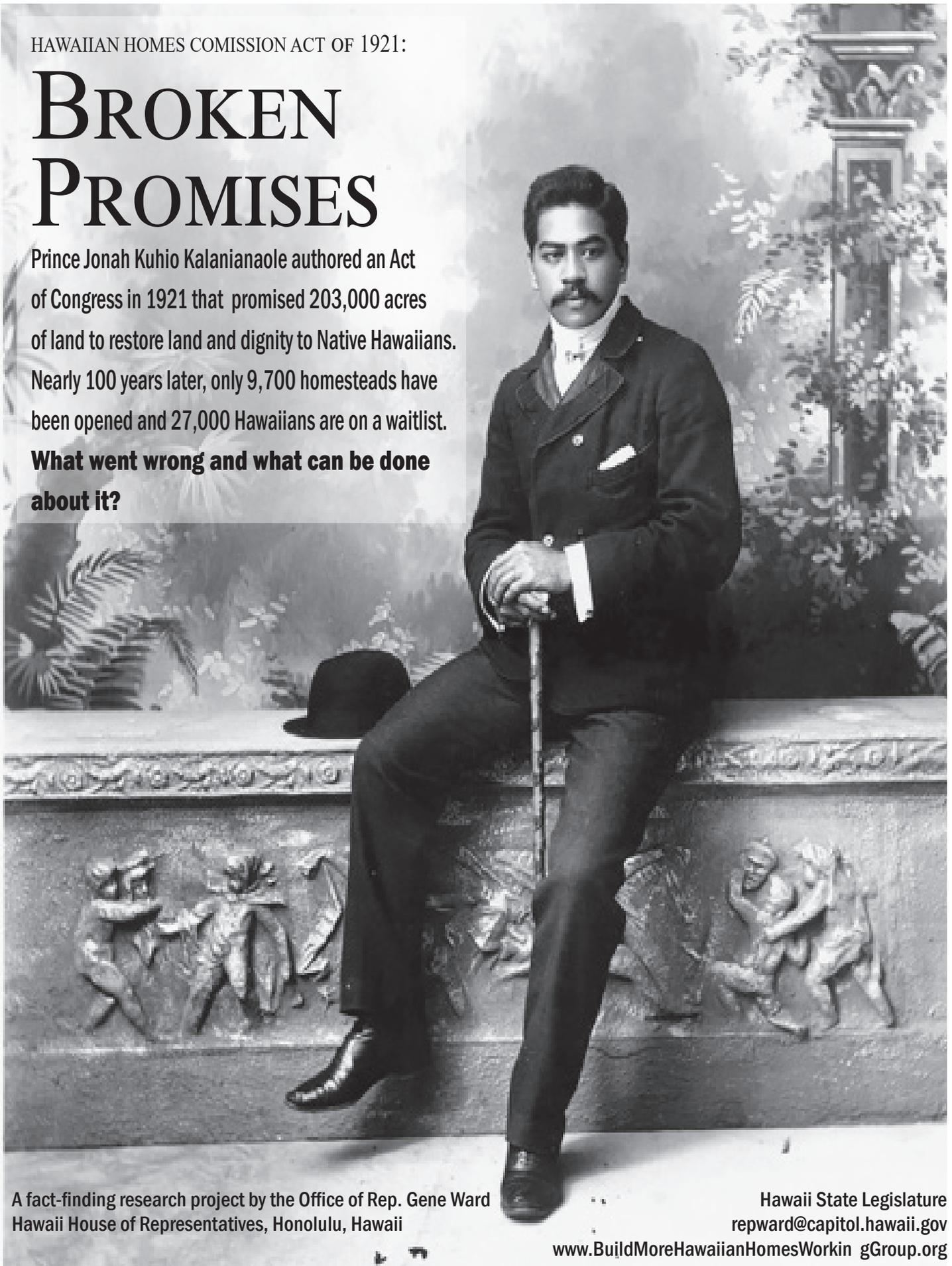


HAWAIIAN HOMES COMMISSION ACT OF 1921:

# BROKEN PROMISES

Prince Jonah Kuhio Kalanianaʻole authored an Act of Congress in 1921 that promised 203,000 acres of land to restore land and dignity to Native Hawaiians. Nearly 100 years later, only 9,700 homesteads have been opened and 27,000 Hawaiians are on a waitlist.

