



## PLANNING COMMISSION

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LORI OTSUKA, MEMBER

### MEMORANDUM

DATE: February 8, 2022

TO: Planning Commission

FROM: Clerk of the Commission

SUBJECT: 1st Addition to the Subdivision Committee 2/8/2022 Agenda

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I. NEW BUSINESS (For Action)

1. Tentative Subdivision Map Approval

- a. Subdivision Application No. S-2022-6
- 2) Memorandum No. 1 to Planning Commission.

2. Final Subdivision Map Approval

- a. Subdivision Application No. S-2021-1
- 3) Memorandum No. 1 to Planning Commission.

## DEPARTMENT OF PLANNING

KA'ĀINA HULL, DIRECTOR

JODI A. HIGUCHI SAYEGUSA, DEPUTY DIRECTOR



DEREK S.K. KAWAKAMI, MAYOR  
MICHAEL A. DAHLIG, MANAGING DIRECTOR

### MEMORANDUM NO. 1 TO PLANNING COMMISSION

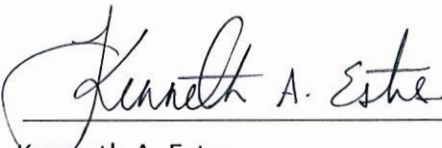
**RE:**                    **Subdivision Application No. S-2022-6**  
Kukui'ula Parcel HH Subdivision  
Kukui'ula Development Company, LLC.

**Subdivision Application No. S-2021-1**  
Kukui'ula Parcel I Subdivision  
Kukui'ula Development Company, LLC.

#### ADDITIONAL FINDINGS

Attached for the Planning Commission's reference are public testimony concerning the above referenced subdivisions:

- Correspondence from Kaimana Chapa received February 6, 2022.
- Correspondence from Elizabeth Okinaka received February 7, 2022.
- Correspondence from Roslyn Cummings received February 7, 2022.
- Correspondence from Holly Ka'iakapu received February 7, 2022.

By   
Kenneth A. Estes  
Staff Planner

Date: 02.07.2022

**I. 1.a.2.**  
**I. 2.a.3.**

**FEB 08 2022**



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**From:** Kaimana Chapa <kchapa808@gmail.com>  
**Sent:** Sunday, February 6, 2022 6:44 PM  
**To:** Planning Department  
**Subject:** Kukui'ula requesting 90 lot subdivision

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Aloha,

My name is Kiara Kele Luka Ana Lorenzo- Rodrigues. I am a wahine kanaka Maoli and I write to you in opposition of this new development, the site is not only sacred to the kanaka people but also hold the iwi (bones) of my tutu wahine. Not only my tutu but the bones of many other kanaka. It is also home to a Heiaus and lava caves that are home to endangered species. For me it's more then a nice vacation spot for tourist, it's my history. That would simply be erased if you continue to develop and cut off our access to these places of worship.

As a young mother I worry about the future of my child. Not only does this development have no local housing, it would only lead to more displacement of local family's.

Coupled with the massive amounts of tourism out island chain has seen within a world wide pandemic building more homes to house people that bring variants of COVID-19 from all over the world this would not only be unwise to continue it directly affects the health and well being of the local community. With all this said I can only ask of you all to do your duty to protect the locals. And not only the locals that are living but all that have come before us and buried themselves in their homelands.

Mahalo piha,

Kele luka Ana

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**From:** Elizabeth Okinaka <elizabeth.eolakakouhawaii@gmail.com>  
**Sent:** Monday, February 7, 2022 1:18 AM  
**To:** Alan.S.Downer@hawaii.gov; Susan.A.Lebo@hawaii.gov; Council Members; Mayor; Planning Department; reptokioka  
**Subject:** Oppose Subdivision Application S-2022-6 and S-2021-1  
**Attachments:** Letter re Kukuiula for Feb 8 Planning Commission Meeting-LO.pdf

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

**Aloha Planning Commission and Department, please accept this testimony in opposition of subdivision application S-2022-6 and S-2021-1 requested by Kukuiula Development Company LLC. Please see attached file regarding Ka Pa'akai O Ka'aina**

SHPD did not adhere to guidelines in Ka Pa'akai O Ka'aina that states "they must consult and report on the consultation with community members". I was never contacted nor was I never offered to give input regarding cultural concerns. I have already witnessed machines bulldozed obvious sections of heiau. In the past Kukuiula had referred to these as "mere rock piles".

