

MEMORANDUM -

AS TO THE CHAIN OF TITLE TO THE PARCELS OF LAND UNDER SEARCH PARTICULARLY AS TO THE DERIVATION OF THE STATE OF HAWAII'S TITLE

Immediately upon the establishment of the Executive Departments of the Hawaiian Government, Kamehameha III, together with the House of Nobles and Representatives enacted into law, the "Mahele of 1848".

Pursuant to this law, on February 3, 1848, Elia Kuhia and Kamehameha III partitioned their interests in and to the Ahupuaa of Kahanahaiki, each as to a one half share.

On January 28, 1848, Keohokalole relinquished all of her entitlement in and to the Ahupuaa of Makua unto Kamehameha III.

Subsequently, on March 8, 1848, the King surrendered his interest in and to the Ahupuaa's of Kahanahaiki and Makua to the Hawaiian Government. Thus, 1/2 of the Ahupuaa of Kahanahaiki and Makua were Government Lands since the 1848 land reformation.

By Land Office Deed No. 6, dated September 12, 1848, Elia Kuhia conveyed all of his "right, title and interest in and to the land called Kahanahaiki .." to Keoni Ana, the Minister of Interior. Said land being all of the land received by him on February 3, 1848 as stated in the Mahele Book at page 80. Thus, by said Deed the entire Ahupuaa of Kahanahaiki became Government Lands.

On January 17, 1893 the Government of the Hawaiian Kingdom was overthrown by insurrectionists assisted by the United States Navy. Seizing all Crown and Government Lands, the Provisional Government was established, and later, on July 3, 1893, became a permanent institution functioning under the style and name of the Republic of Hawaii.

Under the Land Act of 1895, Government Lands, together with the Crown Lands, became known as "Public Lands".

Under the Hawaiian Organic Act dated April 30, 1900, the United States Congress provided a government of territorial status to replace the institution of the Republic of Hawaii. All matters of state, particularly with regards to "Public Lands", came under the control and management of the Territory of Hawaii with an appointive Governor as head of state.

By General Lease No. 1740, dated December 29, 1925, portions of the Government Lands of Makua and Kahanahaiki, including the parcels of lands to which this memorandum is addressed, were leased by the Commissioner of Public Lands, C.T. Bailey, to James F. Woods for the term of 21 years commencing on the endorsement of same.

Under date of March 21, 1928 the said Lease was assigned to

L.L. McCandless " .. for and during the rest, residue and remainder yet to come of and in the term of 21 years mentioned in said General Lease No. 1740."

By Revocable Permit No. 200, dated May 17, 1943, the Territory of Hawaii by its Acting Commissioner of Public Lands, A.A. Dunn, "to assist in the present war effort..", granted a License to the Military authorities having charge of Military operations in Hawaii, to use and occupy the lands of Makua and Kahanahaiki formerly covered by General Lease No. 1740 "for the duration of the present war and six months thereafter."

By the Admissions Act (Public Law 86-3, 73 Stat.4) under section 5(f), subsection (e) "each federal agency having control over any land or property that was retained by the United States pursuant to subsections (c) and (d) was required, within five years of statehood, to report to the President on the continuing need for such land or property, and the President was mandated to convey to the State of Hawaii the land or property if the President deemed it no longer needed by the United States."

Under the provisions of the State Constitution adopted July 22, 1950, the Territory of Hawaii became known as the State of Hawaii. The Ahupuaa of Makua and Kahanahaiki, excepting those portions thereof that may have been heretofore conveyed, is owned by the State of Hawaii and under the control and management of the Commissioner of Public Lands, now known as the Department of Land and Natural Resources, State of Hawaii.

Under date of August 17, 1964, the State of Hawaii by its Board of Land and Natural Resources, leased to the United States of America by General Lease No.S-3848 (U.S. Lease Contract No.:DA-94-626-ENG-79), two parcels of land for a term of 65 years from August 17, 1964 to August 16, 2029.

NOTE: Revocable Permit No. 200 was cancelled effective October 23, 1973.

The subject parcels, being a portion of Parcel A of said lease, were made subject to, among others, the following provisions:

14. That portion of the demised premises situate between the ocean and the beach road (Farrington Highway extension) .. shall be fully available for use by the general public, except during the periods when the public will interfere with training activities or training will endanger the said public, whereupon the Government .. shall have the right to restrict public use of the premises and to control traffic access over the said beach road during all periods of danger .. the Lessor shall be responsible for exercising proper control of the public during periods when public use is permitted.."

25. Subject to obtaining the prior approval of the Government, the Lessor reserves the right to grant rights or privileges to others not inconsistent with the terms of this lease affecting the whole or any portion of the demised premises."

By Executive Order No. 3338, dated May 12, 1986, Governor George R. Ariyoshi set aside certain Public Lands, including all of Tax Map Key parcels (O) 8-2-01: 01 and 22 and 8-1-01:08, for State Park Purposes. Said Tax Key parcels, being the same as Parcels A, B, C and D of said Executive Order. The lands set aside therein were placed under the control and management of the Division of State Parks, Outdoor Recreation and Historic Sites, Department of Land and Natural Resources and designated as Kaena Point State Park.

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D A T E D at Honolulu, City and County of Honolulu, State of Hawaii, this THIRTIETH day of JANUARY, A.D., 1996 AT 10:00 o' clock A.M.

ABTRACTOR  
DIVISION OF FORESTRY AND WILDLIFE