

**CNHA Policy Center
Briefing on
the Nelson Case
to Require the State to Pay for Itself**

Conducted in Partnership with CNHA Member - SCHHA
**Sovereign Councils
of the Hawaiian Homeland Assembly
Formerly
Statewide Council
of Hawaiian Homestead Associations**



Briefing Topic

Nelson Case – What Does It Mean?

Briefing Conducted by the SCHHA,
a CNHA Member dedicated to the full implementation of
the Hawaiian Homes Commission Act of 1920



WHO OWNS THIS LAND TRUST?

Congress Creates a Land Trust for Beneficiaries
of the HHCA

Who Owns this LAND TRUST????

Federal Government
Judiciary (Courts) --- Executive (Depts) ---
Legislative (Congress)

DOI, DOJ, HUD,
ETC

WHO ADMINISTERS THIS LAND TRUST?

Hawaii State Government
Judiciary (Courts) --- Executive (Depts) -----
Legislative (Legislature)

DHHL, ETC

WHAT IS IN THIS LAND TRUST?

Over 200,000 Acres of Lands Designated for
Our Homesteading, Nonprofit & Mercantile Use

If Available, General Public May Use **ONLY** if Land **NOT**
REQUIRED for Hawaiian Homesteading

Hundreds of Millions in Money & Resources
Designated to Implement the HHCA

9 Trust Accounts, 1 of Which Generates \$13M Annually
from Leased Lands, Spent on State Employees

Over 39,000 PEOPLE
native Hawaiians Lessees and Waitlisters

Connect Land, Money and Resources to the **PEOPLE**,
not Spent on the State of Hawaii.

Our 9 Accounts.....

1. **HH Admin Special Fund** (general leasing \$\$) **\$13M**
2. HH Operating Account (water, rental \$\$) **\$0**
3. **NH Rehabilitation Fund** (30% sugar land \$\$) **\$325K**
4. HH Loan Fund (principal payments) **\$200K**
5. HH General Loan Fund (principal payments) **\$3.9M**
6. **HH Receipts Fund** (interest payments) **\$4M**
7. HH Trust Fund (FHA guarantees) **\$0**
8. **HH Lands Trust Fund** (Act 14) **\$30M \$0**
9. Revenue Bond Special Fund (debt) **\$3M**

\$24.4M



C·N·H·A

1978 Hawaii Constitutional Amendment

- **Georgianne Padekan, DHHL Director**
 - An Advocate with Sonny Kaniho Appointed by Gov Arioshi
 - Involved the Federal DoI to Document Abuses – honest review
 - Worked to Change What Happened to Sonny and Thousands
- **Delegates to the Constitutional Convention 1978**
 - Revealed that 113,000 Acres out of 200,000 Acres of Trust Lands were in the General Public's Hands!
 - Leaving Hawaiians like Sonny waiting.....
 - Added Article 12 to Stop the State from using our Land to generate revenue for itself and to instead require the State to Fund itself and the purposes of the HHCA.

Article 12 of the Hawaii Constitution

- **“legislature shall provide sufficient funds for”**
 - 1. Homestead Lot Development (think water, roads, lights)
 - 2. Homestead Loans (think section 214)
 - 3. Rehabilitation Beneficiaries (think section 219)
 - **4. DHHL Administration & Operational Costs**

It was ignored for the most part, by every Governor and Legislature, except perhaps Waihee, he and his DHHL Directors funded DHHL the highest level of any Governor. Governor Lingle and his DHHL Directors, funded DHHL at ZERO.

The Nelson Lawsuit

- **Sued the State/DHHL to Implement Article 12**
 - To Stop General Leasing our Lands to the General Public
 - To Issue our Lands to the Waitlist!
 - To Adequately Fund DHHL to Serve the Trust (land/people)
- **Hawaii Supreme Court.....**
 - Reaffirmed the Constitutional Mandate
 - “the state has failed by any reasonable measure, under the undisputed facts, to provide sufficient funding to DHHL. With the benefit of 30-90 years of hindsight, it is clear that DHHL is underfunded and has not been able to fulfill its constitutional purposes.”

