APPROVING AND DISBURSING OHA CHECKS?

OHA's CEO and his hired Administrative Staff approved and disbursed over \$107.8 million worth of checks and transfers issued by OHA in the audited FY2015 (*\$52.9 million spending limit however *\$53.9 million were spent) and FY2016 (*\$53.5 million spending limit however *\$53.9 million were spent), with only one exception: \$400,000 of the combined checks issued by nine (9) OHA Trustees for the Trustee Allowances. Each of the nine (9) OHA Trustees were responsible for approving and disbursing \$44,400 for the 2-fiscal years audited.

*Data from FY2015 and FY2016 OHA Annual Report

APPROVED BY THE BOARD OF TRUSTEES?

Only if the Chairman of the ARM Committee AND the Chairman of the Board of Trustees BOTH posted it on the ARM Committee and Board of Trustees meeting agendas, according to Sunshine Law, so that all of the Trustees together could **discuss, deliberate, and decide** to approve or deny the request.

If the CEO failed to bring it to the Chairmans, and if the Chairmans failed to post it on the ARM Committee and Board of Trustees meeting agendas, the requests were NOT APPROVED by the Board of Trustees. Unagendized requests are the Negligences of the CEO and Chairmans.



Trustee Allowance Spending in Perspective

State Audit FY 2015 & 2016

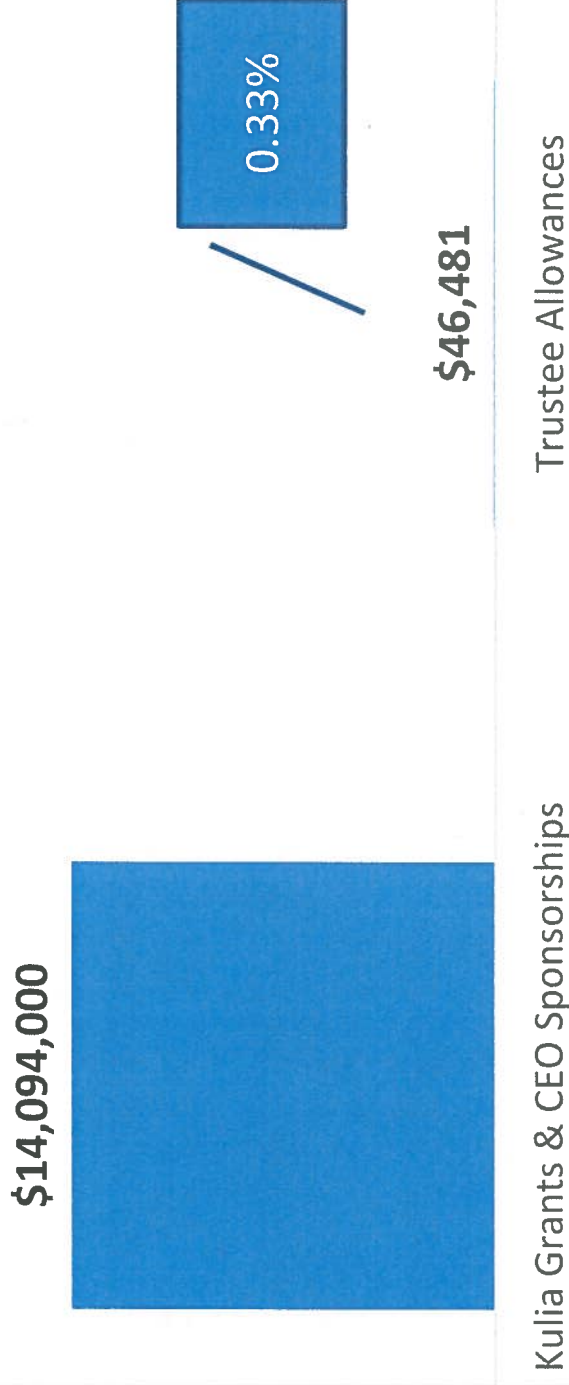
Prepared by: Trustee Keli'i Akina

Date" 2/27/2018

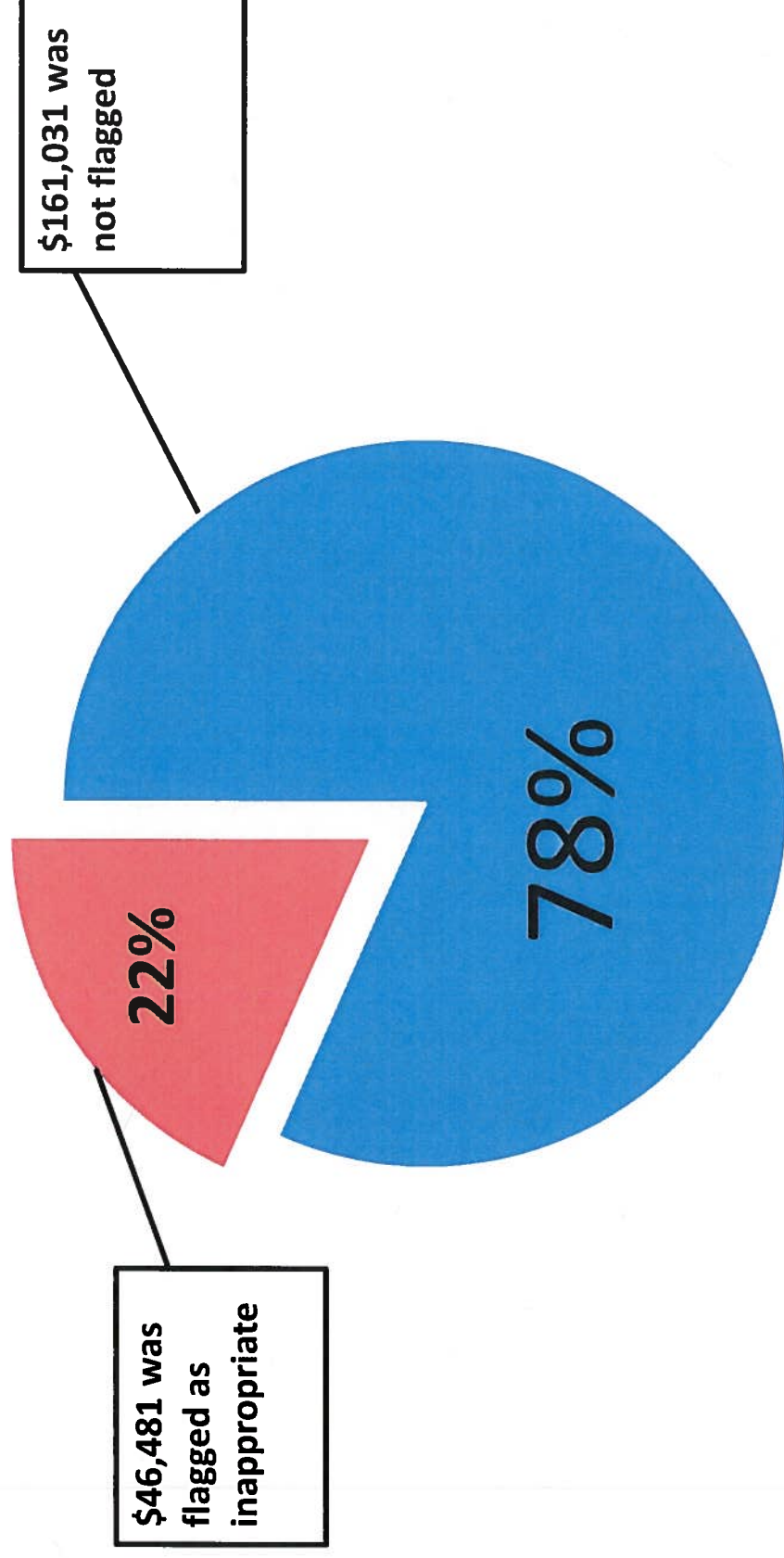


Inappropriate Spending “Flagged” by Auditor

- A total of \$14,140,481 in expenditures were “flagged” by the State Auditor
- Inappropriate Trustee Allowance expenditures represent 0.33%



Breakdown of Inappropriate Trustee Allowance Expenditures



■ Trustee Allowances Reviewed

■ Flagged Expenditures

STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS
560 N. Nimitz Highway, Suite 200
Honolulu, HI 96817

Minutes of the Office of Hawaiian Affairs Board of Trustees
Wednesday, March 7, 2018
Immediately following Joint Committees on Resource Management
and Beneficiary Advocacy and Empowerment Meeting

ATTENDANCE:

TRUSTEE COLETTE MACHADO
TRUSTEE DAN AHUNA
TRUSTEE LEINA'ALA AHU ISA
TRUSTEE ROWENA AKANA
TRUSTEE W. KELI'I AKINA
TRUSTEE CARMEN HULU LINDSEY
TRUSTEE ROBERT LINDSEY
TRUSTEE JOHN WAIHE'E IV

ROBERT G. KLEIN, ESQ., BOARD COUNSEL

EXCUSED:

TRUSTEE PETER APO

ADMINISTRATION STAFF:

KAMANA'OPONO CRABBE, CEO
LISA VICTOR, COO
ALBERT TIBERI, CC
KAWIKA RILEY, ADV
JOCELYN DOANE, PP
STERLING WONG, PR
EVERETT OHTA, CC
JIM MCMAHON, ADV
MILES NISHIJIMA, LPD
SCOTT HAYASHI, LAND ASSET

BOT STAFF:

CAROL HOOMANAWANUI
LÖPAKA BAPTISTE
LAURENE KALUAU-KEALOHA
DAYNA PA
LEHUA ITOKAZU
MAX MUKAI
ALVIN AKEE
LADY GARRETT
LIANA PANG
CLAUDINE CALPITO
DAVIS PRICE
PAUL HARLEMAN
MARIA CALDERON
MELISSA WENNIHAN

GUESTS:

SAM CHUNG
LANDEN PAIKAI
JAMES SONNY GAY
GERMAINE MEYERS

I. CALL TO ORDER

Chair Colette Machado Calls the Board of Trustees meeting to order at 10:47 am. Roll call is taken; Trustees Ahu Isa, Akina, Carmen Hulu Lindsey, Robert Lindsey, Waihe'e and Machado are present; constituting a quorum of six (6) trustees. Trustee Dan Ahuna and Trustee Akana are expected to arrive shortly. An excuse memo was received from Trustee Peter Apo.