**What went wrong and what can be done about it?**



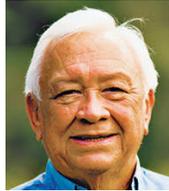
A fact-finding research project by the Office of Rep. Gene Ward  
Hawaii House of Representatives, Honolulu, Hawaii

Hawaii State Legislature  
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# Forward by Oswald Stender

*The Department of Hawaiian Home Lands is not only important to me, it is important to all Hawaiians, and to many, it is their lifeline to survival in today's society.*

*There have been other studies and projects to address the many issues challenging DHHL's mission. The list of those who participated in*



*this report is formidable and therefore makes this report one that must be dealt with.*

*It is my hope that this project is not shelved as other such reports have in the past and that a task force be formed to implement the goals as are focused in this report.*

*>> Oz Stender*

## CONGRESS VISITS HAWAII AND PRINCE KUHIO IN 1915



**Six years before the Hawaiian Homes Act existed, members of Congress visited Hawaii. Left to right, U.S. Congressman Carter Glass, Territorial Speaker of the House H. Lincoln Holstein, Prince Kuhio, Congressman Phillip Campbell of Kansas, and Honolulu Mayor John C. Lane during a visit to Honolulu in 1915.**

# Broken Promises And Broken Homes

In their landmark book, “Land and Power in Hawaii,” authors Gavan Daws and George Cooper drew direct historical connections between land ownership and political clout in the islands. **It remains nearly inconceivable that an entity can control more than 203,000 acres of land and yet have little financial or political power.** But that is the case with the Department of Hawaiian Home Lands.

In 1921, the United States Congress passed the Hawaiian Homes Commission Act, which designated that some 203,000 acres of land be divided among Hawaiians with at least 50 percent blood quantum. **In nearly a century since then, only about 9,700 homesteads have been resettled with more than 27,000 applicants on a wait list.**

In the words of an audit by the U.S. Inspector General, **“Both Federal and State Governments contributed over the years to the current deficient condition of the Home Lands Program by not acting in the best interest of the**



**Native Hawaiians when administering the Program and through insufficient funding, inadequate planning and management, and inaction.”**

**To understand the myriad reasons for these deficiencies — or broken promises to Hawaiians — Hawaii State Representative Gene Ward**

**formed a study group within his office to seek answers and find solutions.**

Rep. Ward wrote his Ph.D. dissertation at the University of Hawaii-Manoa on the Hawaiian business community, has been involved in Hawaiian affairs at the Legislature for the past 20 years and is a former business partner with Hawaiian civic leader Dr. George Kanahahele.

Ward’s office conducted interviews with all living former Directors of the Department of Hawaiian Home Lands, including its current Director, Jobie Masagatani, and her Deputy Director, William Aila.

Former DHHL Directors interviewed included **Micah Kane, Kali Watson, Raynard Soon and Kaulana Park.**

## OVERVIEW

Others with DHHL working knowledge and expertise were current or former Kamehameha Schools and Office of Hawaiian Affairs trustees **Oswald Stender, Peter Apo, and Kelii Akina**; DHHL contract land developers **Stanford Carr, Peter Savio, Craig Watase, and Chynna Stone** and **Ka'iulani Sodaro** of Jeff Stone Development. Hawaii civic and business leaders **Momi Cazimero, Rob Iopa, Walter Thoemmes, Jim Dannemiller** and **Robin Danner** were also key interviewees providing background information on DHHL and its beneficiaries. Though not exhaustive, more than 20 interviews were conducted.

### ► OVERVIEW

What follows is not an indictment of the current administration or any former administrations, but a summary of the collective and cumulative neglect at the federal and state levels to carry out their responsibilities to the 1921 Hawaiian Homes Commission Act.

