

PART IV. LEGISLATIVE RECOMMENDATIONS

The Joint Senate House Investigative Committee has identified serious shortcomings relating to the Bureau of Conveyances' operational mismanagement, potential loss of revenue, and potential areas of vulnerability. It is clear that further action will be required to address the personnel, operational, and fiscal management issues that plague the Bureau of Conveyances, as it serves as a vital public service as the repository of information relating to the title of land in the State.

While the initial review of the Joint Investigative Committee raised serious concerns over whether the Bureau could itself manage the significant and systematic changes that will be required, subsequent review – including the recent appointment of a new director of the Department of Land and Natural Resources (DLNR) – has given the Committee additional confidence that change from within may be possible. The Committee has therefore determined that in the spirit of compromise and in deference to the right of the Executive branch of the state government to guide the direction of its departments, the public interest in this case is best served by allowing the DLNR to take the lead in improving operations at the Bureau of Conveyances.

As a result, the Committee now finds it appropriate to provide guidance and oversight to the DLNR in developing and implementing methods and solutions – short- and long-range – to assist the Bureau in becoming a more efficient, effective, and accountable operation. Despite the apparent and documented negative effects of the debilitating personnel issues plaguing the organization, ridding the Bureau of particular employees or placing blame on a particular group or entity will not suffice in solving the Bureau's problems. Instead, the Committee has determined that the DLNR must develop and implement a comprehensive plan that entails acceptance, open compromise, and constructive dialogue, to assist the Bureau in conquering its current problems and creating strategies to remain and maintain or exceed an efficient level of operation in the future.

In October, the Committee contacted various stakeholders of the Bureau of Conveyances, including title companies, banks, and realtors in the State, to solicit recommendations for improvements at the Bureau. These stakeholders were asked to describe their interaction with the Bureau, characterize their relationship with the Bureau, describe specific problem areas at the Bureau, and make recommendations that would help the Committee improve the operations and functions of the Bureau. The Committee received a number of responses from various stakeholders, and reviewed and considered each response.

In light of the breadth and depth of the challenges the Bureau faces, and given the relative lack of success that accompanied earlier attempts at improving operations, it is clear that the Committee and the DLNR must be willing to entertain more fundamental changes in the Bureau than have been discussed in the past. Moreover, in order to ensure the continued valuable input of stakeholders, the Committee recommends the formation of an Advisory Council to assist the DLNR in its efforts to develop and implement a plan for improvement. Finally, the current efforts at

improvement will require the ongoing review of the Legislature to ensure continued progress and effective implementation.

Among the approaches the Committee must consider are combining the two existing systems – Land Court and Regular System – into a single form of recordation that better serves the needs of the community. In addition, the Bureau's past inability to operate in a productive and effective manner as a part of the Department of Land and Natural Resources raises an unavoidable question whether the function would be better placed in another department within the Executive of Judicial branches. Finally, the Committee must ask whether the recordation function would not be better placed outside of state government altogether and instead privatized to an existing or newly-created entity capable of handling the needs of Hawaii's landowners.

Consequently, the Committee recommends that the DLNR assemble an Advisory Council to assist in developing and implementing a comprehensive plan to assist the Bureau in becoming a more efficient, effective, and accountable operation, and develop strategic initiatives for the Bureau. In preparing the plan and initiatives, the Advisory Council shall consult with appropriate entities, including Bureau stakeholders, to aid in developing and implementing the plan. The Council shall also accept the full participation and consultation from Bureau employees, management, and the DLNR. The DLNR and the Advisory Council shall place primary emphasis on addressing the Bureau's most pressing operational, managerial and functional needs, as identified by this Committee and those stakeholders and interested parties who participated in this process of review and investigation.

In addition to and in conjunction with the efforts of the DLNR and the Advisory Council, the Legislature, through the Legislative Reference Bureau, shall investigate and develop feasibility and implementation models regarding combining the Land Court and Regular System functions of the Bureau of Conveyances into a single unified system of recordation; analyze the advisability of reassigning the Bureau of Conveyances from its current position in the Department of Land and Natural Resources to another department within the executive or judicial branches of the state government; and determine the considerations attendant to privatizing the functions of the Bureau of conveyances.

These recommendations are discussed in the following sections.