We will now move on to II. Public Testimony.

II. PUBLIC TESTIMONY

Chair Colette Machado – We have three individuals that have signed up. Our first individual that signed up is Germaine Meyers. Followed by Landen Paikai. Please come forward with your public testimony.

Ms. Germaine Meyers - Aloha Chair, my name is Germaine Meyers, I am an OHA beneficiary for beneficiary advocacy and empowerment and a Nānākuli Hawaiian Homestead lessee. Its interesting that the legislators are interested in serving the sewer needs for all of the development in Kaka'ako and through Waikiki. Yet I recall when OHA obtained the Kaka'ako lands from the Abercrombie Administration the legislators didn't want to rezone OHA's ocean front lands so that OHA could develop high rise buildings for residential, commercial and retails uses that would benefit the Native Hawaiians and Hawaiians. \$29 million for a critical component to develop, just \$29 million. Where's the negotiating team from the City to negotiate rezoning? The City manages rezoning right? Chair I found it interesting that you agendized 2 Board of Trustees meeting this week. I guess when there is a need there is a way.

I am concerned about this motion because when I looked at the presentation that came from the City it showed here that it was need based. We really need this transaction to happen. It was need based. The developers really need this transaction to happen. Yet, when we went to the table with the City to rezone I remember I live in Nānākuli and I remember OHA coming out there and saying can you please help us. Can you help us convince the legislators, your legislators to convince the City and County to rezone it so that we can get the full value of those parcels for land, \$150 million? That was the appraised value at the time for all of those parcels if high rises were included. Without high rises what's the value? Without the rezoning what's the revalue?

I found it offensive that I heard the last testimony that we need to think about the whole State of Hawaii. Hawaiians have lived in Hawaii for many, many years before it became a State. I find it ironic now when its turned into a State and we have to think about the whole State of Hawaii. We want the sewer systems to be improved. There are lots of parcels of land but it's interesting how they navigated out of all the parcels of land they navigated to one parcel of land in Kaka'ako that is owned by the State Agency called Office of Hawaiian Affairs. I find that very, very interesting. There was no other parcels of land that could possibly have a waste water management sewer system? There was no more money to be given to the Hawaiians? There was no negotiating team to rezone so that it allows us to have high rises for our people, for our needs? Those of us that are in the country that would like to be urbanized because that is what I was heard. We should consider those in urban Oahu. I live in the country, I guess you can call it rural so what about us? You know what have in rural we have Waimanalo Gulch. We have a commercial landfill. We have Hawaiian Electric Company, you can't find any other parcels or privately owned land or State land that can have the waste water management, it's got to be on Hawaiian Homes, Hawaiian Land, OHA. That's how much the State values Hawaiians. Put all the infrastructures for the citizens of Oahu in rural Oahu and now put the infrastructures for urban Oahu again on land owned by Hawaiians. Offensive, we are a part, we have to solve the homeless problem, yet we are 30% of the homeless population where is the other 70% of races. In Kaka'ako as Trustee Ahu Isa stated there are a lot of homeless, but guess where they are showing up now. In rural Oahu, out in the West Coast. I should know it I am part of a neighborhood board that actually is coming up on the agenda again for us to discuss this issue. But that's ok. Urban Oahu doesn't need to discuss it. Just need to discuss having a waste water management system that is critical to the development of the needs of these individuals but cannot have one parcel maybe 5 parcels be rezoned but no we got to think about rezoning and allowing all these people for development. Are you thinking about that Trustees? E hana kakou.

Chair Colette Machado – Thank you Germaine. I'd like to call Landen Paikai followed by James Sunny Gay.

10:52 am Trustee Dan Ahuna Arrives.

Mr. Landen Paikai – Aloha, for the record my name is Landen Paikai, I am a beneficiary and a candidate for the Office of Hawaiian Affairs Trustee at Large. I am addressing this issue of Lot Parcel I. I'll give a quick rundown of what my experience in this area. I worked for the city and County of Honolulu in the surveying Department for 6 years. I know how this process works and we are talking about eminent domain. In essence you are forced into this decision. This is from me looking from the outside in. Forcing into this decision because should you not play ball, play politics with the City and County they will force eminent domain. For those of you who do not know what eminent domain is basically they are going to condemn it, they are going to say we really need it. It's

understandable that they need it but what this goes to show us is that there is no vision at the State level, at the County level, there is no vision. Why do I say that? Because now all of a sudden its very important that the urban core takes precedent over this land that was given to us by the State of Hawaii who continues to be late on paying us what is due. But when we owe, real quick to ask us for their money that we owe.

So my concern is not that you guys have to make this decision. Because we know this is what you have to do. You have to play ball, you got to play politics, I understand that I get it. What I am concerned about when they build this tunnel across the water because that's where it will go and it will go to Sand Island, this force main pump will pump the sewage, that waste to Sand Island. My concern is to make sure when they build it EIS is done, number one that is the main thing. For Hawaiians the cultural aspect of maintaining our waters, yeah we don't want go back to 2006 and have a water main break that takes the lives of innocent people. So let's make sure that you as a Board of Trustees, make sure that when we go ahead and pass it that the EIS is done, that its done correctly, the engineering is done. I am sure that Kahikina knows, she is a professional engineer, she knows what will be happening. But let's make sure that this does not happen. Because I am looking 20-30 years down the line when this erodes, when it starts to erode, what happens then? What are the necessary precautions we are going to take now so ensure that 20 years, 30 years from now this sewage waste water plant pumping system station will continue to serve the needs of our people? If I was on the Board of Trustees when they made this decision to take the land I would never have done it. Because in the developmental aspect you can't build that close to the ocean. If you are going to go high rises, we can't so let's look and reinvest as we said the money that we get, we have to do it.

We have to play ball; we have to do it. I hate to say it, I really hate to say it, this is the hand that we been dealt. And we need to play it but we need to play it smart. We need to be smart, we need to know what is going on, how this is going to affect all of us. When I am talking to beneficiaries I am always talking about, I am a native Hawaiian addressing the issues of all Hawaiians. Native Hawaiians, Hawaiians and non-Hawaiians, because they might not be Hawaiian but they in Hawaii. They consider themselves Hawaiian. So I am addressing all of these issues and yes, this is a great issue to address because this is affecting not only native Hawaiians and Hawaiians, this is affecting people who live from Pauoa to Niu Valley. We know who lives out there not Hawaiians. Thank you.

10:56 am Trustee Akana Arrives.

Chair Colette Machado – James Sunny Gay.

Mr. James Sunny Gay – Good morning Board, Aloha. My names is James Sunny Gay I own property in Kaka'ako. I presently reside in a Hawaiian Homestead in Kaupe'a. I grew up in an all Hawaiian Community in Nānākuli, I am graduate of the first class in Nana I Ka Pono. I am very concern about this property being sold. Land is a basis of wealth, it's a major factor of production to produce anything you need land able capital. Most of the wealthiest people in the world have acquired their assets through the land directly or indirectly. As a navigator sailed across the world people say they were saying they were thinking global. I say no, they were thinking land grab it while you can. There is no such thing as absolute feet because you subject to placing powers of the State, taxation and eminent domain. I'd like to say that we are in a predicament of making a decision. But let's get the back expertise and if it has to be sold let's get the best price we can get. Aloha and Thank you very much.

Chair Colette Machado – Before we proceed to III. which is New Business the Chair needs to get a motion regarding the 72 Hour waiver for Action Item RM/BAE #18-01 - Authorization for OHA CEO/Administration to continue Kaka'ako Lot I sale negotiations with the City & County of Honolulu and approval of legislative resolution related to potential sale of Kaka'ako Makai Lot I, TMK (1)2-1-015:061, to the City and County of Honolulu.

Trustee Dan Ahuna moves for a 72 Hour waiver.

Trustee Carmen Hulu Lindsey seconds the motion.

Chair Colette Machado – Roll call vote please.

Trustee Dan Ahuna moves for a 72 Hour waiver. Trustee Carmen Hulu Lindsey seconds the motion.						
TRUSTEE	1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEINA'ALA AHU ISA			X			
TRUSTEE DAN AHUNA	x		X			
TRUSTEE ROWENA AKANA			X			
TRUSTEE KELI'I AKINA			X			
TRUSTEE PETER APO						Excused
TRUSTEE CARMEN HULU LINDSEY		x	X			
TRUSTEE ROBERT LINDSEY			X			
TRUSTEE JOHN WAIHE'E			X			
TRUSTEE COLETTE MACHADO			X			
TOTAL VOTE COUNT			8			
MOTION: [] UNANIMOUS [x] PASSED [] DEFERRED [] FAILED Motion passes with eight (8) yes votes and one (1) excused.						

III. NEW BUSINESS

Chair Colette Machado – We will now move on to III. A. I'd like to call to the table Albert Tiberi. You had a suggestion to bring the City and County back to the table.

Albert Tiberi – Yes so we have listed the public informational briefing on both agendas and incase people weren't here for the earlier briefing and this is part of the resolution process I would have the City come up and briefly explain what the project is and what it is about.

A. Public informational briefing on the potential sale of Kaka'ako Makai Parcel Lot I, TMK (1) 2-1-015:061, to the City and County of Honolulu

Ms. Lori Kahikina – For the record Lori Kahikina Director of Environmental Services City and County of Honolulu. So just recapping my presentation from earlier this morning. We have two existing large pump stations adjacent to Lot I, we call them Ala Moana Pump Stations 1 and 2. There are three large trunk sewer lines coming into these pump stations and we have to install three force mains under the harbor to Sand Island Treatment Plant and it does service the entire area from Niu Valley to Pauoa, that is about half of the current customer base for the City and County of Honolulu. The idea is to build a large sewer trunk tunnel then hopefully to eliminate the Moana Pump Station, Ft. Derussy Pump Station and Beachwalk Pump Station. This is to add additional capacity to our existing sewer system. To be more environmentally friendly, eliminate the possibility of a spill we had at both Beachwalk and Ala Moana Beach Park. On Lot I what we do plan to install is the large 3rd pump station and an order control system. The reason this property was selected is because it is adjacent to our existing pump station properties and this is where the tunnel will be terminating.

Chair Colette Machado – Trustees any questions for the City and County of Honolulu? (hearing none she proceeds) Thank you for being patient.

