

Aina Ho'opulapula: The Hawaiian Homes Act Going Forward

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Last year, we celebrated the 100th anniversary of the Hawaiian Homes Act, a somber celebration in light of challenges and obstacles undermining the Act over the century.

Against all odds, of compromises in Congress and an omnipresent lobbyist for the sugar plantation owners to assure none of the sugar lands, considered the best state lands in Hawaii, would be touched. Prince Jonah Kuhio Kalaniana'ole pushed forward realizing he was running out of time with ill health.

Even prior to its enactment, the Territorial governor undermined Kuhio's efforts by awarding lands to mostly non-Hawaiians under a program mimicking the American Homesteading Act, the prototype for the Hawaiian Homes Act, much to Kuhio's chagrin.

Educated in England at an agricultural college, Kuhio saw agriculture as a springboard to return Hawaiian families to their agrarian roots and bring the race back from near extinction. From a population estimated at close to 1 million Hawaiians at the arrival of Captain James Cook in 1778, only 29,000 remained by 1900.

This genocide was mostly the result of introduced diseases including influenza, measles, smallpox, and others, and the lack of adequate housing, especially for those attracted to the city and ending up in tenements with crowded conditions contributed to poor health and a shortened lifespan. New foreign land laws favoring newcomers and those with the wherewithal to navigate the new land laws dispossessed many families of lands they lived on for generations.

Ho'oulu Lahui (increase the race) and Aina Ho'opulapula (grow the land and the family)

were some of the values Kuhio embraced in the Act, and these values continue to be important today.

What was left for the administration of the Hawaiian Homes Act was 200,000 acres of marginal lands, including the Waimanalo cliffs on Oahu, hilly areas of Papakolea on the edge of Honolulu, rugged uplands of Kahikinui on Maui, and the desolate, windblown Ho'olehua plains in central Molokai, as well as dry high elevation lands on the slopes of Mauna Kea, including Pohakuloa and Humuula devoid of water and unfit for human occupation when the Act was approved.



Clearing land in Kalamaula for homesteading. Circa early 1920's

The island of Molokai was chosen for the experiment, to see if native Hawaiian families could subsist and thrive in what some might consider inhospitable conditions to legitimize the Act. First in Kalamaula, a very hot and arid area along Molokai's south shore named the Kalaniana'ole Colony, homesteaders cleared the area of kiawe and other invasive trees and shrubs as they planted an array of crops. Considered an early success until the Ooloolu Well, not far from the shore near Kaunakakai, turned salty due to over pumping

as DHHL was driven to look for other land options nearby.

To expand the homesteads and allow Kalamaula homesteaders to continue farming, additional lots were awarded to existing homesteaders, called detached lots, to grow their crops in Ho'olehua. In addition, a new group of homesteaders were awarded lots in Ho'olehua. Some of them were families from Maui who flocked to the city of Lahaina, at that time considered one of the capitals of the Hawaiian Islands, after their water to grow taro in Na Wai Eha was cut off by sugar companies in the area.



Homesteaders brought seeds of crops with them when they arrived on Molokai. One of them was Akakai, a small shallot eaten for its bulbs as well as its leaves. Eaten with Hawaiian salt, raw fish, and poi, it's still enjoyed by homestead families today.

The central plains of Molokai were arid, wind-blown and desolate with no water. Winds of 30 miles per hour were commonplace and destructive to many crops. Homesteaders experimented with many crops such as grains, tubers, and vines, including sorghum, irish potato, watermelon, squash, and assorted vegetables. A water source was developed near the north cliffs above Kalaupapa to transport the water to Ho'olehua. However, water from Waihanau Valley (lit: birth of the water) was only available on certain days of the week and homesteaders had to carry water in buckets to their homestead and crops from shared spigots.

If these early pioneers didn't succeed, the Hawaiian Homes Commission Act would be rescinded. Through perseverance, and against all odds, they succeeded, and personal homestead journals of this era speak of fasting and praying for rain to assure success in their plantings. In the late 1920's, state and federal officials visited Ho'olehua and saw the success of crops growing. As a result, the Act was deemed a success and the program was made permanent. It was through the determination of these early pioneers that the Hawaiian Homes Commission Act exists today.



The Makaiwi and Wallace Families display their harvest with Governor Farrington's wife, Catherine – Ho'olehua 1929. These are some of the Ho'olehua homestead families who helped save the Hawaiian Homes Act.

The purpose and intent of the Hawaiian Homes Commission Act include three important provisions:

- “Enable native Hawaiians to return to their lands in order to fully support self-sufficiency for native Hawaiians”
- “Self-determination of native Hawaiians “
- “Preservation of the values, traditions, and culture of native Hawaiians.”