RECOMMENDATION 1: The DLNR shall assemble an Advisory Council to Oversee Short- and Long-Term Changes and Improvements to the Bureau of Conveyances

In light of its findings, it has become apparent to the Committee that the problems at the Bureau require special action. The Committee recognizes that the current situation calls for a broad range of experience and strong skills in leadership, organization, and motivation to develop a comprehensive plan to assist the Bureau in becoming a more efficient, effective, and accountable operation. While it appears that the current Director of the Department of Land and Natural Resources (hereinafter "the Director") is committed to implementing change at the Bureau, it is unlikely that she alone can devote sufficient time and energy to developing and executing a comprehensive action plan to deal with the Bureau's many problems. In addition, the Registrar, Deputy Registrar, and both Branch Chiefs are too overwhelmed by the day-to-day operations and inter-office crises to move ahead with effective solutions and strategies for improvement. Moreover, the fact that the positions of Deputy Registrar and Land Court Branch Chief remain vacant at the time of this report leaves the Committee with little confidence that action by the Director or Bureau management alone will be effective.

As a result, the Committee recommends the assembly of an Advisory Council to assist the Director and the Bureau in developing the kind of methods and solutions that will be necessary to address the Bureau's long-standing problems. The Committee's intent is not to deprive the Director and Bureau staff of authority, but to provide the independent perspective that will be needed to aid in the development of solutions and strategic actions.

The Committee recommends the following:

- The Director of the Department of Land and Natural Resources shall form an Advisory Council to assist in the development of a comprehensive plan to assist the Bureau in becoming a more efficient, effective, and accountable operation.
- The Council shall include but not be limited to the following members:
 - The Chairperson of the Board of Land and Natural Resources, or the Chairperson's designee;
 - The Registrar of the Bureau of Conveyances or the Registrar's designee;
 - The Administrative Director of the Judiciary or the administrative Director's designee;
 - The Executive Director of the Hawai'i Government Employees Association, AFSCME Local 152, AFL-CIO or the Executive Director's designee;
 - The President of the Hawai'i Land Title Association or the President's designee;

- The President of the Hawai'i Association of Realtors or the President's designee;
- A member representing the financial industry; and
- A member representing the legal community.
- The Director and the Advisory Council shall consult and work with various entities to aid in the development and implementation of the comprehensive plan, such as the Department of Human Resources Development.
- The Director and the Advisory Council shall work with and accept full participation and consultation from Bureau employees, management, and the Department.

RECOMMENDATION 2: Examine and Study the Feasibility of Possible Methods to Re-Evaluate and Modernize the Operational, Functional and Employee Concerns of the Bureau

Having identified numerous operational concerns at the Bureau of Conveyances, the Committee finds a need to review and evaluate the overall functioning of the Bureau, and make the changes necessary to return the Bureau to a condition where it provides the services expected of it by the business community and the public. Once again, the level and type of review and evaluation required under the circumstances will rely upon a measure of commitment and expertise that calls for the combined service of the Director and the Advisory Council to develop a comprehensive plan for the improvement of operations at the Bureau of Conveyances.

The Committee recommends the following:

- As part of the comprehensive plan, the Director and the Advisory Council shall concentrate on improving the various problematic operational issues at the Bureau, including but not limited to:
 - Updating the Bureau's Administrative Rules, including establishing standard fee schedules for various Bureau services, and a standard fee waiver policy that includes the amount waived, the recipient of the waiver, and the reason for the waiver to ensure greater accountability of all moneys due to the Bureau;
 - Drafting or updating written contracts and operating agreements between the Bureau and outside parties for goods and services, including but not limited to computer system repair and maintenance, software development and installation, information sharing subscriptions, and recording agreements;
 - Developing and implementing best practices and methods to provide greater security of the Bureau's information system;