**Actually all former DHHL Directors were proud of their tenures there, but were not satisfied with the lack of progress in carrying out their mandate.** They told of an implementation process that was **fraught with delays, a lack of resources, scant**



**Prince Kuhio and Princess Kahanu, on their silver wedding anniversary in 1921.**

**political will, mismanagement, political manipulation, and a general lethargy to capitalize on developing one of the biggest land ownership bases in Hawaii.**

Due to the sensitive nature of the topic, interviewees were granted anonymity in exchange for their candid views, however, the views expressed in this document are the responsibility of the authors from a public policy perspective and best practices.

**Homesteading was thought to be the right approach for Native Hawaiians, who fewer than three decades earlier had lost/surrendered their kingdom to the United States.** But the promise to return Hawaiians to their lands that offered hope appears to have turned into a broken

## MAJOR FINDINGS

**The agrarian society of 100 years ago, upon which this homestead act was modeled, is not truly relevant in today's housing market. Hawaiians want and need housing where they can make a living.**

promise. Today more Native Hawaiians are said to be dying on the wait list than are being settled on homesteads. **Clearly, the system is broken and we wanted to know why and what can be done about it before there are no eligible Hawaiians left and large tracts of land belonging to Native Hawaiians go undistributed. This is a concern of both the Hawaiian and non-Hawaiian communities.**

### MAJOR FINDINGS

#### ► 100 YEARS OF STRUGGLE

Most present and former leaders of DHHL agree that the task of **putting Hawaiians on their own land has been a monumental, uphill battle** — some might say impossible — given **the remoteness** of the allocated land, the **cost of infrastructure**, and the **instability of federal and state funding** to build more homes. To be sure, it has been a difficult assignment to develop more than 203,000 acres, most of which are on the Neighbor Islands (50 percent on the

Big Island), or to have the funding and the political will to develop land on Oahu, which is most in demand.

#### ► MORE HOUSING OPTIONS REQUIRED

The agrarian society of 100 years ago, upon which the homestead act was modeled, is not truly relevant in today's housing market in general and to the Hawaiian community in particular. **Hawaiians want and need housing where they can make a living.** A “one-size-fits-all” approach of just pasture land or garden lots does not take into consideration housing models such as **townhouses, condominiums**, alternative dwellings like “**tiny homes**,” or even granting undeveloped parcels of land.

**Alternatives to traditional home ownership such as “rent with an option to buy” and traditional rental units also should be explored with more vigor**, according to one developer. For example, one of the most valuable properties in the DHHL inventory on Oahu is the old **Bowl-O-Drome**

## MAJOR FINDINGS

**property in Moiliili.** In its 2014 Oahu Island Plan, the DHHL proposed using the site to develop as many as 126 residences in a building of up to 10 stories. The street level of the building would be developed for commercial use, according to the plan. An environmental impact statement of the property, after four years, is still not finished.



The DHHL has proposed using the old Bowl-O-Drome site in Moiliili to develop as many as 126 residences in a building that would include space for commercial use.

### ► NO STABLE OR SUSTAINABLE FUNDING SOURCES

The most formidable barrier mentioned by anyone familiar with DHHL is that the agency cannot behave like the land/housing developer it is mandated to be without access to the reliable and sustainable capital that a developer needs to build infrastructure and install utilities before trying to build housing that is affordable. **This is partially a government funding problem and a DHHL lack of imagination and entrepreneurial initiative.**

The DHHL has been unable to raise sufficient funds through its investments or by leveraging its various land assets. It also is unable to rely on adequate funding from

state or federal governments. Bottom line: It is land rich — and cash poor — and stuck in a trough.

