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To the United States Senate Committee on Indian Affairs

Hearing on

S. 65, The Hawaiian Homeownership Act of 2011

April 13, 2012

Aloha Chairman Akaka, Vice-Chairman Barasso and Members of the Senate Committee on Indian Affairs.

My name is Michelle Kauhane, and I thank you for the invitation and opportunity to provide testimony on behalf of the State of Hawaii, Department of Hawaiian Home Lands (DHHL). Our state agency is responsible for the administration of the federal land trust established by Congress through the Hawaiian Homes Commission Act of 1920[[1]](#footnote-1) (HHCA).

The Department of Hawaiian Home Lands strongly supports S. 65, the Hawaiian Homeownership Opportunity Act of 2011, which reauthorizes housing assistance and loan guarantees for native Hawaiians.

I will provide additional information about why this program is so important to HHCA beneficiaries, but before doing so, I want to provide some context regarding the Department’s unique role as the administrator of the Hawaiian Home Lands trust.

**Hawaiian Trust Lands Under the Hawaiian Homes Commission Act**

Since Hawaii’s overthrow as an independent nation and the subsequent annexation to the United States, one of the most significant federal policy achievements for native Hawaiians was the enactment by the U.S Congress of the HHCA. The HHCA began as a resolution in the territorial government in Hawaii, and was championed by the territory’s congressional representative, Prince Jonah Kuhio Kalanianaole. Similar to other land allotment acts of that era for Alaska Natives and American Indians, the HHCA established a land trust of approximately 200,000 acres of land located in every county in the state, to provide for the rehabilitation of native Hawaiians through the provision of land for residential, agricultural and pastoral homesteading. The Act is the clearest example of the United States’ recognition of Native Hawaiians as an indigenous people with whom the United States has a trust relationship.

Hawaii entered the Union in 1959, during a period when federal responsibilities towards indigenous peoples were often delegated to the States. Consistent with that policy, the HHCA was incorporated into Public Law 86-3, the Hawaii State Admissions Act in 1959, “[a]s a compact with the United States relating to the management and disposition of the Hawaiian home lands . . .” [[2]](#footnote-2) DHHL was established by the State of Hawaii in 1961 to manage the federal responsibilities delegated to the State of Hawaii associated with administering the HHCA.

While the State of Hawaii has the authority to amend the HHCA, Section 4 of the Admissions Act requires the consent of the United States to amendments which reduce or impair certain funds, increase encumbrances on the Hawaiian Homes land trust, or change the qualification of lessees. By ensuring that actions that negatively impact the implementation of the HHCA require federal consent, the United States acknowledged its trust responsibility as it relates to the Hawaiian Homes Commission Act.

In 1995, Congress enacted the Hawaiian Home Lands Recovery Act,[[3]](#footnote-3) to recover lands that had been withdrawn from the Hawaiian Homes land trust. In recognition of the United States’ political and legal relationship with Native Hawaiians, the Act also required the Secretary of the Interior to designate an individual to administer the responsibilities of the United States under the Hawaiian Homes Commission Act. The Assistant Secretary of Policy, Budget, and Administration of the Department of the Interior, therefore, is charged with exercising the responsibilities of the Interior Department as it pertains to advancing the interests of the HHCA beneficiaries and assisting beneficiaries with obtaining federal services related to the promotion of homesteading opportunities, economic self-sufficiency and social well-being.[[4]](#footnote-4)

DHHL is governed by a 9-member Hawaiian Homes Commission appointed by Hawaii’s Governor. Its Director, a member of the Governor’s cabinet, also serves as the Chairman of the Commission. DHHL, therefore, has a unique role as a state agency managing a federally created land trust to reconnect native Hawaiians to their ancestral lands in Hawaii. We embrace this unique relationship and work in partnership with the federal agencies to fulfill the federal trust responsibility as it pertains to the Hawaiian Homes land trust.

Like our American Indian and Alaska Native brethren with trust lands, we work with federal agencies to ensure that our native communities on trust lands are eligible to utilize federal programs like NAHASDA which provide much needed housing, access to capital, and opportunities for economic self-determination. We firmly believe that federal trust lands status should serve as a criterion for federal programming as a way for the United States to fulfill its federal trust responsibility to its native peoples.