As a member of E Ola Kakou Hawai'i 501C3 I would like to formally request to be consulted with future archeological consulting pertaining to this greater area. Please see others issues in attachment.

**Critical Habitat for Koloa Cave Spider and Amphipod-**

Why wont the County Of Kauai push for more protection for 2 species that are found no where else in the world! These species are increasingly at risk, with all the planned development planned directly on or next to critical habitat.

**April 9, 2003, the USFWS designated 272 acres in southern Kauai as critical habitat. One year earlier, the agency had proposed that 4,193 acres should be designated as critical habitat, but changed the proposal because it would have been very costly to private landowners in Hawaii.**

*The Koloa lava tubes of Kauai and their associated endangered fauna were identified as one of the ten most endangered cave communities in the world (Tongvig and Mylroie, in litt. 1998; Belson 1999)*

Other issues :

There are also multiple Burial Caves with iwi kupuna in this direct area.

**NO Local Housing**

These outdated developments were originally approved based on the agreement there would move lots sold to local families. After decades of going back and forth eventually all local housing was scrapped. Yes we got affordable apartments, BUT no matter how long a families pays rent they can never own the apartment. This is cultural genocide and should in NO way be considered a viable excuse while dozens of multiple Million Dollar homes are built in return. This is further



displacing the local community while raising the cost of living and property taxes from local families that are lucky enough to own their home.

Even if some of these lots being subdivided are for tennis courts, pickle ball courts NONE of these will serve the local community. Just like how Kukui'ula got approved claiming they would build local homes. But instead we got more measly apartments that we can NEVER own. Why are we prioritizing multi million dollar developments at a time like now? Outer islands and County Council on Maui are STOPPING further development right now! But in 2022 alone I was already witnessed 90 lots subdivision request fly through the planning Commission with no concerns.

The Planning Department and Commission members really need to have a deep think about what they are leaving behind for future generations. I already as a mother cannot even take my children to our local beach anymore because of the insane amount of tourist at Poipu Beach Park.

how many agreements does the county of kauai have in place with Kukuiula? Do you understand how deeply this will affect the south side community for generations to come? Will there be homes directly across the street from the harbor? There is a deep conflict of interest when we have people like Laurel Loo who had inside knowledge with these projects as then county attorney. Did she also sign off on any agreements for Kukuiula like she did Kiahuna? Those developments still happening today because of her approval of those agreements, yet now she is representing the developers. And this is also not an isolated issues, as she now represents multiple developers. Don't you think the general public deserves to have this information disclosed?

The fact that the planning department is even moving forward with any more tourist accommodations at this time is unthinkable. Or these gentrified Multi Million Dollar developments that are pushing out the local community. And this is not isolated we there will be a 400 million dollar boutique hotel not far from here, how about the 282 condos you guys are also allowing to be built? The lots at makahuena that are selling for 10+ million dollars but were once set for local home lots we could actually own and pass down to our children. Stop continuing the genocide of the local community. Our children should not have to suffer the consequences of these poor choices today.

I am deeply saddened to read reports from only 10-15 years ago were the county council and planning commission were stopping entire developments. County Council in the past were calling out SHPD for there lack of involvement and not protecting more historical sites. County stopped them because they realized it was not a priority for the community at the time . Covid should have made you each realize how quickly tourism can disappear. Why are we not focusing on the better ment of our community. Making sure NO more local families are forced to move off island because they can simply no longer afford to live in the place they were born and raised. 90 lots for foreigners -but when will local families become a priory to the county again?