### ► NO STABLE OR SUSTAINABLE POLITICAL SUPPORT

Not only is DHHL short on cash, it is equally short on political capital in the State and Federal governments. For the past 10 years DHHL and Homesteaders have had to pursue sufficient funding through the courts in Hawaii and they have won consistently up until recently. In the “Nelson Case,” First Circuit Court Judge Jeanette Castagnetti ordered the Legislature

## MAJOR FINDINGS

**“DHHL suffers from a lack of funding and staffing, which adversely affects beneficiaries of the Hawaiian Home Lands Trust.”**

**Judge Jeannette Castagnetti / 2015**



to provide sufficient funding for the DHHL’s administrative and operating expenses in line with the 1978 constitutional mandate. **The judge set the appropriate amount at \$28 million a year, nearly three times the amount the Department had been receiving (\$9.6 million) to hire and pay its employees and just keep the lights on. (This amount has nothing to do with capital funding or building actual homes.)**

With the **Governor’s Office**, the **Speaker of the House** and the **President of the Senate** intervening to **strike down the Castagnetti ruling**, the Legislature and the public witnessed a historic lack of political will and a governmental conspiracy against DHHL in the eyes of the authors of this research effort.

### ► **FIGHTING FOR EVERY DOLLAR**

The Castagnetti decision will be continually appealed and re-appealed and it will take more years before the funding snarl is untangled. Since the **six Hawaiian Homesteaders filed**

**suit against the State in 2007**, the question remains if members of the Legislature will garner the political will to provide **“sufficient funding.”** Political will should not have to be begged for Native Hawaiian housing, but that is the position the Department has been placed in.

Judge Castagnetti summarized the dismal state of affairs of the agency in 2015 by stating, **“DHHL suffers from a lack of funding and staffing, which adversely affects beneficiaries of the Hawaiian Home Lands Trust.”**

### ► **LACK OF CHAMPIONS AT THE FEDERAL AND STATE LEVELS**

Funding for Native Hawaiian programs has not always been popular with whomever is in the White House or Washington Place. But the late **Senator Daniel Inouye** for decades **made sure there were budgeted earmarks and plus-ups to get the job done for the Hawaiian community and for the DHHL.** President Barack Obama’s Administration

## WHAT CAN BE DONE?

The late Senator Daniel Inouye championed funding for Hawaiian Home Lands, making sure there were budgeted earmarks to get the job done.



ensured the continuation of that legacy, albeit at a slightly lower level. For example, the Native American Housing Assistance and Self Determination Act (NAHASDA) entirely zeroed out funding for Hawaiians because of a huge balance of unspent funds. This presents a dilemma to this day for the DHHL, which has sought assistance and connectivity to **Capitol Hill and the Trump White House with little success because it has been slow to spend down nearly \$36 million in past funding grants. At the State level, no politician has emerged to lead the fight to get DHHL funding or housing construction into the fast lane.**

### ► DHHL NOT WITHOUT FLAWS

To be fair, the Department itself bears a good share of the blame for its present **lack of progress in delivering on its mandate.** DHHL has been characterized as **mismanaged, risk-averse and suffering from bureaucratic behavior.** The caliber of people appointed by the Governor to

head the agency or to serve as Hawaiian Homes Commissioners was criticized for **their general lack of business background or business experience.** The standing, or the lack of standing, of the **DHHL in the Governor's cabinet was also cited as a sign of weak political will and priority.**