**Self Determination of Native Hawaiians**

In Hawaii, we do not refer to our Native peoples as tribal members or Indians, although it is clear that Congress intended the inclusion of Native Hawaiians in the federal policies of self determination. The most common terminology most understood in the islands to represent native Hawaiians eligible for the HHCA land trust, are “beneficiary” or “homesteader”. Moreover, the lands in the Hawaiian Home Land trust are referred to as “homesteads” rather than reservations. For the purposes of our testimony, these terms will be used to describe native Hawaiians and land areas under the HHCA, which was enacted by Congress during a policy period of the federal government wherein land trusts and Native allotment programs were commonly established for Native peoples in Indian Country and Alaska. The HHCA was an extension of those policies, as well as the federal policies of self- determination that have been well documents over the last century.

For the beneficiaries of the HHCA, self determination and self governance is expressed through the existence of beneficiary organizations governed by beneficiaries or homesteaders themselves. These organizations, called homestead associations, have existed for decades, and have representative leadership through democratically elected processes for each homestead land area on differing islands within the state. Just as tribes are powerful partners with the federal government, homestead associations are vital to our state’s success in implementing the tenets of the HHCA as Congress intended.

**Homesteading Progress**

After 92 years since the enactment of the HHCA, just over 10,000 land leases have been issued to beneficiaries for homesteading purposes. In the past 10 years, approximately 2,500 leases were issued. An estimated 35,000 lessees and family members reside on homestead lands throughout Hawaii. Approximately 48 percent are located on Oahu, 23 percent on the island of Hawaii, 22 percent in Maui County, and 7 percent on Kauai. Among the lessees, the majority of leases are residential (89 percent), followed by 8 percent agricultural, and the remaining 3 percent in pastoral.

According to a 2008 lessee survey conducted by SMS Research, DHHL lessee households consist of 3 to 7 people with a mean of 4.2 household members. The median household income among lessees was $48,731 in 2008, lower than the median household income for the State at $63,746. In addition, the survey estimated 51 percent of DHHL lessee households had incomes below 80 percent of the HUD median.

In addition to the beneficiaries on the land, the wait list of beneficiaries to receive a land award under the HHCA exceeds 26,000, with waiting times ranging from 5 years to 50 years. According to the SMS 2008 survey, 46% of the applicants on the DHHL waitlist had incomes below 80 percent of the HUD median. At least half (50.8%) of all applicants that are at or below 80% AMI on the waitlist, fall into the 51%-80% range, just under 30% fall in the 30%-50% AMI range, and approximately 22% fall in the less than 30% AMI range.

**Low Income Native Hawaiian Housing Need**

For low income native Hawaiian households (those making less than 80% of the area media income), housing needs are severe with 68 percent of these households experiencing some kind of housing problem such as affordability, overcrowding, structural quality, availability or some combination of these problems. For very low income households (those making less than 50% of the area median income) the needs are even more severe with nearly 75% of the households in this category facing some kind of housing problem. While housing needs are serious for the native Hawaiian population as a whole, the situation is more critical for the low and very low-income households. The percentage of low-income native Hawaiian households that experience housing problems is more than double the percentage of native Hawaiian households as a whole with housing problems – 68% versus 27%. For very low-income native Hawaiian households, this percentage is almost triple 75% versus 27%.

**Addressing the Needs**

Given the housing needs, DHHL has focused the use of the NHHBG funds on increasing the supply of affordable housing units or to rehabilitate existing units to relieve some of the overcrowding pressures and substandard living conditions experienced in many low-income native Hawaiian households. In addition, DHHL has supported healthy and safe communities. We have empowered resident organizations and continue to promote self-sufficiency for native Hawaiian families.

It is well understood, that the progress made to implement the primary purpose of returning native Hawaiians to their lands under the HHCA, is and has been inadequate. These numbers clearly show that in 2012, almost 100 years after the enactment of HHCA, there is still a strong desire by native Hawaiians to live and work on the Hawaiian Home Lands. There is no question that DHHL and the HHC have been underfunded and under-resourced for many years. Federal programs such as NAHASDA and the HUD 184A Loan Guarantee program help to fulfill the mission of the HHCA by reconnecting native Hawaiians to their ancestral lands.

