

OVERVIEW

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STATE OF HAWAII

Study of Revenue Entitlements to the Department of Hawaiian Home Lands

Summary

The Department of Hawaiian Home Lands (DHHL) is the agency created to administer the Hawaiian Homes Commission Act and place Native Hawaiians on the land. It is entitled to 30 percent of the revenues from the use and disposition of sugarcane lands. The Department of Land and Natural Resources (DLNR), the agency that manages and disposes of public lands, is responsible for transmitting the revenues from sugarcane lands to DHHL.

In the past two years, the Board of Land and Natural Resources has approved the conveyance of several parcels of sugarcane lands to the Housing Finance and Development Corporation (HFDC) without resolving the issue of DHHL's entitlement to compensation. HFDC is the state agency set up in 1987 to develop reasonably priced housing. The statutes give it substantial power and exempt it from many of the restrictions and ordinances governing private developers.

In May 1989, HFDC exchanged its pasture lands in Kaneohe for sugarcane lands in Hanapepe, Kauai, which it plans to use for housing. HFDC affordable housing projects in Honokowai and Lahaina on Maui also rest on former sugarcane lands. The HFDC is now negotiating with DLNR to resolve the entitlement question.

We found that the procedures used by the executive branch do not ensure that DHHL receives all income to which it is entitled nor do they ensure that trust obligations are being fulfilled. Through a memorandum of understanding, DLNR is to notify DHHL of actions taken on sugarcane lands. But in our Lahaina case study, we found that DHHL did not receive sufficient information about the pending conveyance of over 1,100 acres in fee to HFDC. Although the Board of Land and Natural Resources has approved conveyance of the land, DLNR and HFDC have yet to finalize the methods of compensating DHHL.

DLNR has not used a consistent method of valuing public lands that it exchanges. It has relied on appraisals by purchasers and has conveyed lands without requiring an appraisal. Part of the problem is that the statutes are silent on appraisal procedures when lands are exchanged or transferred *among government agencies*.

Recommendations and Response

We recommended that the Legislature amend Section 171-95, HRS, to require the Board of Land and Natural Resources to appraise all public lands before they are disposed of to other government agencies. DLNR should provide the entitlements due to DHHL for the sugarcane lands at Hanapepe, Honokowai, and Lahaina.

DLNR needs to plan for the future use of agricultural lands, especially sugarcane lands. We recommended that the department work with representatives from DHHL and other affected agencies in doing so. A new memorandum of understanding should, among other things, require DLNR to notify DHHL of all transactions involving sugarcane lands, and the amount and method of compensation.

The DHHL agreed with all of our recommendations. The DLNR did not agree with the recommendation to amend the statutes to require appraisals for land dispositions between public agencies. In its response, the HFDC said it understood that the 30 percent entitlement did not apply if public lands were used for public purposes. This contention may be one reason the entitlement issue has not been resolved.

Background

Since the constitutional amendments of 1978, the Office of Hawaiian Affairs (OHA) and DHHL have been entitled to portions of the revenues from certain public lands. OHA is entitled to 20 percent of the revenues from the use and disposition of ceded lands, and DHHL to 30 percent of the revenues from the use and disposition of sugarcane lands. Ceded lands make up approximately 1.3 million acres of state lands. Sugarcane lands, which are public lands leased for sugar cultivation, represent more than 80 percent of the 74,400 acres leased by the state for intensive agriculture.

Sugarcane lands are part of what is called the public land trust. The land trust is comprised of lands ceded to the United States when the Republic of Hawaii was annexed in 1889 and returned to the state under the Admission Act of 1959. These lands are held as a public trust to support public education, farm and home ownership, public improvements, public use, and the betterment of the conditions of Native Hawaiians.

Office of the Auditor State of Hawaii

465 South King Street, Suite 500
Honolulu, Hawaii 96813
(808) 548-2450
FAX (808) 548-2693