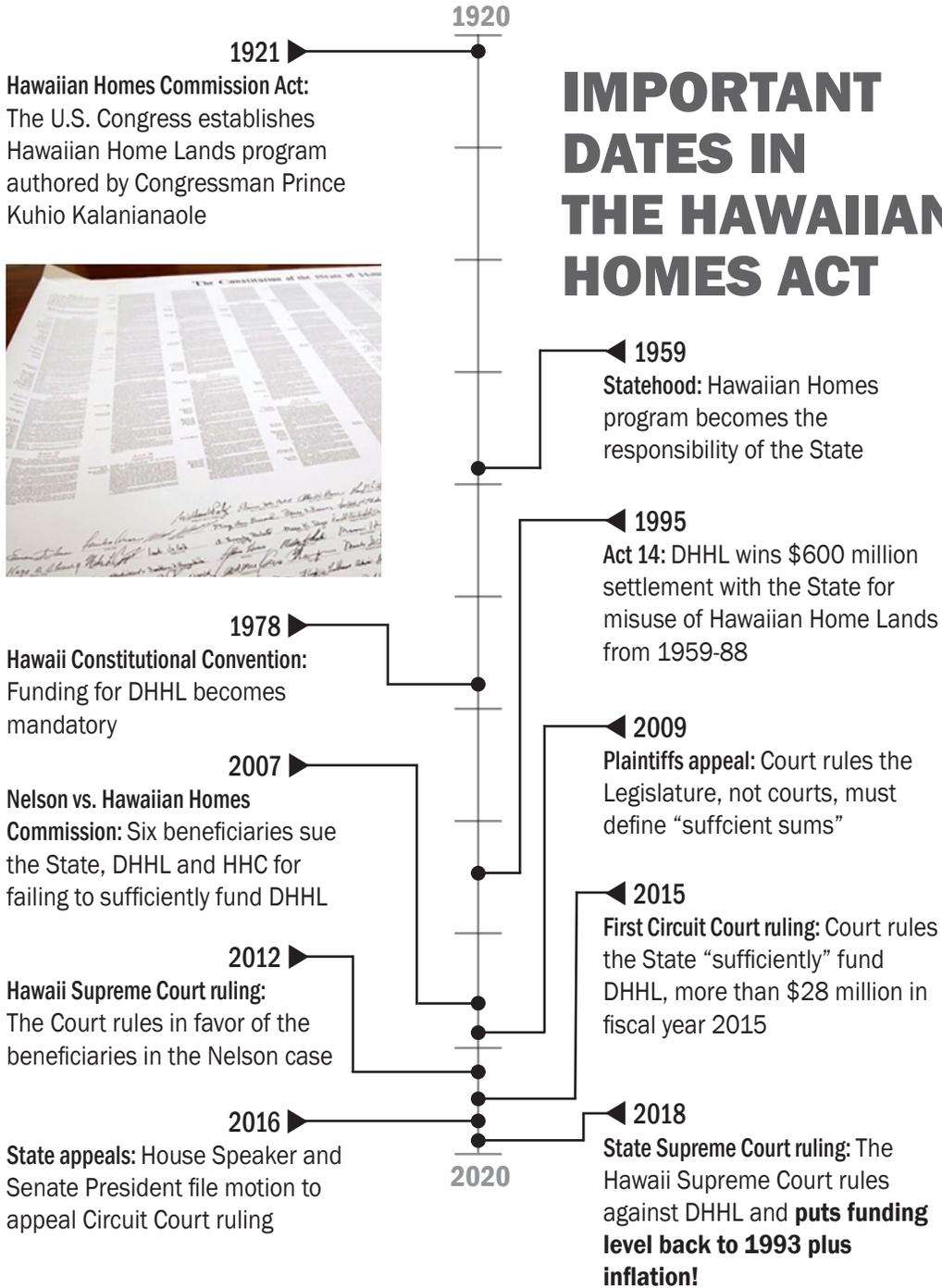
The Department of Hawaiian Home Lands thus remains asset rich and cash poor as it has since its founding almost 100 years ago. It is still one of the largest land owners in the state but it is rarely getting the highest and best use of its lands. **Unlike the state's largest land owner, Kamehameha Schools/Bishop Estate, the DHHL has not aggressively entered the housing market and leveraged its land assets.**

## WHAT CAN BE DONE?

What follows are some recommendations on how the Department can move forward, open new lines of dialogue and access funding that it can leverage for more development of housing.

## LAND AND POWERLESSNESS IN HAWAII

# IMPORTANT DATES IN THE HAWAIIAN HOMES ACT



## MAJOR RECOMMENDATIONS

**1. DHHL Should Get Clear On Its Purpose — Housing First:** If anything has been learned from the homeless crisis in Hawaii, it is that housing comes first before you can “rehabilitate” or treat any other symptom of a person or family.