Aloha  
Elizabeth Okinaka

E Ola Kakou Hawaii  
501C3

Feb 6, 2022

Aloha Planning Commission,

Re: Revised Application - Tentative Map Subdivision Application S-2022-6 Proposed 51 Lot Subdivision TMK (4) 2-6-019:026,029,031 Koloa, Kauai and

Re: Final Subdivision Application S-2021-1 Kukui'ula Proposed 40 Lot Subdivision TMK (4) 2-6-015:001 Koloa Kauai

### **51 Lot Tentative Subdivision**

We appreciate several aspects of this proposal and also have significant concerns:

- 1) **No Lawai Road Access** - We appreciate the Commission has made it clear there will be no access on to Lawai Road from this area and highlighted that the developer make it clear on all plans that there will not be any entrance/egress on this important and historic road leading to the boat harbor.
- 2) **We will assume and would like confirmation that:**
  - a. This includes NO ACCESS now or in the future on to ANY Road that may be constructed parallel or otherwise in the vicinity of Lawai Road or any portion of Lawai Road that serves as transit to the Board Harbor and Spouting Horn or any portion of any access under any name (Lawai Rd or other) with the same or similar transit pattern.
- 3) **Trail Master Plan** – We appreciate focus on public access. Please confirm trail plan is in place.
- 4) **Ka Pa'akai O'Ka'aina Analysis/SHPD** – We appreciate this condition was added in – it seems to have been an oversight it was not included originally.
  - a. We are concerned however that the SHPD conclusion 'No Historic Properties Affected' has become boiler plate text. It does not or may not accurately reflect the current state of archeology and historic properties **as the required guidelines of Ka Pa'akai O' Ka'aina were not followed to inform this assessment.**
    - **Community Consultation Not Identified** - Of note we do not see in in the correspondence from SHPD/Alan Downer to Michael Moule on Jan 21, 2022 that any community members were contacted or consulted with. Not a single member has been identified.
  - b. **Overlooking Ongoing Issues** – Separately in the same letter re: Hammatt Report (June 201) that the report cites: "Historic properties were identified, Habitation and Agricultural Site (50-30-10-01947) 2

Habitation Sites (50-30-10-01949 and (50-30-10-01950) and note that it suggests these areas 'were not slated for preservation'

We Question Why? We note the report goes on to say they were likely removed during 'Permitted mass grading in the 1980s'.

- Oversight, intentional removal or destruction appears to be the 'Developer's Choice' process for removing any 'obstacles' to construction.
- Let this inform ALL decisions made today with regard to allowing further grubbing, grading, clearing, building that once historic sites are gone – they are gone for good.
- It is the responsibility of the Planning Commission to ensure this does not happen.

c. **Guidelines not Adhered To** - It appears that SHPD correctly recognized that the guidelines were not adhered to as the letter notes: "Although the archeological field inspection report (Hammatt June 21) does not fulfil the requirements of an archeological inventory survey as specified in HAR13-276-5, it serves to support project planning and facilitates the historic preservation review process."

d. **SHPD Conclusion in Correspondence is Without Merit** - as the activities required to make such a conclusion were not performed. The next paragraph asserts that 'No Historic Properties Affected' then goes on to say that because this determination was conveyed via correspondence that it signals the "end of the historic preservation review process. The permitting and or project initiation process may continue."

e. **Inaccurate Assertion** - Importantly - the determination made by SHPD that '**No Historic Properties Affected**' – **cannot be considered accurate and should be voided.**

This assertion cannot be determined as the guidelines - focusing on Consulting Community - and steps associated with Ka Pa'akai O' Ka'aina were not followed.

f. **It should be noted that there are Land Commission Awards associated with this parcel which make it imperative the community is consulted.**



## **40 Lot Subdivision**

### **Re: Final Subdivision Application S-2021-1 Kukui'ula Proposed 40 Lot Subdivision TMK (4) 2-6-015:001 Koloa Kauai**

- 1) We encounter the same issue here as above, in a letter to Michael Moule Feb 21, SHPD again states that 'No Historic Significance' but is based on an incomplete assessment – there is no evidence or suggestion that anyone from SHPD consulted with the community
- 2) The letter states: "While LRFI does not fulfil the requirements of an AIS as specified in HAR 13-276-5, it serves to support project planning and the historic review process.

The LRFI meets the minimum requirements of HAR 13-282-3".

