

PROMISED LAND

INVESTIGATIVE SERIES

The government pledged to return ancestral Hawaiian land, then never finished the job



CINDY ELLEN RUSSELL / CRUSSELL@STARADVERTISER.COM

Native Hawaiians are still waiting for state and federal officials to fulfill the promises of land legislation that was signed into law 25 years ago. "Justice delayed is justice denied," said one former governor.

By Rob Perez, Honolulu Star-Advertiser and Agnel Philip, ProPublica

Twenty-five years ago, the state of Hawaii and the U.S. government promised Native Hawaiians to correct a historic wrong.

Public agencies had occupied thousands of acres intended to return Native people to their ancestral lands, paying little or no compensation for decades as the sites were used for military bases, game preserves, schools and other purposes. In 1995, state and federal legislation pledged

to provide reparations.

Then-U.S. Rep. Neil Abercrombie, D-Hawaii, said it was "a step toward righting a great wrong against the original people of this land." Then-Sen. Daniel Akaka, a Native Hawaiian who steered the bill through the Senate, called the legislation "a vindication for Hawaiians who had lost hope that this long-standing issue would ever be resolved."

But as 2020 draws to a close, Native Hawaiians are still waiting

for all of what was promised.

While the state has added nearly 16,000 acres to the land trust, just a fraction were on Oahu, the island with the greatest housing demand. The state still owes another 1,300 acres to the Department of Hawaiian Home Lands under the terms of its reparations bill, known as Act 14, an investigation by the Honolulu Star-Advertiser and ProPublica has found.

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EDITOR'S NOTE:

This story is co-published with ProPublica, a nonprofit newsroom that investigates abuses of power. The Honolulu Star-Advertiser is a member of the ProPublica Local Reporting Network.

Pictured above is a homestead subdivision in Waimanalo.

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Over the years, the U.S. government has provided about 900 acres as compensation for its unauthorized takings. But none of the land conveyed, almost all of it on Oahu, was suitable for residential use, according to DHHL. And the federal government still owes additional land under the Hawaiian Home Lands Recovery Act.

"Justice delayed is justice denied," said former Gov. John Waihee, the only Native Hawaiian to hold that office and whose administration was instrumental in negotiating the Act 14 bill. "At some point, you can't keep putting things off."

The unpaid obligations are among a number of key mistakes by state and federal officials that have exacerbated the decades-long failure of DHHL to fulfill its mission to Native Hawaiians.

As the Star-Advertiser and ProPublica reported in October, DHHL is failing to award homesteads in a timely fashion, as state law requires. The department has developed just 3,300 residential lots statewide since 1995, even as its residential waitlist has ballooned to 23,000. The strategy of building expensive single-family subdivisions has left thousands of low-income and homeless Native Hawaiians behind in a state with one of the most acute affordable housing crises in the nation.

DHHL is now running out of real estate on Oahu, the state's most populous — and popular — island. About half the residential applicants on the statewide waitlist want to live there, yet just 575 acres remain in the land trust that is suitable for housing. That's enough to supply less than a third of the so-called waitlisters with homesteads under the current single-family model, according to an analysis of department data by the Star-Advertiser and ProPublica.

DHHL says it is adjusting to the land shortage by planning hundreds of multifamily units on Oahu over the next five years. And to get the additional lands it is owed, the department is currently pursuing settlements with state and federal officials, who say they intend to fulfill their obligations. DHHL plans to hire a private law firm to represent the interests of the trust since it both reports to the state and is negotiating with the state. Gov. David Ige, who as a former state representative participated in negotiating the 1995 reparations bill, said completing the land transfers is a priority for his administration.

Some members of Hawaii's congressional delegation are calling for federal action.

"It's long past time to settle old

debts to the beneficiaries," U.S. Rep. Tuli Gabbard, D-Hawaii, said in a statement.

DHHL faces a number of administrative and logistical hurdles in its efforts to win developable property and accommodate the crushing demand for housing. Some past efforts to make the trust whole have failed, in part because of the poor quality of the lands being offered as compensation.

Advocates, lawmakers and former government officials say DHHL needs to reckon with the realities of limited land in a chain of islands.

Even if DHHL won all Oahu land in the settlements — an unlikely outcome — the trust would still be short of what it needs just to satisfy the current demand. The problem is compounded by a growing waitlist and the department's chronic money woes, shortfalls that prompt the agency to lease some of its Oahu lands to commercial interests.