- Updating and implementing the Bureau's policies and procedures manuals, or create and implement policies and procedures for areas where manuals does not exist so that all procedures are performed uniformly;
 - Developing and implementing strong human resource management practices, including reviewing and revising employee job descriptions, duties, salary schedules and performance incentives;
 - Developing and implementing best practices for personnel performance evaluations and employee disciplinary procedures to ensure that all employees are meeting or exceeding minimum performance requirements and expectations;
 - Developing and managing an effective, transparent, and fair practice for overtime work at the Bureau to ensure an equal distribution of and opportunity for overtime work;
 - Actively engaging and consulting with the leadership of the Hawaii Government Employees Association to ensure union representation and consultation on all matters concerning its union members;
 - Establishing and implementing standard cash management practices and procedures to efficiently and accurately account for all moneys flowing in and out of the Bureau;
 - Developing and implementing appropriate job training to ensure that all employees are able to perform efficiently and effectively within their job title capacity; and
 - Addressing staff needs and staff budgetary constraints.
- As part of the comprehensive plan, the Director and the Advisory Council shall concentrate on developing strategic initiatives for the Bureau, including but not limited to:
 - Developing an effective, operational, and secure computer information system for document retrieval that will be useful and relied upon by entities in the title industry;
 - Developing a plan for the planning and designing of a new electronic filing system to modernize the current property transfer filing system at the Bureau to include external filing access; provided that the plan for a new system shall include both the Regular System and the Land Court, and the plan shall entail defining all the components of the system, developing an implementation approach, developing timetables, establishing expected outcomes and performance objectives, and establishing the work practice and Administrative Rule changes necessary for the implementation of the new system. The design and plan of a new integrated electronic filing system at the Bureau shall include but not be limited to:

- A definition of all technical components of the system, including, all file and database layouts; data input screens; data inquiry and informational screens; internal processes; output reports and screens; network requirements; scheduled processes; system performance specifications; security requirements; and any special requirements, such as standard inputs and required preprocessing;
 - A specification of all rule changes required to support the new system. Internal rule changes shall include but not be limited to all employee human resources related work rules, updated position descriptions for all affected employees, specifications of all record indexing required, any specific scanning requirements, and concurrence with all relevant collective bargaining units. External rule changes shall include but not be limited to any third party agreements, and all fees to be paid and to be charged;
 - An economic summary of the system, which shall include all costs to design and implement the system, all revenues expected to be generated by the system, and a return on investment calculation; and
 - An established timeframe for installing and implementing a new electronic filing system, including plans for employee training, changes in any applicable Administrative Rules or procedures at the Bureau, and public awareness and training regarding the new electronic filing system;
- Considering whether it is still appropriate for the Bureau to remain under the Department of Land and Natural Resources;
 - Examining and identifying best practices in dealing with timeshares recorded at the Bureau by reviewing other jurisdictions' practices;
 - Examining, identifying and adopting best practices to improve the operations and employee management of the Bureau, including a system of periodic review and evaluation, and establishing performance indicators, benchmarks, and objectives, to achieve greater accountability and customer satisfaction;
 - Reviewing the personnel management at the Bureau and develop improvements and best practices to increase work productivity and employee satisfaction;
 - Examining the current recording system at the Bureau, review and explore other jurisdictions' recording systems, and implement best practices to improve the Bureau's recording system; and

- Establishing a timeline and assigning responsibilities to implement operational and strategic initiatives at the Bureau.
- The Director and the Department of Land and Natural Resources shall submit a written report to the Legislature of its findings, any progress made, and its achievements regarding operational measures and strategic initiatives to be implemented, including and proposed legislation, no later than twenty days prior to the Regular Session of 2009.

RECOMMENDATION 3: Develop and Implement a Plan to Safeguard Personal Information Contained in Bureau Documents, which the Bureau Collects, Maintains, and Disseminates for Public Inspection

In the course of its investigation, the Committee raised concerns regarding the DVDs containing all scanned documents received and recorded from the prior day that were made available to the public, free of charge, pursuant to the Attorney General's request. The Committee voiced concerns regarding the distribution and release of Bureau information that may contain confidential or personal information that should not be available for public inspection.

The Committee emphasizes that the Bureau is the official repository of all information relating to the title of land, and it is imperative that the Bureau safeguard this information. Furthermore, as the official repository, it is also imperative that the Bureau not only keep track of the information coming into the Bureau, but also account and be responsible for the information that it disseminates to the public. The Committee is concerned that the distribution of potentially sensitive private information without any clear and established procedures with respect to the use of the information could render the Bureau and public vulnerable to abuse.

To protect the public, the Committee recommends that the Director and Advisory Council develop and implement a policy plan and procedure to safeguard personal information contained in documents and records that the Bureau collects, maintains, and disseminates for public inspection, including the following:

- Examine policies, procedures, and operations of state agencies charged with the responsibility of developing policies and procedures to prevent, monitor, and enforce rules and statutes relating to safeguarding personal information, especially in light of the enactment of chapter 487J, Hawaii Revised Statutes, relating to social security number protection applying to all businesses and government agencies in Hawaii.
- Develop and implement procedures that will enable the Bureau to identify information deemed personal and confidential in documents and develop a procedure to ensure that personal identifying information remains confidential.

