

# PLANNING AND SUSTAINABLE LAND USE COMMITTEE

Council of the County of Maui

## MINUTES

January 19, 2021

### Online Only Via BlueJeans

**CONVENE:** 2:02 p.m.

**PRESENT:** Councilmember Tamara Paltin, Chair  
Councilmember Kelly Takaya King, Vice-Chair  
Councilmember Gabe Johnson  
Councilmember Alice L. Lee (out 4:42 p.m.)  
Councilmember Michael J. Molina  
Councilmember Shane M. Sinenci

**EXCUSED:** Councilmember Tasha Kama  
Councilmember Keani N.W. Rawlins-Fernandez  
Councilmember Yuki Lei K. Sugimura

**STAFF:** Ana Lillis, Legislative Analyst  
Wilton Leauanae, Legislative Analyst  
Richard Mitchell, Legislative Attorney  
Clarita Balala, Committee Secretary  
Lenora Dineen, Council Services Assistant Clerk

Christi Keliikoa, Executive Assistant to Councilmember Tamara Paltin

Axel Beers, Executive Assistant to Councilmember Kelly Takaya King

Kate Griffiths, Executive Assistant to Councilmember Gabe Johnson

Keisa Liu, Executive Assistant to Councilmember Gabe Johnson

Diane Wakamatsu, Executive Assistant to Councilmember Alice Lee

Lois Whitney, Executive Assistant to Councilmember Tasha Kama

Gina Young, Executive Assistant to Councilmember Shane M. Sinenci

Sarah Pajimola, Executive Assistant to Councilmember Rawlins-Fernandez

**ADMIN.:** Michael J. Hopper, Deputy Corporation Counsel, Department of the Corporation Counsel  
Kathy Kaohu, County Clerk  
May Anne Alibin, Deputy Director, Department of Finance  
Marcy Martin, County Real Property Tax Administrator, Department of Finance  
Gery Madriaga, Assistant County Real Property Tax

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Administrator, Department of Finance  
Kari Stockwell, County Real Property Technical Officer,  
Department of Finance  
Dawn Matney, Tax Maps and Records Supervisor, Department of  
Finance  
Lisa Garcia, Tax Maps and Records Technician, Department of  
Finance  
Laura Kahooohanohano, Real Property Appraiser, Department of  
Finance  
Debra Wanderscheid, Real Property Appraiser, Department of  
Finance  
Melvina Kanaha, Supervising Real Property Tax Clerk,  
Department of Finance

**OTHERS:** Shelley Mahi  
Faith Chase  
Fay McFarlane  
Jennifer Zigler and Kekoanui Pupuhi  
Lopaka Olivera  
Dr. Keanu Sai  
(10) additional attendees

**PRESS:** *Akakū: Maui Community Television, Inc.*

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**PSLU-2(1) LAND USE AND TITLE INSURANCE PRESENTATION IN  
CONSIDERATION OF HAWAII'S STATUS UNDER INTERNATIONAL  
LAW (Rule 7B)**

CHAIR PALTIN: ...*(gavel)*... Will the Planning and Sustainable Land Use Committee meeting of January 19, 2021 come to order. The time is 2:02 p.m. And we have...this is a special meeting of the Planning and Sustainable Land Use Committee on an off week. So, so grateful to all the Members that could make it this week. It's to make up for Fidelity presentation that we couldn't have because we had agendized it too specific. So we've got Dr. Sai back, and he'll be doing a presentation for us shortly. But before that, if I can ask everyone to please silence their cell phones or any noisemaking devices. My name is Tamara Paltin and I'll be the Chair of your Planning and Sustainable Land Use Committee. New year, new Vice-Chair, we have Councilmember Kelly King as the new Vice-Chair of the Planning and Sustainable Land Use Committee. Aloha 'auinalā.

VICE-CHAIR KING: Aloha 'auinalā, Chair. Thank you for having me as your Vice-Chair. I'm really excited about this coming term.

CHAIR PALTIN: Awesome.

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VICE-CHAIR KING: And thank you, Dr. Sai, for returning. Because, yeah, that was unforeseen and unanticipated.

CHAIR PALTIN: Thank you. We also have our new Councilmember from Lānaʻi, Councilmember Gabe Johnson. Aloha ‘auinalā.

COUNCILMEMBER JOHNSON: Aloha, Chair Tamara. Thank you for having me. I’ve watched Dr. Sai’s presentation before, and would love to see it in Zoom so I can ask him some questions. So thank you.

CHAIR PALTIN: Awesome. And from East Maui, we have Councilmember Shane Sinenci, our former Vice-Chair.

COUNCILMEMBER SINENCI: Aloha ‘auinalā, Chair, from Maui Hikina and looking forward to Dr. Sai’s presentation today.

CHAIR PALTIN: Thank you. Aloha ‘auinalā. We also have from Makawao, Councilmember Mike Molina under the virtual bridge.

COUNCILMEMBER MOLINA: Aloha to you, Madam Chair, my colleagues, Dr. Sai, and everyone. From of course under the virtual bridge in Makawao, where the sun is starting to peak out from under the clouds again.

CHAIR PALTIN: Awesome. And we also have our Council Chair Alice Lee, looks to be coming from the golf course, maybe.

COUNCILMEMBER LEE: Yeah. I thought I’d get in a few holes before the meeting. Madam Chair, I...once again, I’ll say ni hao, which is hello from all the Pakes in Singapore.

CHAIR PALTIN: Ni hao, and aloha ‘auinalā. With us today, we also have Deputy Corporation Counsel Michael Hopper. From the Department of Finance, we have Deputy Director May Anne Alibin. And with her, we have Marcy Martin and her staff as well from Real Property Tax. For our Land Use and Title Insurance presentation, we have Dr. Keanu Sai. His special expertise is in the subject matter. He’s the head of the Royal Commission of Inquiry and author of the preliminary report on the legal status of land titles in Hawai‘i and its supplemental report on title insurance. Committee Staff, we have Clarita Balala, Committee Secretary; our Council Services Assistant Clerk, Lei Dineen; Legislative Analyst Ana Lillis; and Legislative Attorney Richard Mitchell. Today we have one item on the agenda, PSLU-2(1) Land Use and Title Insurance Presentation in Consideration of Hawai‘i’s Status Under International Law. Public testimony will be taken after the presentation. However, if members of the public are unable to stay until after the presentation, please identify yourself in the chat now. If you are calling by phone and cannot stay, please unmute yourself now by pressing star four and request to testify before the presentation.

MS. MAHI: This is Shelly Mahi.

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CHAIR PALTIN: Shelly Mahi, did you want to testify before the presentation?

MS. MAHI: Yes, ma'am, if I could.

CHAIR PALTIN: Okay. Let me read the instructions for oral testimony, and then I'll take your testimony if you don't mind.

MS. MAHI: Okay, thank you so much. Mahalo.

CHAIR PALTIN: Okay. So oral testimony via phone or video conference will be accepted. Testifiers wanting to provide video testimony should have joined the online meeting via the BlueJeans meeting link as noted on today's agenda. Testifiers wanting to provide audio testimony should have participated via phone conference by dialing 1-408-915-6290 and entering meeting code 149341846, also noted on today's agenda. Written testimony is encouraged by sending your comments via eComment, and oral testimony is limited to three minutes. When your name is called, please unmute yourself by clicking the microphone icon, or if calling by phone, please press star four to unmute yourself. If you are still testifying beyond that time, I will kindly ask you to complete your testimony. When testifying, please state your name. If you're testifying on behalf of an organization or are a paid lobbyist, please inform the Committee. Staff will post the link to the testifier's log in the chat so testifiers will be able to see where they are on the list. However, please be mindful of the use of chat during the meeting. Chat should be limited to items on the agenda, and should not be used to provide testimony or chat with other testifiers. If providing testimony, please be courteous to others by muting your microphone while waiting for your turn to testify. Once you are done testifying, you will be asked to disconnect from the call. However, you are welcome to continue to view the remainder of the meeting on Akakū channel 53, Facebook live, Maui County Council page, or mauicounty.us. Participants who wish to view the meeting only without providing testimony, please also disconnect at this time and instead view the meeting on Akakū channel 53, Facebook Live, or on mauicounty.us. Only Councilmembers, Staff, and designated resource personnel will be connected to the video conference meeting once testimony concludes. All other connections to the meeting will be dropped from the meeting. I remind Committee Members, Administration, and the public to please be patient with us as we continue to navigate through this new platform. And at this time, I would like to proceed with oral testimony. Ms. Mahi, if you're still there, you can proceed with your testimony. What was...it was a phone number with the last four digits 2415, let me...

MS. MAHI: Is that me?

CHAIR PALTIN: Okay. Okay, we're ready for your testimony.

**...BEGIN PUBLIC TESTIMONY...**

MS. MAHI: Oh, okay. My name is Shelly Mahi, and I'm with the Native Tenant Protection Council and a former worker of the County of Hawai'i, and my job was to look at

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issues of Hawaiian rights land titles in our parks and open spaces. And so I've learned a lot about the problem here concerning native tenant rights that are reserved in the titles, Royal patent grants, Mahele titles. And so I was very encouraged when I heard that the National Lawyers Guild with Keanu Sai, they did an international inquiry, and that basically had voted to serve a letter on Governor Ige for compliance to laws of the occupied. So issues of law of the land, the kanawai, native tenant rights, and others, we really don't have any formal policy. And what's been happening is that even though the rights were reserved or...say in . . . *(inaudible)*. . . of the Royal Patent Grant under Kimokeo Keawe, the heirs of Kimokeo Keawe were removed, and there was no consideration, you know, concerning the family or the native tenants. And so then also, I'm...I was very happy to read the letter by you, Ms. Paltin, concerning land rights and issues there in Maui, and the response from the Chief of Police, who stated that while it was a civil level, if it raised to a criminal level, then they would have to enforce the HRS. So I'd like to offer here, under the laws of the occupied, which are supposed to be followed, and also consideration of yours and the Chief of Police of Maui that the HRS 172-11, which qualifies under Laws of the Occupied as a law of 1872, that basically the rights of the heirs of the original awardee inure, meaning forever, even if the land was alienated. So this...in the courts, there's some legal questions of course, but that is the Royal Patent based on a Land Commission award. And so then if you can show that you're related, then you cannot be removed by force off the land. And also, under *State of Hawai'i vs. Alapai* [sic] in the Supreme Court, they stated that these allodial titles, Mahele titles, are actually constitutionally codified protected native Hawaiian rights. So I just wanted to state that I spoke recently with the trainer for the Police Department there on Maui, and they were very interested in this issue of HRS 172-11 for the land, and then also Konohiki, and HRS 174C-101 for the water rights. So as I stated, there's lack of policy and our Lieutenant Governor Josh Green agreed that we do need statewide policy, but also that the problem of the tenants being removed, being made homeless, and so this is a situation going on island-wide where the discrimination, I felt, came in where under adverse possession, a perfect stranger would come in for 20 years being openly notorious and all these things, whereas a Hawaiian would be arrested for going on the property. So they . . . *(timer sounds)*. . . oh, is that the...okay. And so to sum it up, I just wanted to make sure that under the Laws of the Occupied, to look at native tenant rights, which are a quarter acre for a house, quarter acre for a taro garden, extra quarter acre on any kona side of any island, and according to the DLNR land division, that applies basically to every square inch of Hawai'i.

CHAIR PALTIN: Thank you.

MS. MAHI: I'm not sure if I'm running out of time.

CHAIR PALTIN: Yeah, that was the bell. So thank you for that --

MS. MAHI: Oh, okay, that's what I thought.

CHAIR PALTIN: -- summing up. Members, any questions for the testifier? Member Sinenci.

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COUNCILMEMBER SINENCI: Mahalo, Chair, and mahalo, Ms. Mahi, for your testimony today. I just didn't get that last part about the quarter...was it quarter acre for a house, quarter acre...

MS. MAHI: Oh, yes, sir. That is within...I believe it's the case *Queen Lili'uokalani vs. United States* or it could be in *Territory vs. Lili'uokalani*. But she states that within a commuted property, so that would be usually like a Royal Patent Grant area or others where they pay a government commutation, which means it's still...it's within the alloding of the Kingdom, but they're also allowed within those boundaries, of course, by permission, it's often family, a quarter acre for a house or a hale, quarter acre for a kalo patch, you know, lo'i or garden, extra quarter acre on any kona side of any island. So there's actually the law on the back of our County of Hawai'i document. It's on the Kuleana Land Tax Exemption, but the actual Kingdom Law is on the back of the County document which explains, you know, native tenant rights. So it's not just gathering rights as many people, including myself, had originally understood native tenant rights to be. So the two native tenants are maka'ainana, hoa'aina. So hoa'aina can move around inside the ahupua'a, the chief or, you know, whereas maka'ainana is more stationary. So yeah, those are basically on the law, and you have to surround it with some kind of wall and use the ti leaf wall. But see, the policy is, even under U.S. Fish and Wildlife, a native tenant here on the Big Island in Pond area was called a squatter growing taro by the stream. And that...you know, so it's a matter of, you know, learning what is a native tenant, and also following the law. So under the Laws of the Occupied, I believe that's something the kōnawai, which covers all of that, is something we need to look at. Is there any more questions?