- B. Action Item RM/BAE #18-01 - Authorization for OHA CEO/Administration to continue Kaka'ako Lot I sale negotiations with the City & County of Honolulu and approval of legislative resolution related to potential sale of Kaka'ako Makai Lot I, TMK (1)2-1-015:061, to the City and County of Honolulu**

Chair Colette Machado – Members we are now on III. B. This is a joint committee referral from the RM/BAE Committee action item identified as 18-01. It's a request to authorize OHA CEO Administration to continue to Kaka'ako Lot I sell negotiations with the City and County of Honolulu and approval of Legislative Resolutions related to potential sale of Kaka'ako Makai Lot I TMK (1)2-1-015:051 to the City and County of Honolulu. Motion is on the board. This action to ratify the referral from the Joint Committee. I will call on the Chair of RM who chaired the Joint Committee this morning, Trustee Carmen Hulu Lindsey.

Trustee Carmen Hulu Lindsey moves to authorize and approve OHA Ka Pouhana/Administration to continue Kaka'ako Lot I, TMK (1) 2-1-15-061, sale negotiations with the City & County of Honolulu and approval of the introduction of a legislative resolution related to potential sale of Kaka'ako Makai Lot I, TMK (1)2-1-015:061, to the City and County of Honolulu.

Trustee Robert Lindsey seconds the motion.

Chair Colette Machado – Any further discussions, hearing none roll call vote please.

Trustee Carmen Hulu Lindsey moves to authorize and approve OHA Ka Pouhana/Administration to continue Kaka'ako Lot I, TMK (1) 2-1-15-061, sale negotiations with the City & County of Honolulu and approval of the introduction of a legislative resolution related to potential sale of Kaka'ako Makai Lot I, TMK (1)2-1-015:061, to the City and County of Honolulu.						
Trustee Robert Lindsey seconds the motion.						
TRUSTEE	1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEINA'ALA AHU ISA			X			
TRUSTEE DAN AHUNA			X			
TRUSTEE ROWENA AKANA			X			
TRUSTEE KELI'I AKINA			X			
TRUSTEE PETER APO						Excused
TRUSTEE CARMEN HULU LINDSEY	x		X			
TRUSTEE ROBERT LINDSEY		x	X			
TRUSTEE JOHN WAIHE'E			X			
TRUSTEE COLETTE MACHADO			X			
TOTAL VOTE COUNT			8			1
MOTION: [] UNANIMOUS [x] PASSED [] DEFERRED [] FAILED						
Motion passes with eight (8) yes votes and one (1) excused.						

Chair Colette Machado – Congratulations Trustees you have successfully passed Action Item RM/BAE 18-01 you have ratified it. We will suspend, we will no longer need the Executive Session with Randall Sakumoto. We are now moving to community concerns.

IV. EXECUTIVE SESSION

- A. Consultation with Attorney Randall Sakumoto, Esq. and Board Attorney Robert G. Klein, Esq. pertaining to the OHA Board of Trustees' powers, privileges, immunities, and liabilities regarding the potential Sale of Kaka'ako Makai Parcel Lot I, TMK (1) 2-1-015:061, to City & County of Honolulu. Pursuant to HRS section 92-5(a)(4).**

(Executive Session was not needed)

VI. COMMUNITY CONCERNS

11:04 am Trustee Leina'ala Ahu Isa leaves the meeting.

Chair Colette Machado – We have one individual the Chair would like to acknowledge community concerns beneficiary Germaine Meyers to please come forward.

Ms. Germaine Meyers - Aloha Chair, my name is Germaine Meyers, I am an OHA beneficiary for beneficiary advocacy and empowerment and a Nānākuli Hawaiian Homestead lessee. The Department of Hawaiian Home Lands I have pulled for you from their Annual Report for their fiscal department they only have an officer. At OHA we have a Chief Financial Officer, a Comptroller and a large amount of fiscal assets fiscal workers. Yet the list that was given in Star Advertiser linked to the OHA website was inaccurate. I stated that earlier when I stated about the 25 Kūlia Initiatives, but it was also missing 4 grants that I had emailed to everyone yesterday.

So finishing up what I had stated earlier regarding the Na'i Aupuni Contract or grant agreement I would like to say as follows, again as a Hawaiian I was not allowed, I was excluded from this process because I was not on a native Hawaiian roll commission and verified or enrolled. On Na'i Aupuni autonomy, Na'i Aupuni was actually given autonomy and I know all of you have this agreement so I don't have to read it again. But when I find very interesting is that the agreement included this statement which when I read a member that was actually at the Aha Kaiulani Milham, it was stated that those things did not happen. So Na'i Aupuni commits not to effect the delegates political decisions, that that decisions of Na'i Aupuni and its directors, paid consultants, attorneys and vendors regarding the performance of the scope of services would not directly or indirectly control or purposely affect the political decisions of the delegates at the Aha. Number 2 and Na'i Aupuni and its directors, paid consultants, attorneys and all of its vendors are barred from serving as Aha delegates. Na'i Aupuni commits that its performance of the scope of services would not interfere with the right of self-determination such as the Aha delegates may freely determine the political status. Then why were some people locked out of the gates?

If Hawaiians were able to kūkā and discuss why were independence talking about the fact that the draft constitution preamble on the last day excluded was changed. Why was that happening. So I will email to you five parts of what she stated in as being in the front line, being in the room that's all I have. All I have is the statements that were being said. What also happened was that a gentleman Bronson Kaahue was going around and taunting the people outside of the gates with a video camera. I will send you that link taunting them about the fact that they were outside and he was allowed in the gates. He has his camera on his head and I watched that video in disbelief that after he was filming this and after videos came up. If the Aha was for 20 days why didn't OHA get involved a'ole. These are all of our people they should all be apart. But I guess because there was an agreement that unless you were on that roll commission, I and those that were outside the gate had to stay out. I find that very disconcerting. Because at the State Capital I can actually walk in there. I can listen to the conversations I can be a part of it when they are talking about our constitution, about the laws, everything. But why wasn't me as a native Hawaiian allowed to come and walk in? Why wasn't other people that were locked outside the gates allowed to walk in a listen to the process? What was part, why was it so secretive? Why was this so secretive? I am standing before you today I wasn't part of that process. I saw it, I told my family stay off of the roll commission until OHA actually educates us about what the process is all about. Not this kind of fast food drive thru services. We are doing something that is going to affect all of our lives and we want a fast food drive thru

service kind of thing. That is American, I thought we were going to all come to the table. I will send you the email with the 5 parts that Kaiulani Milham she had completed, she posted on line March 4, 2016 all the way through the process. You look at it, if you want to, and see if you thought that the process was pono. E hana kakou.

Chair Colette Machado – Thank you Germaine.

Trustee Rowena Akana – Thank you Germaine. Your testimony is always welcomed here and you do great research. I have to say I was a delegate and one of the reasons that the people were not allowed in was because they didn't come to participate. They came to disrupt and it was impossible to try to have a meeting when people were constantly jeering and calling out names and doing everything that they could to disrupt. They had a human barrier outside the driveway so that you couldn't get in. There was a lot of confusion. You right it is a process for all Hawaiians but all Hawaiians had the right to sign up to be a delegate.

The person that wrote something that came in our Ka Wai Ola a couple of years ago, no longer works for OHA. But that person misstated things that really took a turn for the worst. When that person stated that you had to enroll in this process, in order to be counted, that was not something that the Trustees agreed to. We were not asked but it was posted in our Ka Wai Ola and it sent the wrong message. It started people thinking that there is a them and us. I apologize for that but as a participant who was there, I saw the dysfunction and Germaine, not everybody "olu'olu like you, some people just came to be disruptive. And you couldn't proceed that way. If their intent was different I am sure they would have been allowed in. I was there when Healani was there and we had many good discussions. I saw people that didn't get along, get along in that process. I can only speak positively of it and I know that the ratification has not occurred because of lawsuits and that's why that hasn't happened yet. I hope that someday that all voices are going to be heard and there is a ratification. All voices should be heard whether they are for it or against and let's hope that the democratic process works. Thank you for your mana'o, mahalo.

Chair Colette Machado – I don't think we have any more discussions.

VII. ANNOUNCEMENTS

None

VIII. ADJOURNMENT

Chair Colette Machado – I thank you for your patience for the two meetings that we've had. Tomorrow is another BOT meeting at 10 am. I look forward to seeing you all there. I'd like to entertain a motion to adjourn.

Trustee Dan Ahuna moves to adjourn.

Trustee Carmen Hulu Lindsey seconds the motion.

Chair Colette Machado – Roll call vote.

Trustee Dan Ahuna moves to adjourn the meeting. Trustee Carmen Hulu Lindsey seconds the motion.						
TRUSTEE	1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEINA'ALA AHU ISA						Not present
TRUSTEE DAN AHUNA	x		X			
TRUSTEE ROWENA AKANA			X			
TRUSTEE KELI'I AKINA			X			
TRUSTEE PETER APO						Excused
TRUSTEE CARMEN HULU LINDSEY		x	X			
TRUSTEE ROBERT LINDSEY			X			
TRUSTEE JOHN WAIHE'E			X			
TRUSTEE COLETTE MACHADO			X			
TOTAL VOTE COUNT			7			2
MOTION: [] UNANIMOUS [x] PASSED [] DEFERRED [] FAILED Motion passes with seven (7) yes votes and two (2) excused.						

Chair Colette Machado – Thank you RM Chair Trustee Carmen Hulu Lindsey and BAE Chair Trustee Robert Lindsey. There was a good discussion.

The meeting was adjourned at 11:14 am.

Respectfully submitted,

Dayna Pa, Board Secretary

As approved by the Board of Trustees on _____.

Colette Y. Machado, Chairperson
Board of Trustees

Attachments:

1. Excuse Memo from Trustee Peter Apo



OFFICE OF HAWAIIAN AFFAIRS

INTEROFFICE MEMORANDUM

OFFICE OF
HAWAIIAN AFFAIRS
STATE OF HAWAII
RECEIVED-BOT
2018 MAR -6 A 9:38

TO: Trustee Colette Machado, BOT Chair
Trustee Dan Ahuna, BOT Vice-Chair

FROM: Trustee Peter Apo

DATE: March 5, 2018

RE: BOT Meeting Absence on March 7, 2018

I am unable to attend the BOT Meeting on March 7, 2018 immediately following the Joint RM/BAE Committee Meeting. Please excuse my absence and extend my apologies to the members of the Board.