**S. 65, Hawaiian Homeownership Opportunity Act of 2011**

DHHL strongly supports S. 65, the Hawaiian Homeownership Act of 2011, a vital tool for native Hawaiian beneficiaries of the HHCA. S. 65 reauthorizes NAHASDA Title VIII funding, provides necessary credit subsidies to allow HHCA beneficiaries to utilize the HUD 184A loan guarantee program for purchasing and refinancing home loans like their Indian and Alaska Native counterparts, and makes DHHL an eligible entity for NAHASDA Title VI loan guarantees.

NAHASDA

In 2000, the congress enacted Title VIII of NAHASDA, creating for the fist time, a modest allocation of federal funding to support the development of affordable housing for low- and moderate- income beneficiaries.

Since 2002, DHHL has received and utilized NAHASDA funding to support subdivision development. Approximately seventy-five percent of the open lands of the Hawaiian Home Lands trust remain undeveloped. One of the largest barriers to issuing land to the 26,000+ individuals on the waitlist is investment in infrastructure for roads, utilities, water/waste water facilities, broadband and renewable energy sources. NHHBG funds have been a vital source of infrastructure funding for DHHL since 2002. These fund have brought vital leverage to our trust funds and have allowed us to continue housing development.

In addition to subdivision development, NHHBG funds have provided grants to qualified entities with programs servicing homestead beneficiaries, loans, down payment assistance and individual development account programs, and home repair/ rehabilitation programs. Likewise, the funds have supported financial literacy and homebuyer education and counseling, as well as foreclosure prevention/lease cancellation services.

HUD 184A Program

The HUD 184A program is one of a very few sources of home loan capital available to native Hawaiians residing on Hawaiian Home Lands. The HUD 184A federal loan guarantee is powerfully important in bringing private capital to new home development in every county of the State of Hawaii where Hawaiian Homes trust lands are located. This program is one of the most successful trust land focused home loan products to be sponsored by the federal government. S. 65 would provide credit subsidies that make mortgage capital available to native Hawaiian beneficiaries of the HHCA to purchase, construct, or refinance their homes.

Title VI Loan Guarantees

S. 65 authorizes DHHL for loan guarantees under Title VI of NAHASDA. This eligibility would allow us to borrow or issue debt for affording housing activities which helps us to leverage additional resources to increase opportunities of homeownership for homestead families.

[DHHL ADD PLANS FOR THIS PROGRAM HERE]

Conclusion

Mr. Chairman, on behalf of the Hawaiian Homes Commission and the Department of Hawaiian Home Lands, thank you for your unwavering support of homestead beneficiaries. You have always been a champion for Hawaii’s people. Your efforts over your longstanding career in the United States Congress have truly helped our people to reconnect with the `aina. You championed legislation that allowed homesteads to be inherited by family members meeting the 25% blood quantum. You created the Native American Veteran Direct Loan Program to address the unique situation faced by Native American veterans seeking to utilize the VA Home Loan Program on trust lands. Through the Hawaiian Home Lands Recovery Act you ensured not only that the Hawaiian homes trust was replenished after lands were wrongly withdrawn, but you also ensured that the United States designated a federal official to assist homestead beneficiaries at the federal level. And, most importantly, you created a pathway for the United States and Native Hawaiians to engage in a process of reconciliation to address the many longstanding issues resulting from the illegal overthrow of the Kingdom of Hawaii through the enactment of P.L. 104-150, the Apology Resolution.

As the Chairman of the Senate Committee on Indian Affairs, you have worked to ensure continued economic self-determination in native communities through increased access to capital and federal programs and services. You have championed the federal trust responsibility and worked to ensure that the United States fulfill its responsibilities to promote the welfare of its indigenous peoples. Mr. Chairman, we have been honored to share you with the rest of our nation and we welcome you back home with open arms at the end of 2012.

S. 65, the Hawaiian Homeownership Opportunity Act of 2011, is vitally important to fulfilling the mission of the Hawaiian Homes Commission Act to reconnect native Hawaiians with their lands. Thank you for the opportunity to share our mana`o with you and your Committee.

1. Ch. 42, 42 Stat. 108 (1921) [↑](#footnote-ref-1)
2. Section 4, P.L. 86-3, 73 Stat. 4 (1959) [↑](#footnote-ref-2)
3. P. L. 104-42, 109 Stat.357 (1995) [↑](#footnote-ref-3)
4. Id. Section 206 [↑](#footnote-ref-4)