COUNCILMEMBER SINENCI: Mahalo for that clarification. Thank you. Thank you, Chair.

CHAIR PALTIN: Thank you, Ms. Mahi. Is there anyone else that would like to give oral testimony prior to the presentation? Please unmute yourself or indicate in the chat that you would like to give testimony prior to the presentation.

MS. CHASE: Aloha, Chair Paltin, this is Faith Chase.

CHAIR PALTIN: Aloha, Faith. Did you want to give your presentation...or your testimony before the presentation?

MS. CHASE: If you don't mind because my internet is always dropping...and so anyway, if I could. But I certainly just want to say off the top that I'm so pleased that Keanu Sai was so willing, has an open schedule to make sure that he could come back and that was an unfortunate, you know, hiccup earlier. So thank you for that. And I don't mean to rob any of his time. I'm a groupie, a fan, a supporter. I got to join the Lawyer's Guild and his presentation about a week and a half ago. That was epic. Took a lot of notes. I just want to echo everything that the testifier before me, Mahi, was saying. And it's just an emergency reminder because I've tried to feed the idea of lineal rights and native tenants throughout each one of your Committees...well, Gabe excluded...last year, and I just want to say today, last night, with everything that's going on in Kanahā, you know, this...this couldn't be more important. This couldn't

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be a more polarizing, critical conversation. So you know me, I can talk about everything for a long time. I just want to remind you guys that this is timely because that population down there, I've told you, is predominantly Aboriginal Hawaiian in that park. And, you know, I mean, I've tried to...you know, I cut the gate when it first happened. I was, like, this is unacceptable. And I tried to...I tried to get into that space where they could say, no, that's mine. And I say, no, that's lineal descendants. And yes, it's County, but yes, it's exactly like the testifier before me said, it's the government lands to use to serve the people in grave need. And they're in grave need. They were in six inches of water last night with sewage floating around. And they put up three tents. One of them fell down. It's just...we need a lot more. And so I don't want to rob Keanu Sai's beautiful presentation time. But I just need you to know that I would love for everybody, each person that's in this Committee, to follow through and to, like...like, it seems like people are interested in, to zero in on that language that the testifier before provided. To serve these people. And that's all. I'm sorry. Sorry, Keanu. Thank you. Mahalo. A hui hou.

CHAIR PALTIN: Thank you, Ms. Chase. Any questions for the testifier, Members? Seeing none, thank you. Any further testimony before the presentation? Go ahead and unmute yourself. Seeing none, I'm going to leave the public testimony open until after the presentation. So please, if you have any questions for the presenter, please write them down for after oral testimony so it's not like we're getting into discussion while testimony is still open.

### **. . .END OF PUBLIC TESTIMONY. . .**

CHAIR PALTIN: Okay. So the agenda today is Land Use and Title Insurance Presentation in Consideration of Hawai'i's Status Under International Law, PSLU-2(1), in accordance with Rule 7(b) of the Rules of the Council, the Committee intends to receive a presentation from Dr. David Keanu Sai relating to land use, land title, and title insurance in consideration of Hawai'i's status under international law. No legislative action will be taken. The Committee may discuss related matters. Thank you, and take it away, Dr. Sai.

MR. SAI: Thank you, Madam Chair. Aloha, fellow Councilmembers, Members of the Council. Glad I was able to get this thing going. I totally understood the last time regarding the Sunshine Law. And like I shared earlier, I follow rules, yeah, regulations. And it's good. What I want to do is I want to get right into it. Get the PowerPoint going. And the reason why I use PowerPoint all the time...because a lot of times the information that I do share is quite complex, yeah. And I try to break it down as easy as possible because I utilize PowerPoint a lot in my classes at the university, okay. So much so that I did a PowerPoint presentation at the University of Siena in Italy, where I was able to have my PowerPoint translated into Italian by a colleague at the University of Hawai'i, but I was giving my presentation in English. So that was...and that actually worked well. So I had a lot of good feedback from the law students there at the University of Siena. So that's why I focus a lot on the PowerPoint. And with that said, let's go ahead and...oh, are we sharing already? Oh, we are.

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CHAIR PALTIN: Not yet.

MR. SAI: Okay. Screen share disabled for this meeting.

CHAIR PALTIN: Oh.

MR. SAI: Could you enable that?

CHAIR PALTIN: Staff --

MR. SAI: Ana?

CHAIR PALTIN: -- can you enable it?

MR. SAI: It was working.

MS. LILLIS: Chair, this is Ana. We did not do anything to the settings, so I'm unsure why...oh, you know what? I've just changed the settings, I apologize. They are --

MR. SAI: Oh, there it is.

MS. LILLIS: -- it should work for you. I apologize. Thank you.

MR. SAI: Oh, good. Perfect.

CHAIR PALTIN: Thank you, Staff.

MR. SAI: Thank you, Ana. Okay, here we go. Okay, Madam Chair, can you see the slide, or all the slides?

CHAIR PALTIN: I can see the slide. It's going --

MR. SAI: Okay, perfect.

CHAIR PALTIN: -- as a presentation.

MR. SAI: Okay. Okay. So the title of this PowerPoint is Land Use, Land Title, and Title Insurance in Consideration of Hawai'i's Status under International Law. I want to start off with the letter that was submitted to the members of the State of Hawai'i Judiciary back in 2018 by a...what we call a United Nations independent expert. This person was appointed by the Human Rights Council. So he's actually...at this time, he was a UN official. And he sent a letter to the members of the State of Hawai'i Judiciary, as well as two trial court judges. And he basically stated here that as a professor of international law, the former Secretary of the UN Human Rights Committee, and coauthor of the book, *The United Nations Human Rights Committee on Case Law*, and currently serving as the United Nations independent expert on the promotion of a democratic and equitable international order, I've come to understand



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that the lawful political status of the Hawaiian Islands is that of a sovereign nation state in continuity, which means in continued existence. But a nation state that is under a strange form of occupation by the United States resulting from an illegal military occupation and a fraudulent annexation. As such, international laws, the Hague and Geneva Conventions, require that governance and legal matters within the occupied territory of the Hawaiian Islands must be administered by the application of the Laws of the Occupied State...in this case, it's the Hawaiian Kingdom, and not that the laws of the occupier, the United States. Now, this letter is not a source of international law, but rather, is an indication from a UN official of what the law is, okay? And that is what we call international humanitarian, the Laws of an Occupied State. So as a result of Hawai'i being an independent state in the 19th Century, and what was overthrown was its government in 1893, albeit illegally, admitted to by the U.S. President, the overthrow of that government did not overthrow the government called the Hawaiian Kingdom, but rather, obligated the United States at that time to administer the laws of the Hawaiian Kingdom. So that...that is what this letter and its significance is. Now, I also want to bring up the latest letter that was sent by the National Lawyers Guild. This letter was sent to Governor Ige on November 10th, 2020. The National Lawyers Guild, the oldest and largest progressive Bar association in the United States, with 70 chapters and more than 6,000 members, calls upon the State of Hawai'i and its county governments as the proxy of the United States, which is an effective control of Hawaiian territory to immediately comply with International Humanitarian Law, while the United States continues its prolonged and illegal occupation of the Hawaiian Kingdom since 1893. What is important about this is that this Bar association, comprised of lawyers and law practitioners across the United States, 6,000 members, understand what the law is, just as the United Nations official understood what the law is. So like the letter from the UN official, it's not a source of international law. But this letter from the National Lawyers Guild, although it's not a source of international law, it is an indication of what the law is, and that they're bringing attention to it. They also stated in this letter that Dr. Federico Lenzerini, a professor of international law for the University of Siena, Italy offered the legal authority of the Council of Regency under International Humanitarian Law, and thereby, the Royal Commission of Inquiry's investigative authority. The National Lawyers Guild supports the actions taken by the Council of Regency and the Royal Commission of Inquiry in its efforts to ensure compliance with the international laws of occupation. *(Audio interference)* What's important again here is that the Council of Regency is not a sovereignty group, right. The Council of Regency represented the Hawaiian Kingdom at the permitting court of arbitration in the Netherlands, in the Hague, where they confirmed and verified it in fact was a government under the Laws of the Occupation. Professor Lenzerini also provides that information through a legal opinion. Now, at the end of the letter, the National Lawyers Guild ends with, we urge you, Governor Ige, to proclaim the transformation of the State of Hawai'i and its counties into an occupying government, pursuant to the Council of Regency's proclamation of June 3rd, 2019, in order to administer the laws of the Hawaiian Kingdom. This would include carrying into effect the Council of Regency's proclamation of October 10, 2014 that bring the laws of the Hawaiian Kingdom in the 19th Century up to date. We further urge you and other officials of the State of Hawai'i and its counties to familiarize yourselves with the contents of this eBook

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published by the Royal Commission of Inquiry and its reports that comprehensively explains the current situation of the Hawaiian Islands, and the impact that International Humanitarian and Human Rights law have on the State of Hawai'i and its inhabitants. It is on this issue right here of one of the preliminary reports that I'll be addressing in this presentation to come. And that would be the preliminary report on land titles in Hawai'i, the status of land titles, and also its supplemental report on title insurance. The Royal Commission of Inquiry has obtained opinions from experts in international law. Professor Matthew Craven, University of London, SOAS, School of Law on the subject of the continuity of the Hawaiian Kingdom as a State under international law. Professor William Schabas, Middlesex University London, School of Law, on the subject of the elements of war crimes committed in Hawai'i. And from Professor Federico Lenzerini, University of Siena Italy, Department of Political and International Studies on the subject of human rights violations in the Hawaiian Kingdom, and the right of self-determination of an occupied people, not a colonized people. Now, what are legal opinions, and why are they important. Well, the writing of scholars is a source of international law as to the applicable rules to a given situation. According to the United States Supreme Court in *The Paquete Habana* (1900), the court stated, where there is no treaty and no controlling executive or legislative act or judicial decision, resort must be had to the works of jurists and commentators who, by years of labor, research, and experience have made themselves peculiarly well acquainted with the subjects of which they treat. Such works are resorted to by judicial tribunals not for the speculations of their authors concerning what the law ought to be, but for trustworthy evidence of what the law is. So that explains how international law is different from domestic law. So if you have it in a domestic context, someone's legal opinion, it might be...say this is what it should be, right, from an opinion or from a position taken. At the international level, writing of scholars reflect sources of international law as to what are those rules, okay. So it's very important that in light of Hawai'i being occupied for over a century, but only recently people have come to be aware of that, and the impact that it has...not just on land titles, but everyday life, it's important to navigate through a hundred years of revisionist history and stick strictly through facts and law, and people of authority and competence to explain certain things. So a lot of focus here is not on what people believe, but rather what it is. Now, the first task of the Royal Commission of Inquiry was to publish a book, an eBook, okay, and basically providing information relating to the Hawaiian Kingdom and its prolonged occupation by the United States. And this eBook, everyone should have gotten a copy, I would like to call it the one-stop shop of what you need to know about Hawai'i's situation. We have a section there on the Royal Commission of Inquiry that I wrote. I'm the editor of this book. In Chapter 1, Constitutional Governments...Governance; Chapter 2, Belligerent Occupation; Chapter 3, Professor Matthew Craven, Continuity of the Hawaiian Kingdom as a State Under International Law; Chapter 4, Professor William Schabas, War Crimes Related to the United States Belligerent Occupation of Hawai'i; and Chapter 5, Professor Federico Lenzerini's chapter on International Human Rights Law and Self-Determination of Peoples Related to the United States Occupation of the Hawaiian Kingdom. Now, the Royal Commission of Inquiry, okay, began its mandate with providing Preliminary Reports on certain subjects in order to bring awareness as to the scope of its investigative authority and the methods of its investigations. The Royal Commission