The Nelson Lawsuit

- **Hawaii Supreme Court.....**

- Indicated that 3 of the 4 Funding Priorities fall within the Political Question Doctrine. Wherein the Legislature has Discretion to Fund without Court Intervention
 - 1. Homestead Lots
 - 2. Homestead Loans
 - 3. Rehabilitation Programs
- Indicated that 1 of the 4 Funding Priorities is mandatory and may have Court Intervention if insufficient
 - 4. DHHL Administration & Operational Costs

Our Premise is to Use Common Sense, Past Expenses to Set the Amount of State General Funds to Cover DHHL Staff and Operational Costs. DHHL/State has Failed.....

Nelson is back in Court



WHAT ARE OUR \$\$\$ SOURCES?

**State
GO Bonds**

**State
General Funds**

**Federal
Grant Funds**

**Beneficiary
9 Accts & Land**



**1. Homestead
Lots**

**2. Homestead
Loans**

**3. Rehabilitate
Beneficiaries**

**4. Admin &
Ops Costs of
DHHL**

WHAT'S BEEN GOING ON FOR TOO LONG

**State
GO Bonds**

**State
General Funds**

**Federal
Grant Funds**

**Beneficiary
9 Accts & Land**

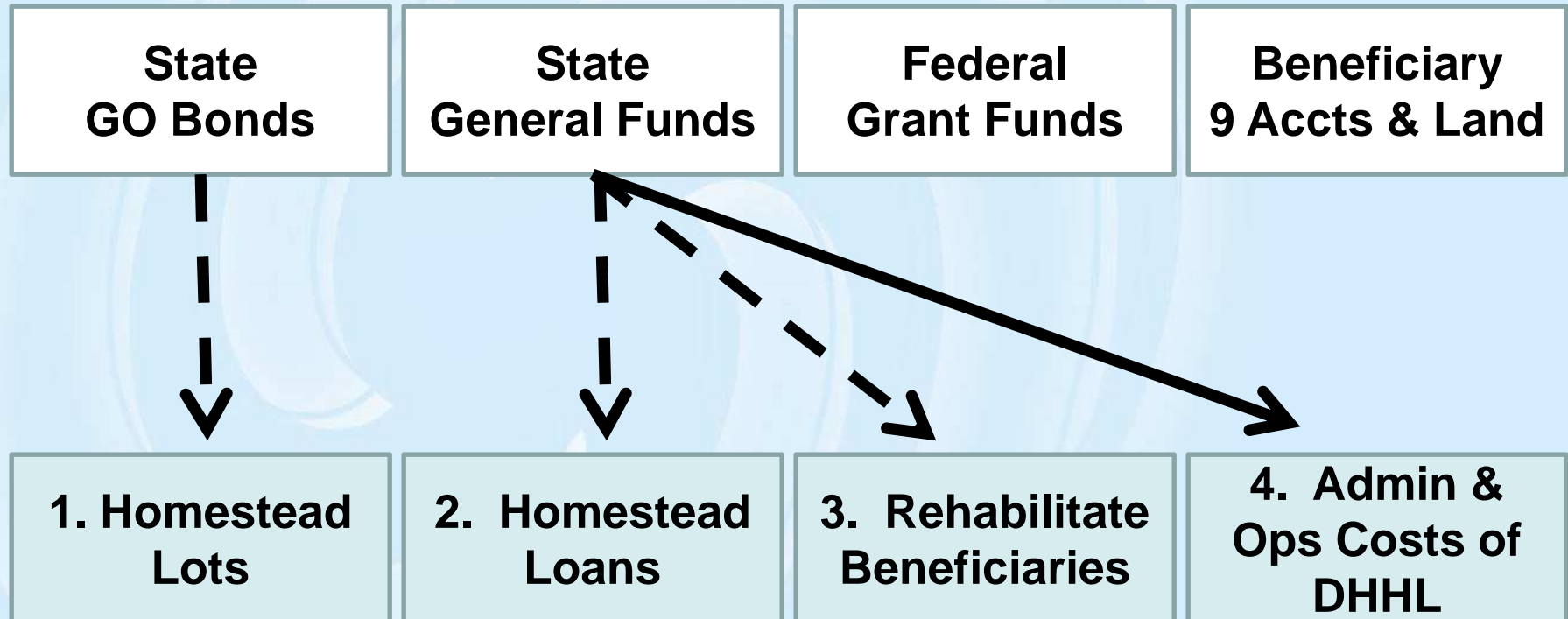
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WHAT THE HAWAII CONSTITUTION SAYS!