DHHL needs to view its role commensurately as a priority need for the Native Hawaiian community without wavering. **It needs to overcome a type of “identity crisis” that has crept in where sometimes it thinks it is a housing development agency, then later says it is really more of a human services agency that has to meet the social needs and other demands of beneficiaries.**

Clearly, the Hawaiian Homes Act calls for both housing and services for purposes of “rehabilitation” of Native Hawaiians, **but the balance between housing and social services is out of whack and needs to be corrected. Until the wait list of 27,000 is at least cut in half, DHHL should make housing Native Hawaiians its first priority.** This means being a real development agency that not only builds but also buys existing buildings and converts/divides them into separate units for beneficiaries to rent or to buy. **“Housing First” should be DHHL’s new motto and not be left up to the**



**The Department of Hawaiian Home Lands building on Kapolei Parkway in Kapolei.**

predilections of whomever is Governor or chairman of the Hawaiian Homes Commission.

**2. DHHL Needs To Change Its Housing Paradigm:** DHHL was created in an era when most of America lived on farms and the nation was not highly urbanized. The opposite is true today. **A homestead on a large agricultural lot or an even larger pasture land is out of the mainstream of the housing needs of most Hawaiians.** DHHL can barely afford to build the infrastructure required for these large lots and the contemporary lifestyles of most Native Hawaiians lacks sufficient knowledge to be able to make a living by farming or cattle ranching.

Hawaii’s agriculture economy is largely

## MAJOR RECOMMENDATIONS

dead and assuming Native Hawaiians can make a living by farming is a rather naive assumption and no longer the most relevant model for meeting their housing needs. Instead, **DHHL could and should leverage its vast land holdings and secure dwellings on smaller plots of land or create more sub-divisions with land trades,** or on limited-sized urban parcels build vertically.

This means DHHL needs to put more emphasis on building **more housing by creating multiple housing types, including townhouses, single-family homes, condominiums, apartments** — even “tiny homes” or **modular eco-friendly houses that are “off the grid” and energy independent.**

The past, rather narrow, “one-size-fits-all” turnkey approach to home ownership will not work in today’s market and within the Native Hawaiian community. A paradigm shift should of necessity also include “rent-to-buy” options for homes as well as apartments and make buying a roof over one’s head

### HOMESTEAD LEASES AND APPLICANTS

| 2014             |        | 2015         |        |
|------------------|--------|--------------|--------|
| Homestead Leases | 9,838  | Applications | 44,217 |
| Residential      | 8,329  | Residential  | 22,576 |
| Agricultural     | 1,101  | Agricultural | 18,578 |
| Pastoral         | 408    | Pastoral     | 3,063  |
| Applications     | 43,795 |              |        |
| Residential      | 22,335 | 2016         |        |
| Agricultural     | 18,437 | Applications | 44,429 |
| Pastoral         | 3,023  | Residential  | 22,660 |
|                  |        | Agricultural | 18,694 |
|                  |        | Pastoral     | 3,075  |

*Homestead lease activity are for the month ending June 30. Because applicants may apply for two types of leases, duplications occur. The DHHL estimated that as of June 30, 2014, 43,795 applications were held by 27,341 applicants.*

*Source: Department of Hawaiian Home Lands annual report*

affordable. Presently, almost half of the people on the wait list experience difficulties qualifying for a traditional mortgage, but could easily qualify to build equity as a renter or a gradual home owner on a lot of variable size and square footage.

**Creative entrepreneurial financing and a full construction menu of housing could solve this problem.** But this takes political will and money, both of which are in short supply.

## MAJOR RECOMMENDATIONS

### 3. DHHL Could Better Leverage Its

**Assets:** DHHL is asset rich and cash poor, and it has been for almost 100 years. It was never properly funded from its early years under federal tutelage to its present lack of funding by the State of Hawaii.

**One way of getting out of this funding rut is to better leverage its assets. DHHL has used the least what it has the most of to capitalize its mandate — land.**

It is still the second-largest land owner behind Kamehameha Schools/Bishop Estate and needs to take a plan out of KS/BE's playbook and use its land assets to create a sizable, self-sustaining funding source, or at least a revolving fund that could lead to a self-sustaining agency free from the fickleness of government funding.