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of Inquiry's latest preliminary report addressed the status of land titles in Hawai'i, supplemental reports of the role of title insurance in light of the defects in Hawai'i land titles. Now, there are two significant events that affect land titles in Hawai'i from the public sphere, okay. The first significant event was the United States 1994 conveyance of the island of Kaho'olawe to the State of Hawai'i by a quitclaim deed. Kaho'olawe is a part of Hawaiian Kingdom government lands that were purported to have been ceded to the United States in 1898 under a joint resolution of annexation. In 1959, when Government and Crown Lands were purportedly ceded to the State of Hawai'i, certain lands, to include Kaho'olawe, were retained by the Federal Government. And here's the deed of Kaho'olawe in 1994. Now, looking at this deed, right off the bat, a title abstractor or someone from a title company would see a red flag. And that red flag is quitclaim deed. Quitclaim deed. So here we have quitclaim deed from the United States of America to the State of Hawai'i for the island of Kaho'olawe. In the preamble of this deed will reveal why it's a quitclaim, okay. Because a quitclaim does not profess the value their claimant may have even if it has no claim at all to the property. As opposed to a warranty deed, where the person or entity conveying the piece of property will warrant and defend that property after it being conveyed. A quitclaim does not give rise to any warranty, right. So in the preamble, it says here that whereas the island of Kaho'olawe is a portion of public lands, formerly Government Lands of the Kingdom of Hawai'i, that were ceded and transferred to the United States by the Republic of Hawai'i under the joint resolution of annexation on July 7, 1898. So in this deed, it is acknowledging that Kaho'olawe is Government Lands from the Hawaiian Kingdom. But what it's saying is they acquired it not from the Hawaiian Kingdom, they acquired it from the Republic of Hawai'i in 1898 under a joint resolution. A land title abstractor will then have to look at this and find out where did the Republic of Hawai'i acquire the lands from the Hawaiian government. There needs to be something...whether the Republic of Hawai'i is serving as the agent for the Hawaiian Kingdom government, whether or not the Hawaiian Kingdom Government transferred Kaho'olawe to the Republic. This preamble merely states the facts, but it provides no connection between the Kingdom and the Republic. It also states in the preamble, whereas, under Hawai'i's Admissions Act, Public Law 86-3, public lands that were determined by the United States to be surplus are to be conveyed to the State of Hawai'i, hereafter referred to as the State. So in the lands that purportedly the United States received in 1898 under a joint resolution, they retained certain lands. The rest, they ceded or transferred to the State of Hawai'i. But the United States can only transfer what it has. If Kaho'olawe is actually Government Lands, but the United States got it from the Republic of Hawai'i, there is no way that the United States will warrant and defend that title and be liable to lawsuits for breach of warranty. So that forced the United States to transfer this island under a quitclaim deed. According to *Black's Law Dictionary* defines a quitclaim deed as a conveyance that does not profess that such title is valid or containing any warranty or covenant for title. So what the State of Hawai'i received was basically some...a claim to a property that the United States claimed, but they bought it as is. And that if the State of Hawai'i finds out that Kaho'olawe, there is a problem, they can't go after the United States for breach of warranty, right. And that's why the quitclaim was done. Now, the significance of this 1994 conveyance by way of a quitclaim deed, is that the United States explicitly admits that it never acquired a warrantable title to any Government or

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Crown Lands that numbered nearly 1.8 million acres. Therefore, all Government and Crown Lands conveyed by the United States, whether it's to private individuals to the State of Hawai'i under Section 5 or by the State to individuals thereafter are all quitclaim deeds themselves. They're not warrantable titles. And this is now drawing attention, naturally, to what I'll be covering called Title Insurance. Now, a second event, a significant event, yeah, regarding lands in Hawai'i was the 2012 decision made by the Federal District Court in California, *Gumapac vs. Deutsche Bank*. As reported in the American Bar Association's Tort Trial and Insurance Practice Law Journal in 2013, the Federal Court found that an executive agreement in 1893 between President Grover Cleveland and Queen Lili'uokalani of the Hawaiian Kingdom rendered any notary actions after 1893 to be unlawful. There is the complaint that was initiated in Federal Court, Central District of California, a Western Division, and the decision made was reported in the American Bar Association's Journal, and this is the section on *Gumapac vs. Deutsche Bank*. In particular, it says here, a title report revealed a defect of title by virtue of an executive agreement between President Grover Cleveland and Queen Lili'uokalani of the Hawaiian Kingdom that rendered any notary actions unlawful. Thus, the deed of conveyance to the homeowners was nullified. Now, this is another reason why it's important to know about title insurance because of these defects. There are many things happened in the past that all of us here today have no control over. They're part of the public record. But now these facts are resonating today with profound ramifications. So what is title insurance? Well, most people are not aware, unaware as to what title insurance is and how it works. Typical title insurance...no, sorry...typical insurance policy, such as car insurance, insures against a future cause of damage that may or may not occur, okay. You may pay car insurance, monthly installments, and never get into an accident, so you don't have to use it. Now, title insurance, however, insures against a past cause of damage, not a future cause of damage. It is an agreement to indemnify or pay out for losses incurred by on-record and off-record risks or defects that are found in the title or interest in an insured property to have existed on the date of which the policy was issued, okay. So title insurance is issued on a particular day, but it only insures against damage to the title before that date of the policy, not after that date. So how do you get to realizing what is the status of the title and not just have title insurance? And that's when we have to start to get into how title insurance works, okay, which has a direct tie to a title search. So according to Black's Law Dictionary, title insurance is a policy issued by a title company after searching the title and ensuring the accuracy of its search against claims of title defects. So a title insurance policy is directly tied to a title report, okay? A title report looks at the public records by people who are trained to do that. And based upon that information, if they say there is no defect, then the policy is issued which insures the accuracy of the search. If that accuracy comes into question, then the title insurance steps in. In *Stewart Title Guaranty vs. West*, the court stated, "the title insured does not 'guaranty' the status of the grantor's title. As an indemnity agreement, the insurer agrees to reimburse the insured for loss or damage sustained as a result of title problems, as long as the coverage for the damages incurred is not excluded from the policy." Now, I can assure you, all title insurance policies do not exclude from coverage the executive agreement entered into by President Cleveland in 1893 that was referenced by the Federal judge in California. So title report versus title insurance policy, again, these are two different contracts,

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right. So a title report is a search of issues affecting title on record and off record that traces the current title back to the original patent. According to the State of Hawai'i Real Estate Commission, a title report includes a search of the public records from the source of title, which may be as early as 1846, up to the current date and time. On-record is what is revealed in the Bureau of Conveyances, such as the quitclaim deed regarding Kaho'olawe. That's an on-record piece of evidence. But it also includes coverage for off-record evidence as to what is revealed outside of the bureau, such as government proclamations and decisions. The executive agreement between the Queen and the President referenced by the Federal judge in California is an example of an off-record risk because you won't find it in the Bureau of Conveyances. The title report forms the basis for the issuance of the title insurance policy, okay. So without the title report, in looking at the chain of title and the conveyances, that they happen properly and legally, without the title report, there is no title insurance. Because the title insurance insures the accuracy of a title report. That's how they work. So there are two types of title insurance policies. First, there's an owner's policy that protects the owner of the property from title defects. The amount of coverage is provided in Schedule A of the policy itself, which is the appraised value of the property at the time when the policy was issued. So here we have Schedule A, an example. And in this case, we have coverage \$320,000. And that was the appraised value at that particular time on March 15, 2019 at 8:01 a.m. And the name of the insurer is Dianne Dee Dyer, okay, as tenant in severalty as the fee owner. So the title insurance policy for the owner protects this person who purchased the premium, which they paid \$1,000 for, right, which is at their premium paid, and this is the coverage. It's a one-time premium. Now, if something is wrong with the title, then Dianne Dee Dyer is the beneficiary of this insurance policy that could amount for a total payout of \$320,000 if there was a total loss of property based upon a defect. The second type of title insurance is a lender's policy. And a lender's policy protects the lender, who has an interest in the property under a mortgage, from any defect in the mortgage. Not part of the title. So a lot of people don't understand or know a difference between a mortgage and a promissory note or the loan. Many people mistakenly say, I pay a mortgage. No, you don't pay a mortgage. What you do is you pay a loan secured by a mortgage. The mortgage is collateral. The mortgage is what you give to the bank to ensure repayment of the loan. Once you pay off the loan, the bank will release the mortgage back to you. You now can borrow against the collateral, right. You can use it to secure the repayment of another loan. So correct people when they say they pay mortgage. No, you don't. You pay a loan secured by a mortgage. With or without the mortgage, though, you still owe the money. That's still a loan. But the payment of the loan, if you have title insurance, is covered by the insurance policy, right. So here we have a lender's policy, okay. It's unlike the coverage under owner's policy because the coverage of a lender's policy would be the loan, okay. And as people are paying off the loan, that coverage is reducing, right. Because it's only covering the debt owed to the bank. So if a person is in the final month of payment after a 15-year loan, that final payment, let's say, \$1,500, would be the amount of coverage for that particular time. But it may have started off at 256,000 (*audio interference*). You don't know. The borrowers are required to purchase the lender's policy for the lender. It's a condition of the loan. The lender will not accept the mortgage as collateral until the borrower secures title insurance, which is why you go to escrow, okay. That's the reason. So

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here's Schedule A of a lender's policy. And you notice the amount of insurance here is \$256,000. That was the amount of the loan taken. And this is the same property as Dianne Dyer, right. But this is a loan. The other policy was appraised value. And the name of the insured is Axia Financial, okay. That's the lender, not Dianne Dyer, okay, but it's on the same property. So here we have the policy at \$256,000, and that was since March of 2019. Well, that coverage is less now because there were monthly payments made by the borrower in this particular case. Calculating loss...the title insurance calculates the amount of damages by taking the value of the property from the owner's policy, let's say 320,000, without the damage, which is what is the total amount of the coverage minus the value of the property with the debt, okay. So (*audio interference*) that it has been revealed loss, but it may affect the value of the property, and it's the (*audio interference*) policy that pays out that difference. But if there is a total loss of title as a result of a title defect, the loss is the total amount of coverage in the policy. So in that owner's policy that I showed you earlier, that property, okay, is on the Big Island, right. That property was not able to be transferred after 1893 as you will see because of the executive agreement. That property does not belong to the purported owner. There's a defect. What you have there is a total loss. Not partial loss, a total loss. So the policy, as far as coverage for total loss is \$320,000 unless they can remedy that title. But from the records, it's a loss. And no one can change that. No government can fix that. These are private rights, this is not public rights. These are private rights that laws do not affect. It's also called vested rights. A total loss of title of the owner or borrower renders a total loss of the mortgage where the loss paid to the lender is the remaining debt owed. So if there is a total loss of the title, then the bank that was using that property as collateral, then that is a total loss of the mortgage. Because without a valid title, there is no mortgage, and the bank would not be able to foreclose on that property by selling it to the highest bidder by virtue of the mortgage, yeah, because there is no title. So what protects the bank in that situation is title insurance, which is why borrowers are required to buy title insurance to protect the lender should there be something wrong with the title. Again, this doesn't take into consideration how people feel today. It's a title report. It's public records. It's out of our control. And the title companies should have picked this up because it's there on the public record. Now, here is an off-record risk, okay. And this is what led to that executive agreement that that Federal judge referenced in his judgment. By direction of Hawai'i's Queen Lili'uokalani, President Cleveland in 1893, March, initiated the investigation of the overthrow of the Hawaiian government on January 17th. On December 18th, 11 months later, the President reported to the Congress his findings and conclusions of the investigation. He stated to the Congress that on the 16th day of January, 1893, between 4:00 and 5:00 in the afternoon, a detachment of Marines from the United States steamer Boston, with two pieces of artillery, landed at Honolulu. The men, upwards of 160 in all, were supplied with double cartridge belts filled with ammunition, and with haversacks and canteens, and were accompanied by a hospital corps with stretchers and medical supplies. The President then concluded this military demonstration upon the soil of Honolulu, being an independent state, was of itself an act of war. President Cleveland then stated that the government of the Queen was undisputed, and was both the de facto and de jure government. De facto government in fact, de jure by law. When our minister, the President said, recognized the provisional government, the only basis upon which it

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rested was the fact that the Committee of Safety declared it to exist. He concluded, it was neither a government de facto nor de jure. This is important because this point right here will address, now, any actions taken by this so-called provisional government after January 17, 1893. So if they weren't, as President Cleveland says 11 months later, they were never a government de facto nor de jure, then how did properties get transferred by a notary and the registrar 11 months earlier when the...after the overthrow. And that's important right here, okay. Now, President Cleveland then concluded, by act of war with the participation of a diplomatic representative of the United States, without the authority of Congress, a government of a feeble but friendly and confiding people has been overthrown. And the provisional government...again, this is important. This is from the President, this is not from a newspaper with an opinion. Provisional government owes its existence to an armed invasion by the United States. Now, this runs contrary to the revisionist history that has been promoted by these insurgents when they took control after 1893. And indicative of this revisionist history, as people today referred to them in 1893 as businessmen. Businessmen. President Cleveland never referred to these people as businessmen. He referred to them as insurgents. Yeah, the same word that they're using for those who stormed the Capitol in Washington, D.C., the insurrectionists. They're called insurgents. Insurgents are those that attempt to overthrow a government. In this case, a provisional government did not succeed, it was the United States that overthrew the Hawaiian Kingdom Government, not these insurgents. Now, a month prior to Cleveland's message to Congress, they've already gotten their conclusions from the Blount Report that this is pretty bad for the United States. They began to negotiate with the Queen for settlement. Now, this also throws into question about the overthrow because revisionist history that was promoted says what was overthrown in 1893 was the Hawaiian Kingdom. No. What was overthrown illegally in 1893 was the government of the Hawaiian Kingdom, not the country and its laws. That still existed after January 17. And this proves that it exists because a month prior to Cleveland's message to Congress, U.S. diplomat Albert Willis met with Queen Lili'uokalani at the U.S. Legation, or Embassy in Honolulu. He conveyed to the Queen the President's sincere regret that through the unauthorized intervention of the United States, she had been obliged to surrender her sovereignty. And his hope that with her consent and cooperation, the wrong done to her and to her people might be redressed. Willis stated that the President concluded that the government and their supporters, not entitled to extreme sympathy had been led to their present predicament of revolt against the government by the indefensible encouragement and assistance of our diplomatic representative. And I like to kind of just draw attention to this a bit, and make it a little relevant today. Here we have these insurgents being encouraged by the U.S. Minister or Ambassador assigned to Hawai'i. Well, those people on January 6th, called insurgents, who tried to take over the Capitol in Washington D.C., they were encouraged by the United States President, right? So there is this similarity, you might say. But the one thing that the insurgents in Washington didn't have, which is what the insurgents in Hawai'i had, was military backing from the United States, and protection by the United States. The Queen was then asked, should you be restored to the throne, would you grant full amnesty as to life and property to all those persons who have been or who are now in the Provisional Government, or who have been instrumental in the overthrow of your government? Okay, here is where the Queen