Broken promises

Nowhere is the broken promise more apparent than on Oahu, where DHHL faces the greatest demand.

On paper, the department's 203,000-acre land trust contains 7,800 acres on the island, which is defined by two large mountain ranges that create towering ridges, steep slopes, forests, beaches and sea cliffs. But in reality, just a fifth of that land is considered suitable for residential development. A full third has been marked purely for conservation, including 1,400 acres of steep mountain sides in the Hawaiian community of Waimanalo.

The state Legislature improved DHHL's prospects in 1995 by passing Act 14, providing money and land to settle the trust's claims against the state for past land abuses. For the next 20 years, DHHL received \$30 million annually, helping underwrite the development of more homesteads. On the real estate side, however, the gains were less impressive, especially where the land was needed most.

Just 480 to 16,000 acres that the state added under the law were on Oahu. And even then, not all the lands were suitable for residential development.

Waihee said the state had little land on the island at the time that was fit for homesteading. Under the program, beneficiaries — defined as those at least 50% Hawaiian — can apply for a 99-year land lease and then, upon award, either build or buy a home on the parcel. According to DHHL, the department developed about 600 lots on Oahu with the added property. The island's residential waitlist nearly doubled during that time, to 13,000 people.

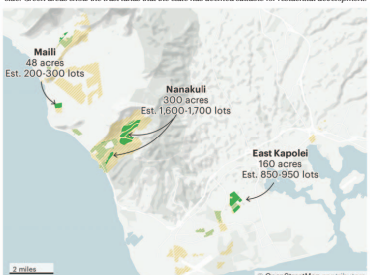
The federal Hawaiian Home Lands



PHOTOS BY CINDY ELLEN HUSSELL / CRUISELINE@STARADVERTISER.COM

WHAT'S LEFT ON OAHU?

Nearly all the 575 acres available for residential homesteads on Oahu are located on the island's west side. Green areas show the trust lands that the state has deemed suitable for residential development.



Undeveloped residential land (Green)

Developed residential land (Light Green)

All trust land (Yellow)

Pictured at top are Princess Kahuna Estates Hawaiian homestead homes in Nanakuli.

Below, weeds overtake a homestead in Nanakuli.

Beach proposal could provide housing for hundreds of Hawaiian families and "has the potential to be one of the most important acquisitions by the trust in the last 25 years."

Leasing lands to generate revenue

Other efforts to fix the problem have faltered.

DHHL has looked to the private market to purchase additional property, but besides lacking land, the department has lacked money.

In 29 of the 61 years since state-



Darrell Maheua, 58-year-old district manager for a Hawaii laundry company, applied for a residential homestead in 2008 and is more than 7,000 from the top of the waitlist.

Associations, the largest beneficiary group in the state, said Prince Jonah Kūhoʻi Kalanianaʻōle, considered the father of the homesteading program when it was created a century ago, envisioned having Hawaiians running successful businesses on their land. "I'd be intent for the others to get my land to build a mall? No."

Ka Makana Ahi said the others have no ownership stake in the mall and noted the project — one of the region's largest employers — is supporting beneficiaries and the community, such as through a \$500,000 donation to build a park in an adjacent commercial development. "We are committed to upholding the mission and vision" of the Hawaiian people, said Stephanie England, Ka Makana Ahi's general manager.

Still, with 11,000 beneficiaries on Oahu's residential waitlist and 28,000 on statewide lists for residential, farming and ranching homesteads, advocates say DHHL should be using all lands to directly help Native Hawaiians. "You need every inch of these lands for homesteading purposes," said Kekoa Ezomoto, a Maui homesteader and chair of Puʻupena Community Development Corp., a nonprofit that assists beneficiaries to build homes and self-sufficient communities.

The department, however, says it needs the money, and last week announced plans to expand its commercial leasing program.

Officials said they intend to seek legislation that would authorize DHHL to lease trust lands for the development of a resort casino. The proposal must first be approved by the Hawaiian Homes Commission, which oversees DHHL, before going to Ige, who would then consider whether to include it as part of his package of measures submitted to the Legislature for the upcoming session, which starts in January.