- a. It noted: As with the 51 Lot subdivision proposal, SHPD claims that once their correspondence has been sent indicating 'No Historic Properties Affected', the issue is final.
- b. There is no finalization until the steps and guidelines in Ka Pa'akai O' Ka'aina have been followed, that is the intent and was the outcome of the case. SHPD cannot make this determination short of following and including its report - all the steps

Given the above, there can be no forward motion on either of these subdivisions as SHPD's conclusion does not follow from its action (or inaction).

Mahalo

– Elizabeth Okinaka and E Ola Kakou Hawai'i

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**From:** Roslyn Cummings <mana.eolakakouhawaii@gmail.com>  
**Sent:** Monday, February 7, 2022 8:29 AM  
**To:** Planning Department  
**Subject:** Public Testimony No. S-2022-6, S-2021-1

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

ROSLYN CUMMINGS  
c/o Roslyn Cummings  
Living, Breathing Human Being  
c/o General Delivery (Box 315)  
Kalaheo Station  
Kalaheo, Kauai, Hawaii Nei  
(U.S.P.Z. Exempt - 96741)

(NOTICE TO AGENT IS NOTICE TO PRINCIPAL, NOTICE TO PRINCIPAL IS NOTICE TO AGENT)

Attention Planning Commission,

**Members**

- Donna Apisa, Chair
- Helen Cox, Vice Chair
- Francis DeGracia, Subdivision Committee Chair
- Gerald Ako
- Melvin Chiba
- Glenda Nogami-Streufert
- Lori Otsuka

I'm here to speak on the cultural religious significance of these upcoming developments. Listed on the Agenda February 8, 2022,

Targeting cultural sites is a war crime under the 1954 Hague Convention.

Hawaiian Kingdom, the law is very clear who are heirs in law, the Civil Codes from 1859

break in the links in the chain of title, to demonstrate an issue of material fact, probate records and or references to them.

Anything after 1893 is null and void. Any laws established after the alodial is null avoid cannot be used for said property.

Grave breaches of the Geneva Conventions today form part of a complex set of crimes under international law, consisting of serious violations of international humanitarian law often referred to as war crimes, as well as gross human rights violations, such as crimes against humanity and genocide. Grave breaches are part of the wider category of serious violations of humanitarian law that States are called upon to suppress in both international and non-international armed conflict.[6] They remain 'segregated from other categories of war crimes',[7] as the list of grave breaches contained in the Geneva Conventions and Additional Protocol I is a limitative one which is only applicable in international armed conflict.[8] Furthermore, the grave breaches regime imposes on States Parties the obligation to either prosecute or extradite alleged offenders, regardless of their nationality, as opposed to a right to do so recognized in international law in connection with alleged perpetrators of war crimes.[9]

#### HRS §711-1107 Desecration.

(1) A person commits the offense of desecration if the person intentionally desecrates:

- (a) Any public monument or structure;
- (b) A place of worship or burial; or
- (c) In a public place the national flag or any other object of veneration by a substantial segment of the public.

(2) "Desecrate" means defacing, damaging, polluting, or otherwise physically mistreating in a way that the defendant knows will outrage the sensibilities of persons likely to observe or discover the defendant's action.

(3) Any person convicted of committing the offense of desecration shall be sentenced to a term of imprisonment of not more than one year, a fine of not more than \$10,000, or both.

I demand that proof of rightful ownership through clear title be made clear; request for chain of title and the contract which states the County of Kauai Planning Department has to do business lawfully in regards to these lands.

Secretary of State Calhoun responded to the Hawaiian Commission on July 6, 1844. He wrote that the appointment of a United States Commissioner to the Hawaiian Islands was "regarded by the President as a full recognition on the part of the United States, of the Independence of the Hawaiian Government." A Treaty of Friendship, Commerce and Navigation between the Hawaiian Kingdom and the United States was signed in Washington, D.C., on December 20, 1849.

There is no political question for the United States to raise in its Motion to Dismiss because the United States, by its President, formally recognized the Hawaiian Kingdom as a sovereign and independent State. On December 18, 1893, President Grover Cleveland acknowledged the United States' overthrow of the government of the Hawaiian Kingdom was an act of war and unlawful. The overthrow of the Government of an independent State does not equate to the overthrow of the State itself and its existence. The State would still exist and the situation would be called "belligerent occupation."