If you have any questions, please call my office at 594-1879.

Mahalo.

**STATE OF HAWAII
OFFICE OF HAWAIIAN AFFAIRS
560 N. Nimitz Highway, Suite 200
Honolulu, HI 96817**

**Minutes of the Office of Hawaiian Affairs Board of Trustees
Thursday, March 8, 2018
10:00 am**

ATTENDANCE:

TRUSTEE COLETTE MACHADO
TRUSTEE DAN AHUNA
TRUSTEE LEINA'ALA AHU ISA
TRUSTEE ROWENA AKANA
TRUSTEE W. KELI'I AKINA
TRUSTEE PETER APO
TRUSTEE CARMEN HULU LINDSEY
TRUSTEE ROBERT LINDSEY
TRUSTEE JOHN WAIHE'E IV

ROBERT G. KLEIN, ESQ., BOARD COUNSEL

ADMINISTRATION STAFF:

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LISA VICTOR, COO
ALBERT TIBERI, CC
KAWIKA RILEY, ADV
JOCELYN DOANE, PP
STERLING WONG, PR
EVERETT OHTA, CC
DAVID LAEHA, CFO
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MEHANA HIND, CE
RAINA GUSHIKEN

BOT STAFF:

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LAURENE KALUAU-KEALOHA
DAYNA PA
KAUIKEAOLANI WAILEHUA
LEHUA ITOKAZU
MAX MUKAI
CLAUDINE CALPITO
LADY GARRETT
MELISSA WENNIHAN
PAUL HARLEMAN
MARIA CALDERON

GUESTS:

HEALANI SONODA-PALE

I. CALL TO ORDER

Chair Colette Machado Calls the Board of Trustees meeting to order at 10:02 am. Roll call is taken; Trustees Ahuna, Ahu Isa, Akina, Apo, Carmen Hulu Lindsey, Robert Lindsey, Waihe'e and Machado are present; constituting a quorum of eight (8) trustees. Trustee Akana is expected to arrive shortly.

We will now move on to II. Public Testimony.

II. PUBLIC TESTIMONY

Chair Colette Machado – I'd like to call Healani Sonoda-Pale to come to the table

Ms. Healani Sonoda-Pale - I have copies for the Trustees and the CEO. *(please see attached testimony)*

So is it possible now to know what Government Agency has requested these records?

Chair Colette Machado – We are going to go into Executive Session to get the full information. We were served the letter earlier this week.

Robert G. Klein, Board Counsel – This is a UIPA request, so we will process it in the normal course of a regular UIPA request.

Healani Sonoda-Pale – Just the name of the Government Agency?

Robert G. Klein, Board Counsel – It is a UIPA request so we will have to process it in the normal course.

Healani Sonoda-Pale – So you can't even give me the name of the Government Agency?

Robert G. Klein, Board Counsel – We are not going to discuss that publicly right now.

Healani Sonoda-Pale – So there is another Government Agency asking for information and you guys can't give me that information.

Robert G. Klein, Board Counsel – There are reasons, you will get a full response when your UIPA request is addressed.

Healani Sonoda-Pale – Ok.

Robert G. Klein, Board Counsel – It's not March 15th either.

Healani Sonoda-Pale – No, no, no I asked for the disclosure of the Government Agency immediately.

Robert G. Klein, Board Counsel – That is not going to happen today.

Healani Sonoda – Pale – So you won't disclose what Government Agency is requesting records.

Robert G. Klein, Board Counsel – Yes, that is correct.

Chair Colette Machado – We are on record already acknowledging that we will be responding to your request for identification.

Healani Sonoda – Pale – I am just in shock that's all, thank you.

Chair Colette Machado – Thank you Healani.

III. UNFINISHED BUSINESS

A. CEO's 15-Minute Update on Ho'oulu Lāhui Aloha and OHA Activities

Chair Colette Machado – We will turn this time over to Kamana'opono Crabbe with some updates. If they are available if not, we will go right into III.B.

B. Ka Huli Ao Center for Excellence in Native Hawaiian Law A'o Aku A'o Maui Initiative Update

Kamana'opono Crabbe – In terms of bringing Kapua Sproat at Ka Huli Ao in terms of their presentation please come forward.

Ms. Kapua Sproat – Aloha mai kakou and mahalo for the opportunity to be here with all of you this morning. I am Kapua Sproat and I am here today in my capacity as the Director of Ka Huli Ao Center for Excellence in Native Hawaiian Law at the University of Hawaii at Mānoa. I am here along with Mahina Tuteur who is our Post JD Research and Teaching Fellow. Together we hope to share a bit about our A'o Aku A'o Mai Initiative which is a cooperative agreement and a partnership that we have with OHA.

(Please see attached PowerPoint presentation)

10:13 am Trustee Rowena Akana arrives.

Ms. Mahina Tuteur - Aloha I just want to share a little bit about what we did last semester. In fall 2017 we had the opportunity to do a project in the Ko'olau moku of Kauai. OHA staff came to us because they've been hearing from beneficiaries and other community members regarding challenges to continued use of the alaloa or the ancient trail especially as it crosses through the Ko'olau moku. This semester we are working on Molokai.

(please see PowerPoint presentation)

Trustee Carmen Hulu Lindsey – I just want to mahalo them for all the good work they do. Maui can be very, very proud of the help that we've gotten from them, so Mahalo Nui!

Trustee Peter Apo – I have to commend you Kapua your leadership up at the University in pioneering concepts, etc. representing sort of a creation almost a separate institution that speaks to nationhood to self-determination to give us the tools and programs that we need to develop. Thank you for that.

Ms. Sproat – Mahalo.

Trustee Leina'ala Ahu Isa – I noticed the mahele documents in here are all in Hawaiian who helps you translate it?

Ms. Sproat – We had a combination of folks, so it's so fabulous now we have law students who are fluent in 'ōlelo Hawaii and so we had a whole division of our clinic that just translated native testimony and foreign testimony and just looked at boundary surveys. Of course you folks here have the in house experts with Wahineaipohaku Tong and other folks, Lucy Meyer who are also resources for us. Because they work so closely both with Kīpuka and also with these documents they were great partners and supported us in that.

Trustee Leina'ala Ahu Isa – The question is how does OHA help you is it also monetarily?

Kamana‘opono Crabbe – Yes, this is actually a contract with Ka Huli Ao and the William Richardson School of Law. It dates back to 2011. So we want to continue it given the success of the training course and all of these clinics and we believe it is a very good partnership because they have strengths, assets and skills in terms of law and you have a cadre. Then it helps to facilitate the work we do out in the community as well. We look to forward this.

Trustee Leina‘ala Ahu Isa – I just wanted to share with the public that this is other things that OHA does.

Ms. Sproat – So just to build on what Kamana‘opono has said. Initially this started as a one-year initiative in 2011. Because OHA was approached by all of these beneficiaries who needed legal assistance so instead of trying to hire 20 individual attorneys they came and said, ok can your clinic help them can we pay for one fellow who will then support the work. So what OHA supports through the cooperative agreement with us is a pay for one post JD Fellow who is able to provide support year around, we provide my time and expertise and our students and clinicians. OHA pays for our Post JD Fellow and travel so that the students are able to go to Moloka‘i to meet with the community, to go to Kauai to facilitate these workshops on alaloa. But having Mahina on staff all year, it’s really important for example when everything was going down on Kauai with the Zuckerberg Lawsuit, and many not just OHA beneficiaries but people in the community said I found this primer is there somebody I can talk to. I said yes Mahina is happy to help you. We are able to provide additional, by leveraging the resources within in Ka Huli Ao, the cultural resources and other resources within OHA this is a great partnership and we’ve been able to benefit, I think at this point over the whole time, over a 1,000 beneficiaries.

Trustee Akana – I want to thank you as well. This is one of the best projects we’ve ever helped to fund. The fact that it is helping our beneficiaries in ways that we personally cannot is commendable. So thank you for your service. In the Zuckerberg case how many beneficiaries were you able to help regarding the Zuckerberg trying to buy up these properties.

Ms. Sproat – Mahina can best answer that. But I have actually lost track of the number of people. Usually throughout A‘o Aku A‘o Mai we’ve committed to do one clinic project the semester then in whatever additional capacity Mahina has provided around the clock help for folks. We had already taken on a clinic project by the time everything happened with Zuckerberg but we have still continued to provide direct input and support on peoples answer, service questions and are coordinating a training right now.

Ms. Tuteur – To answer your question it’s hard to say at this point. There’s a few hundred pro se defendants involved but at this point it’s hard to say because people are still being served with the complaint on all different islands. We’ve been kind of working just a couple family members to communicate with other family members. We are trying to put together a boarder presentation to reach everybody at one time.

Ms. Sproat – If you would like specific numbers we are happy to follow up with you.

Trustee Rowena Akana – Yes, I would like to know how many people were actually impacted by the purchase by Zuckerberg.

Trustee Dan Ahuna – I want to thank all of you. I just want to share a little bit more what they do too. They not only help our native Hawaiians but they come and do workshops for our County and our State people. I’ve been a part of their workshops and those type of workshops bring a lot of understanding to a lot of people. When we speak of Zuckerberg there is a lot intertwines the trail for example is a big part of what Zuckerberg is talking about. A lot of the issues come to us at this Board Table and we don’t know how to handle it, I want to thank Jocelyn Doane because she is the one that we went to for help. Mahalo.

Trustee Keli‘i Akina – thank you very much. You are doing good work and I like the fact that you are teaching students how to be engaged in the community in a real way.

Trustee Robert Lindsey – I want to applaud your efforts and sing your praises. For all the help that you folks have given and continue to give our ‘ohana at Ka‘ūpūlehu. I think it’s interesting I was the land manager at KS when the whole Kapaakai case came forward Judge Klein was the one who offered the opinion in that case and you folks now are helping us or KS to implement some of the recommendations and decisions that came out that matter. So thank you.

Chair Colette Machado – Members, thank you Kapua for taking the time and being patient so we could schedule you appropriately. I look forward to seeing you and your team on April 12th.

Ms. Sproat - Mahalo everyone.

