
A BILL FOR AN ACT

RELATING TO PUBLIC LANDS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Kahana valley is a unique ahupua'a possessing
2 significant cultural, historic, and natural resources. In 1965,
3 the State condemned the ahupua'a o Kahana for use as a state
4 park, making it the only landowner in the State of Hawai'i,
5 outside of Ni'ihau, to own an intact ahupua'a. An ahupua'a, a
6 triangular slice of land running from the mountains to the
7 ocean, was the major land division used by pre-contact
8 Hawaiians.

9 Families living in Kahana at the time of condemnation were
10 of varied ethnic backgrounds, and the people of Kahana generally
11 lived a simple, subsistence lifestyle in harmony with native
12 Hawaiian values and traditions. In 1970, a governor's task
13 force proposed the concept of a living park, and the residents
14 continued to live in the park under revocable permits.

15 To effectuate the cultural living park concept, Act 5,
16 Session Laws of Hawaii 1987, authorized the department of land
17 and natural resources to issue long-term residential leases to
18 individuals who had been living on the land. The department of



1 land and natural resources entered into sixty-five-year leases
2 with thirty-one qualifying families and required that all
3 residents be an essential part of the interpretive programs by
4 contributing twenty-five hours of service in Kahana valley state
5 living park for the benefit of the public.

6 Six other families have been allowed to remain in the
7 valley under revocable permits. The department of land and
8 natural resources refused to issue long-term residential leases
9 to the six families, relying on the attorney general's opinion
10 issued March 24, 2008, asserting that Act 5, Session Laws of
11 Hawaii 1987, expired. The department of land and natural
12 resources recently attempted to evict the six families from
13 their homes.

14 The management of a living park requires careful planning
15 that involves its resident community. Kahana residents and the
16 greater community proposed various plans over the past forty
17 years. However, the State never adopted any plan for Kahana
18 valley state living park. As a result, there has been a lack of
19 clarity, vision, goals, and policies directing the residents and
20 the department of land and natural resources in the development
21 and management of Kahana valley state living park.



1 In addition, the success of Kahana valley state living park
2 as a living park depends on having an actively involved land
3 manager with the expertise to work cooperatively with residents,
4 solve immediate problems, plan for the future, and simply manage
5 park resources effectively. The department of land and natural
6 resources has lacked adequate resources to provide a land
7 manager for Kahana valley. As a result, the living park concept
8 has not lived up to its full potential and has caused
9 frustration for residents, the public, and state agencies.

10 The purpose of this Act is to:

11 (1) Authorize the department of land and natural resources
12 to issue long-term residential leases to qualified
13 persons who currently reside within and contribute to
14 a living park; and

15 (2) Establish a Kahana planning council to develop a
16 master plan for the Kahana valley state living park
17 that will provide the framework, proposed rules,
18 measurements for success, and planning process to
19 ensure the living park achieves its stated purpose and
20 goals.

21 SECTION 2. As used in this Act:



1 "Kahana community association" means the community
2 association established by the residents of Kahana valley in
3 1993.

4 "Land manager" means a state living park manager with
5 expertise in land management and planning who has the ability to
6 work cooperatively with the State, Kahana valley residents, and
7 the public, and has experience and aloha for Hawaiian and multi-
8 cultural life-styles.

9 "Master plan" means a plan that describes parameters and
10 creates a foundation for the department of land and natural
11 resources and living park residents to work together to
12 successfully manage the Kahana valley state living park.

13 SECTION 3. The department of land and natural resources is
14 authorized to negotiate and enter into long-term residential
15 leases with qualified persons who meet the following criteria:

16 (1) Persons who at the time of enactment of this Act
17 reside in Kahana valley state living park and are
18 contributing their time to benefit the state park, on
19 behalf of the public and local community; and

20 (2) Other qualified persons who may be identified in the
21 living park master plan when approved by the board of
22 land and natural resources.



1 SECTION 4. (a) There is established the Kahana planning
2 council. The Kahana planning council shall consist of five
3 voting members and two nonvoting members.

4 (b) The voting members of the Kahana planning council
5 shall be as follows:

6 (1) One member shall be a representative of the department
7 of land and natural resources, as designated by the
8 chairperson of the board of land and natural
9 resources;

10 (2) Three members shall be representatives of the Kahana
11 community association, as designated by the president
12 of the Kahana community association; and

13 (3) One member shall be a representative of the general
14 public, as designated by the chairperson of the board
15 of land and natural resources.