Unlawful means doing something that you do not have the right to do.

The ownership of a thing is the right of one or more persons to possess and use it to the exclusion of others. In this Code, the thing of which there may be ownership is called "property." Civ.

, a trust is a right in property (real or personal) which is held in a fiduciary relationship by one party for the benefit of another. The trustee is the one who holds title to the trust property, and the beneficiary is the person who receives the benefits of the trust.

What is the great Mahele?

for the record-

The mayor's responsibilities are primarily to preside at council meetings and to act as head of the city for ceremonial purposes and for purposes of military law. The mayor votes as a councilmember and does not have any veto power.

The county mayor is the accounting officer and chief financial officer of the county; he or she is charged with the care and custody of county property (unless the law specifically places the care and custody on another official, such as the chief administrative officer of the highway department for highway equipment).

A fiduciary is a person who holds a legal or ethical relationship of trust with one or more other parties (person or group of persons). Typically, a fiduciary prudently takes care of money or other assets for another person. One party, for example, a corporate trust company or the trust department of a bank, acts in a fiduciary capacity to another party, who, for example, has entrusted funds to the fiduciary for safekeeping or investment. Likewise, financial advisers, financial planners, and asset managers, including managers of pension plans, endowments, and other tax-exempt assets, are considered fiduciaries under applicable statutes and laws.[1] In a fiduciary relationship, one person, in a position of vulnerability, justifiably vests confidence, good faith, reliance, and trust in another whose aid, advice, or protection is sought in some matter.[2]:at p. 68[3] In such a relation, good conscience requires the fiduciary to act at all times for the sole benefit and interest of the one who trusts.

What is COUNTY?

The name given to the principal subdivisions of the kingdom of England and of most of the states of the American Union, denoting a distinct portion of territory organized by itself for political and judicial purposes. The etymology of the word shows it to have been the district anciently governed by a count or earl. In modern use, the word may denote either the territory marked off to form a county, or the citizens resident within such territory, taken collectively and considered as invested with political rights, or the county regarded as a municipal corporation possessing subordinate governmental powers, or an organized jural society invested with specific rights and duties. *Patterson v. Temple*, 27 Ark. 207; *Eagle v. Beard*, 33 Ark. 501; *Wooster v. Plymouth*, 62 N. H. 20S.

If you want a legal definition, Black's Law Dictionary says that a Trust is "an equitable or beneficial right or title to land or other property, held for the beneficiary by another person, in whom resides the legal title or ownership, recognized and enforced by courts of chancery."

A claim is a violation  
A complaint is criminal

## RESTITUTION

According to Black's Law Dictionary, restitution is an "Act of restoring; restoration of anything to its rightful owner; the act of making good or giving equivalent for any loss, damage or injury; and indemnification".

### What is FRAUD?

Fraud consists of some deceitful practice or willful device, resorted to with intent to deprive another of his right, or in some manner to do him an injury. As distinguished from negligence, it is always positive, intentional. *Maier v. Hibernia Ins. Co.*, 67 N. Y. 292; *Alexander v. Church*, 53 Conn. 501, 4 Atl. 103; *Studer v. Bleistein*, 115 N.Y. 31G, 22 X. E. 243, 7 L. R. A. 702; *Moore v. Crawford*, 130 U. S. 122, 9 Sup. Ct. 447, 32 L. Ed. 878; *Fechheimer v. Baum (C. C.)* 37 Fed. 167; *U. S. v. Beach (D. C.)* 71 Fed. 160; *Gardner v. Iheartt*, 3 Denio (N. Y.) 232; *Monroe Mercantile Co. v. Arnold*, 108 Ga. 449, 34 S. E. 176. Fraud, as applied to contracts, is the cause of an error bearing on a material part of the contract, created or continued by artifice, with design to obtain some unjust advantage to the one party, or to cause an inconvenience or loss to the other. Civil Code La. art. 1547. Fraud, in the sense of a court of equity, properly includes all acts, omissions, and concealments which involve a breach of legal or equitable duty, trust, or confidence justly reposed, and are injurious to another, or by which an undue and unconscientious advantage is taken of another. 1 Story, Eq. Jur.