The State of Hawaii Admissions Act holds the Hawaiian Homes Commission Act in high regard as a condition of statehood and a 'higher law'. What this means is DHHL has

first rights to water and the Act needs to be upheld and administered by the State of Hawaii. Subject to interpretation, this condition has not always been adhered to and in many cases Hawaiian Home Lands was looked upon as a step-child of the state and a source of land for other state endeavors, including airports, schools, and fire stations, among others.

Although Hawaiian Homes water rights are codified in the State Water Code, these rights haven't always been recognized by the Commission on Water Resource Management (CWRM) based on results of two contested water cases on the island of Molokai, Kukui and Waiola which were overturned in favor of homesteaders through strenuous efforts of Molokai Hawaiian activists in concert with the DHHL, Office of Hawaiian Affairs, Native Hawaiian Legal Corporation, and others. Both cases went all the way to the State Supreme Court and reaffirmed Hawaiian Homesteaders prior rights to water built upon Hawaiian water rights of the past before the arrival of westerners.

Securing additional lands to administer the Hawaiian Homes Act is challenge even today as the state still owes land to DHHL, land that was taken for other public uses, including the rail. The Federal government, following suit has also done the same, taking large tracts of land for military installations such as Lualualei Valley on Oahu's leeward coast.

Today, the Hawaiian Homes Commission struggles to find land with the right characteristics required for a cost-effective construction of lots for native Hawaiian families, including access to water and utilities, and lots level enough to build a home. At times, they settled for very slopey lands such as Papakolea and Kalawahine on Oahu or Waiohuli on Maui.

The Department of Hawaiian Home Lands faces many challenges driven by a long waiting

list of native Hawaiian families hoping for an opportunity to own a home for this generation as well as the next and beyond. Over 28,000 families are on the waiting list, and with the median age of 64 years for those on the waiting list, many have given up hope of receiving a homestead in their lifetime. Assuming a family of 5, over 140,000 Hawaiians wait for the day they will be selected to receive a lot or even a home.

This comes as the State and Legislature has neglected the needs of the Department of Hawaiian Home Lands and native Hawaiian families for decades. Many have sued the state after sitting on the waiting list for 40 years or more and have called for action to address the waiting list in an expedient manner. A recent class action lawsuit filed by 2,700 native Hawaiians who languished on the waiting list was settled as the state agreed to pay \$328 million to remedy the wrongs. This case bounced around in court for 23 years!

The lands Kuhio envisioned for the Act which were held by the sugar company is presently in the hands of the state and tens of thousands of acres are sitting idle as the state devises a plan to utilize this land as many vie for finite land resources in one of the hottest housing markets in the nation.



Ho'olehua homestead farmers Pua'a and

The cost of infrastructure for some of Hawaiian Homes new developments is cost

prohibitive, but the commission is forced to move forward on what they have available in their inventory. In the case of Waiohuli, Maui, infrastructure costs have exceeded \$300,000 per lot! In many situations, the true costs are not realized until the project is far along with substantial financial commitment and with no way of turning back. Consultant fees, an unreasonable procurement process, and environmental and cultural assessments add undue cost to a simple home for a native Hawaiian family.

Many families cannot qualify for a house loan to purchase a turnkey home and are bypassed on the waiting list, possibly with no opportunity to ever qualify unless a new model is developed for them to receive a piece of Hawaii to raise their family.

Recently, a new rental model for those families who meet poverty guidelines set by HUD and the counties can rent a new home on Hawaiian Home Lands for 15 years at which time the house and lot will be offered for purchase. However, their rental of 15 years doesn't count toward the purchase of the home and many will have a difficult time saving in an economy with the highest cost of living in the nation, and where consumer prices rise and paychecks rarely do.

The question is will native Hawaiian families be able to save enough money to purchase their rental unit and still conform to poverty guidelines? Many are concerned and have devised ways to qualify now such as one member leaving their job or taking in more family members, among other strategies.

Still, DHHL needs to come up with every possible development option to address the diverse economic situations of native Hawaiian families. Self-help housing has met with some success but is not profitable for most developers, so only non-profits can manage such a program. Tiny homes are being discussed but in terms of cost per

square foot is relatively expensive. Other housing development models are being implemented such as rent to own, while new models are evolving.

One model actively being proposed will have a major impact on the occupation of land in a timely manner. *This new land designation, **subsistence agriculture**, will allow families to occupy a parcel of 1-2 acres to grow food and raise their family with few other conditions imposed on them. If they're interested in building a small home for their family, this is an option but is not a condition for occupation.*

Based on a survey of those on the waiting list, over 80% of respondents preferred this option because they'll be able to occupy the land in the shortest amount of time compared to other options now being proposed and implemented.