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gave in January 17, 1893, in her conditional surrender to the United States Government...because of the U.S. Forces and the risk of bloodshed, she provisionally surrendered to the United States--not to the insurgents, to the United States--and called upon them to restore her to her position as a constitutional monarchy after they investigate what took place. What Cleveland provided to the Congress was the findings of that investigation, and they were now preparing to put the Queen back into power, right, put her back into that seat of executive monarchy. But they said, before we do that, would you agree to grant amnesty? Because amnesty, if not granted, okay, would mean that these insurgents would be subject to the Treason Law, prosecuted, convicted, probably using the evidence of the Blount Report and Cleveland's message, and found guilty. And the punishment for treason under Hawaiian law is you hang. This is a very serious issue in 1893, and President Cleveland was asking the Queen, after we restore you...because right then, she didn't have the authority. She yielded it. When the President returns that authority, they wanted a condition. And that was part of that diplomacy that took place starting on November 13th, 1893. Because at first, you said, no. So additional meetings were done at the U.S. Legation, the U.S. Embassy. And on December 18th, 1893, the same day of Cleveland's message to the Congress, the Queen agreed to the conditions of granting amnesty to the insurgents after she is restored. Because only she can grant it. But she couldn't grant it unless she was restored. This is a Catch-22. International law calls this type of an agreement an executive agreement by exchange of notes, which is a treaty. Again, drawing attention to the Federal judges referenced to this executive agreement because that's a treaty, right. Annexationists in the Congress, however, blocked Cleveland from restoring the Queen, that consequently left the insurgents without amnesty for fugitives. Under this treaty, the United States admits members of the provisional government were neither de facto nor de jure, but rather insurgents. And they remained insurgents until they died. The problem for us here in Hawai'i...what did they touch? What did they touch after 1893? And we're going to zero in on land. The ability to convey property after 1893. We also have to take into consideration how the United States purportedly acquired Hawai'i because in that Kaho'olawe quitclaim deed, they make reference that the Republic of Hawai'i ceded Crown and Government lands, right, to the United States under a joint resolution. But we need to understand what is a joint resolution. Well, to cede territory, right. According to Professor Oppenheim, leading expert in International Law, cession of State territory is the transfer of sovereignty over State territory by the owner state to another state. And the only form in which a cession can be affected is an agreement embodied in a treaty between the ceding and the acquiring state. So the Hawaiian Kingdom was a state, it wasn't a tribe. And the United States was a state. Now we need to find out, well, how do states acquire territory from other countries? Well, here we have two sovereign entities, two states represented by their governments. One will cede territory to another, and that could be voluntary during a state of peace, you negotiate. Or it could be as a result of a state of war, right? But you still need a treaty. So here's the United States. How did the United States acquire the majority of its territory we know today as the United States of America? Well, the first ceded lands took place in 1803, Louisiana Purchase. Prior to 1803, French law applied over that territory west of the Mississippi. After 1803, American law applied. So if any transfer of property was to take place in that French territory in 1801, it



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would have to follow French law as it applied to notaries, registry, whatever the case may be. After 1803, conveyance of property would have to be done under American law. The second territory transferred was in 1819 from the Spanish, of the lands that we know today as Florida. Then 1846, Pacific Northwest, transferred by the British. These are voluntary cessions, negotiated and paid for. We have an example of a treaty of cession that basically was a treaty of peace that ended the Mexican-American war, called the Treaty of Guadalupe Hidalgo, in 1848. So after 1848, any property being conveyed in what we know today as Dallas, Texas would have to be done under American law or, as a result of Texas becoming a state, State Texas law...Texas State law. But prior to 1848, if title was to be transferred in what is known as San Antonio, it would have been done under Mexican law, what were the rules there as far as notaries, registry, all that stuff. So you can see how significant a treaty is. Very important. And the United States understands that. On April 21st, 1890, the United States declares war against the Kingdom of Spain, and fights the Spanish in both the Caribbean and the Pacific Oceans. They are fighting in Cuba and Puerto Rico in the Caribbean, but also Guam and the Philippines in the Pacific. On May 1st, U.S. Forces began fighting Spanish Forces in the Colonies of the Philippines and Guam. The U.S. Forces in the Pacific need logistical support. And this is what prompted a resolution three days later in Washington D.C., House Representative Francis Newlands submits a resolution, okay, a House Resolution proposing to annex the Hawaiian islands. Now, a Congressional resolution is not a source of international law, but a legislative action limited in authority to United States Territory. The United States Supreme Court states this very clearly. Neither the Constitution nor the laws passed in pursuance of it had any force in foreign territory, let alone a resolution. And operations of the Nation in such territory must be governed by treaties. International *(audio interference)* and the principals *(audio interference)* acquired property in the Pacific Northwest in 1848 from Great Britain. Okay. It was a treaty. It was not a resolution. Now, on the record, in the Congress, representatives and senators knew this. And it's not...this wasn't a secret, as far as how you acquire territory from another country. In Texas, the Texas Congressman, Thomas Ball stated, the annexation of Hawai'i by joint resolution. Now, joint resolution is an agreement between the House and Senate, and then signed into law by the President. What Francis Newlands introduced was a House resolution that eventually became a joint resolution. So the annexation of Hawai'i by joint resolution is unconstitutional, unnecessary, and unwise. The territory could only be constitutionally acquired by a treaty. Senator Augustus Bacon from Georgia stated that the annexation of foreign territory was necessarily and essentially the subject matter of a treaty, and that it could not be accomplished legally and constitutionally by a statute or a joint resolution. Now, Senator Allen from Nebraska pretty much summed it all up. He says the Constitution and the statutes are territorial in their operation. That is, they cannot have any binding force or operation beyond the territorial limits of the government in which they are promulgated. In other words, the Constitution and statutes cannot reach across the territorial boundaries of the United States into the territorial domain of another government, and affect that government or persons or property therein. Again, he's using the word "people" and "property"...real estate. In 1900, when they were debating the creation of the Territory of Hawai'i, and he was going to change its name from the Republic to the Territory under Congressional Act,

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he went on the record and says the joint resolution of annexation is ipso facto null and void. This gives you another side of what the United States understood before they conveyed Kaho'olawe in 1994. There was no way they say they can warn and defend this title and be liable monetarily of defects. So the limitation of United States law, there's Washington D.C. right there. You've got borders. U.S. laws have no effect beyond the borders of the United States. The quintessential question then is, then how does property get transferred or conveyed after 1893? Was the Queen restored? She wasn't. What we have here is the joint resolution itself, okay. Joint Resolution Number 55. And it specifically says, and also to cede and transfer to the United States the absolute fee and ownership of all public, Government, or Crown lands, public buildings or edifices, ports, harbors, military equipment, and all other...other public property of every kind and description belonging to the Government of the Hawaiian Islands. The problem is, the republic was not a government, they're insurgents. And the United States cannot change that. They are insurgents. So the 1893 joint resolution of annexation is a municipal law of the United States enacted by the Congress. Joint resolution is not a treaty or a conveyance of 1.8 million acres of Government and Crown land. That's why the United States, in the preamble to the Kaho'olawe quitclaim deed, could not say it was the Hawaiian Kingdom that conveyed the property to them, but did acknowledge it was Hawaiian Kingdom Government lands conveyed by the Republic through this joint resolution. And then two years later, the Congress creates another law changing the name of the so-called Republic of Hawai'i of insurgents, and giving them some...some cloth of authority, claiming to be a government of the United States called the Territory of Hawai'i. And then in 1959, Public Law 86-3 that was referenced in that preamble of the Kaho'olawe quitclaim deed, is where the United States changed the name from the Territory of Hawai'i to the State of Hawai'i, and transferred what was supposedly conveyed by the Republic to the State of Hawai'i, which came under control of the Department of Land and Natural Resources, as well as Hawaiian Homes. And here we have, in 1993, the United States passes a new resolution apologizing for the illegal overthrow, so there's no way they can say they didn't know. Now, what's in this joint resolution is problematic because they tried to claim that Native Hawaiians are indigenous people and they need to seek federal recognition as an Indian tribe. That's all wrong. But again, it's just obfuscating the situation. It's blurring it. The problem...the bottom line is, this joint resolution of apology is no more effective in Hawai'i than the joint resolution of annexation. It's still an American law. Here we have Hawai'i State sovereignty recognized in 1843, sovereign and independent. State government that exercised that authority, in this case regulating federal property and land titles, that government was illegally overthrown by the United States military. The Federal government though, did not...did not remove or extinguish the Hawaiian Kingdom. The Hawaiian Kingdom would still exist as an independent state. And the laws of this Hawaiian Kingdom, because they are not able to be administered by the Hawaiian government, but as a result of the overthrow and admitted overthrow by the United States, it was the United States through its proxy, the provisional government, that should have been administering Hawaiian Kingdom law. That wasn't the case. They were insurgents, and that's it. So the Hawaiian Kingdom continues to exist as an independent state, despite United States admitted illegal overthrow of its government. According to Judge Crawford, belligerent occupation does not affect the continuity of the State. The

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government authorities may be driven into exile or silence, and the exercise of the powers of the State thereby affected, but it is settled that the powers themselves continue to exist. He's referring to the occupied state and the occupying state. So I would like to also draw attention to this, which is the law, back to the United Nations independent expert's letter to the State of Hawai'i. He is only reiterating what the law is. He is not creating or saying what the law should be. This is what should have happened, but it didn't. Now, to prove that the Hawaiian Kingdom still exists which is an off-record risk or defect that a title report should have picked up was the World Court case that the Permanent Court of Arbitration in *Larsen vs. the Hawaiian Kingdom*. And in that case, the Permanent Court of Arbitration verified that the Hawaiian Kingdom still exists, and they had the hearing. If the Hawaiian Kingdom didn't exist, it wouldn't have had the hearing. In this proceedings, the Permanent Court of Arbitration also acknowledged that the Council of Regency is its government. But it's a government under occupation, which is very different than being a government when you're not occupied by a foreign country. And this is where International Humanitarian Law comes into play. And in the American Journal of International Law commenting on the Permanent Court of Arbitration case back in 2001 said that at the center of the PCA proceeding was that the Hawaiian Kingdom continues to exist, and that the Council of Regency, representing the Hawaiian Kingdom, is legally responsible under International law for the protection of Hawaiian subjects including the claimant, Lance Larsen. In other words, the Hawaiian Kingdom was legally obligated to protect Larsen from the United States' unlawful imposition over him of its municipal laws through its political subdivision, the State of Hawai'i. As a result of this responsibility, Larsen submitted that the Hawaiian Council of Regency should be liable for any International law violations that the United States had committed against him. So this is public record. Not in the Bureau of Conveyances, but this is where title abstract that should have...could have easily picked this up because (*audio interference*) and it will remain there as far as this case. Now the consequence of President Cleveland's failure to restore the Queen under the executive agreement of restoration rendered all deeds of conveyances of real property and mortgages after January 17, 1893 void because the Registrar of the Conveyances and Notaries Public were insurgents and members of the so-called provisional government and its successor, the Republic of Hawai'i. These insurgents were subject to the criminal statute of treason, which was the reasoning behind the executive agreement granting amnesty after the Queen was restored. But she wasn't. Therefore, they're still insurgents. President Cleveland concluded they were neither government de facto nor de jure. This is important in a timeline on a title report that a title abstractor will have to take into consideration. Because if they don't, and they say the title is valid, an insurance policy is issued, that policy cannot refute the evidence. That means that that title report was not accurate, and the insurance policy will have to pay for it. There's a chain of title.

CHAIR PALTIN: Dr. Sai?

MR. SAI: Yes, Tamara.

CHAIR PALTIN: We didn't catch what you said about a title abstractor should have picked

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up on it. After that, you kind of broke up a little. Can you repeat that part? Where the title abstractor didn't pick up.

