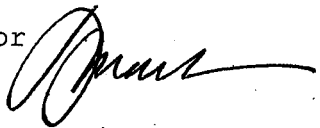


STATE OF HAWAII

DEPARTMENT OF HAWAIIAN HOME LANDS

December 15-16, 2014

To: Chairman and Members, Hawaiian Homes Commission
Thru: Darrell T. Young, Deputy to the Chair
Office of the Chairman
From: Linda Chinn, Administrator
Land Management Division 
Subject: Approval of New Revocable Permit Program

RECOMMENDED MOTION/ACTION:

That the Hawaiian Homes Commission grants its approval to the New Revocable Permit Program as shown on Exhibit "A," and the process as shown on Exhibit "B."

DISCUSSION

Authority to Issue Revocable Permits

The authority for the Department of Hawaiian Home Lands to issue revocable permits can be found in the (i) Hawaiian Homes Commission Act, 1920, as amended, Section 204(2), (ii) Hawaii Revised Statutes, Chapter 171, Section 171-55, Permits, as amended, and (iii) Hawaii Administrative Rules, Title 10, Department of Hawaiian Home Lands, Chapter 4, Management of Hawaiian Home Lands, Subchapter 1, Land Management, Section 10-4-1 Lease of Lands.

Concerns raised on the Revocable Permit Program

Concerns were raised that the existing revocable permit program was plagued by "malpractice" and "mismanagement" over the years.

Governor Abercrombie convened a Governor's Ad Hoc Advisory Group to assist DHHL to review the current program and provide recommendations on improvement to the program. Members of the Governor's Ad Hoc Advisory Group were David Louie, Attorney General, William Aila, Chairperson of the Board of Land and Natural Resources, and Kalbert Young, Director of Department of Budget and Finance. In June 2014, the Governor's Ad Hoc Advisory Group made its recommendations (See Exhibit "C").

The Ad Hoc Advisory Group's recommendation is to task Land Management Division (LMD) to look beyond the month-to-month use as prescribed under the old Revocable Permit Program. The Ad Hoc Advisory Group recommends that:

1. DHHL conducts a thorough inventory of lands not currently leased under its homesteading program. LMD will indentify parcels that, using the Island Plans, Regional Plans, and other land assessment reports that were commissioned for Hawaiian home lands use, are suitable for land disposition on either a month-to-month permit, or longer term general lease.
2. Offer long term general leases or licenses for lands for which development is not planned in the next twenty years. Lands not designated for revenue generation in the island or regional plans but development will not happen for years out based on DHHL's financial plans, would be looked at for a shorter term general lease or license. It will follow the HRS Chapter 171 process on public auction.
3. On lands that are only available and suitable for short term use, formulate a new Permitting Process. This is the basis for the new revocable permit program.

The New Revocable Permit Program

The Hawaiian Homes Commission had in the past issued position statements on the issuance of Revocable Permits, based on the statutory authorities granted. The following statements are still valid and prudent and are recommended to be incorporated into the new program.

- 1) All available Hawaiian home lands that are not immediately required for native Hawaiian homesteading, general leasing, and/or other purposes for long-term durations shall be available to the general public for month-to-month tenancy through the issuance of revocable permits;
- 2) Maximize DHHL's annual revenues from available lands through good land management practices conducted on lands utilized by way of revocable permits;
- 3) Reduce the acreage of available lands utilized under revocable permits, while increasing DHHL's revenues that are derived from such land dispositions;
- 4) Authorize the Chairman to amend and terminate Revocable Permits (HHC to approve new RP issuance); and

- 5) Agricultural use for more than 40 acres must consider possible impact to native Hawaiian farmers on the same island on availability of water, market share, and pricing.

The basic program will include the following action:

- 1) Identification of non-homestead parcels that are suitable for disposition on a month-to-month basis.
- 2) Formulate a new Permitting System, not founded on a "first come, first served" basis, for lands envisioned to be developed in the nearer future.
 - Implement a competitive process for disposition of such lands by issuing requests for proposals on an annual or semi-annual basis.
 - Month-to-month land dispositions should not be automatically renewed each year. DHHL should conduct a review of each disposition three (3) months prior to expiration and determine whether to continue with the RP.
 - Establish the proper method of determining appropriate rents, either by fair market appraisal or prudent in-house analysis of the fair market rent.
 - Allocate DHHL staff time to conduct compliance reviews of each permit on an annual basis. If violations are found, DHHL should move expeditiously to have permit holder cure the violation or move to cancel the permit.
 - Consult with outside commercial real estate expert to assist in determining whether revenues are being maximized for DHHL.
 - Initiate steps to promulgate administrative rules for the new revocable permit program.
 - Create a manual of internal procedures for DHHL staff to follow regarding issuance, compliance review, and enforcement of permits.

Once approval is granted for the Proposed Revocable Permit Program by the Hawaiian Homes Commission, LMD staff will conduct informational meetings statewide to inform beneficiaries and tenants of DHHL on this new program.

RECOMMENDATION

Land Management Division recommends approval of the motions as stated for the following reasons:

- Provide greater transparency and fairness to the DHHL's beneficiaries and the general public;
- Improve efforts to ensure the safe, appropriate, and approved use of Hawaiian home lands;
- Increase the income stream generated from the new Program; and
- Strengthen DHHL's ability to carry its mission in service to its native Hawaiian beneficiaries.