Qualifying for a house loan is a major stumbling block for many families. Areas being considered for this new designation include Honomu and Panaewa on Hawaii Island, Pulehunui and Honokowai on Maui, Anahola mauka (Kamalomalo'o) and Pu'u Opae on Kauai, as well as lots surrendered then reconfigured for subsistence use in Ho'olehua on Molokai.



Ho'olehua Beginning farmers preparing a field to plant herbs

Addressing food security, Aina Ho'opulapula, has always been in the back of Kuhio's mind

and needs to be part of any agricultural development plan, and both subsistence and commercial agriculture was envisioned in the Act.

However, land alone is not enough to create cost effective lots; the land needs to be fairly level to construct a home and develop infrastructure, and also for growing crops and raising animals. Infrastructure such as electricity, sewer, and water, if not nearby, would need to be tied into existing infrastructure or created from scratch.

Creating a community where none existed calls for special skills new homesteaders will need to gain to create their community. This includes leadership development, facilitation, priority setting, lobbying, funding, and infrastructure development. They need to envision what they want their homestead to look like and what infrastructure is important to grow their family, their homestead, and their community.



Molokai Native Hawaiian Beginning Farmers Program field class on pollinators and incremental plantings 2012

Usually, the County or the State creates and implements the planning process, but now it will fall on new homesteaders. These skills can come from new homesteaders with experience in these areas or through programs homesteaders will advocate with DHHL support.

To support agriculture subsistence land designation, training programs and

educational initiatives for new homesteaders will need to be developed so they can utilize their homestead in a way that enhances the land's productivity, including carpentry, alternative energy, water and waste management, gardening, food storage, and the creation of value-added products.



With access to water, homesteaders can grow an array of crops. Ho'olehua, Molokai 2016

A major impediment to housing development is the availability of water to supply these new subdivisions. Again, DHHL would need to either tie-in to existing infrastructure or create their own. In the case of DHHL communities of Kaniohale and La'iohua in Kona, infrastructure such as roads and electrical connections are already in place, but water is limited due to conditions imposed by the County on how much water DHHL can draw down from the County system.

One option is to create a well inland of the development since wells are over-developed in the immediate area. However, DHHL has no land inland or nearby to locate a well. They will need to find a way to create partnerships with the County and private entities to address a vital part of the development

puzzle. These issues are a microcosm of a bigger issue in Hawaii tied to housing for all. By putting out only a few parcels each year, landowners and developers can keep housing costs very high well beyond what most residents can afford.

The need to have developable land is at the crux of DHHL's challenge. As an example, over 20% of the Department's land on Oahu is in the Waimanalo area and are composed of over 100 acres of cliffs. Unless the state intends Hawaiian families to live in caves, they would need to swap this land for areas on Oahu where homestead subdivisions can be developed. Oahu is where the greatest demand for Hawaiian Homes housing lies.

Water is a major obstacle for both present and new homesteads. Water is under the control of the State Department of Land and Natural Resources, Commission on Water Resource Management (CWRM). According to the State Water Code, water must be reserved for Hawaiian Home Lands before other uses are approved.



Molokai Irrigation System, life blood of the farming effort in Ho'olehua, Molokai. Managed by the State Department of Agriculture, this 124-acre reservoir holds 1.4 billion gallons at full capacity. Water originates from Waikolu Valley on the north shore of Molokai.

However, possession is 9/10's of the law, and DHHL doesn't have access to water where many of their land holdings are located. One example is Keokea in Upcountry Maui where

homesteaders still struggle to gain access to water at the end of the main County water line after receiving their awards decades ago.

On Molokai, homesteaders in Hoolehua have waited for 27 years to receive a water allotment to occupy lands they were awarded in 1985. The Commission approved the reservation of 2.095 million gallons per day (gpd) for homestead use in the late 1990's but they refused to increase DHHL's daily use from 400,000 gpd when requested soon after their reservation was approved.

At that time, Hawaiian Homesteaders were already using 400,000 gallons at the time they requested it. Competing interests by developers on West Molokai and the County of Maui for water out of the same aquifer has complicated DHHL's first rights. As a result, DHHL was forced to deny water to homesteaders until recently since they didn't have approval from CWRM beyond the allocated 400,000 gpd.

This is a worse possible situation where homesteaders were awarded land in 1985 or earlier but were unable to occupy their lots due to lack of water. It's difficult enough receiving a homestead lot only to wait for water to be available. Some of this was also due to the lack a water delivery system in the area.

