

# Appendix E. Hawaiian Land Title Names

## Hawaiian Land Title Names Summary Report

This report is a summary of information obtained from the Hawaiian Studies Institute and a report written by Robert King, Principal Cadastral Engineer for the Territory of Hawaii.

### 1. Background

Ancient Hawaiian Lands belonged to the gods. The king in turn held lands for the gods. District or High Chiefs held land for the king on the condition of tribute and military service. This type of tenure or land holding is called land in fief or fee land where an estate is held in from a lord on condition of homage or service. Each district chief divided his estate among chiefs of lesser rank who owed him service. The land was divided in this way again and again.

When a chief died, his holdings reverted to the king, who would then re-divide the land. Newly appointed kings were not necessarily related to the king who died. At the accession of the king it was ancient custom to re-distribute the land among those loyal to the new sovereign.

Common people who worked the soil did not own the land. They were tenants-at-will, at the will of the chiefs who granted them land. Common people were not immune from property taxes. There was a royal tax on goods produced from the land and the sea. There was also a labor tax, which was paid in public work labor.

### 2. Land Tenure Revision

The arrival of the missionaries and the world-wide recognition of Hawaii as a civilized country lead the king to restructure the government. One of the important parts of the restructuring was the revision of the system of land holding. In 1839 the Declaration of Rights was written and in 1840 the Constitution was written. A statement in the Declaration of Rights and the Constitution about the land is as follows:

Protection is hereby assured to the persons of the people, together with their lands, their building lots, and all their property while they conform to the laws of the kingdom, and nothing whatsoever shall be taken from any individual except by express provision of the laws.

Convinced that the ancient feudal system was incompatible with the movement toward a civilized nation, the king and his chiefs resolved to separate and define the land interests of all people in the kingdom. Three classes of persons were named as having vested interested in land, the king, the chiefs, and the tenants.

On December 10, 1845 the legislature created the Board of Commissioners in Quiet Land Titles, more commonly known as the Land Commission. In 1846 the Commission established that the king should allow himself one third of the land, the chiefs or landlords would be allowed another third and the common people or tenants would be allowed one third. This principle had the full force of law through the legislature. There was some action with tenants by the Land Commission, but the divisions with the king and his chiefs proceeded unsuccessfully. On December 18, 1847 the land

division of the king and his chiefs was turned over to the Privy Council. On March 7, 1848 the Privy Council completed the division with the king and his chiefs and laid the results down in a book called Mahele Book. The division is known as the Mahele of 1848.

After the Mahele of 1848, the king further divided his land. He set aside two thirds of the land for the public domain. These lands could be sold to raise funds for the treasury. These were called Government Lands. The remaining one third was kept as Crown Land. The Chiefs had to bring their divisions before the Land Commission to have them finalized.

The Land Commission was dissolved on March 31, 1855 and all its records and unadjudicated claims were deposited with the Minister of Interior. The title history of all Hawaiian Lands now stem from one of three sources: Land Commission awards, sales of government lands, and sales of crown lands.

Government Lands were administered by the Minister of Interior. The Land Commission could only consider claims to farms and building lots arising prior to December 10, 1845. The government lands were disposed of through Royal Patents or Grants that are also known as Land Patents or Grant. These are tracked by Grant number and are shown on title maps. The Commissioner of Public Lands retains these records. Other sales occurred as common deeds were recorded in the Bureau of Conveyances.

Crown Lands were considered the private property of the king. Sales of crown lands were recorded in common deeds and recorded in the Bureau of Conveyances. These deeds are commonly called Kamehameha Deeds. After the reign of Kamehameha the Fifth the crown lands were made unalienable. Any lands that were not sold at that time would descend to the heirs of the crown forever. No leases over thirty years could be given on any crown lands. A Board of Commissioners of Crown Land was created to manage the land.