IV. EXECUTIVE SESSION

Chair Colette Machado – Members I would like a motion to recuse ourselves into Executive Session pursuant to 92-5 (a)(4).

Trustee Dan Ahuna motions to move into Executive Session Pursuant to HRS§92-5(a)(4).

Trustee Carmen Hulu Lindsey seconds the motion.

Chair Colette Machado – Roll call vote please

Trustee John Waihe‘e IV motions to move into Executive Session Pursuant to HRS§92-5(a)(4). Trustee Dan Ahuna Seconds the motion.						
TRUSTEE	1	2	‘AE (YES)	A‘OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEINA‘ALA AHU ISA			X			
TRUSTEE DAN AHUNA	x		X			
TRUSTEE ROWENA AKANA			X			
TRUSTEE KELI‘I AKINA			X			
TRUSTEE PETER APO			X			
TRUSTEE CARMEN HULU LINDSEY		x	X			
TRUSTEE ROBERT LINDSEY			X			
TRUSTEE JOHN WAIHE‘E			X			
TRUSTEE COLETTE MACHADO			X			
TOTAL VOTE COUNT			9			
MOTION: [x] UNANIMOUS [] PASSED [] DEFERRED [] FAILED Motion passed unanimously with nine (9) yes votes.						

The Board resolved into Executive Session at 10:35 am.

- A. Consultation with Board Counsel Robert G. Klein on OHA's powers, privileges, and liabilities regarding a government agency's records request. Pursuant to HRS §92-5(a)(4).**
- B. Consultation with Board Counsel Robert G. Klein on OHA's powers, privileges, and liabilities regarding Hi‘ilei Aloha LLC employees. Pursuant to HRS §92-5(a)(4).**
- C. Approval of Minutes**
 - 1. February 7, 2018**

The Board reconvenes into Open Session at 12:21 pm.

12:21 pm Trustee Leina‘ala Ahu Isa leaves meeting.

V. COMMUNITY CONCERNS

Chair Colette Machado – We are now on item V. which is Community Concerns. I would like to Healani Sonoda-Pale to the table

Ms. Healani Sonoda-Pale – (please see attached testimony, Letter from Ka Lāhui Hawai‘i and Mauna Kea Hui Position Statement on SB3090)

Chair Colette Machado – Thank you, is there anyone else? Hearing none.

VI. ANNOUNCEMENTS

None

VII. ADJOURNMENT

Chair Colette Machado – I’d like to entertain a motion to adjourn.

Trustee Dan Ahuna moves to adjourn.

Trustee Robert Lindsey seconds the motion.

The meeting was adjourned at 12:28 pm.

Respectfully submitted,

Dayna Pa, Board Secretary

As approved by the Board of Trustees on _____.

Colette Y. Machado, Chairperson
Board of Trustees

Attachments:

1. Healani Sonoda-Pale Public Testimony
2. Ka Huli Ao PowerPoint Presentation
3. Healani Sonoda-Pale Community Concern Senate Bill 3090 SD 1

OFFICE OF HAWAIIAN AFFAIRS BOARD OF TRUSTEES

March 8, 2018

Regarding: BOT Agenda Item IV. A. Consultation with the Board Counsel Robert G. Klein on OHA's powers, privileges and libabilities regarding a government agency's records request.

Aloha Chair Machado, Vice-Chair Ahuna and Trustees,

The Ka Lāhui Hawaii Political Action Committee (KPAC) respectfully requests the following information under Hawai'i's Uniform Information Practices Act Chapter 92F in the spirit of promoting the public interest in disclosure and to enhance government accountability;

1. The name of the government agency requesting records from OHA that is referred to in today's (3/8/2018) BOT Agenda.
2. A copy of the full and complete records request made from the aforementioned government agency to OHA.

Please disclose the name of the government agency immediately and provide the complete records request from the "government agency" mentioned above by March 15, 2018.

Respectfully submitted,

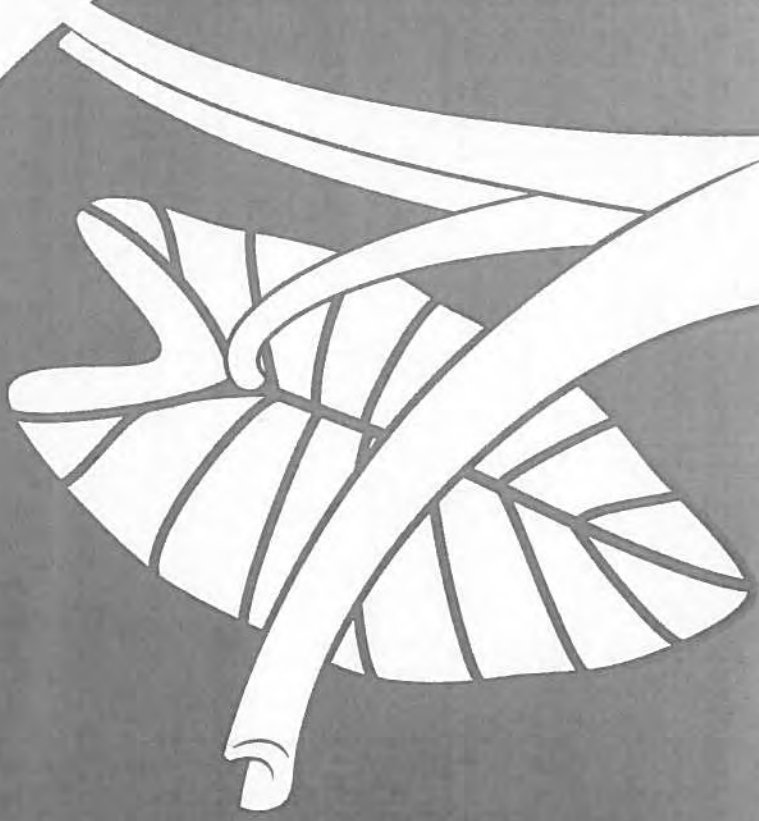
M. Healani Sonoda-Pale
Chair, KPAC

Ka Huli A'o

Center for Excellence in Native Hawaiian Law

A'o Aku A'o Mai Initiative: Ensuring Access to Justice

Ass. Prof. Kapua Sproat &
Post JD Fellow
Mahina Tuteur
OHA Board of Trustees
March 8, 2018



Ka Huli Ao Native Hawaiian Law Center



KA HULI AO

Center For Excellence in Native Hawaiian Law

William S. Richardson School of Law

University of Hawai'i at Mānoa

- Ka Huli Ao means turning towards the light
- Our name embodies our educational philosophy of taking the very best of our native traditions in pursuit of scholarship, enlightenment, and justice

Ka Huli Ao's Mission



KA HULI AO

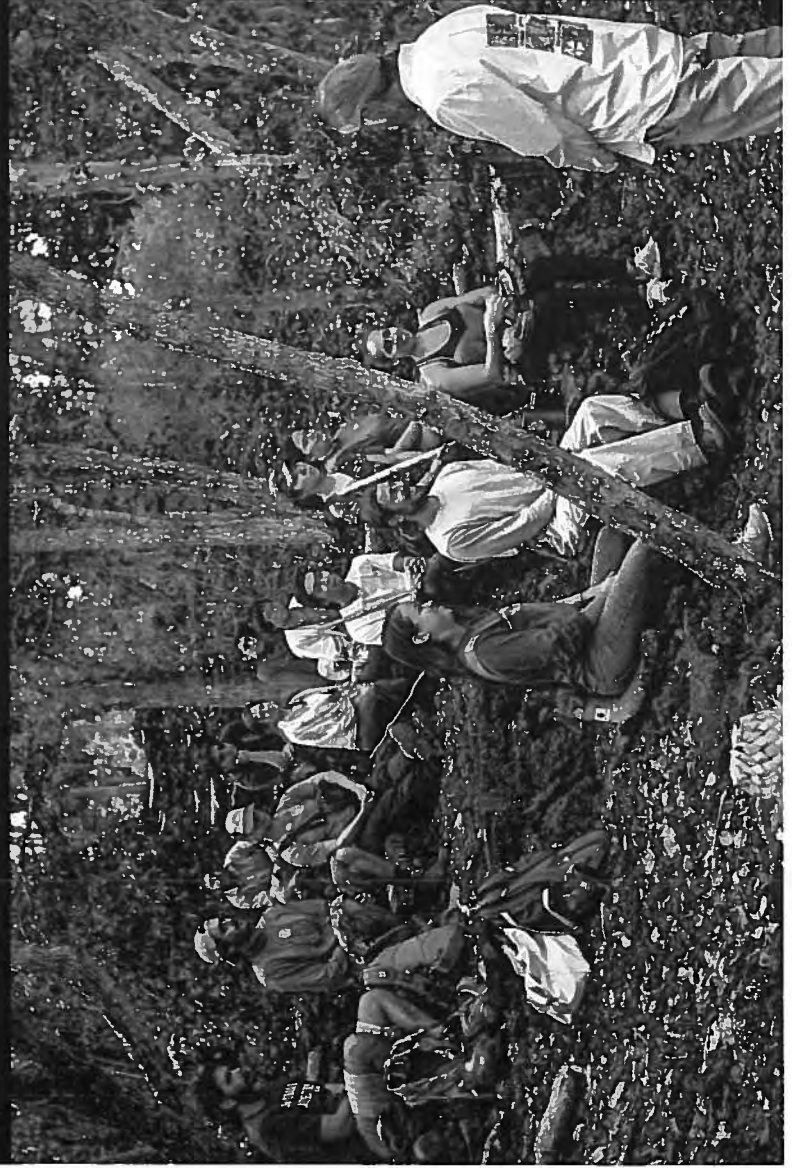
Center For Excellence in Native Hawaiian Law

William S. Richardson School of Law

University of Hawai'i at Mānoa

To promote education,
scholarship, community
outreach, and collaboration
on issues of law, culture, and
justice for Kānaka Maoli and
other Pacific and Indigenous
peoples

Law Clinics



KA HULI AO
Center For Excellence in Native Hawaiian Law
William S. Richardson School of Law

A'ō Aku A'ō Mai Initiative

- Partnership between OHA & Ka Huli Ao to address access to justice issues by educating the broader community about key legal issues affecting Native Hawaiians



A'ō Aku A'ō Mai Initiative, cont.