WHAT SUCCESS LOOKS LIKE!

**State
GO Bonds**

**State
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9 Accts & Land**



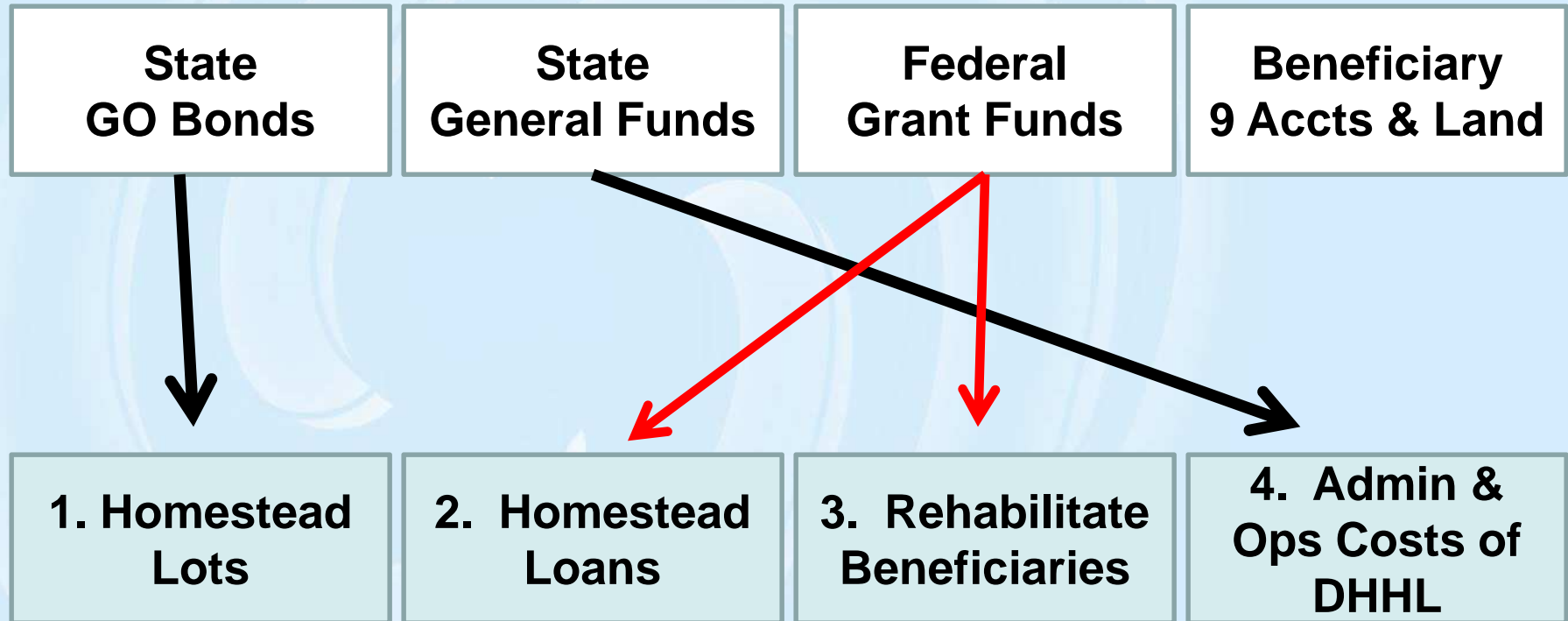
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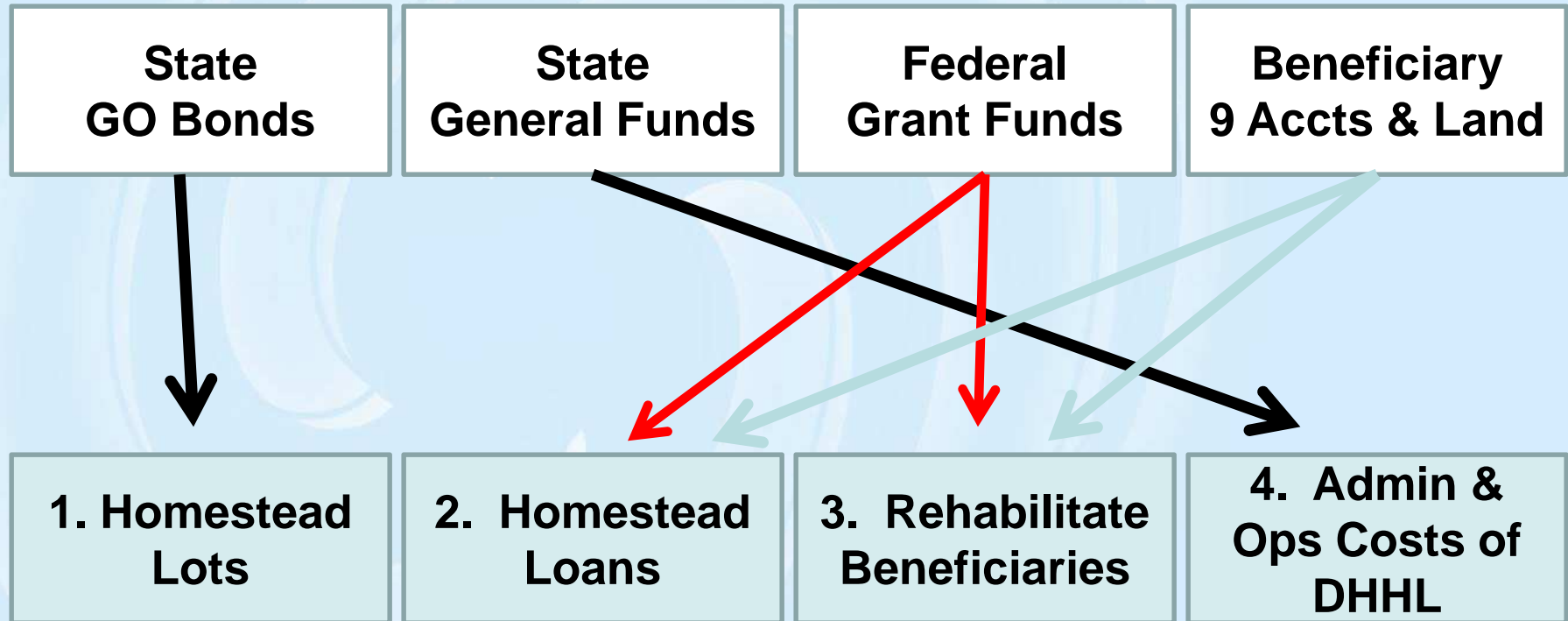
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WHAT SUCCESS LOOKS LIKE!