MR. SAI: Okay. So a title report looks at not only what is on record, which is in the Bureau of Conveyances and property that is being transferred, but also off record, possibly in court cases, probates, government proclamations, government decisions, laws, right. The executive agreement is...is a treaty recognized under American law as a treaty. So when the judge in the Federal court in California acknowledged the executive agreement, he was not stepping out of the box, he was merely citing something that is part of the record. A title abstractor should have known that because executive agreements were known for quite some time, not just in 2012 in that case. And that title abstractor should have noted that. Now, once they note it, that definitely creates a problem with the title. But if the abstractor did not cite it in the report, that doesn't take away the fact that it still affects the title. It's just that that abstractor was negligent. The problem though is, whether negligent or not, the insurance policy was issued based upon that negligent report, which was inaccurate. That means the title insurance policy will pay for the negligence of its title report, right. So that's why for people doing title reports, title abstractors, not anybody off the street can do it. You've got to be trained in that area. You have to understand how land titles work, and I can guarantee you, it is very complex. Not anybody can go into the Bureau of Conveyances and say, I want to do a title report. There's a lot more that goes to that, and a lot of training. Well, what we have here is we have now the title reports that have been professed to be accurate...they never were. They never were. So here we have an example of a chain of title, right. So remember, 1845 was the beginning or formalizing of land titles. So Royal Patents, the Land Commission Awards are the evidence of title, and you won't find any Royal Patent or Land Commission Award before 1845. And you would find it in the Bureau of Conveyances. And this person, let's say in 1860, was granted a Royal Patent. So Royal Patent Grant would be government land, like Kaho'olawe. And then the person who received it would be a grantee, and that would be a new person, and not the person under the Royal Patent as owning the property. And let's say a conveyance was made in 1874. Under Hawaiian law, you first have to get the deed notarized. And then once notarized, under Hawaiian law, then you submit it to the Bureau of Conveyances for public record. And that's when the Registrar records it. Once it's recorded, it shows a title has been transferred. But what it also shows is who transferred it to you because should that title be defective, then that person with the Royal Patent has to defend it, even after it was conveyed to this person in 1874. And that's what is a warranty deed, right. Well, let's say this person conveyed it to another person in 1884, followed the law, notary, recordation in the Bureau, right. Then in 1894, after overthrow, recorded, notarized. Then again, 1897. Then again in 1975, and somebody today claims to own it. Okay. Now that person today has no idea how that property came about. That's why a title reporter would know. Okay. And that's a title company. The problem here is we have a break in the chain of title. First of all, the first break, there's no treaty in 1898. That was a joint resolution. That's an American law passed by the United States that has no affect. So the notary in that conveyance in 1975 would no doubt have been a State of Hawai'i notary, right. The problem is without a treaty, that would negate the notary of the State of Hawai'i. That would show that title was defective at

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least since 1898. Well, what about that person who was conveyed that property in 1897, right. Well, the problem is, we have the 1893 executive agreement of restoration which wasn't carried out, but the executive agreement does acknowledge the insurgency. These are not real government officials. Well, that just took out the conveyance and the notaries...well, the notaries and the Registrar in 1894 and 1897. That is the significance of what that executive agreement did, and why the judge in that Federal court could not deny it, right. But owner's title insurance policy...this is what it looks like, okay. And you have what is called covered risks. So any defect, okay, this covered risk includes, but is not limited to, insurance against loss from (a) a defect in title caused by forgery, fraud, undue influence. A document affecting title not properly created or executed or notarized. A document not properly filed, recorded, or indexed in the public records, right. Oh, let's take a look at an example of on-record risk that should have been picked up by a title abstractor. This is not the executive agreement. This is not Kaho'olawe. Here's a deed, a Royal Patent Grant of government lands, Royal Patent Grant Number 3630 conveyed to Cornwell. You notice here in that patent, Lili'uokalani, by the Grace of God, Queen, is crossed out. And what is written in its place is Sanford Dole, President of the Provisional Government. This property is a bunch of acreage in Holualoa, North Kona above Kailua-Kona. Okay. In fact, I have family that live there. Well, when was that conveyed to Cornwell? That was 38 acres conveyed to Cornwell on February 3rd, 1893. February 3rd, nearly three weeks after the overthrow of the government. And you will also notice that Lili'uokalani is crossed out, and Sanford Dole is written in. And where it says By the Queen...crossed out, as far as Queen. By the President, James A. King, Minister of the Interior. Well, King and Dole are insurgents. They are not government officials. They are pretending to be. The problem now is someone's title today in Holualoa goes back and may be a part of that 38 acres. In fact, I met an attorney here in Hilo that actually represented someone. And they found that, and he told me they had to initiate a quiet title action because that was fraud. What he didn't know was you couldn't get a court to fix that problem because now you're using a State of Hawai'i court, now you're going right back to the limitation of U.S. law. We still have a problem. So here's an example of a fee simple property affected by 1893. And here in the lender's policy, okay, it also has covered risks. It also covers forgery, fraud, impersonation, right. Well, that definitely was impersonation. This Sanford Dole, an insurgent, is trying to pretend to be a president. So in the owner's policy, what do you do when you find out this information? Because obviously, the title companies are not going to divulge this because really, all of their title reports are defective. They are inaccurate. Well, according to the policy, it is insured in case of an owner's policy, the owner itself, the insured shall notify the company promptly in writing in case knowledge shall come to an insured hereunder of any claim or interest that is adverse to title, as insured owner...how are they going to remedy the indemnity. So in listening to this presentation, you can actually use this presentation and the preliminary report from the Royal Commission of Inquiry and its supplemental report and follow, and let the insurance company try to refute this, which they can't...cannot. Then that means, well, how are they going to address the indemnity. Well, under Section 4, it says proof of loss. The insured, the owner, in the event the company is unable to determine the amount of loss or damage, the company may, at its option, require a condition of payment that the insured claimant furnishes a signed proof of

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loss. The proof of loss must describe the defect, okay, but is insured against this policy that constitutes the basis of loss. Well, that would be the executive agreement. That would be the preliminary...I mean the supplemental report. And under payment of loss, Section 12, when liability and the extent of loss or damage had been definitely fixed in accordance with these conditions, the payment shall be made within 30 days. So that person who had a \$320 coverage, they can put in a claim with the evidence, and basically call for indemnification payment. But in these policies, the insurance company does reserve the right to fix the title instead of paying out the damages. So you have to understand that the title...the insurance company, not the title company, the insurance company can find a way to fix the title, which would mean they don't have to pay out pretty much every policy that they've issued here in Hawai'i. And where do you send the notice, Section 18, it gives you the address. That's where you send it, right. So basically, what you have here is under an owner's claim, the owner will put a notice of claim in there basing it on the executive agreement, and the insurance company would pay it off unless they fix the title. Under the lender's policy, it also has that the insured, which is the bank, shall notify the company promptly in writing in case knowledge shall have come to an insured of any claim of title or interest that is adverse to the title or the lien of the insured mortgage. So, you know, in that Deutsche...in that *Gumapac vs. Deutsche Bank*, that means Deutsche Bank cannot say they didn't know about the executive agreement. They should have followed the insurance claim. But because they bought out the property in a power of sale under a nonjudicial foreclosure law, the buying out of that property also bought out the insurance coverage. So Deutsche Bank didn't have an insurance policy after it bought the property because they couldn't sell it during foreclosure because of the defect. So they bought it themselves. And its decision was, well, they bought it, but as a result of them buying it, they also took out the insurance policy. They can't get it back. But Deutsche Bank should have known for all future policies they're getting into, they should have notified the insurance company of this defect. Now also, it shows provide proof of loss. Deutsche Bank could have easily provided the judgment made in the Federal court that this rendered it void as far as the title, the owners of the property, which would naturally void the mortgage, and then have the insurance company try to fix the mortgage. But in order to fix the mortgage, you've got to fix the title because the mortgage is based on the title. And then this is where a lender would send their notices. So what you have here is the lender, they issue a loan to the borrower. The borrower, okay, before the lender accepts the mortgage, has to purchase title insurance to protect the lender. That's a condition of the loan. Once they find out that the title is invalid because of the executive agreement, there is no mortgage. What you have is an unsecured promissory note. That's when the lender makes a claim with the insurance company to pay off the loan. Now, this all comes into play especially as a result of COVID-19. In Maui, you have a title...you have a hospitality industry. People don't have jobs anymore. This is a way to protect the people. They have insurance claims, but they don't know that they even have insurance claims. But this all puts pressure on the title insurance companies, but not undue pressure. These title insurance companies have been collecting premiums. They're supposed to indemnify if there's damage. So Crown and Government vested right. According to Hawaiian law, the Hawaiian government, okay, is the vested owner...is vested as the owner of all Government lands. And the Crown is the

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vested...is vested as the owner of all Crown lands. So any title today that originates out of 1.8 million acres that were purportedly transferred in 1898 by a joint resolution which didn't transfer anything...anybody deriving their title from Crown and Government lands today does not have title because they acquired that property by entities other than the Hawaiian Government or the Crown, which is the Crown land commissioners. There is no evidence that the Hawaiian Government nor the Crown authorized the insurgency, calling itself the provisional government or the so-called Republic, or the United States to its Territory of Hawai'i or the State of Hawai'i to be its agent to convey Government lands or Crown lands. All conveyances, therefore, of Government and Crown lands by these entities after 1893 are null and void. Council of Regency is the Hawaiian Government, and serves in the absence of the Crown, and therefore is vested with ownership of both Crown and Government lands. Royal Commission of Inquiry has notified the American Land Title Association and the Mortgage Bankers Association of Hawai'i that notices of claims under both an owner's title insurance policy and the lender's title insurance policy will be filed in accordance with the terms of both policies. This is all operating within the contract. Along with New Jersey, Florida, New York, and Nevada, Hawai'i will be expecting an explosion of foreclosures according to the Mortgage Bankers Association. And just yesterday on MSNBC news, there was a news story of a pending tsunami of evictions in California due to foreclosures caused by job losses resulting from the pandemic, COVID-19. So here we have a problem with the title, right, that we cannot escape unless we stick our heads in the sand, right. It is there. There is a lesson. This is what I would call crisis management. How do you manage this crisis without creating chaos? Because right now, what I'm exposing, we've been living in chaos. We're just starting to realize it. How do we remedy this? The key is, how do you fix it? What is the...what is the prescription, remedial prescription? How do you fix this problem? Well, the Council of Regency has taken the position that individuals, families, and businesses can remain on these properties, on the properties they reside or do business until the titles to the property can be remedied in accordance with Hawaiian law. In its preliminary report on the status of land titles, the Royal Commission of Inquiry explains how titles can be remedied under the heading, "Remedial Prescriptions." If any lender commences foreclosures within the courts of the State of Hawai'i, these proceedings would be considered criminal because the lenders have title insurance to recover their debt owed by the borrower. Now, utilizing these courts before the State of Hawai'i transforms itself into an occupying government would also render these proceedings as a war crime, specifically depriving a protected person of a fair and regular trial. Because if the court does not have subject matter jurisdiction, meaning authority over the subject matter as it were created by American law, then anything coming out of the court, any decision by it, would be void. That's...that's how it works. So International Humanitarian Law not only provides the context of how things are supposed to work, but it also is exposing the fact that for over 100 years this lie, which has somehow become the truth, is still a lie. The question then is how do we fix it, and that's what is important, and that's called due diligence. Let me stop sharing. With that I'd like to turn it back over to you, Madam Chair, and see if there's any questions from the Councilmembers.

CHAIR PALTIN: Thank you, Dr. Sai. Before we go into the questions, I think we need to

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finish public testimony. So I see six people that were signed up, and we'll just do public testimony the same as I had read the instructions before. We'll ask you to wrap it up after three minutes, and if everyone else can mute while the testifier is testifying. First up we have Fay McFarlane.

**. . .BEGIN PUBLIC TESTIMONY. . .**

MS. MCFARLANE: Aloha. Can you hear me?

CHAIR PALTIN: Yes, we sure can.

MS. MCFARLANE: Aloha, Chair. Thank you so much for having Dr. Sai reappear at this second meeting of the Committee. And I appreciate the presentation today, as well as the National Lawyers Guild Presentation a few days ago, or a week or so ago. I wanted to testify primarily because I had seen another testifier from West Maui Land Company on the list, and I assume that that individual is no longer testifying today. But one of the things that has come up repeatedly is that this land company here on the West Side has used their possession of title insurance to intimidate heirs to LCA and Royal Patent parcels out here. And I just wanted to point out that although it's been pointed out to their realtors a number of times about the limits of title insurance, as well as insufficient preliminary report searches, no matter what, it does seem to come up even with Maui County's Corporation Counsel where they wrongly believed that the possession of a title insurance policy somehow validates TMK as proof of ownership, and it's just not legally valid. I don't think I've spoken to any attorney that says that it's legally valid. But for some reason, West Maui Land Company repeatedly uses possession of a policy to intimidate heirs to LCA and Royal Patent parcels. So I just wanted to point that out. And I do look forward to some resolution in the future, and also to spread awareness of the limits of title insurance. And also to spread awareness of the problems with insufficient preliminary reports that only go back one or two conveyances. Thank you.

CHAIR PALTIN: Questions for the testifier? Thank you Ms. McFarlane. Any questions for the testifier, Members? Seeing none. Next up we have Shaunda. Shaunda, if you can please unmute yourself, and if you're prepared to give testimony, let us know. You're muted on your end, so I can't unmute you. Or if you weren't prepared to give testimony, you can let us know in the chat. Okay. We'll come back to Shaunda. CRE Sources, you're next up. Are you ready to give your testimony? CRE Sources? I don't know if that's Commercial Real Estate. Are you prepared to give testimony? You're muted on your end. Oh, Shaunda said no testimony. CRE is no, did not intend to give testimony. Mr. Elliot Mattos, you're up next. Elliot Mattos. Oh, it looks like they might have dropped off. Oh, no. Elliot Mattos, you're muted on your end. If you can unmute we'll take your testimony. We'll come back to that. Kekoanui and Jenn, you're up if you want to go ahead and unmute.