**Land swaps have been used to some degree but without much impact on raising funds or building housing, hence DHHL remains almost entirely dependent on government largess.**

A dose of entrepreneurial prowess is again called for to help turn the agency away from being just another government bureaucracy and into the fast lane to do what it was mandated to do by Congress 100 years ago.

For example, **it could start with better using its powers of being exempt from**



**Almost half of those on the DHHL waitlist have trouble qualifying for a traditional mortgage. They could easily qualify, however, to build equity as a renter or a home owner on a lot of variable size and square footage.**

**county zoning regulations.** This is potentially a tremendously powerful tool for DHHL, but it doesn't appear to have been used to much advantage. **Again, a more entrepreneurial approach to its mandate and leadership could change this.**

**4. Bring In The 'A' Team:** DHHL has good and faithful hard-working public servants, but it needs a management approach that better fits its mandate.

**Given the opportunity it could recruit top business and real estate people to serve on its board and/or serve as its chairperson.** This is a choice by the

## MAJOR RECOMMENDATIONS

**“If zero people are getting a home and maybe a dozen or two are getting a lot, something is not working.”**

**U.S. Senator Brian Schatz / 2017**



Governor and could be easily implemented if there was the political will in the Governor’s office to do so. From a distance, but from a few decades of observation, **past Governors of the State of Hawaii have never put meeting the housing needs of Native Hawaiians as a top priority or put DHHL as a most-favored member of the executive cabinet.**

**Bringing in the “A” Team would also temper what many non-Hawaiians use an excuse for not fully backing DHHL and its mandate, saying that incompetence and infighting causes Hawaiians to be responsible for their own failures.**

Presently, DHHL is having a hard time spending down its funding from the federal government. The agency had a balance of \$38 million in 2016 and had not built any new housing units in the previous fiscal year. **The Obama administration even suspended DHHL’s funding because of it, and as U.S. Senator Brian Schatz told Civil Beat, “You only get so many millions**

**of dollars a year and you have more than 20,000 people waiting for homes. We’ve got to rethink what it means to try to provide housing to beneficiaries. If zero people are getting a home and maybe a dozen or two are getting a lot, something is not working.”**

### **5. A Charm Offensive Is Required:**

Political impotence is always a problem in State politics. This in part may be because Hawaiians have stayed too long and too far outside the political arena. Hawaiians as group also have been politically marginalized like the proverbial frog in heated water, wracked with internal division and a lack of sophistication on the part of politicians.

**What appears necessary is a grassroots resurgence or a “Charm Offensive” in the political arena.** The management of DHHL needs to improve its public image and is a concern both locally and on Capitol Hill.

## MAJOR RECOMMENDATIONS

### **This land belongs to Native Hawaiians and needs to be distributed expeditiously.**

DHHL and its beneficiaries need to create a groundswell of support from the Hawaii congressional delegation, senior officials within the Departments of Interior, Housing and Urban Development, and the United States Senate Committee on Indian Affairs. This long journey however begins at the State Legislature, which generally has yielded to Hawaiian protocols in social and cultural affairs but has given mere lip-service to Hawaiians' economic and political affairs.

DHHL should also stop feuding with groups that have competing ideas, such as one led by Robin Danner.

**6. Soon There Will Be No Eligible Hawaiians:** DHHL is in a race against time, which it doesn't appear to acknowledge. Exhausting the universe of eligible Hawaiians before distributing 203,000 acres of land to beneficiaries is fast approaching.