breach

### Definition of breach (Entry 1 of 2)

1 : infraction or violation of a law, obligation, tie, or standard  
a breach of trust

**PENALTIES FOR PUBLIC OFFICERS U.S. CODE Title 42 Penalties for Government Officers.** The authority for fines (damages) caused by crimes by government officers. These Damages were determined by GOVERNMENT itself for the violation listed. Breach Penalty Authority Violation of Oath of Office \$ 250,000. 18 USC 3571 Denied Proper Warrant(S) \$ 250,000. 18 USC 3571 Denied Right of Reasonable Defense Arguments \$ 250,000. 18 USC 3571 Defense Denied Evidence (records) \$ 250,000. 18 USC 3571 Denied Right to Truth In Evidence \$ 250,000. 18 USC 3571 Slavery (Forced Compliance to contracts not held) \$ 250,000. 18 U.S. CODE 3571 Denied Provisions in the Constitution \$ 250,000. 18 U.S. CODE 3571 Treason (combined above actions) \$ 250,000. 18 U.S. CODE 3571 Genocide \$1,000,000. 18 U.S. CODE 1091 Misprision of Felony \$500. 18 U.S. CODE 4 Conspiracy \$ 10,000. 18 U.S. CODE 241 Extortion \$ 5,000. 18 U.S. CODE 872 Mail Threats \$5,000. 18 U.S. CODE 876 Fraud \$ 10,000. 18 U.S. CODE 1001 Falsification of Documents \$ 10,000. 18 U.S. CODE 1001 Perjury \$ 2,000. 18 U.S. CODE 1621 1 **PENALTIES FOR PUBLIC OFFICERS** Subornation of Perjury \$ 2,000. 18 U.S. CODE 1622 Grand Theft each \$ 250,000. 18 U.S. CODE 2112 To determine multiply no. of counts by damage 18 U.S. CODE 3571 Racketeering (Criminal) \$ 25,000. 18 U.S. CODE 1963 Racketeering (Civil) Wages Taken \$ x3 = 5? 18 U.S. CODE 1964 (Sustained Damages [total] x 3) Thirty-seven (37) Constitutional violations from Count 1: = \$ 9,250,000. Damages Dealing with



claims of "immunity." Any claim of "immunity" is a fraud because, if valid, it would prevent removal from office for crimes against the people, which removal is authorized and or mandated under U.S. Constitution Article 2, Section IV; as well as 18 U.S. CODE 241, 42 U.S. CODE 1983, 1985, 1986, and other state Constitutions. Precedents of Law established by COURT cases, which are in violation of law, render violations of law legally unassailable. Such a situation violates several specifically stated intents and purposes of the Constitution set forth in the Preamble; to establish justice, insure domestic tranquility, and secure the blessings of liberty. This is for JUDGES, ATTORNEYS, POLICE or anyone affiliated with or in any branch of government. 2

The Kingdom of Hawai'i is actually a reference to the island kingdom of Hawai'i prior to Kamehameha's unification of the pae 'āina, just as the Kingdom of Maui refers to the island kingdom of Maui, Lāna'i Kaho'olawe, Moloka'i, and O'ahu, and the Kingdom of Kaua'i refers to the island kingdom Kaua'i and Ni'ihau. Kamehameha united the three kingdoms/the entire pae 'āina under one country in 1810, which became known as the Hawaiian Kingdom

It marks the 129 years since the illegal US overthrow of the Hawaiian Kingdom government.

Much of modern Hawaiian history, is based on illegality. The bayonet constitution in 1887. The illegal overthrow of the Hawaiian Kingdom government on January 17th 1893. The illegal and so-called "annexation" (which is quotation marks because it WASN'T a treaty of annexation but a joint resolution or an american law passed in congress, which has no jurisdiction outside of america's border) in 1898. All of these illegalities created these false narratives, stories, mo'olelo that Hawai'i is apart of the US, when really it isn't.