MS. ZIGLER: Hello, you guys. So we heard Fay's testimony, and we wanted to chime in on something that...with that as well. You know, the County recognizing TMK as being



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property ownership has become a huge problem. My fiancé is an heir to a kuleana property and, you know, unfortunately, even though that Lance Larsen case, you know, shows that the Kingdom, it still exists, it's still active, you know, our issue we're enduring is how do other Hawaiians get justice in Hawai'i, you know. There's certain protections in the kānāwai for kuleana properties along with their heirs that are not recognized in today's court system. And in the meantime, we have County determining ownership based upon a TMK. We have TMKs stating they don't validate or warranty any of their information, but we have kuleana owners being arrested on their properties. Me and my fiancé are facing a trial coming up on an unjustifiable offense, you know. We both got kicked off of our kuleana property because some man claims ownership, even though he doesn't have title policy. He doesn't have a title, no title insurance. We have just as much with the Bureau of Conveyances as he does. So, you know, our huge part of wanting to give testimony was the TMKs being noticed by County as ownership. And people working for the County only identifying property ownership through TMKs, you know. We're enduring, you know, major loss of local resources due to this issue, you know. How does this stop?

CHAIR PALTIN: Thank you. Does that conclude your testimony?

MS. ZIGLER: Koa, would you like to say anything?

MR. PUPUHI: No, I'm good.

MS. ZIGLER: No. That concludes our testimony. Thank you for your guy's time.

CHAIR PALTIN: Thank you for your testimony. Members, questions for the testifier? Seeing none. Our last testifier signed up is with the screen name Kutch, or Cutch. You're muted on your end, and if you want to give public testimony, please unmute yourself. Cutch? Okay. Well, I guess they don't want to testify. Going back to...I'm sorry, Kekoanui and Jenn, do you mind providing your first and last name for the record? Or I guess just Jenn because...

MS. ZIGLER: Jennifer Zigler, and then Kekoanui Pupuhi.

CHAIR PALTIN: Zigler and Pupuhi. Okay. Thank you so much.

MS. ZIGLER: Thank you.

CHAIR PALTIN: Going back to testifier Elliot Mattos, did you want to give testimony? Please unmute yourself. This is your last call.

MR. OLIVERA: I'm sorry, Chair, this is not Elliot Mattos.

CHAIR PALTIN: Oh, okay. Did you not want to give testimony?

MR. OLIVERA: Yes. My name is Lopaka. First of all, I'd like to mahalo nui loa to you, Chair, and the Councilmembers, as well to Dr. Keanu Sai for presenting this information.

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Very enlightening and much appreciative of knowing the risks and my abilities of engaging in, you know, such transactions regarding, you know, land use or, you know, purchasing properties. Also, I wanted to see if it's possible that maybe Dr. Keanu Sai could also present some of the matters with regards to the interests of native tenants beyond the scope of public policy so that, you know, we could get more understanding on that side of things. Nonetheless, I'm grateful, and thank you very much Kumu and Maui County Council Committee on Planning and Sustainable Land Use. Aloha.

CHAIR PALTIN: Thank you, Lopaka. Just for the record, is your last name Lo?

MR. OLIVERA: No.

CHAIR PALTIN: Oh, sorry. Can you let us know your last name?

MR. OLIVERA: Yes. Olivera, Jr.

CHAIR PALTIN: Olinero [sic], Jr.? Like O-L-I-N-E-R-O?

MR. OLIVERA: No. Like olive. Olivera.

CHAIR PALTIN: Oh, Olivera, Jr. Okay. Sorry about that. Thank you. Members, any questions for the testifier? Seeing none. Thank you so much for your testimony today, we appreciate it. Last call for anyone who has not testified and would like to testify at this time? Last call. Going once. Going twice. And three times, we're out. So Members, any objection to closing public testimony at this time?

**COUNCILMEMBERS VOICED NO OBJECTIONS.**

CHAIR PALTIN: Okay. Public testimony is closed. Any objection to receiving written testimony into the record?

**COUNCILMEMBERS VOICED NO OBJECTIONS.**

CHAIR PALTIN: Okay. Awesome.

**...END OF PUBLIC TESTIMONY...**

CHAIR PALTIN: And for Members' information, there is a copy of the presentation in your Granicus, as well as about seven links. I'm sorry, the first six or so links didn't come out as links. So you might have to copy and paste or retransfer it. My bad. I'm sorry about that. That was my fault. But other than that, at this time I'll open up for questions from the Members, and I'll start with my Vice-Chair, Member King, followed by Member Molina.

VICE-CHAIR KING: Thank you, Chair. And thank you, Dr. Sai, for the presentation. There

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kept being like a periodic lag in your voice or some kind of technical interruption, so I might have missed a few of the details, but I think I got the gist of it. So, you know, you said that you were going ahead with, I guess, as the Commission...Royal Commission of Inquiry are going ahead and, I guess, following through with some of the potential liabilities of the insurance company. And so is this like a...is this considered like a class action lawsuit?

MR. SAI: No. No. It's a...so the mandate of the Royal Commission of Inquiry is to provide information through reports. Where those reports lead to is...could you hear me?

VICE-CHAIR KING: Yeah. Well, that's what I heard...I had heard that you were actually involved in, or was it you, or was it the Royal Commission on Inquiry, or the Council of Regency involved in actually pursuing some of these actions against the title...the insurance companies.

MR. SAI: No. No.

VICE-CHAIR KING: So nothing's happening. So right now, there's nothing happening? Has there been...

MR. SAI: No, so what...

VICE-CHAIR KING: Go ahead.

MR. SAI: So what will take place if there is any indication of, let's say, the *Gumapac vs. Deutsche Bank* case, which was a private attorney representing this individual named Kale Gumapac. It's the information that they have that lead to cases. So what may happen, there could be a class action suit in America in Federal court as to these title insurance companies and where they're located under what is called the Diversity of Citizenship, right. But that's not us, that...we don't represent anybody. The mandate of the Commission of Inquiry is to provide reports. So the preliminary reports are important. And the preliminary reports are prior to reports of individuals or entities who are committing violations of International Humanitarian Law, which could be human rights violations or...or war crimes. That's why the International Association of Democratic Lawyers and the National Lawyers Guild are fully in support of this because of those issues of people's rights, not government rights. But before getting into that, it's important...as you know, in the presentations or the workshops that I gave before at the Maui County Council, I'm not one to point fingers. But people need to have information to make informed decisions. That's really where this is all about. And it just so happen that my area was...one of the reports was dealing with title insurance, and in the case of Fidelity not following through, you know, I could give it just to provide information.

VICE-CHAIR KING: Okay. But you mentioned that they could either pay the insurance, the damages, or they could fix the title. How do they fix the title?

MR. SAI: Okay. So everything that I shared with you, Councilmember King, is from the

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policy itself. So it's not speculative. I'm not saying what people should do, I'm just saying what's in the contract. And especially with insurance policies, it has to be within the framework of the policy itself, okay. And that's what's important. I've looked at many policies, and there is no exclusion in the policy of what happened in 1893, okay. So that's what's important. So everything that I presented here was strictly within the context of the contracts that are pretty much universal. And they're pretty much put out generically by the American...by the American Land Title Association, ALTA. These are ALTA policies, right. Now, in the policy itself, it states that an insurance company reserves the right to try to remedy the title. That's what it says. Now, in order to remedy the title, that's where the Council of Regency came in, through its report with the Royal Commission of Inquiry that says, this is how you can fix it. And it has to be fixed according to Hawaiian law that still exists today. And the trick there is, well, titles could not be transferred since 1893 on Crown and Government lands because the Crown, or the Hawaiian Government never consented to the provisional government selling property and crossing out the name of the Queen, right. So there's no consent there. But that will only affect 1.8 million acres of land called Crown and Government lands. Hawai'i is made up of four million acres. So 1.8 million, there's an immediate loss of title there. Now, in order to remedy that title, let's say somebody in Leialii. Okay, Lāhainā. So Lāhainā would be, I believe Lāhainā is...I'm not mistaken, if it's Government or Crown land, right. It's either one of them. I think it may be Crown land. If it's Crown land...

CHAIR PALTIN: Honokōwai is Crown land.

MR. SAI: What is that?

CHAIR PALTIN: Honokōwai was Crown land. We just saw a title report that said that.

MR. SAI: Okay. That's what I thought. So Crown land. What that means is because the Council of Regency serves in the absence of a monarch--which has already been verified in legal opinions, right--then that means the Council of Regency can remedy someone's title today, today, that they acquired through, let's say, the Republic or the provisional government that didn't have authority. But that remedy will have to be in accordance with Hawaiian law. And there is a law in the Hawaiian Kingdom passed in 1865 called the Crown Land...the Act of Crown Lands. It was passed by the Legislature. And it rendered all Crown lands limited to 30-year leases. That's what it did, 30-year leases, and it is regulated by the Crown Land Commissioners that worked on behalf of the monarch. Okay. So Queen Lili'uokalani, as the monarch, was vested with the right to Crown land. But because of the Act of 1865, leases could only be conveyed by the Crown Land Commissioners. And that's why you see Crown land leases recorded in the Bureau of Conveyances after 1865. So someone today in, let's say, Lāhainā who has a fee simple title, well, according to Hawaiian law, that can't be remedied as a fee, but it can be remedied as a 30-year lease. So the remedy has to be in line with Hawaiian law, but the Council of Regency can serve, as it does, in the absence of the monarch and in the absence of the Crown Land Commissioners under what is called the Doctrine of Necessity, okay. Now, should the lands be acquired today from Government lands, which is also part of the 1.8 million acres, then the

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Council of Regency, which serves in the absence of the...which is the Government, could grant a Royal Patent to the person today on that particular property in accordance with Hawaiian law, and give that person...grant that person a bona fide fee. So in the case of defect in fee, it remedied fee simple. But on Crown land, a defect in fee can only be remedied by lease hold just with the 1.8 million acres. So the balance, the four million acres...well, people didn't all get title from the Crown or Government after 1893. They may have gotten it by Royal Patent, let's say, in 1860 from Government land, right. And that person conveyed that property to somebody else in 1880, like that chain of title I showed you. Well, the person today cannot claim to have a valid fee because of the executive agreement because notaries weren't there after 1893 that would acknowledge the transfer, nor was the Registrar valid. So in that particular case, the remedy there wouldn't come from the Council of Regency on behalf of the government or from the Crown Land Commissioners on behalf of them. But it would come from when the State of Hawai'i declares that it will be transformed into an occupational government. And in that letter from the National Lawyers Guild that stated that the State of Hawai'i Governor can proclaim, in effect, the proclamation put out by the Council of the Regency, that all laws illegally imposed in Hawai'i since 1893 will be the provisional laws of the occupied state. See now, that...what that would do is provide a sense of de facto status to the notaries, unless there is clear evidence that the person who was serving as the notary actually did have a gun to that somebody's head in 1895. See then, that's a private issue. So this is not about fixing everything because private ownership is this thing, and that's why it has to be individualized. But the point here is it can be fixed, but it's just what are we looking at that needs to be fixed. And that's why it's really important to have qualified title abstractors who know what they're doing in order to remedy that piece of property. So...so Councilmember King, that's....that's how you would fix or remedy the titles, and it's all laid out in that preliminary report on legal status of land titles.

VICE-CHAIR KING: And so how many...just to...last question, how many type properties, separate properties or titles are there out there? Can you give us an estimate of how many you're gonna give remedies?

MR. SAI: Well, there's no way I can do that, there's just too many land titles in Hawai'i and title reports...there is no way I can do that. But what I can say is that for people who are on property that stayed with a particular entity or private party since 1893 to the present, and it hasn't been transferred outside, then that entity today or their heirs would have a clear title. So there's no remedy needed because there was no conveyance made with regard to that property that would be affected by a defective notary or a defective Registrar. So an example of an entity and not a person would be the Kamehameha Schools. So Kamehameha Schools was established in 1884...no, Kamehameha Schools was formed in 1887, but it goes back to the will of Bernice Pauahi Bishop that was probated in 1884. And those lands of Kamehameha Schools are vested in the Bishop Estate that was established by virtue of that probate proceeding. Those properties are not affected by this because they're still in the Kamehameha Schools. But if Kamehameha Schools, let's say, conveyed property to somebody under the lease to fee conversion...remember, that was taking place years back, right. Because Kamehameha Schools were really only leasing back them, but

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when they were forced to convey the fee, okay, then the conveyance by Kamehameha becomes a problem because who's the notary that notarized that piece of property, let's say, in Hawai'i Kai, right, which is Maunaloa, an 'ili kū pono that is Victoria Kāmāmalu that was conveyed to Kamehameha Schools by Ruth Ke'elikōlani, right. So there is a chain there. But if you have a piece of property that has remained in Kamehameha Schools, and they still have it today and it goes back to the probate, then there is no need to remedy that title. They are still the vested owner.

VICE-CHAIR KING: Okay. Yeah, I get that. I just...it sounds like we have a huge problem out there that's...it's a...it's going to take decades to unravel everything. Anyway, thank you for...I'll yield...

MR. SAI: *(audio interference)*

CHAIR PALTIN: Thank you. Thank you, Member King. Member Molina, you had a question?

