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[See all listings on I. Royal Patent Land Issues, II. Section 106/NHPA, III. Concerns for Toxic Waste in Fertilizers and water table, and IV. Burial/Iwi issues.]

I. ROYAL PATENT LAND ISSUES:

Related: DLNR's OFFICIAL POSITION ON ROYAL PATENTS LANDS ACCORDING TO MAHOE AND THE CLAIMS/POSITION OF ROYAL PATENT HEIRS

The claim is hereby stated that there is significant evidence of "Broken Title" and that the current "owners" for the development do not actually have clear title to the lands of Punalu'u. Because of clouded title, the destruction of these lands through development is actually illegal and considered by Hawaiians, non-hawaiians, and concerned citizens of Moku o Keawe to be a form of TRESSPASSING.

Also, the forced entry by developers on properties for assessment of historical sites and artifacts is also considered to be a form of trespassing and THEFT if these artifacts are removed by the developers.

Within the area of the resort (see EIS) are listed "Royal Patents" that have been acquired through illegal court action. The statement "illegal" is based on the statement via DLNR Land specialist Gordon Heit Badge No 0002, who referred the question on Royal Patent Lands to Mahoe (Phone Number 808-587-0458) of DLNR Oahu, an expert on Royal Patent Lands.

Mahoe stated that, "The Royal Patents are an original source of title...are for the subsistence of the Hawaiian People. There is no adversity of Royal Patents (RP) or Land Commissioners Awards (LCAw) nor is Quiet Title or Quick Claim applicable to Royal Patent Lands. THERE IS NO LEGAL QUIET TITLE OF ROYAL PATENT LANDS. IF THE HEIRS DO NOT SHOW UP TO THE THIRD CIRCUIT (OR WHATEVER COURT THE CASE IS BEING HEARD) FOR WHATEVER REASON, THE LAND IMMEDIATELY REVERTS BACK TO THE ORIGINAL HAWAIIAN OVER THE ENTIRE AHUPUA'A."

***In the case of Punalu'u, the land should have immediately reverted back to the care of the Konohiki in association with the Ohana (family) of Lot Kamehameha, Royal Patent 7715 (see also sister's claim) for the Entire Ahupua'a as listed in reference to "Majestic Ka'u" study. See reference document for Hilea Iki L.C. Award 7715 Ap. 14 in Figure 25 "Map showing Kuleana Awards" also listed on page 51 of Majestic Ka'u in table 2 "Recipients of Nine Ahupua'a" shows that the LCAw 7715 for Punalu'u is for 5, 360 acres.

In addition, there are also the claims of Allodial Title with the rights of the Native Tenants still intact.

THE GREAT MAHELE AND CURRENT DEVELOPMENTS

According to Chief Aka Mahi, the Royal Patent lands are stated in the Great Mahele to be held for 999 years. The RP lands and LCAw leases have not been exhausted nor extinguished. The Royal Patent Heirs to the lands of Punalu'u are still living and are not extinct. Many of them are living on the lands for many generations only to be by-passed by illegal real estate dealings and fraudulent land title claims. Lineal descendants have every right to claim their lands and the developers must honor these superior forms of title and surrender their illegal holdings over these lands; returning the Royal Patents lands to the Hawaiian People and their Ohana.

THE REMEDY

There is a remedy to this situation of RP/LCAw land purchases according to recent research into the issue of the purchase of a Royal Patent Land by an "innocent buyer" who did not know about the Royal Patent/LCAw claims or was not informed by the persons or company from the which the land was bought; that there is an existing claim to the lands through RP/LCAw/Allodial Title:

Be it known that the case is subject to

A. O & E CLAIMS

1. "O & E" Claim or 'Omissions and Errors'

a. The fact was omitted that these lands are Royal Patents/LCAw and are not subject to Quiet Title, Adverse Possession, etc and that according to Mahoe of DLNR that "There is no legal Quiet Title (etc) of the RP/LCAw and that if the Heirs do not show up to court for whatever reason, the land immediately reverts back to original Hawaiian over the entire ahupua'a." (See Lot kamehameha RP7715, Table 2) [see also map of Land holdings and coastal road in Ninole-Punalu'u Area (After Monserrat, 1887) "Majestic Ka'u", pg. 96, Fig. 39]

2. Thereby making an Error on the transfer of the title.

B. Broker Insurance: Under "Transference of Stolen Property"

1. The money paid by innocent purchaser will be returned.

2. The "Stolen Property" will be returned to the rightful owner (RP/LCAw lands back to the Hawaiians)

See Reference Documents/Sources:

I. Royal Patents:

- a. Exhibit reference “MAJESTIC KA’U” The Mahele Awards; Table 2 Recipients of Nine Ahupua’a
- b. “Team Law” Document “Land Patents:Understanding how they work”
- c. “Team Law” Document “Do you own your own land?”
- d. “Team Law” Document “Steps to secure a Land Patent”
- e. Map of Royal Patent lands in Project Area
- f. Black Law’s Dictionary
- g. Mahoe DLNR Land Agent Royal Patent Specialist: NO QUIET TITLE
- h. CHIEF MAHI, et al
- i. Waihona ‘Aina Website (Land Use and History) via Kepa Maly et al
<http://www.waihona.com/aboutUs.asp>
- j. Remedy: O & E/Broker Insurance

ADDITIONAL SUBJECTS OF CONCERN/Source data (See below Royal Patent resources):