- Develop and implement procedures that will enable the Bureau to account for and keep track of the information it disseminates to the public, including via the internet, in-person or mail requests, or computer information subscription services.
- Review all statutes and Administrative Rules relating to all documents recorded at the Bureau, and propose any necessary amendments to ensure that personal information is kept confidential in the course of disseminating Bureau information to the public.
- The Director and Advisory Council shall submit a written report to the Legislature of its findings and recommendations, including any proposed legislation, prior to the 2009 Regular Session.

RECOMMENDATION 4: Investigate the Legal and Technical Obstacles to Combining the Land Court and Regular System Functions of the Bureau of Conveyances into a Single Unified System of Recordation

The Committee's investigation has demonstrated that maintaining the dual system of recordation, including both the Land Court and Regular System, has placed significant strains on the Bureau of Conveyances. Among the challenges encountered have been the conflict and enmity that the two systems, each with its own set of employees, has engendered among the Bureau's staff. At the same time, no usable method of combining the two distinct staffs into a single operational unit has been found.

The difference in workloads between the two systems has also led to a disparity in the backlogs in each office. In the Regular System, the backlog is three months, while the Land Court backlog is a year and a half. At the same time, changes in the marketplace have reduced the number of Land Court filings. In light of these findings, the Committee must consider the foundational question of whether the two distinct systems of recordation are necessary or advisable, or whether the community would be better served by a single, unified system of recordation.

The Committee recommends that the Legislative Reference Bureau perform an in-depth review of the feasibility of combining the Land Court and Regular Systems of recordation into a single unified system, including the following:

- Examine and study the feasibility of merging the existing Regular System and Land Court systems of land recordation into a single unified system of recordation, including legal and practical impediments to creating such a system. In doing so, they shall:
 - Perform a survey of systems of land recordation in other jurisdictions, including dual-systems and unified systems, to identify best practices and existing challenges in those jurisdictions;

- Work with stakeholders of the Bureau of Conveyances to identify current aspects of property recordation in Hawai'i that are critical to the continued effectiveness of the Bureau as a single unified system of recordation; and
- Establish findings and develop recommendations on how the Bureau of Conveyances may be unified into a single system of recordation.
- Any report of the Legislative Reference Bureau called for under this section shall include a discussion of and specific findings related to the level of protection and security of title offered by a single unified system of recordation, when compared to the existing dual system of recordation.
- The Legislative Reference Bureau shall submit draft legislation, if such legislation is appropriate, to facilitate the creation of single unified system of recordation, including a timetable for merging the staff and functions of the Regular System and Land Court, and a plan and timetable for consolidation of existing dual-system title into the newly-created single system.
- The Legislative Reference Bureau shall submit its findings and recommendations regarding the creation of a single unified system of recordation no later than twenty days prior to the convening of the 2009 Regular Session.

RECOMMENDATION 5: Determine an Administrative Assignment of the Bureau Other than Within the Department Of Land and Natural Resources

Pursuant to Recommendation 2 above, and in connection with the development of a comprehensive plan to improve the functioning of the Bureau of Conveyances, the Director of the Department of Land and Natural Resources, along with the Advisory Council, will make a preliminary inquiry whether the Bureau should remain within the Department of Land and Natural Resources. This Recommendation calls upon the Legislative Reference Bureau to determine where the Bureau should be assigned for administrative purposes. Several possibilities exist, including an assignment to the Department of Commerce and Consumer Affairs and, moving outside the Executive Branch, to the Judiciary.

The Department of Land and Natural Resources is a large and complex department covering a broad range of concerns, including historic preservation, aquatic resources, forestry, and land management. Given the serious and long-standing problems that have been identified at the Bureau of Conveyances, the Committee is faced with a question of whether the DLNR represents the financial and management resources as well as the technical expertise and understanding necessary to improve and maintain the functioning of the Bureau.

The current Director of the DLNR has expressed an intention to make changes at the Bureau, calculated to address a number of long-simmering concerns. However, two principal concerns arise. While well-intentioned, the Director's initial announced

initiative, which would automate some of the Bureau's functions, is too narrow in scope to make a significant impact on the wide range of concerns now existing at the Bureau.