COUNCILMEMBER MOLINA: Yeah. Thank you, Madam Chair, and my question was along the lines of Member King's is like, you know, how do we fix this, and yeah, it's going to take a long time. You know, you mentioned the...the use of the word "insurgents" and it's somehow very quite timely with what's going on in Washington D.C. Now the...now based on the agreement that I guess President Cleveland had with the...with Congress, I guess, that upon the restoration of the Kingdom back to Lili'uokalani, then the insurgents would have been pardoned. But because she was not restored to the...to the throne, therefore, these individuals, these so-called "American businessmen" are considered still insurgents then. Along with Dole, who else were a part of the American businessmen, if you could help get me back up to speed on the...our Hawaiian history, because I mean, these are some major players --

MR. SAI: Sure.

COUNCILMEMBER MOLINA: -- for the post-Hawai'i, you know, Territory, and eventual State of Hawai'i.

MR. SAI: You know, Councilmember Molina, can you hear me?

COUNCILMEMBER MOLINA: Yeah. Yeah. I mean, you're breaking up a little bit, but I can hear you for the most part.

MR. SAI: Yeah, because I just noticed my feed...what I do is when I re-log in, it gets stronger. Can I re-log in, and then I'll answer that question?

CHAIR PALTIN: Sure.

MR. SAI: Yeah? Okay.

CHAIR PALTIN: Yeah, I notice you have one bar. All of us have, like, all the green bars.

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COUNCILMEMBER LEE: Where's he calling from, Big Island?

CHAIR PALTIN: Yeah, Hawai'i. Let me...

MR. SAI: Okay. Okay.

CHAIR PALTIN: Okay. Good.

MR. SAI: Okay, that's a lot stronger. Can...can...can you hear me better?

CHAIR PALTIN: Oh, yeah.

COUNCILMEMBER MOLINA: Very good.

MR. SAI: Okay. Okay. Okay. So when we look at these individuals who are treasonous, the...at the...at the top of the pecking order, you might say, because the insurgents also included those who supported them, not necessarily the ring leaders, right. See, that's when you get into conspiracy and that support and all that. So the...the...the ring leaders were Sanford Dole, William O. Smith, right, but it also included many others, right. W.D. Alexander, okay. It also included Baldwin. Basically, if you take a look at the Big Five, pre-1959, the Big Five were all the insurgents, that's who they were, right. And...and...and they were the ones who were controlling everything, right. Actually, selling land to themselves, a lot of the Royal Patents were going to them, and it wasn't until 1959 that there was this little take over by the Democratic party, and that's what moved towards Statehood, right. And then you don't hear of the Big Five today, but they still exist like Alexander and Baldwin. Actually, Baldwin is a part of the insurgency, and there's a record in the Blount Report, in the investigation, where Baldwin actually acknowledges he's an annexationist and he belongs to the club. I mean, talking about self-incriminating, but it's not Baldwin's children and their grandchildren...you know, a crime is not inheritable, okay. And I want to make that clear. This is not trying to put everybody up and say you're all bad people. No, these are criminals and the President of the United States would not ask the Queen of Hawai'i to grant amnesty. If not...they were sure that they were insurgents and they could be hung. So they needed that agreement to protect these people. Now the mere fact that the Congress blocked the implementation by Cleveland of the Queen is what only further created a bigger problem. See, now we're getting into the actions of these insurgents. Now the only way that they could conceal their insurgency was in that presentation that I gave earlier, and I shared with you about denationalization that took place in the schools starting in 1906, a form of brainwashing, and then we were led to believe that these were businessmen. They were doing what's best for Hawai'i because Native Hawaiians couldn't govern, they were lazy. You know, and...and racial tones started to come into play, and then it got to a point today where we all believed it. There's a...there's a lot of parallels of Hawai'i and its history that also occurred in the United States Act of War, more particularly, early 1900s. You know, the Black Lighters...Black Lives Matter, right. You have that movement dealing with institutionalized racism, and you notice they're pulling down statues that have

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Confederate...named after Confederate soldiers, even changing names of military bases. Did you know that there is a direct source as to why people believe the confederacy was something romantic, when in fact, it was an insurgency. That's all it was. And Abraham Lincoln, the President, never referred to Jefferson Davis as the President of the Confederacy, a false narrative there. In fact, Abraham referred to Jefferson Davis as the leader of the insurgency, that's how he was referred to. And it was the President after Lincoln that had to grant amnesty to all Confederate soldiers, otherwise they would be prosecuted for treason. So there is that amnesty that was actually granted, right. Now, how is it that the Confederate flag has become normalized, right, when that was a sign of treason where many thousands have died in that war of insurrection...by insurrectionists. Well, there was an organization in the south called the Daughters of the Confederacy, and they were an auxiliary of the Ku Klux Klan. They controlled the schools, and they changed the curriculum in the schools to promote and romanticize the Confederacy, and that was taught. And they were saying how Jim Crow laws were okay, right. And it became institutionalized. So as these children in the early 1900s...like for us in Hawai'i, 1906, they're learning a false history, and Black Lives Matter just blew it wide open, and you can see where that took place. Here in Hawai'i, the same thing happened. Denationalization took place in 1906 where we were...my grand...my tūtū...my grandparents were lied to in school, and they were led to believe something that's not true. But at the time it got to my dad, right, at Saint Louis high school, private school, it's pretty institutionalized. In his mind, Hawai'i is a part of the United States, glad the missionaries came, they took over because we didn't know how to govern ourselves and Sanford Dole was a good businessman (*audio interference*) we got (*audio interference*). We've been educated at President William McKinley, Theodore Roosevelt high school, that shouldn't even be in Hawai'i. So here, our history is now being exposed for what happened, and we're now looking at title. But my focus here was on title insurance because yes, it's very complex, but people in Maui, your constituents, all of your constituents are affected by the pandemic, and foreclosure is something they got to deal with, and they have title insurance. So I think this was a good start for people to be educated about what is title insurance and how it can assist or how it can be beneficial at this time of the unknown.

COUNCILMEMBER MOLINA: Thank you, Dr. Sai, appreciate it. Thank you, Madam Chair.

CHAIR PALTIN: Thank you, Member Molina. Dr. Sai, you're a little bit coming in and out. Sometimes when people mute their video, their sound comes out better. If you want to try to mute your video and just provide the audio, Member Sinenci has a question next.

COUNCILMEMBER SINENCI: Mahalo, Chair --

MR. SAI: You know what --

COUNCILMEMBER SINENCI: -- and mahalo, Dr. Sai.

CHAIR PALTIN: Yes, Dr. Sai?



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MR. SAI: -- let me rejoin it again because I kind of lost connect...

CHAIR PALTIN: Okay.

MR. SAI: Okay, I got all the bars. Okay, Councilmember Sinenci, sorry.

COUNCILMEMBER SINENCI: Mahalo, Dr. Sai, for your presentation. Yes, so it looks...my first question was, you know, when challenging the titles, is this dependent on the legal question of the annexation? I know you mentioned that there's questions about a Republic of Hawai'i was annexed. What is the difference between the Republic or the government...you mentioned the Government of Hawai'i at the time. Like ...*(inaudible)*...

CHAIR PALTIN: Oh, yeah. I think he left because he saw he only had a bar, so he's probably coming back on. Okay, he's back on.

MR. SAI: Okay. My apologies, but I did get the question, Councilmember Sinenci. So annexation does not mean Hawai'i was acquired by the United States, okay? The word annexation is to annex or to acquire, it's an extension. So like, you know, in...in...in school, public school, you have Annex 1, the building that is adjacent to C building, right. Annexation is a unilateral act where one takes. That is illegal under international law. Cession, where one country cedes by treaty is annexation, which is to be the outcome of cession, right. So Louisiana Purchase, those are ceded lands, but they can refer to those lands as annexed by virtue of the treaty. You don't annex by passing a law, that's like Maui County Council passing a law to annex City and County of Honolulu, right...an ordinance. You're now part of us. Well, you actually need the City and County of Honolulu to convey something to you, and then you can acknowledge it, right. So nothing was annexed in 1898. Nothing. The Republic of Hawai'i was not annexed. That's why the Kaho'olawe deed, the quit claim deed...if there was annexation, then they're saying the United States acquired something. They didn't. There's no treaty, and the Hawaiian government owns Kaho'olawe but we didn't get it from them --

COUNCILMEMBER SINENCI: Yeah.

MR. SAI: -- we got it from the Republic. Yeah. Does that answer that question?

COUNCILMEMBER SINENCI: Yes, thank you. It's interesting because when we talk about the Council always considers taking, if we're...you know, if we're going to takings...considering taking of certain things on the Council, whereas this...I'm looking at that joint resolution, it looks like it was a taking of...of all of the Kingdom. You mentioned earlier that the Government...well, the Governor would have to enforce a proclamation...and I guess my question would be, would the Hawai'i Supreme Court, you know, pursue such claims, or they would have to wait for the Governor to enforce a proclamation, or is the State Supreme Court, you know, the rightful entity to...to hear these claims?

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MR. SAI: Well, the Supreme Court, okay, like any court, only hears disputes. So they preside over disputes, or they can give an opinion, right, to a government official on a particular topic. That's it. Function. Executive function belongs to the Governor as the chief executive, and there is a provision in the State of Hawai'i Constitution that allows for the Governor to declare martial law in extraordinary circumstances. Martial law can be declared that would transform the State of Hawai'i and the County governments into an occupying government, but it wouldn't be martial law under United States rules, it would be martial law or military law under International law, and that's...that's how it plays...that's how it works, okay. Now years back, I actually had a meeting...three meetings with Mike McCartney, Chief of Staff of Governor Ige, and in that meeting I explained the severity of what's happening, and that the State of Hawai'i has to declare martial law to become compliant with the law of occupation, otherwise, war crimes will continue to be committed. So in the letter from the National Lawyers Guild, it specifically references that, but it also gives the citation or the footnotes on where to get that information. And I would highly recommend that the Councilmembers and yourself go over that letter from the National Lawyers Guild that addressed that, and it's a very coherent letter, right. So there...so what it does show is that there is a way to fix this huge, complex problem. I dedicated my life in the academy to address that from an academic standpoint. That's my expertise, that's my law journal articles, that's my research. So I'm not writing opinions. On top of that, I'm also... I'm a government official with the Council of Regency, so I'm not only am a political scientist, but I also have responsibility because if you remember I stated about the Larsen case. The American Journal of International Law was addressing that. Larsen was alleging that the Council of the Regency was liable for not protecting him because American laws were being imposed over him. He was trying to collect money from us for damages. That's what was at the Permanent Court of Arbitration, okay, that was the issue. It wasn't a question as to whether the Hawaiian Kingdom continues to exist, it's...dealing with that particular issue, it was an arbitration agreement with Larsen's counsel, and we focused on addressing education at the academic level, and that's when I entered the University of Hawai'i Political Science Department as a graduate student. And since then, I can honestly say the discourse has changed. People are now starting to ask the right questions, and that is so important than asking the wrong questions. Because when you keep asking the wrong questions, you're not going to get the answers, and some of these questions are hard, and it's...it...it...it may undermine what we believe, but that's what we call crisis management. And people like yourselves and myself in these positions, it's our job to ask those hard questions and find those solutions.

COUNCILMEMBER SINENCI: Okay. Thank you. And then just one more question. So you think families that are looking to challenge some of these titles...is it...is it possible for them to be successful in this...I guess the courts in this...this current courts or...or should other things be, you know, done prior to...to families trying to challenge. I've heard of...of people winning land dispute cases in court, so I guess it is...it is possible.

MR. SAI: Well, actually...actually, Councilmember Sinenci, you...you can't win in the court that never had authority to begin with, because if that was the case, then the

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executive agreement would not be a problem in a court in Washington because the executive agreement didn't only affect land titles, it also affected the provisional government, since it was never government, so its courts are not lawful. And any decision made by their courts are void, and that problem continued to its successors, the Republic of Hawai'i, the Territory of Hawai'i, and the State of Hawai'i. So you can't win in a court that really doesn't exist. So what is paramount, really, is the law of occupation, and the United Nations' independent expert clearly stated what the law was...that Hawaiian Kingdom law needs to be applied. In these proceedings, these are American laws that are being applied to Hawaiian land titles. That's like, I'm in Japan and I'm trying to go to a court using British law in Japan, but it doesn't apply because Japan is not part of Great Britain, right. So this has to be addressed at the macro level. Macro level, and then it would matriculate down to the micro level, but it has to be based on a rule of law, facts, appropriate theoretical frameworks that is understood in government, right. So I'm not trying to push an agenda of a new way of thinking. I'm actually just explaining what the law is, right. And it's through that process that we can now move to fix this problem. So it's like COVID-19. COVID-19 is not going to go away because some conspiracy theory that says it's a hoax. It's only going to go away when it's being tackled by science, by facts. See, then we can predict where we are. Right now, we're in that same situation. We need to rely on law and facts, and not arguments. So those people that are...that you asked would they prevail? All titles stopped in 1893. Unless these people can clearly show that they are the direct descendants of that title holder of a particular land commission award prior to 1893, the overthrow. If it's the same family on that property and never was transferred out, there's nothing to remedy. That's a good title. But if the public records show that great granddaddy or papa may have conveyed a piece of property to somebody else and it continued the chain of title until today, then that would be addressed through the law as far as the notaries not being valid, but what do you do about that person who thought they purchased the property, and there was valuable consideration exchanged? What you have there is an equitable interest there. You can't just take that away. Is there a provision, though, within the law that can remedy that equitable interest? And it's not to whitewash, it has to be in conformity with what is the law. So as I stated with Crown lands, you can't get a fee on Crown lands. It defies the 1865 Act. You can only get a 30-year lease, right. So then how does a 30-year lease then apply to a mortgage? Can you fix the mortgage? Yeah, you can...you can still have a mortgage on leased property, right, you know. So there are ways to fix it, but they're all different. They're all unique. This is not like putting a...like just whitewash. No, it's...when you talking about private ownership, they're private, and it has to be addressed very carefully, otherwise you could be liable for violating somebody else's rights that they have. So it's important to look at the broader picture first and to provide a mechanism for remedial prescription. But what is immediate, though, is insurance. See, that...that...that...that's immediate, and people have policies. So in light of the pandemic, in light of the fact that I have no job now and I'm at home hoping nobody knocks on the door, you know, serving me with foreclosure papers so I need to find out if I have any remedy and what do I...what can I do? So I would recommend the Councilmembers look at this on how to educate your constituents on how title insurance works, and how to file claims, and what to use as evidence. But don't represent anybody. That's not...that's what attorneys do. This is just providing

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information so that people can make informed decisions. Really, that's really what this is all about, and I really want to thank Tamara Paltin and you folks for...for allowing me to share this information with you because we're all part of the problem, but we can also be a part of the solution, that's what's important.