Initial Components:

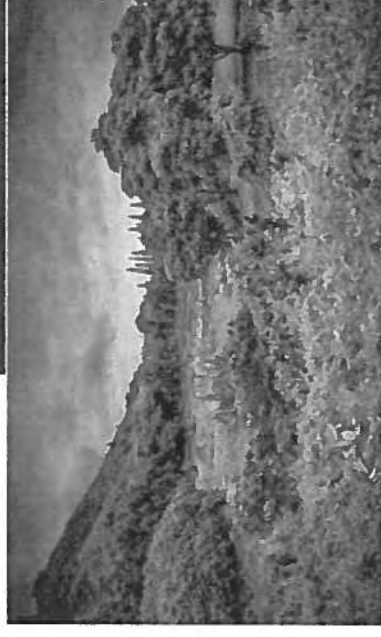
- (1) Direct Legal Services for Pro Se Defendants in *Bartell*
- (2) Hawai'i Land Law Primer

Benefits:

- In first 2 years, assisted 156 pro se ds, published a legal primer, facilitated 13 workshops on Quiet Title & Adverse Possession, & trained 40 law students in those areas of law

E 'Onipa'a i Ke Kulāiwi

A Legal Primer for Quiet Title & Partition Law in Hawai'i



Stephanie M. Chen
with
Kaimui M. Smith,
Mari L. Tsukayama
& Lisa H. Higa

For Help As Center for Excellence in Native Hawaiian Law
William S. Richardson School of Law
University of Hawai'i at Mānoa

Printed with funding from the Office of Hawaiian Affairs

A'ō Aku A'ō Mai Initiative: Nā Wai 'Ehā



A'O AKU A'O MAI INITIATIVE:

Public Workshops for *Pro Se* Applicants in the
Contested Case Hearing Over Water Use Permit
Applications for Nā Wai 'Ehā's
Surface Water Management Area

Hosted by the William S. Richardson School of Law's
Ka Huli Ao Center for Excellence in Native Hawaiian Law
& the Environmental Law Clinic

As part of the A'o Aku A'o Mai Initiative, Ka Huli Ao and the Environmental Law Clinic are hosting free community workshops for individuals proceeding without the assistance of an attorney in the State Water Commission's contested case hearing over Water Use Permit Applications ("WUPAs") in Nā Wai 'Ehā's Surface Water Management Area (CCH-MA15-01). The workshops will provide background information, explain relevant legal issues, and offer insight for those participating in this case. Clinicians will also be available after the meetings to answer questions. Please join us at the following workshops on Maui:

September 11, 2015 from 5:30 p.m.-7:30 p.m.

University of Hawai'i, Maui Campus
Pilina Building, Multipurpose Room
310 West Ka'ahumanu Ave., Kahului, Hawai'i 96732



KA HULI AO
Center for Excellence in Native Hawaiian Law

September 25, 2015 from 5:30 p.m.-7:30 p.m.

University of Hawai'i, Maui Campus
Pilina Building, Multipurpose Room
310 West Ka'ahumanu Ave., Kahului, Hawai'i 96732

Please bring any supporting documents, e.g. copies of your WUPAs, Māhele documents, and correspondence from the Water Commission. In addition, please bring photos (hard copy or digital) of your property that show how you currently use water, as well as information regarding crops you are growing or would like to grow on your land and about how much land area those crops occupy or will take up.

This event is free and open to the public.

Email UHLawEnviroClinic@gmail.com, or call the Environmental Law Clinic at:
(808) 956-8411 for details.

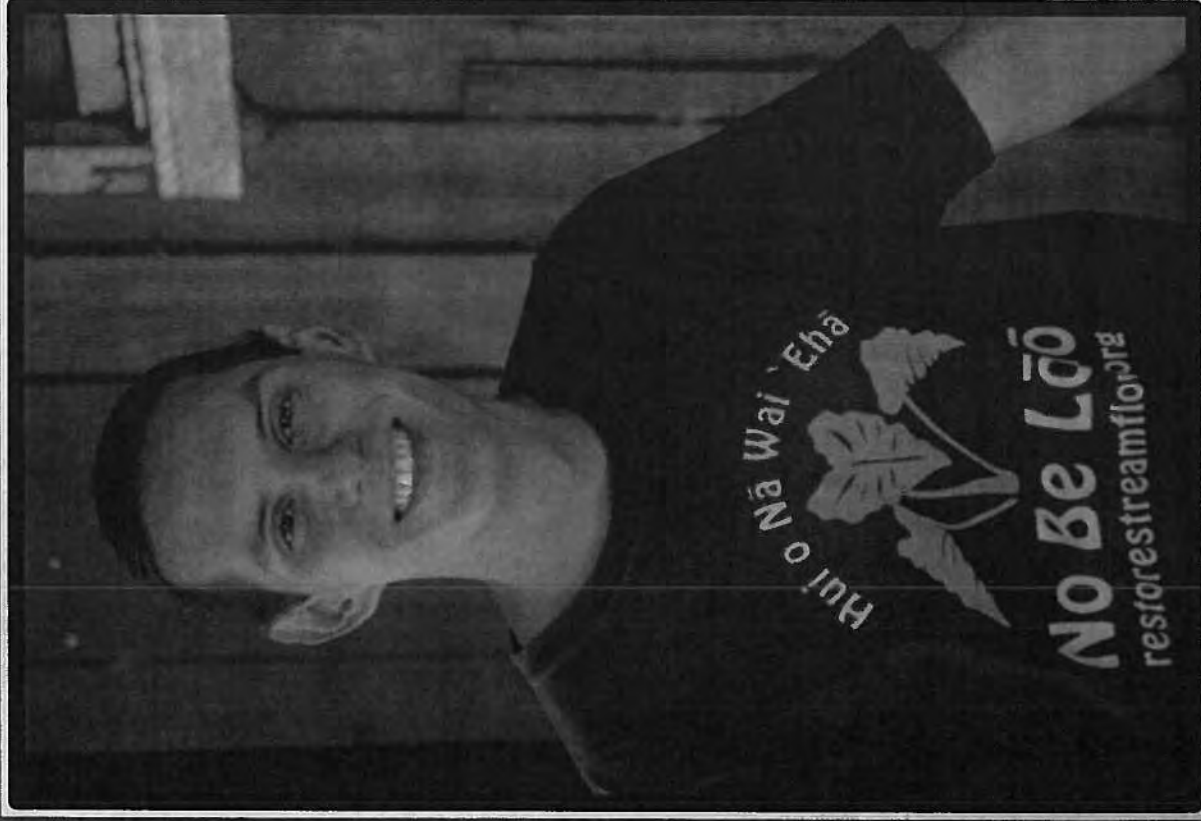
Nā Wai 'Ehā: student feedback



Nā Wai 'Ehā: student feedback, continued

“Without this clinic I have no doubt that the majority of these applicants would be unable to participate in the legal process, and, as a result, they would likely lose their access to water and their traditional practices. This clinic is truly making a difference in the lives of people who may not otherwise have any access to justice, and I am so grateful to be a part of it.”

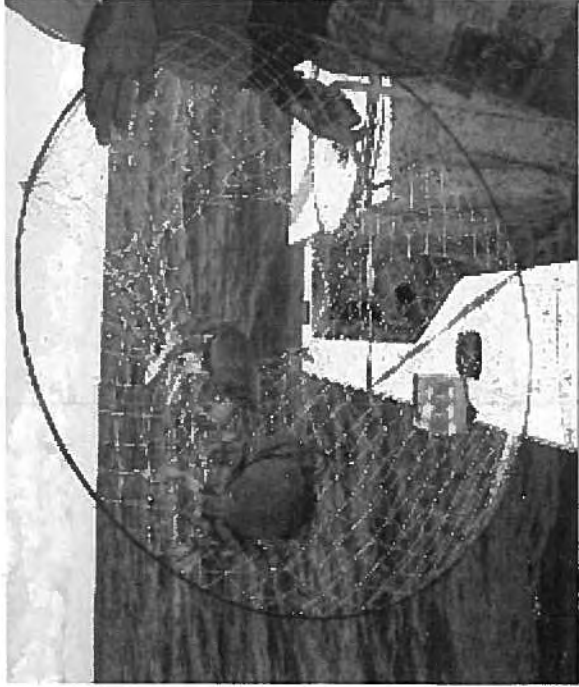
Nā Wai 'Ehā: community feedback



“There was no possible way that community members and kalo farmers with appurtenant rights to water would have been able to compile and translate all of their Māhele documents and assemble extensive supplemental testimony without the assistance of the Law Clinic.”

A'ō Aku A'ō Mai: Ka'ūpūlehu





Within the Rest Area, Shoreline to 120 ft., Rules Prohibit:

Taking or attempting to take any marine life (living or dead) including fish, invertebrates, coral, rocks, sand, and shells; deploying of any fishing gear (including hook-and-line and kona crab nets).

From a Depth of 120 ft. to 600 ft., Rules Allow:

The use of kona crab nets and hook-and-line to catch:

- | | |
|--------------|--------------|
| • kona crab | • nabeta |
| • ahi | • ono |
| • aku | • 'onaga |
| • a'u | • 'opakapaka |
| • ehū | • roi |
| • gindai | • tā'ape |
| • hāpu'upu'u | • tomo |
| • kalekale | • tō'au |
| • lehi | • uku |

Mālama 'Āina

So that traditional fishing and gathering can continue indefinitely, the kama'āina of Ka'ūpūlehu are expressing their kuleana to practice mālama 'āina by asking for a rest period to replenish the reefs, for the benefit of present and future generations. Mālama 'āina is necessary for other rights, such as gathering, to continue.

Mālama 'āina includes the right to defend, care for, maintain, honor, serve, and protect the 'āina. 'Āina is more than just the land, it is "that which feeds," including the ocean. It is the natural world in relation those who use it. To care for the 'āina is not only to defend and protect the physical resources, but to respect and nurture the relationship of people to the land and each other.

Mālama 'āina is essential because all traditional and customary practices are inextricably linked to and dependent on 'āina. It is practiced as protocol along with any other right. These protocols, which inform Kānaka 'Ōiwi on how to exist within a space are necessary for the survival of plants and animals, indigenous culture, and kānaka themselves.