In addition, it bears noting that the Bureau is not the only division within the DLNR that is facing challenges. In recent years, significant and growing concerns have also surfaced at the Historic Preservation Division, the Division of Boating and Ocean Recreation and the Division of Conservation and Resource Enforcement. In short, the functions performed by the Bureau are too important to be but one of a series of critical problems within the DLNR. While the Committee expresses every confidence that the DLNR Director will in time address each problem division, the situation at the Bureau is too pressing and has existed too long to stand in line for solutions.

The Committee recommends that:

- Legislative Reference Bureau identify a new administrative assignment for the Bureau of Conveyances within the state government, including the following:
 - A review of departments within the state government to identify likely administrative assignments for the Bureau of Conveyances, in order to produce a "short list" of departments for in-depth review. This review shall not be limited to Executive Branch departments, but shall include the Judiciary;
 - A review of the policies, procedures, and current functions of "short list" departments to determine the feasibility and advisability of reassigning the Bureau of Conveyances to those departments;
 - A consultation with the Directors of the departments identified as relocation candidates, their staffs, and stakeholders of those departments as identified by the respective Directors; and
 - A consultation with leadership of the Hawaii Government Employees Association as necessary to ensure union representation and consultation on all matters concerning its union members.
- The Legislative Reference Bureau shall prepare a report on the reassignment of the Bureau of Conveyances which shall include:
 - A list of no less than two and no more than four departments that are appropriate candidates to accept and oversee the functions of the Bureau of Conveyances;
 - A recommendation of budgetary and personnel provisions to allow the new department to accept the Bureau of Conveyances and its functions;
 - A proposed timeline and transition plan for the reassignment of the Bureau of Conveyances to the selected department; and

- An analysis of other issues and considerations that may militate against the reassignment of the Bureau to any or each of the identified candidates.
- The Legislative Reference Bureau shall submit its findings and recommendations to the Legislature regarding the administrative reassignment of the Bureau of Conveyances no later than twenty days prior to the convening of the 2009 Regular Session.

RECOMMENDATION 6: Determine the Advisability and Feasibility of Privatizing the Bureau of Conveyances.

The facts and testimony presented to the Committee has established that the Bureau of Conveyances provides vital but complex services to the people of Hawaii. The scope and nature of the Bureau's functions simultaneously call for both absolute confidence in its records and a need for flexibility in performing its duties, in order to address the ever-growing mass of information it processes. As a result, the Committee must consider whether these functions are best provided by a department of the state government, or whether the Bureau is an appropriate candidate for transfer to a private entity.

Privatizing the Bureau of Conveyances offers the possibility of improved service, but raises a host of serious concerns, including personnel issues, the security of information, liability for errors and omissions in recordation, and the potential for succession to new or additional private entities as the number or nature of land recordations change or grow in the future. Still, the Committee would be remiss if it did not consider the entire range of potential solutions to the Bureau's problems, and privatization may be one such solution.

The Committee recommends that the Legislative Reference Bureau perform an in-depth review of the issues and potential challenges presented by privatizing the functions of the Bureau of Conveyances, including:

- Prepare a survey of land recordation systems in other jurisdictions that have been privatized. That survey shall include:
 - Provisions for ensuring the protection of personal information and other sensitive data;
 - Provisions for ensuring the reliability of recorded information;
 - Experience with transitions between vendors, including migration of data, assignments of liability, and continuing assurances of data safety and completeness; and

- The existence and nature of agreements for the protection of the state or other government entity from claims of liability for errors and omissions in the recordation or preservation of land claims.
- Actively engage and consult with other stakeholders of the Bureau of Conveyances in analyzing the potential for privatization, including:
 - The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO;
 - The Hawaii Land Title Association;
 - The Hawaii Association of Realtors;
 - The financial services industry; and
 - The title industry.
- Prepare a report on the privatization of the Bureau of Conveyances which shall include:
 - An outline of criteria to be applied in identifying and selecting a private entity to assume the responsibilities of the Bureau of Conveyances;
 - Financial projections related to privatizing Bureau functions, including potential income earned and expenses borne by the private entity, adequacy of current pricing, and potential net income to the State;
 - An analysis of tax collections now handled by the Bureau of Conveyances and, if appropriate, a process for the selected private entity to collect and transfer those tax revenues;
 - A recommendation of budgetary and personnel provisions to allow the selected private entity to accept the Bureau of Conveyances and its functions;
 - A timeline and transition plan for the privatization of the Bureau of Conveyances; and
 - An analysis of other issues and considerations that may militate against the reassignment of the Bureau to a private entity.
- The Legislative Reference Bureau shall submit its findings and recommendations to the Legislature regarding the privatization of the Bureau of Conveyances no later than twenty days prior to the convening of the 2009 Regular Session.