Now today, we see things like "the sovereignty movement" which inaccurately maintains that aboriginal Hawaiians have a right to self-determination, which implies that aboriginal Hawaiians were never nationals of a sovereign and independent State (aka country). Self determination also implies that aboriginal Hawaiians are an ethnic group residing within the united states of america. Hawaiian history cannot support this position. Aboriginal Hawaiians are the majority of the population of Hawaiian subjects who have been subjected to americanization and indoctrination. As an occupied State (aka country) under an illegal and prolonged occupation, the proper framework to understand Hawai'i's unique situation is through international law and the laws of occupation and not through the laws of the united states, and, by extension, the laws of the state of Hawai'i. In this way, not only is Hawai'i's vibrant political and legal history embraced, but it honors and respects all of our kūpuna who established the Hawaiian Kingdom and acknowledges our kūpuna who endured the brutalization of american indoctrination.

Hawai'i was not invaded or colonized by the United States before it gained its sovereignty and became a State under international law in 1843, and therefore its people cannot be considered as indigenous. Instead, international law protects and maintains the continuity of the State despite it being under an illegal and prolonged occupation since the Spanish-American War, which is similar to Germany's occupation of Luxembourg from 1914-1918 during World War I.

To help contextualize what I am talking about, I'll give you an analogy. How do you justify walking into someone's house and declaring unilaterally that said house is now yours when there is a whole family that is living there and has been living there for generations. You then tell them "give me the deed to your house" and they tell you "no." You tell them again "give me the deed to your house" and again they tell you "no." You then go and create a fraudulent deed and then state "This house is mine" and tell all your friends and those living nearby that this house is now yours. That's basically the current situation with Hawai'i.

This isn't some movement that defines Hawaiian identity by blood lineage and seeks to enhance native rights through justice within the existing social and political framework of american state and federal laws. Instead the provisional government of the Hawaiian Kingdom is utilizing the framework of international law to end a foreign occupation that has existed since 1898.

The Hawaiian state that existed in the 19th century had already transformed itself into a nation that had political structure similar to those of European nation states of the time. It was a multi-ethnic constitutional monarchy that had equal treaties with foreign powers, embassies, and international recognition as an independent state.



The provisional government's use of international law to restore a dormant government and revive a disappearing culture should not be confused with indigenous struggles that lack this history of having once been a fully independent state recognized within the global order of the 19th century. Furthermore, Hawai'i is an island nation, so its geographical isolation means there is even less reason for it to negotiate the nation-within-a-nation status that is the norm for aboriginal groups on the North American continent. Pointing out this advantageous legal position, it should not be viewed as an attempt to place ourselves above other groups. We have always expressed solidarity with aboriginal groups that had different experiences with Western contact, but we are in a unique situation that requires a different strategy.

Hawai'i is also different from another category of independence struggle, that of ethnic groups seeking self-determination after a history of colonization. We also appeal to international law and the right to self-determination promised by UN resolutions, but Hawai'i doesn't belong in this category, as Hawai'i was never colonized in the political sense of the word.

Hawai'i's unique situation is an important case for the global community to pay attention to because of the implications for the continued projection of US military power. Hawai'i is the headquarters of the US Pacific Command and thus a highly strategic asset for the placement of conventional military installations and nuclear weapons. The illegal status of the Pacific Command, since the first landing of American troops in 1893 and 1898 should not be forgotten. The United States knowingly occupied a neutral territory, violating international law of the day, in order to conduct operations against another belligerent in the Spanish colonies of Guam and the Philippines.

Not only are we the descendant of the ones who survived every attempt to end us, we literally are NOT even Americans and Hawai'i is NOT America.