WHAT SUCCESS LOOKS LIKE!



State Budget Approach

DHHL/State of Hawaii Approach Before Nelson

To Fund 100% of DHHL Staff/Operations Costs with Hawaiian Trust Funds (Rev from Leasing our Land)

DHHL/State of Hawaii Approach After Nelson

- To Fund 40% of DHHL Staff/Operations Costs with State General Funds, and 60% with Hawaiian Trust Funds (Rev from Leasing our Land)**
- And....to Make NO Reductions in Costs, to simply continue spending our trust funds until they are gone.**

State Budget Approach

The DHHL/State of Hawaii Approach Before Nelson

	<u>Fed\$</u>	<u>GF\$</u>	<u>Hwn\$</u>
DHHL Admin & Ops	\$500K	\$0M	<u>\$22.8M</u>
Plus \$\$ for CIP	\$8M	\$0M	<u>\$50M-100M</u>

After Nelson, Starting in 2013

	<u>Fed\$</u>	<u>GF\$</u>	<u>Hwn\$</u>
DHHL Admin & Ops	\$500K	\$9.5M	<u>\$13M</u>
Plus \$\$ for CIP	\$8M	\$0M	<u>\$50M-100M</u>

End Briefing on Nelson Case

If you are interested in the work of the CNHA Policy Center and the SCHHA on Trust Land Issues, sign up to the Homestead Working Group by sending us an Email policy@hawaiiancouncil.org

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