PART V. CONCLUSION

The Joint Senate House Investigative Committee has identified serious shortcomings relating to the Bureau of Conveyances' operational mismanagement, potential loss of revenue, and potential areas of vulnerability. Some of these shortcomings have been longstanding and prevailing problems for several years that have not been properly addressed and allowed instead to continue and worsen. Other shortcomings have not been previously identified by earlier reports of the Bureau, but testimony indicates that these previously unidentified shortcomings have been continuing problems for the Bureau.

From a review of the testimony and materials presented to the Committee, and in light of the longstanding nature of the problems uncovered, it appears extremely unlikely that the Bureau, or the Department of Land and Natural Resources, possesses the will or capability to address these issues without some form of legislative intervention. The Committee recognizes that the Bureau and the Department have made several attempts in the past to address the various problems at the Bureau, such as the work backlog, but these attempts were ineffective, failed to address the root of the problem, or lacked foresight and prevention.

The Committee also recognizes the Department Chairperson's announced initiative to automate some of the Bureau's functions, including the electronic filing of documents for recordation, as the Department's attempt to address a number of the long simmering problems at the Bureau. While the Committee applauds the Department in its attempts, the automation initiative may be too narrow in scope to appropriately address the full range of problems, and may pose additional problems in the long term. While automation may aid in addressing the work backlog, it does not address the infighting and animosity among Bureau employees or the low work productivity as a result of the intra-office disputes. The automation of certain functions may require further job training, change in job descriptions and positions, and revisions and updates in the Bureau's policies and procedures and Administrative Rules. Some of these changes will require consultation with HGEA to respect collective bargaining agreements. More specialized job training may also require an increase in pay, which may not be factored into the Bureau's budget due to financial constraints. Thus, the automation initiative may be more properly suited as an initiative to be considered for the Bureau's long term future.

The functions performed by the Bureau are too important to be but one of a series of critical problems within the Department of Land and Natural Resources. While the Committee expresses every confidence that the Department Chairperson will in time address each problem division, the situation at the Bureau is too pressing and has existed too long to stand in line for solutions. The Committee recognizes that the current situation calls for a non-Bureau employee with experience and strong skills in leadership, organization, and motivation to develop a comprehensive plan to assist the Bureau in becoming a more efficient, effective, and accountable operation as it is clear that the existing management is unwilling or unable to take on this challenge. The management has become jaded and are too overwhelmed by and entrenched in the

day-to-day operations, and are unable to address or are the subject of intra-office crises to move ahead with effective solutions and strategies for improvement.

As a result, the Committee now finds it necessary and appropriate to develop and mandate methods and solutions -- short- and long-range -- to assist the Bureau in becoming a more efficient, effective, and accountable operation. The Committee has determined that a comprehensive plan that entails acceptance, open compromise, and constructive dialogue under the direction of the Department Chairperson and Advisory Committee, and studies performed by the Legislative Reference Bureau are needed to assist the Bureau in conquering its current problems and creating strategies to remain and maintain or exceed an efficient level of operation in the future.

ATTACHMENT 1

The following materials were submitted to the Joint Senate House Investigative Committee on the Bureau of Conveyances in response to its draft report of the Committee's findings and recommendations. Copies of the draft report were distributed to all entities or persons who were the subject of or who were witnesses who testified at Committee hearings. Furthermore, a copy of the draft report was uploaded to the Committee's webpage on the State Capitol website and made available to the public. Interested persons and entities were allowed fourteen days to submit written responses to the draft report's findings and recommendations and are included as an appendix to this final report.

Following the release of the Committee's draft report, the Committee received comments from the following individuals:

- Laura H. Thielen, Chairperson of the Department of Land and Natural Resources;
- Sandra Furukawa, Special Projects Coordinator, Title Guaranty of Hawai'i, Inc.
- Debra Pyrek, Vice President of Corporate Information Systems, Title Guaranty of Hawai'i, Inc.;
- Yolanda "Nani" Lindsey, Manager, The Lange Group; and
- Sumner Howard, President, Government Efficiency Teams, Inc.

A discussion of the claims or concerns of each is provided below.