He āina Hawaii

### **Ua Mau ke Ea o ka 'Āina i ka Pono**

The life of the land is perpetuated in righteousness

Mo'okuauhau to be looked upon by truthful and honest eyes and protected by the highest 'I'O  
May no harm come upon manawa,

'O iwi, O ku'u iwi, 'O Koko, 'O ku'u koko  
I am of your bones, I am of your blood

'O Ulumahehei Hoapili Ke Kane 'O Kalilikauoha Ka Wahine noho pu laua hanau ia 'O Kuini Liliha  
He Wahine, 'O Kekuanaoa Ke Kane 'O Kianu Ka Wahine noho pu laua hanau ia 'O Lota Kamehameha V  
He Kane, 'O Kamehameha nui Ke Kane 'O

Kalakauakahehemaile Ka Wahine noho pu laua hanau ia 'O Kina'u He Wahine, 'O Koakanu Ke  
Kane 'O Loeau (W) 'O Kuini Liliha Ka Wahine Namaile Ke Kane, 'O Namaile, Kamaile Ke Kane 'O Kuini  
Liliha Ka Wahine noho pu laua ia 'O Abigail Maheha He Wahine, 'O Keaupuni, Kamehameha V Lota Ke  
Kane noho pu laua hanau ia 'O Kanaloiki Keanolani He Wahine, 'O James Kaliokalani Kali Ke Kane 'O  
Anna Ka'iulani Ka Wahine noho pu laua hanau ia Nuanua Kawanui Kaawanui He Kane, 'O Kanaloiki  
Keanolani Ka Wahine 'O Nuanua Ke Kane noho pu laua hanau ia 'O Kikaha, 'O Waikaka Kakanui Kauai  
Kauaiiki Kauhi Abrehama Ke Kane 'O Kikaha Ka Wahine noho pu laua hanau ia 'O William Nuiāola  
Waikaka Kualu He Kane, 'O William Nuiāola Waikaka Kakanui Ke Kane 'O Helen Lahapa Kailiokalani Ka  
Wahine noho pu laua hanau ia 'O Kamakaeha, 'O Liawahine Haupū Ka Wahine 'O Kaliokalani Ke Kane  
noho pu laua hanau ia 'O Helen Lahapa Kailiokalani, 'O Kaumualii Ke Kane 'O Akahi Kawalu Kapuaamohu  
Ka Wahine noho pu laua hanau ia 'O George Humehume, 'O Humehume 'O Pakeke noho pu laua  
hanau ia 'O Kawahine Makua, 'O Humehume 'O Kawahinemakua noho pu laua hanau ia 'O Eke Ese

Oponui , 'O Kailiokalani , 'O Kaapumohu Kaapuwai 'O Kaumualii noho pu laua hanau ia 'O Kealiihonui ,  
'O Pononui Haupū 'O Julia Kulia Nawahine noho pu laua hanau ia 'O Helen Liawahine Haupū, 'O  
Kailiokalani Ke Kane 'O Liawahine noho pu laua hanau ia 'O Helen Lahapa Kailiokalani , 'O Haupū , 'O  
Kapule Kekiahaakulou 'O Kahekili II , 'O Kekuiapoiwa II , 'O Naluahi Ka Wahine 'O Kealiihonui noho pu  
laua hanau ia 'O Kaolei , 'O Haupū 'O Kaolei noho pu laua hanau ia 'O Pononui Haupū He Kane, 'O  
Kamakaeha 'O Ipac noho pu laua hanau ia 'O Kawaikini, 'O Aileen Kawaikini Ipac Ka Wahine 'O Robert  
Stanley Rita Ke Kane noho pu laua hanau ia 'O Darlene Rita, 'O Edmund Francis Malama Jr 'O Darlene  
Joyce Rita noho pu laua hanau ia 'O Roslyn Nicole Manawaiakea Malama He Wahine

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**From:** Holly K <hkaiakapu@gmail.com>  
**Sent:** Monday, February 7, 2022 9:49 AM  
**To:** Planning Department  
**Subject:** Oppose Subdivision Application S-2022-6 and S-2021-1

CAUTION: This email originated from outside the County of Kauai. Do not click links or open attachments even if the sender is known to you unless it is something you were expecting.

Aloha,

I oppose the subdivision application S-2022-6 and S-2021-1. By continuing to approve multi-million dollar projects like Kukui'ula, the Planning Department is choosing to continue the displacement of our local communities. I cannot stand behind that, and I hope the Planning Department makes the most pono decision for our island's community.

Mahalo,  
Holly Ka'iakapu