- II. Cultural Resource Management and Historic Preservation “Federal Planning and Historic Places The Section 106 Process (2001)” by Thomas King; see Federal Undertaking-Federal Monies used for Turtle Studies etc, substituting NEPA and EIS for NHPA Section 106, Use of Pesticides in a Traditional Cultural Place unacceptable, destruction or removal of artifacts is an unacceptable negative impact and “Adverse Affect”
- III. “Fateful Harvest” by Duff Wilson: Toxic Waste in Fertilizer (use in Golf Courses?)
- IV. See Gravesites and Burials

I. Royal Patent Land Issues:

Additional Info-

LAND DEEDS Black Law Definitions of words

Deeds-have the appearance of ownership but do not actually own. Only proves stewardship of the property. Only the title-holder actually owns the land. (see US Law)

Exhibit reference:

Also true for land patent holders (see “Land Patent” document from

<http://www.teamlaw.org/PatentHowTo.htm> dated 9/19/2006)

From Edited experts “Do you own your own Land?” :

1. Warranty Deed is “color of title” (false) The “Warranty Deed” is merely a “color of title”. Color of Title means: “That which is a semblance or appearance of title, but not title in fact or in law.” *Howth v. Farrar*, C.C.A. Tex.; 94 F.2d 654, 658; *McCoy v. Lowrie*, 42 Wash. 2d 24 , Black’s Law Sixth Ed.
2. The Warranty Deed cannot stand against the land Patent. “A grant of land (Land Patent) is a public law standing on the statue books of the State, and is notice to every subsequent purchaser under any conflicting sale made afterward.” *Wineman v. Gastrell*, 53 FED 697, 2 U.S. App. 581
3. The Land Patent is permanent and cannot be changed by the government after its issuance. “Where the United States has parted with title by a patent legally issued and upon surveys made by itself and approved by the proper department, the title so granted cannot be impaired by any subsequent survey made by the government for its own purposes.” *Cage v. Danks*, 13 La. Ann 128
4. In the history of this country no Land Patent has ever lost an appellate review in the courts...tidewater land...the patent stood supreme even against California’s Constitution, (*Summa Corp. v. California*, 466 US 198)

See <http://www.teamlaw.org/land/htm>

WHAT IS REAL ESTATE? “It’s a document that lays over the land in color of title” “***They’ve taken their colors of title into the courts for so long that the people (under three generations of deception and ignorance) simply allow them to go ahead. Generally, people seem to have forgotten about land patents.

(Page 2 of 3... Do You Own Your Land?)

Verbally sited notes (JR)

Royal Patents: Foreign Jurisdiction of the Kingdom of Hawaii supercedes the US Court Systems. Removal of claim by the courts of the interest of Royal Patent Lands that have been subjected to Belligerent Occupance.

***No US Court can challenge the Royal Patent or Allodial Title because it is outside the jurisdiction of the United State’s Bar. ***See “Undivided Interest”

OTHER SUBJECTS OF CONCERN:

II. Historic Preservation

Historic Preservation and Section 106: The EIS must not by-pass the section 106 process in trying to substitute the EIS for NHPA Compliance and consultation with the Native Hawaiians who are “recognized under Federal Law” (according to the letter from DLNR Peter Young). Punalu’u is an area that is subject to consideration under Historic Preservation for numerous reasons, not fully listed here, including the fact that Punalu’u was the site for King Kamehameha 1st Plantation. However, be it known that the entire project of Punalu’u is subject to the Section 106 Process because there has been federal monies applied to the turtles and other projects, rendering it a Federal Undertaking; in which all laws under NHPA must be considered and the Hawaiians must be consulted by law.

The definition of a Federal “Undertaking” means a project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including those carried out by or on behalf of a Federal Agency; those carried out with Federal financial assistance; those requiring a Federal permit, license or approval; and those subject to State or local regulation administered pursuant to a delegation or approval by a Federal Agency. 36 CFR 800.16(y); NHPA Sec. 301 (7) (King, 2001 page 34).

To place a development at Punalu’u also restricts and diminishes the Hawaiian People and their subsistence base and their Traditional Cultural Places (TCP). Also, the EIS fails to mention the TCP including the Opelu feeding grounds and other essential Hawaiian resources necessary for survival.

III. Fertilizers/Golf Courses

Concern for the use of Herbicides/Pesticides in the Golf Courses, water table contamination, heavy metals, and Parkinson’s disease symptoms. To test the water and discover after the fact that there has been contamination of the waters is unacceptable. Please read “Fateful Harvest” by Duff Wilson for reference on this practice of using toxic waste in fertilizer. See also OSHA “Right to Know”.

IV. GRAVESITES AND BURIALS

Background info-

Black Law Definitions:

Gravesites and Burial Sites-Are known as “sovereign territories”. No one person, group or nation can touch the remains of the burial site or gravesite; only the direct family members can touch the remains, burial, and gravesite.

Burial Council Meeting: Get the minutes from the last meeting (Pele Hanoa was there) with an open public heard discussion filmed by Jim McGrey about the Bulldozing of land that the developer does not have clear title to...in many cases, there are inadvertent discoveries of the iwi (bones); in some cases, there are bones removed from their resting site and they are placed in the category of “unclaimed bones” which is a violation of the International law stated above. In addition, there is inadequate notification of the Royal Patent Heirs who are often the actual families whose bones are unearthed and removed.

Opinion in response to Punalu’u EIS:

In the case of the Punalu’u Resort, the burial sites are on lands that were illegally taken from Hawaiian Families (see EIS for listings as well as “Majestic Ka’u” Archeology Study for Royal Patent names, sites, and numbers) who have claim of Royal Patent Lands within the Resort Area (see also Fig 39 of RP...may not include all and need other map). It would be inappropriate to build a resort on the Hawaiian’s Royal Patent Lands because the original source of title has been illegally by-passed, putting the Iwi at considerable risk. The bones are not to be disturbed, moved, or bulldozed.