**DHHL should set forth an "End Game" scenario where all of the land and all Hawaiians with 50 percent blood quantum are exhausted, actuarially**

**speaking, including distributing land without housing.**

It was said that only about 50,000 Hawaiians (half on and half not on the DHHL wait list) remain eligible for Hawaiian Homes, but the applicant list according to SMS Research (2013) shows nearly 60 percent of the applicants are 55 years or older. **This suggests the Department needs to do an inventory and create an actuarial table of when it runs out of eligible Native Hawaiians. Having so much land with Hawaiians dying on the wait list should not become an acceptable outcome nor allowed to happen.**

As stated in the Hawaiian Homes Commission Act, **Hawaiians are to be placed on lands set aside for them "in a prompt and efficient manner."**

**This land belongs to Native Hawaiians** and needs to be distributed expeditiously.

No more excuses or broken promises should be acceptable by the Hawaiian or non-Hawaiian communities of Hawaii.

## SUMMARY AND CONCLUSION

### 7. CONCLUSION: DHHL HAS MUCH LAND AND MUCH POTENTIAL

The Hawaiian Homes Commission Act of 1921 started out with good intentions and much promise, but improper funding and management has turned it into a broken promise to the Hawaiian people. They were led to believe they would be placed on the land, have a mortgage and be returned to some degree of dignity after the loss of their kingdom.

Instead, Hawaiians almost 100 years later, are at the bottom of the socioeconomic and health ladders, have the largest homeless population, are more likely to be incarcerated, and are the least likely to own their own home. This state of affairs should on its own be enough to spur government into action, but it hasn't. Every other ethnic group has a seat at the economic table in Hawaii and partially explains some of the anger and disappointment many Hawaiians feel about a promise of 203,000 acres and most got none.

The role that the DHHL can play in the "rehabilitation" of Hawaiians thus still remains relevant and is of immense importance to Hawaii. *Without the Hawaiian*

*Homes Commission Act of 1921, there would be no door through which there has been a semblance of federal recognition of Native Hawaiians and millions of federal dollars have flowed thru for health and human services. The importance of the Act thus remains strong - but the housing component should be no longer be marginalized.* According to this study, DHHL should:

1. Get clear on its purpose: housing first.
2. Change its housing paradigm mix.
3. Better leverage its assets.
4. Bring in an Entrepreneurial "A" Team.
5. Start a "Grassroots Charm Offensive."
6. Distribute lands before no one qualifies.

Following the status quo can only continue to steal the inheritance rights granted the Hawaiian people almost 100 years ago. At the present rate of leases given, the 27,000 applicants on the wait list can expect to be housed 270 years from now, or by the year 2288.

### GET INVOLVED!

Download this document or view the "Broken Promises" documentary and its 8-minute short film @ [www.BuildMoreHawaiianHomesWorkingGroup.org](http://www.BuildMoreHawaiianHomesWorkingGroup.org)

Call 586-6420 for questions or for more details on how to join the Working Group.

## :HAWAIIAN HOUSING EXPERTS INTERVIEWED:



**Oswald Stender:**  
Former Trustee, Office of Hawaiian Affairs and Kamehameha Schools/Bishop Estate



**Peter Apo:**  
Trustee, Office of Hawaiian Affairs



**Raynard Soon:**  
Former Director, Department of Hawaiian Home Lands



**Jobie Masagatani:**  
Current Director, Department of Hawaiian Home Lands



**William Aila:**  
Deputy Director, Department of Hawaiian Home Lands



**Micah Kane:**  
Former Director, Department of Hawaiian Home Lands



**Momi Cazimero:**  
Founder and President, Graphic House



**Jim Dannemiller:**  
President, SMS Research



**Robin Danner:**  
Executive Director, SCHHA



**Rob Iopa:**  
President, WCIT Architecture



**Walter Thoemmes:**  
Commercial Real Estate Managing Director, KSBE



**Kaulana Park:**  
Former Director, Department of Hawaiian Home Lands



**Stanford Carr:**  
Founder and President, Stanford Carr Development



**Craig Watase:**  
President, Mark Development, Inc.



**Peter Savio:**  
President, Hawaiian Island Homes



**Ka'iulani Sodaro:**  
Vice president of Planning and Development, The Resort Group



**Keli'i Akina:**  
Trustee, Office of Hawaiian Affairs



**Kali Watson:**  
Former Director, Department of Hawaiian Home Lands