There are basic needs that must be addressed to develop housing whether its Hawaiian Homes or any developer, and some of this include water and other utilities. land, zoning, funding, and politics. DHHL has attempted to have a large say in water decisions at the County and State level by introducing bills that would allow a DHHL representative to sit on County water boards and on the Commission of Water Resource Management and have been denied at least twice by the State Legislature.

The Department of Hawaiian Home Lands has to approach the State Legislature every two years to approve their biennial budget. However, the Legislature's lack of understanding of the workings of DHHL stymies the process of getting native Hawaiian families on the land and this is expected to continue with changes in legislators.

The process of developing housing in Hawaii is complicated with many layers, including community support, developing plans, securing funding, hiring consultants, planning infrastructure including water, sewer, roads, house lots, and other utilities. Permitting and procurement are cumbersome, and each County is different in how they approach Hawaiian Homes development. Some are complementary while others put up roadblocks or don't follow-through on agreed upon tasks.

Every piece of the puzzle needs to be in place including DHHL personnel to follow-up on each step in the development process. The lack of adequate qualified staffing has been an ongoing problem as many of the positions are temporary, so when other job opportunities arise, many will jump at the chance for a permanent job.



Taro and Apple Banana on Hawaiian Home Lands in Ho'olehua, Molokai

Money alone will not solve the problem of getting native Hawaiian families on the land

and into houses as the State Legislature recently approves \$600,000 million for the Department of Hawaiian Home Lands, and is awaiting the Governor's approval.

The law of the minimum is often applied to agricultural development, and this also applies to housing development. As an example, you can have all the crop production on the neighbor islands, but if you only have a canoe to transport it to the market in Honolulu, you can only deliver one canoe load. In Hawaiian Home Lands housing developments, remove money as an obstacle and another obstacle will pop up, including permitting, procurement, EIS/EA, personnel shortages, community opposition, and other obstacles not foreseen at the start of the planning process.

There's a difference of opinion as to who is responsible for the administration of Hawaiian Homes Act. From my perspective, the ultimate responsibility lies with the State of Hawaii, including each state agency who could have a role in creating housing for native Hawaiian families. However, not everyone sees it this way. In addition, Counties also bear part of the responsibility in supporting the implementation of the Hawaiian Homes Act as counties are part of the State of Hawaii and needs to uphold provisions of the Hawaiian Homes Act..

This is from a Maui Board of Water Supply document:

"The State's legal duties under the Hawaiian Homes Commission Act (HHCA) are a condition of statehood. In other words, the State's admission to the Union was granted, in part, on the condition that our state and local governments assist in the implementation of the HHCA. However, for many reasons, that has not happened, and the lack of full success at awarding homesteads is a long-standing policy challenge in Hawai'i.

One result of this challenge is that at the 1978 Constitutional Convention and later ratified, the people Hawai‘i made changes to our State Constitution, removing the Legislature’s discretion to fund the Department of Hawaiian Home Lands (DHHL). Additionally, Article XII, Section 2 of Hawai‘i’s Constitution reaffirmed that Hawaiian Homes projects throughout the State “shall be faithfully carried out.”

Unfortunately, even with this express language one hundred years after the HHCA’s passage, its full intent and purpose have yet to be fully realized. One of the significant remaining challenges for the DHHL, given the largely dry and remote location of their lands, is the provision of water.”

In implementing DHHL’s subsistence agriculture program, what will be required to assist new homesteaders adjust and thrive on this land? This is a question new homesteaders will need to answer as they navigate through the development of their lots and in some instances the creation of a new homestead community. They will need to come together as a community to organize among themselves, identify their greatest needs, prioritize their needs, and advocate for these improvements through DHHL or the State Legislature.



**Aina
Ho’opulapula**

Breadfruit in Ho’olehua, Molokai

This opens the door for a new pioneer movement of Hawaiian homesteaders occupying the land to grow their food at a

time when food is in short supply globally. This effort needs to be nurtured with strong partnerships from DHHL, State and Federal agencies, Counties, and private and public institutions.



FOOTNOTE: An area of extension education called Community Resource and Economic Development (CRED) creates and expands economic opportunities in rural agricultural communities. Leadership development, long range planning, and infrastructure development are important components of this program. Creating community infrastructure that many in the community can benefit from but few individuals could create on their own is the hallmark of this effort, including cooperatives and farmer-driven facilities. This is an example of the kind of work we have spent countless hours supporting in the hope that vibrant new communities can be developed. A coordinated effort will be required to develop new Hawaiian Home communities for native Hawaiian families. This effort is long overdue and speaks to the need to uphold and affirm provisions of the Hawaiian Homes Commission Act as a condition of statehood.



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