"Given the impact of COVID-19 on our state's economy, the department is proposing a bold measure that has proven successful for indigenous groups in generating critically needed revenue to improve the lives of their people," said Tyler Iokapa Ganes, a senior official of DHHL, in a statement. "We are at a pivotal moment in the history of the Hawaiian Homes Commission Act and resources to develop infrastructure and acquire lands will be needed to fulfill the vision of Prince Kūhoʻi."

State Rep. Sylvia Luke, who heads

the House Finance Committee, raised concerns about placing a resort casino on buildable trust land on Oahu, shrinking what is available for homesteads. "The priority should be to use developable land to reduce the waitlist," she said in an interview.

Luke previously told the Star-Advertiser and ProPublica that the Legislature has appropriated record amounts for DHHL, in recent years, approving close to what the governor sought for the agency. For his part, Ige has substantially pared DHHL's annual requests, as he did with other departments, citing his duty to balance what the agencies sought with the state's available resources.

Given how the coronavirus pandemic has battered the state's tourist-driven economy and its tax revenues, additional funding for DHHL seems unlikely. Asked whether he intends to include money to purchase land in his coming budget request to the Legislature, Ige said he would have to work with the department to identify priorities. But he said he would support acquisition money if it meant accelerating the slow pace of homestead awards.

'The state should follow the law'

State policymakers are now scrambling for solutions.

State Sen. Maile Shimabuku, chair of the Senate committee on Hawaiian affairs, believes the pending settlement with the state represents the most practical way for Hawaii to help DHHL address the land shortage. "If there's going to be any kind of solution, land is more likely than cash," she said, and "if they can find some on Oahu, that's really the way to go."

State House Speaker Scott Saito agreed, saying "the state should follow the law and prioritize the islands where the needs are greatest." He mentioned Oahu specifically and raised the possibility of lawmakers passing a bill that would give the Legislature the power to oversee negotiations.

State Sen. Gilbert Keitt-Agaran, vice chair of the Senate's Water and Land Committee, said lawmakers may need to pursue legislation outside of the settlement process to help alleviate the Oahu land shortage. One option could be to transfer or exchange lands held by other state entities to DHHL. "I don't think

we should foreclose any of these things," he said. "The benefit to the entire state is that the more people we move off the waitlist and put into housing also helps alleviate our general shortage of housing."

Ige was open to the idea but said any potential sites would have to be evaluated in consultation with the state agency holding the land.

"If there are lands that are suitable, we certainly would be looking at it and seeing whether it makes sense that those should be included to finish our commitment."

Still, even under the most optimistic settlement scenario, DHHL will be short of the lands it needs to accommodate the growing waitlist. That has prompted advocates, legislators and others to urge the department to make more efficient use of its limited holdings. One potential solution: develop high-rise condos. "We have to go vertical," said Kana Hopkins, who served on the Hawaiian Homes Commission from 2011 to 2014. "There's no choice."

Historically, the department has been reluctant to pursue the idea, in part because the beneficiary community is divided over the concept. Some question whether providing condos in a high-rise unit would fulfill the department's constitutional obligation to provide homesteading to beneficiaries. "If you ask a Native Hawaiian on the waiting list what they want from DHHL, they will tell you, 'they want their land,'" said Doane, the department spokesman. Meanwhile, thousands continue to wait.

Waikiki resident Darrell Maheua, a 58-year-old district manager for a Hawaii laundry company, applied for a homestead on Oahu in 2008. Today, he is more than 7,000 deep on the island's residential waitlist and has yet to get an offer.

He dreams of getting a house for his family of five and wants his granddaughter, who is not yet 2, to be able to run around outside in their yard. But he's growing impatient with the department and the long waits for a homestead. "They're just coming up with excuses," he said of DHHL. "They've been doing that for 50 years."

Rob Perez is an investigative reporter at the Honolulu Star-Advertiser. He has worked at newspapers in Florida, California, Hawaii and Guam, where he's from.



Former Gov. John Waihee, whose administration was instrumental in negotiating the Act 14 bill, is the only Native Hawaiian to hold that office.



HELP US INVESTIGATE

The Honolulu Star-Advertiser and ProPublica are spending the year investigating the homesteading program for Native Hawaiians. We'd like to hear from you if you or someone you know:

- Have bought into a newer subdivision under the program
- Worked on construction projects within the trust subdivisions
- If you have something to share with us, HERE'S HOW TO DO IT:
- Email Rob Perez at: rperez@staradvertiser.com
- Text or call him at 808-479-2109