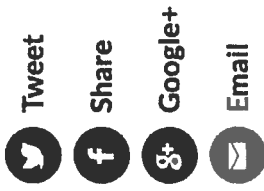
Don't confront violators - contact DOCARE at (808)-643-3567 to report violations. Provide a detailed description of the suspect, vehicle, gear, and incident. Please include pictures if possible.

Ka'ūpūlehu Marine Reserve

HAR § 13-60.4- 5
West Hawai'i Regional Fishery
Management Area

Preserving Ka'ūpūlehu: A Community Effort

By MOLLY SOLOMON • DEC 28, 2016



The lava fields of Ka'ūpūlehu on the coast of North Kona.

CREDIT MOLLY SOLOMON

Like so many coastal areas in Hawai'i, the once plentiful waters off North Kona have seen a decline in marine life over several decades. As the state wrestles with how to manage these natural resources, some communities are stepping forward with a plan of their own.

Ka'ūpūlehu: student feedback



Ka'ūpūlehu: student feedback, continued

“I’m so grateful to OHA . . . sometimes it is hard to feel like you can actually make a difference in the community, but this clinic helped me to understand just how much the law can save our ‘āina and people. I can’t mahalo OHA enough for letting me be a part of this clinic. Nui ko‘u mahalo iā ‘oukou!”

Benefits from 2015 to 2017

- Directly assisted or trained more than 400 individuals on Maui and Hawai'i Islands in Native Hawaiian Law
- Built capacity within the legal profession by training 40 more law students in Native Hawaiian Law



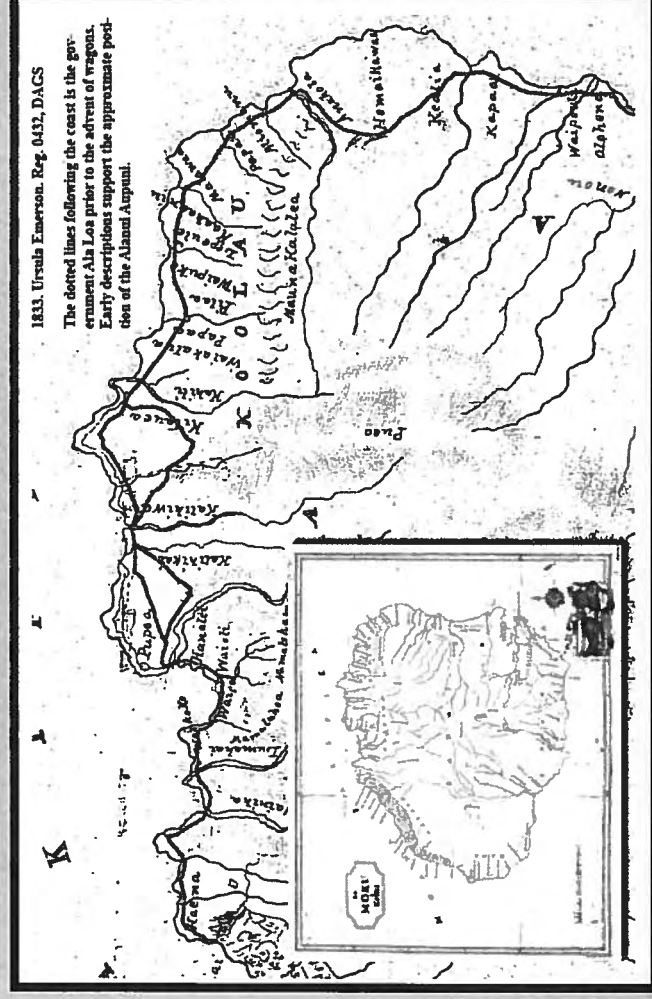
A'o Aku A'o Mai: Kaua'i



Mahina Tintaur
Begins Prostration

Kaua'i: Maintaining connection

- **Project Goal:** Analyze the community's legal options, the pros and cons of those options, and the likelihood of success in ensuring appropriate access for beneficiaries.
- **Bigger Picture:** What opportunities exist to maintain the cultural connection to 'āina through the Alaloa?



Stakeholders



Private landowners

- Waioli Corp
- Hanwrights
- Zuckerberg

State

- DLNR: Nā Ala Hele, Office of Conservation & Coastal Lands, ‘Aha Moku Councils
- Land Use Commission

Kaua‘i County

- County Council
- Planning Department

Community

- Cultural practitioners
- Environmental groups
- General public

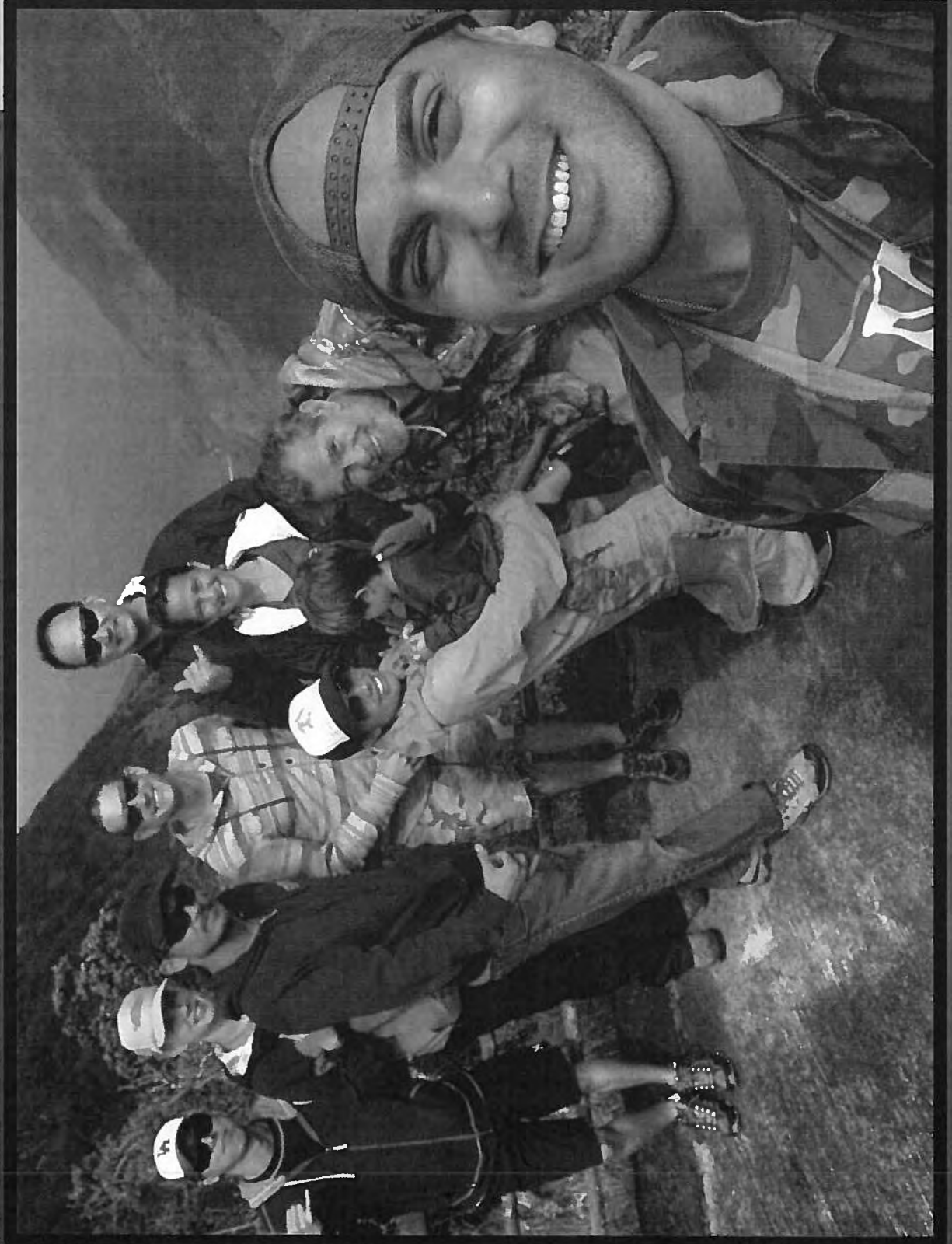
Kaua'i: student feedback



Kaua'i: community feedback



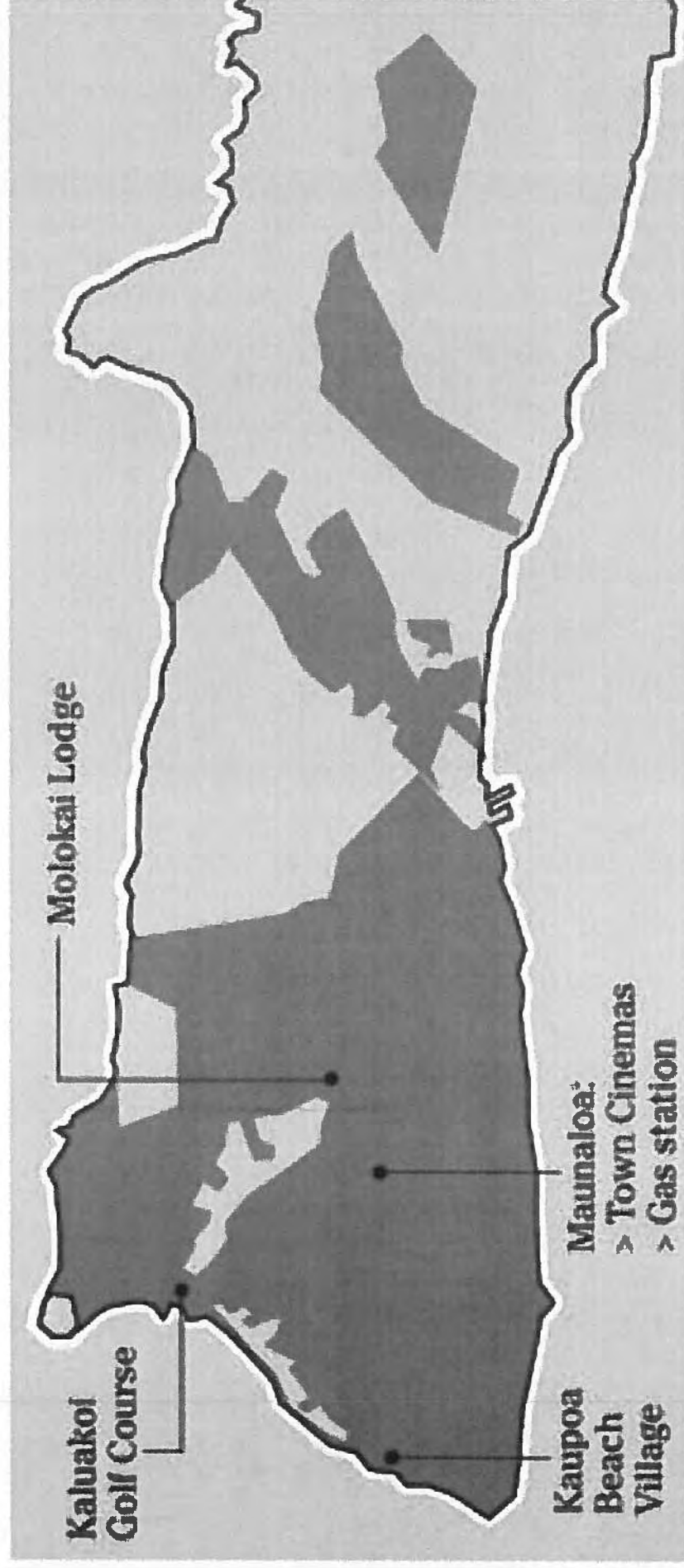
A'ō Aku A'ō Mai: Moloka'i



Supporting the community

SHUTTING DOWN MOLOKAI RANCH

Molokai Ranch is closing down operations on its land (in red), including cattle rearing and the sites below.