Please note that the following materials are comments made in response to the Committee's findings and recommendations in its draft report. The implementation of the Committee's recommendations has subsequently been revised. More specifically, the Committee recommended in its report draft, the appointment of a Special Master and an Advisory Council to implement the various recommendations of the Committee. However, after discussion and careful consideration, the means to implement the Committee's recommendations were changed to the Department of Land and Natural Resources with the assistance of an Advisory Council to develop and implement a comprehensive plan to improve the Bureau of Conveyances, and the Legislative Reference Bureau to develop feasibility and implementation models to create future and long-term solutions for the Bureau to consider and implement.

1. Laura H. Thielen

The Chair supported many of the Committee's findings, stating that the DLNR is "dedicated to changing how the Bureau operates so that our Department provides prompt, secure and reliable recording services for Hawai'i's residents and businesses." With regard to improving Bureau responsiveness and efficiency, Chair Thielen focused

on how the DLNR has "taken a proactive approach to modernizing operations of the Bureau by establishing a working group comprised of representatives from title companies, banks, lawyers, labor, real estate and Bureau staff to propose a simplified and automated recording process."

The Committee supports the Chair's efforts at improvement, and is in general agreement that an automated recording system may assist the Bureau achieve its goals. Consistent with other legislation moving through the Legislature at the time of this report, the Committee encourages the DLNR and the Bureau of Conveyances to study, plan and implement such an automated system.

The Chair did "strongly disagree" with the Committee's initial recommendation that a Special Master be appointed to develop and implement a comprehensive plan to assist the Bureau in becoming a more efficient, effective, and accountable operation, and develop strategic initiatives for the Bureau. In the spirit of compromise and out of respect for Ms. Thielen's express dedication to improving Bureau operations, the Committee has withdrawn its earlier recommendation of a Special Master, and instead gives the Chair, assisted by an Advisory Council, primary responsibility for making needed changes at the Bureau.

The Chair also raised concerns over the process followed by the Committee and the Office of the Auditor in gathering information and completing this investigation. The Committee is confident that the investigation was completed in a fair manner, and that the Auditor acted appropriately in gathering and analyzing information.

2. Sandra Furukawa

Ms. Furukawa objected to a section of the draft report stating that changes had been made to documents recorded at the Bureau, using "liquid white-out to cover the errors and replacing them with the correct document reference numbers." Ms. Furukawa stated that, "[t]he necessary correction was done by replacing pages and not by using liquid white-out." However, a review of documents obtained through the investigation supports the Committee's conclusion, showing clear evidence that liquid white-out or a similar product was used to cover incorrect number references, and that correct number references were written over the obscured areas.

Specifically, Ms. Furukawa provided copies of land recordation documents showing cross-reference numbers that had been stricken with a single line, and different, apparently corrected, numbers written alongside. However, official copies of the same documents obtained through the investigation showed that the corrected numbers had been written over the incorrect references. Furthermore, an examination of the photocopies showed clear evidence that the incorrect numbers had been obscured by liquid white-out or a similar product. No explanation was provided for the differences between the copies provided by Ms. Furukawa and those obtained through the investigation.

While inconsistencies exist between sample documents provided by Ms. Furukawa and the same documents as obtained through the investigation, the

Committee must rely on the documents obtained through the investigation, each of which has a verifiable chain of custody, rather than those provided by Ms. Furukawa, which do not.

3. Debra Pyrek

Ms. Pyrek expressed her disagreement with the draft report's characterization of advantages realized by Title Guaranty, Inc. due to the company's provision of computer services related to the Bureau's FTP server system, and its access to scanned images of Bureau filings. While the Committee acknowledges Ms. Pyrek's position, it believes the statements contained in the report accurately reflected the situation as it existed at the Bureau.

4. Yolanda "Nani" Lindsey

Ms. Lindsey listed five individual statements in the draft report relating to the Lange Group which she felt were "either incomplete or not accurately reflected [sic]". However, she provided no further basis for her position. While the Committee acknowledges Ms. Lindsey's position, it believes the statements contained in the report accurately reflected the situation as it existed at the Bureau. The Committee also acknowledges Ms. Lindsey's offer to provide further assistance to the Bureau.

5. Sumner Howard

Mr. Howard provided a list of two areas in which Government Efficiency Teams, Inc. disagreed with the Committee's recommendations, and nine areas, which the group supported. With regard to the appointment of a Special Master, the Committee no longer recommends such action. With regard to the other matters listed, the Committee acknowledges Mr. Sumner's comments.