16 (c) One nonvoting member of the Kahana planning council
17 shall be appointed by the senator representing the twenty-third
18 senatorial district and one nonvoting member shall be appointed
19 by the representative representing the forty-seventh
20 representative district. Each nonvoting member shall possess
21 general knowledge of at least one of the four strategic areas
22 listed below:



- 1 (1) Land use laws;
- 2 (2) Community based planning;
- 3 (3) The environment; and
- 4 (4) Native Hawaiian cultural resources.
- 5 (d) The voting members of the Kahana planning council
- 6 shall serve not more than two consecutive three-year terms, with
- 7 each term beginning on July 1 of each year; provided that of the
- 8 three members initially designated by the president of the
- 9 Kahana community association, one shall be appointed to serve
- 10 for three years, one shall be appointed to serve for two years,
- 11 and one shall be appointed to serve for one year. The two
- 12 nonvoting members shall serve not more than three two-year
- 13 terms, with each term beginning on January 1 of each year.
- 14 (e) A chairperson of the Kahana planning council shall be
- 15 elected annually by the members of the Kahana planning council
- 16 from among its members; provided that no member may serve as
- 17 chairperson for more than two consecutive years.
- 18 (f) Council members shall serve without compensation but
- 19 shall be reimbursed for actual expenses, including travel
- 20 expenses, incurred in carrying out their duties.
- 21 (g) Three members of the Kahana planning council shall
- 22 constitute a quorum to conduct business and any action taken by



1 the Kahana planning council shall be approved by a simple
2 majority of the quorum.

3 (h) The first meeting shall be held on the second Tuesday
4 in July 2009, at 6:00 p.m., in the common area in Kahana valley.
5 The date, time, location, and frequency of all subsequent
6 meetings shall be determined by the Kahana planning council.

7 (i) Notice of Kahana planning council meetings shall be in
8 writing and provided by the department of land and natural
9 resources to all Kahana planning council members at least two
10 weeks prior to a scheduled meeting.

11 SECTION 5. The responsibilities of the Kahana planning
12 council shall include but not be limited to the following:

13 (1) Drafting and submitting a master plan for the Kahana
14 valley state living park to the board of land and
15 natural resources. The master plan shall propose
16 rules, procedures, and measurements for success to
17 address significant issues related to the residents
18 and management of Kahana valley state living park,
19 including:

20 (A) Methods to secure funding for the purpose of
21 establishing a land manager for the park;



- 1 (B) Procedures to monitor and enforce lessee
- 2 compliance with lease terms and conditions;
- 3 (C) Procedures to cancel a lease and evict a
- 4 resident;
- 5 (D) Criteria to measure state and resident success in
- 6 meeting the Kahana valley state living park
- 7 goals; and
- 8 (E) Eligibility requirements, terms, conditions,
- 9 location, and number of long-term residential
- 10 leases;
- 11 (2) Reviewing and updating the master plan as needed; and
- 12 (3) Working toward the objectives and policies of this Act
- 13 in the aloha spirit as defined in section 5-7.5,
- 14 Hawaii Revised Statutes, with the residents of Kahana
- 15 valley, the local community, schools, department of
- 16 land and natural resources, other state agencies,
- 17 nonprofit organizations, private businesses, and the
- 18 general public.

19 SECTION 6. The Kahana planning council shall submit a
20 master plan for the Kahana valley state living park to the board
21 of land and natural resources no later than July 1, 2010.
22 Within ninety days after submission of the master plan, the



1 board of land and natural resources shall either adopt the
2 proposed master plan or deny the proposed master plan. If it
3 denies the proposed master plan, the board of land and natural
4 resources shall submit to the Kahana planning council, in
5 writing, its reasons for denying the proposed master plan. The
6 Kahana planning council shall revise the proposed master plan
7 and resubmit a revised master plan to the board of land and
8 natural resources until a master plan is adopted.

9 The Kahana valley state living park master plan shall
10 become effective upon its adoption by the board of land and
11 natural resources. Pending adoption of the Kahana valley state
12 living park master plan, the department of land and natural
13 resources and the residents of Kahana valley shall be guided by
14 the Kahana state park development plan, dated December 1985, and
15 the living park plan of Kahana's people, dated 1979.

16 SECTION 7. Until the Kahana valley state living park
17 master plan is adopted pursuant to this Act, and a long-term
18 residential lease application has been acted upon, persons
19 currently residing in Kahana valley at the time of enactment of
20 this Act shall not be evicted on the grounds that they lack a
21 valid lease; provided that they are contributing their time to



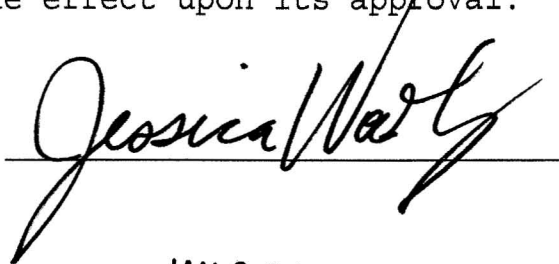
1 benefit the Kahana valley state living park, on behalf of the
2 public and local community.

3 SECTION 8. The department of land and natural resources is
4 directed to submit an initial progress report, including any
5 proposed legislation, on the implementation of this Act not
6 later than twenty days prior to the convening of the regular
7 session of 2010 and a final progress report, including any
8 proposed legislation, not later than twenty days prior to the
9 convening of the regular session of 2011.

10 SECTION 9. This Act shall take effect upon its approval.

11

INTRODUCED BY:

A handwritten signature in cursive script, appearing to read "Jessica Ward", is written over a horizontal line.

JAN 28 2009



Report Title:

Kahana Valley State Living Park; Kahana Planning Council

Description:

Authorizes DLNR to issue long-term residential leases to qualified persons currently residing in Kahana Valley state living park. Establishes Kahana planning council to develop Kahana valley state living park master plan to ensure the living park achieves its purpose and goals.