Community feedback

“The A’o Aku A’o Mai Initiative is extremely important to our family as it has educated us through a difficult and painstaking situation. It is imperative that classes such as this continue as many of us have no opportunity to gather this information had this not been initiated.

Thank you!”

Mahalo piha!



KA HULI AO

Center For Excellence in Native Hawaiian Law
William S. Richardson School of Law
University of Hawai'i at Mānoa

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OFFICE OF HAWAIIAN AFFAIRS BOARD

March 8, 2018

Regarding: OHA BOT Support for Senate Bill 3090 SD1

Aloha Chair Machado, Vice-Chair Ahuna and Trustees,

Mauna Kea

The Ka Lāhui Hawaii Political Action Committee (KPAC) respectfully request that OHA Board of Trustee's reconsider its recent support of Senate Bill 3090 SD1 which would solidify the State's authority and power to exploit over our sacred and historic mountain through the creation of the Mauna Kea Management Authority (MKMA) and the establishment of entrance fees. As of today there were over 870 testimonies in opposition to this measure and only 8 testimonies in support (one of them was OHA's testimony). Of the 870 testimonies in opposition 72% of them were registered voters in Hawai'i and 58% of them were Kanaka Maoli. What is not clear is **why** OHA would support a measure that clearly goes against the will of the people is NOT supported by the Hawai'i Island kīa'i and petitioners. I have attached the Mauna Kea Hui letter that explains their reasons why they cannot support this measure and the trust that was broken between them and Senator Kahele the drafter and main promoter of this measure.

Ceded Lands Inventory

KPAC respectfully requests a copy of one of the three ceded lands inventories that they funded. Over the past few years the State has been (and attempting too) transferring lands out from the Public Lands definition (including Senate Bill 3090) via multiple pieces of which is of concern to KPAC. We appreciate OHA's testimony in opposition to many of these bills. With the socio-economic situation being the way it is today KPAC would like a copy of the inventory as part of our educational campaign in the community of the locations and values of these properties that rightfully belong to the Kanaka Maoli people.

Onipa'a March

Last but not least, KPAC would like to share our concern with line jumping that took place on January 17, 2018 at the Onipa'a: Ma Hope Mākou O Lili'ulani. Thousands of our people come out on a work day to commemorate the memory of our Queen and to march peacefully in protest to the illegal overthrow of the Hawaiian Nation. However, as an organization that was supporting Hui Kū Like Kākou's march and helping out with the organizing and funding of this momentous event, KPAC was disappointed to see only two OHA Trustees (Trustee Hulu Lindsey and Trustee Waihee) walk with our people during the march and then to see the shenanigans that went on in the front of the March where select supposed "leaders" including OHA Trustees were shuttled to the front of our people for a photo opportunity while Aloha 'Āina were told to stay to the side. There were many excuses made for this un-pono behavior but I ask you Trustees the next time you are asked jump in front of the Lāhui like that to please use your judgement on what is morally right and how to best support our people. Walk with us not in front of us.

Respectfully submitted,

M. Healani Sonoda-Pale
Chair, KPAC



MAUNA KEA HUI POSITION STATEMENT on SB 3090

Malaki 7, 2018

We the undersigned wish to correct the record, regarding any claims, including recent claims made by Senator Kahele, that the Mauna Kea Hui and or the Mauna Kea Petitioners support Senate Bill 3090 SD2 (SB 3090 SD2). This is false.

To be clear, Senator Kahele, is not authorized to speak for Mauna Kea Anāhā Hou, the Mauna Kea Hui Petitioners or the 'Aelike Aha and process as there was no agreement in the 'Aha to move forward on a Bill such as SB 3090 in any form.

The lack of support for SB 3090 shown by the Kia'i Mauna and greater community, was made manifestly clear, when more than 700 testimonies in OPPOSITION to this bill were submitted to the Legislature versus 4 testimonies in support for its first committee hearing. Hundreds more testimonies in opposition were submitted after the first committee hearing. It is inconceivable that the measure was even allowed to moved out of committees.

Recently, the Senator also spoke on camera (see link below) claiming that those 800 or so testimonies, in his opinion, were not "constructive," as if somehow, one lawmakers opinion should override the political will of the people. A vote up or down is a yes or no question. And the people overwhelmingly said no.

Further such comments made about voters and their votes is beneath us all, yet what is even harder to imagine is how any community meetings being called now should or could be viewed as genuine.

Senator Kahele and other lawmakers have already categorically dismissed a total of over 900 votes made by the very community that they now claim to want to hear from.

Despite, the Senator's missteps and or misunderstandings, we continue to reject SB 3090. Many do not understand how our story begins. A few months ago, we were approached by Senator Kahele to begin, what we understood was to build upon the Mauna Kea Temple Report commissioned by the Royal Order and written by Mauna Kea Anāhā Hou 17 years ago, as a platform for discussions around the mismanagement of Mauna Kea.

The meetings were set under strict rules and protocols of engagement. The two major rules were (1) that no discussion on the TMT was allowed because of the fact that our case was in the Supreme Court, and (2) that the 'Aelike process was to be used to build consensus on the topics of our discussions.

For those not familiar with the 'Aelike process, it is a Hawaiian process for building consensus and it is especially useful in cases where there is contention around the issues. While we used a hybrid version of the process the main principles were adhered too. These principles help build trust and protection against abuse such as what we see here today.

Needless to say, we were shocked to learn, that even after three 'Aelike 'Aha with all attendees in 100 percent agreement NOT TO SUBMIT A BILL TO CREATE AN MANAGEMENT AUTHORITY at this time, that Senator Kahele via Senator Dela Cruz, had in fact, broken the 'Aelike and our trust by doing the exact opposite by submitting SB 3090 anyways.

SB 3090 represents the violation of trust of those of us who agreed to sit in the Aha to have such discussion in the first place. We have no explanation for the Senators actions and can offer only that perhaps he did not understand the spiritual or cultural commitment involved in 'Aelike and or involved in caring for the Mauna. We are not the judge or jury and while we speak sternly, we speak the truth that is meant to heal and that is Aloha!

In conclusion, SB 3090 resemble neither the intent nor the purpose of the Mauna Kea Anaina Hou's Temple Report. Mauna Kea Anaina Hou's goals continue to be bring those from the past 'Aelike and other Kia'i to look at it and to begin amending it to reflect the laws of today.

But we never intended to change our long-held positions that are expressly outlined in the Report. The first of which is NO FURTHER DEVELOPMENT. One of three non-negotiable conditions and righteous positions of the Report given the history and the physical limits of the Mauna.

SB 3090, does not protect the Mauna from further desecration or destruction. This measure, therefore is fatally flawed and should not be supported.

We do however, support the following actions:

(1) SB 3090 has no support and it should have been "killed" from the beginning and we support it being "killed" now.

(2) A financial and forensic Audit measure (SB 757 and SCR29) is something we do support for the purpose of establishing "fair market" lease rents for the Observatories to pay as a way to offset the costs to state Taxpayers. Rent can't be properly assessed if all such funds are not being recorded on the public ledger, and finally,

(3) Lawmakers and OHA Board of Trustees should wait for the Supreme Court to rule on the TMT Conservation District Use Application (CDUA) and the TMT Sub-Lease Case, that after so many years, are now before the Court. It is never a good idea to use the legislature to alter or to undermine good law (law found to be constitutionally sound), so we support moving forward in compliance with the laws that protect Mauna Kea for real not just to create the illusion of protection.

In Aloha We Remain,

Kealoha Pisciotta
Paul K. Neves
Kalikolehua Kanaele
Deborah Ward
Clarence Ku Ching
Tiffany Kakalia
Cindy Frietas
William Frietas
Keomailani Von Gogh
Jay Deherrera

Office of Hawaiian Affairs
Board of Trustee Meeting
March 22, 2018
10:00 am

IV. New Business

- A. Committee on Beneficiary Advocacy and Empowerment
 - 1. 2018 OHA Legislative Positioning – Matrix 1. March 21, 2018

Note: The committee report for this item will be forwarded to the Board of Trustees following its approval at the BAE Committee Meeting scheduled for March 21, 2018.

Office of Hawaiian Affairs
Board of Trustee Meeting
March 22, 2018
10:00 am

V . Executive Session

- A. Consultation with Board Counsel Robert G. Klein re: questions and issues pertaining to CEO Contract Number 3147 dated November 1, 2016. *Pursuant to HRS § 92-5(a)(2), (4).*
- B. Consultation with Robert G. Klein, Esq. re: questions and issues pertaining to the Board's powers, duties, privileges, immunities, and liabilities regarding Civil No. 17-1-1823-11 JPC, OHA v. State, et. al. *Pursuant to HRS § 92-5(a)(4).*
- C. Approval of Minutes
 - 1. February 7, 2018
 - 2. February 27, 2018

Note: Any material that is relevant to this section will be distributed at the table.