In 1893 the monarchy was overthrown. A provisional government carried out the affairs of state. On July 4, 1894 a constitutional convention declared the existence of the republic of Hawaii. One of the articles of the Constitution was:

That portion of the public domain heretofore known as crown land is hereby declared to have been heretofore, and now to be the property of the Hawaiian Government, and to now be free and clear from any trust of or concerning the same, and from all claim of any nature whatsoever, upon the rents, issues, and profits thereof. It shall be subject to alienation and other uses as may be provided by law.

The affect of this was to merge the former crown lands with the public lands and make one designation of public lands.

### 3. Land Division

The boundaries of the divisions of land have been passed down through generations. Most of the features were natural features and all of the boundaries were given names. In some cases cairns, stone walls and other boundary features were constructed.

The geographic division of the islands into districts and sections was established over 500 years ago. Each island was divided into several districts called Moku. Each Moku represented the domain of a high chief. Mokus varied in extent and size. Their boundaries did conform to the geography.

The next division was the Ahupuaa. A typical Ahupuaa is a strip of land extending from the sea to the mountain so that its chief would have his share of all the various products of the mountain region, the cultivated lands, and the sea.

An Ili is a division of an Ahupuaa. An Ili often consists of two or more sections or areas of land in different parts of the Ahupuaa. Ilis with this characteristic are called Leles, which comes from the Hawaiian word for jump.

Within the Ahupuaa and Ili were lands cultivated by common people. Taro lands or wet lands were called Aina Kalo. Each patch within the Aina Kalo is called a Loi. The dry cultivated lands were called Aina Kula and each patch within the dry areas were called Moo and Kihapai. The patches that were cultivated exclusively for the chief were called Koele or Hakuone. The boundaries of the taro areas were delineated with narrow banks. The dry cultivation areas were marked by hard packed earth. Stone walls, cut saplings, and wooden fences were also used to mark boundaries.

Attached and considered to be part of the Ahupuaa was the ocean abutting the sea front. The chief that controlled the Ahupuaa also held exclusive right to fishing in the ocean in front of the Ahupuaa. The fishing rights extended from the low water mark to the reef. If there was no reef then the rights extended one geographical mile. Fishing rights that were part of the public lands or lands that were crown lands and became public were made free to all people. In private areas the chief had the privilege to tabu and take for himself one species of fish a year. The tenants had the rights to other species. By agreement the chief could take one third of the total catch and leave two thirds of the total catch to the tenants. This law of fishing rights is still largely in effect today. Private fisheries are known as knonchiki fisheries.

#### 4. Base Maps and Control

Going back as far as the 1845 Land Commission, all of the various boundaries have been surveyed using a variety of techniques. No attempt was ever made to build a base map or to correlate the various surveys to one another. Using differing basis of bearing for direction measurements and differing units of measure of length, it was nearly impossible to combine the individual surveys into one base map. In 1870 the Hawaiian Government Survey was initiated to establish geodetic control points on the islands. The US Coast and Geodetic Survey, now the National Geodetic Survey, provided assistance, methods, and standards.

A recent Federal Geographic Data Committee is working on describing the problems and potential solutions for resolving a description of the Ahupuaas on the Island of Moloka'I, County of Maui. The investigation will lead to options for completing cadastral framework data to represent Ahupuaa boundaries in a way that they can be used by the people in Hawaii and be incorporated in the NSDI Framework. These boundaries may also be represented in the USGS Digital Line Graph (DLG) boundary category.

#### 5. Relationship to the Cadastral Data Content Standard

The Hawaiian land title descriptions fit easily into the current Cadastral Data Content Standard. The bearing and distance descriptions of land boundaries fit with existing elements in Record Boundary. The geographic control on the corners also fits with current information in the Corner Point and related entities.

The one addition to accommodate the Hawaiian system is to add the land division names to the domains of values in the Survey System Description entities. These additions are as follows:

Survey System Name	Hawaiian Land Division
First Division	Moku
Second Division	Ahupuaa
Third Division	Ili, Moo, Kihapai, Loi

The description of the fishing rights will be handled as other segregated rights in either terms and conditions or in the rights and interests tables.