COUNCILMEMBER SINENCI: Mahalo, Dr. Sai. Mahalo, Chair. Thank you.

CHAIR PALTIN: Thank you, Member Sinenci. I just received word one of the Members needs to leave by 4:45. We have myself and two other Members who haven't asked questions yet. Member Johnson or Member Lee, did you have questions?

COUNCILMEMBER JOHNSON: I have no questions.

COUNCILMEMBER LEE: None for me, thanks.

CHAIR PALTIN: Okay. I'll ask my question then. I have, like, three. I just was wondering...I don't know if you seen the title report on the Honokōwai reservoir, which is part of the Crown lands that the County is purchasing from Maui Land and Pineapple because it serves a need, you know, for the community that we won't have to...hopefully, we won't have to keep pumping as much R1 sewage water into the injection wells, and there is a big court case about that. And I think, you know, on maybe last Friday, we had about *Maui News* purchase, also one of the testifiers brought up that's Crown lands. And this is purchases, you know, to try and help us better deliver services and whatnot. And so I was wondering what...what your opinion on that is about the County acquiring these Crown lands for the benefit of either the people or the government of the people. Like, how you said, I guess, last time...one of the previous ones that the county governments arose to try and push back against not having a voice for the people that live here. So I just was wondering your opinion on that, about County buying these, I guess, assets or lands.

MR. SAI: Well, the first...to answer that...that question first, Councilmember Paltin, does the County have title insurance that they purchased for that property?

CHAIR PALTIN: They said they do have title insurance, but I don't think it...they said...I think with the Honokōwai property, they were paying with cash, not getting a mortgage on it.

MR. SAI: Okay. So you can still purchase title insurance if it's not under a mortgage, but it would be considered an owner's policy, not a lender's policy. So if you folks do have title insurance as the County of Maui, then that would be called an owner's policy. So that would be covered. The covered amount would be...the coverage of the amount would be the value of the property, right, whatever that value is. So right off the bat, if you folks have title insurance, number one, file an insurance claim. File an insurance claim, and let that process work itself out for the insurance company to try to fix it, and let the insurance company approach the Council of Regency to see if they can convert that fee, which is defective, to a 30-year lease because we're not trying to prevent property from being conveyed. We want to do this in order to remedy what is

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defective. And by filing the claim with the insurance company, the County of Maui will have firsthand experience of how the insurance claims work, but it has to be done within the framework of the policy itself. That's what's important, the policy itself. So I don't have that, so I can't comment on it, but I'm pretty sure that the executive agreement is not excluded from the policy. I can pretty much guarantee that, yeah. Because once they say the executive agreement is excluded, oh, what they just admitted was all the past policies that didn't exclude it are now fair game. So you can kind of see that the title insurance companies are caught between a rock and a hard place.

CHAIR PALTIN: And --

MR. SAI: But yeah, so to answer that first question would be insurance.

CHAIR PALTIN: So would that be our Corporation Counsel or Real Property Tax, or who would file the insurance claim in...somebody in the Administration then, or I guess that's an OCS question, maybe.

MR. SAI: Well...well, I can tell you where you would get an idea of who should claim. In the insurance policy, the owner's policy, it will say the name of the insured, and if the name of the insured is a particular department, then that's the department that has to file the claim. But if it just says the County of Maui, right, then I think whatever protocol is within the County of Maui would designate who is supposed to file the claim. Would it be the Mayor? I don't know. So that would...again, you have the policy itself. It's Schedule A of the owner's policy. That's where you know who is the insured. Then you know who has to file the claim.

CHAIR PALTIN: Okay. And then I guess my follow-up question would be...say that everybody's title insurance...or from the evidence, everybody's title insurance is defective and the value of the property then is not good because they can't convey the property to get a...money back or something. You know, they have a house that's appraised at \$800,000, they want to sell it, and now they find out that the title is no good, so it's kind of worthless. And how does that affect us as the County's ability to deliver services, whether it's water, trash pickup...if the values of all the properties that we collect the property tax goes to zero, then how do we continue to provide government services for the people?

MR. SAI: Okay, and this is a good question because it's now going beyond just title insurance, but let me kind of correct you, it's not a defect in the appraised value, right. The title is defective, which they are. There is no title. So the issue of appraised value becomes a moot point. It's...it's somebody else's property, right. So if the title is defective and there's a total loss...because 1893 executive agreement, those individuals now can file their insurance claims to recover that loss identified in the policy. Because the contract is an indemnity contract, okay, it pays off, but it also provides a provision in there that they can try to remedy the title so they don't have to pay out. But that's on the onus of the insurance company, right. So now you take that, and the other part of your question is, how does the State...the County of Maui

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collect property taxes? Well, the County of Maui can only collect property taxes off of title, whether leasehold or fee, okay, and it's provisioned. It's...they don't...they don't collect taxes on appraised value of property. The appraisal will determine how much...how much tax you got to pay, that's what the appraisal would provide, okay? Now here, everyone has no title. That definitely would put the County of Maui in a predicament in collecting property taxes. So even more so why it's important, beyond the title insurance and the pandemic as to why the County of Maui and the counties themselves and the State need to move to transform itself into an occupying government so that it can continue to collect taxes from land that has been remedied under Hawaiian law that the occupying government is administering. So that creates an urgency as well as to why things need to move fast. And that is why I met with Mike McCartney on those three occasions in the executive office in Honolulu, Chief of Staff of Governor Ige, because of that severity and we were talking about that severity under a situation of international law, the entity called the State of Hawai'i, which is you folks, made up of friends and family because you folks are not the insurgents of 1893. You folks have been led to believe you're bona fide. When I served in the Hawai'i Army National Guard, I thought I was an American. You know, when I was in Fort Sill going to my officer's advance course, I didn't know. But now I know, and the gig is up. Now what do I do? So we have to take that into consideration where we shouldn't be pointing fingers at everyone. We have to look at how you fix the problem, and that's what my research has always been about, and that is my work at the international level. So Professor Federico Lenzerini, who drafted a legal opinion on the Council of Regency, and I believe you folks have a copy of that, the pdf. That within Humanitarian law there needs to be a working relationship between the government of the occupied state and the government of the occupier. And there's roles and responsibilities that work but, you know, the focus of the law of occupation is not on the states themselves as it used to be, but it's on civilians...it's on a civilian population, that is the focus of the law of occupation now. And that's why war crimes that are committed are committed against individuals by individuals. You can't put a country in prison for committing a war crime, but you can hold a judge accountable for providing an unfair trial to a person who didn't even know he was or she was...or had rights, right. And the fact is that war crimes have no statute of limitations. So Professor William Schabas, who drafted his legal opinion for the Council of Regents, for the Royal Commission of Inquiry covered war crimes committed in Hawai'i and what the elements of these war crimes are. This is a very renowned international law scholar on criminal law, this is not a sovereignty activist writing that, you know. I'm not a sovereignty activist trying to promote an agenda here. I'm just laying it out what it is. There has to be a relationship really with the focus to protect the people of Hawai'i which includes all of us, and that, I think, should be paramount. How do we not only fix the problem, how do we get our people to understand what's going on and to move forward not on opinions and bias and get violent, right. I'm not into protesting. I'm here to fix the problem, and you deal with people who know what that problem is as your source of information, and you don't want people to try to tell you what you want to hear. Because I'm sure Mike McCartney was hearing what he didn't want to hear, and he thought it's a political problem. No, it's a legal problem with ramifications. So now that the National Lawyers Guild is involved, now that the International Association of Democratic Lawyers, they're actually...so the International

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Association of Democratic Lawyers that co-sponsored the webinar that I did with Federico Lenzerini and myself on January 6th, I think one of the testifiers mentioned that. Pretty important because the International Association of Democratic Lawyers is made up of organizations of attorneys throughout the world, right. It's not member organization, it's membership of organizations themselves. And the International Association of Democratic Lawyers, they have consulted...consultative status, right, with the United Nations Human Rights Council and the Economic and Social Committee dealing with human rights violations. In a couple weeks, they're going to be considering a resolution pretty much along the same lines of what the National Lawyers Guild provided to the State of Hawai'i. So you can see how this is reaching the international audience, which only behooves us here in Hawai'i to be more up to speed, as this train has already left the station. We need to be on board and become a part of decision making that provides real solutions for the future of Hawai'i. And the benefits that we will have are unbelievable. People in Hawai'i will not be paying Federal taxes because that is unlawful in a foreign country. They will only be paying taxes to the occupying government called the State of Hawai'i and the counties. Did you know just that alone will give people in Hawai'i more money in their pockets to go buy goods from people who produce it in Hawai'i. See then, you start to contribute to Hawai'i's political economy, not the United States political economy, right. So what are those benefits? The Jones Act, right. The Jones Act prevents Hawai'i from having free trade. The Hawaiian Kingdom had free trade. We should be getting ships coming in directly from Thailand, not offloading their goods at the port of Los Angeles, and Matson goes there to reload and come all the way back. The consumer eats the cost. So this is broad, this information, and the impact is broad. But what I presented to you folks here today should even benefit the people of Maui, the benefits of title insurance and the pandemic. And I think you're going to start all of the watching of this presentation where the people themselves who will be viewing this presentation and...and...and question and answers will now have informed questions now, right, and that's good. That's what you want. You want to inform our people so they can start asking the right questions. Now the thing is you have to get the answers.

CHAIR PALTIN: Thank you, Dr. Sai. And I just wanted to say that the links in Granicus, if you hover over them, it'll take you to open the link so you don't have to retype it in on the browser bar. I just was alerted to that fact. And I know Council Chair Lee has to leave in about two minutes, and then Member Molina in about 15. So last question, Member Lee or Member Molina, since you guys have to leave, any last question?

COUNCILMEMBER MOLINA: Madam Chair, no, I'm fine.

CHAIR PALTIN: Member Lee?

COUNCILMEMBER LEE: I just have a comment. I appreciate the presentation, but this...this problem is so convoluted and so tangled up in history and years, and years, and years, and years of injustices and wrongs and all kinds of things. Certainly doesn't seem that we, on our level, which is like the bottom level of government, can resolve this problem. It seems that the more appropriate place to take it is to the Supreme Court because even if...well, from a practical point of view, we would

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bankrupt our government if we weren't able to collect taxes. If we had to negotiate every single parcel's ownership or use with the Regency Council, I don't think we could do that. We have like, what, maybe 60,000 parcels that we have on Maui County...in Maui County. But anyway, and why would we only in Maui County deal with...why not the whole State of Hawai'i, yeah. We could work together with the whole State to come up with that remedy in the court system. Not the legislative system, but the court system...Supreme Court on the state level, and the Supreme Court on the federal level. I...even though you may have valid points, yeah, I think that the problem is so gigantic that we wouldn't be able to resolve it on our level because we rely on property values, and we rely on tax revenues on these property values to...to take care of the public's safety and well-being, you know, of our residents. And we would simply bankrupt our government if we tried to do what you're proposing for us to do. So that's my comment, you know. That's all I have to say, really. Thank you.

MR. SAI: Thank you. So if I can respond to that comment. Yeah, so, I'm not telling...I'm not trying to tell you folks what to do, I'm just saying what the law is. That's just what it is, right. Now, that is a bigger picture with regard to fixing this problem, and that's why I pointed to Governor Ige, or the Governor's office. First of all, the Supreme Court, again, only deals with disputes. They don't make executive decisions, right. That's an executive function. So that doesn't belong to the legislative branch, which is what you folks are a part of, right. It belongs to the executive branch. But if the legislative branch begins to ask the questions that would prompt the executive branch to do something, whether the Mayor or the Governor, right. But the Supreme Court is a judicial branch. Their job does not determine how to approach this. They resolve disputes. That's all, right. Now, whether or not Governor Ige would like to get a legal opinion from the Supreme Court as to how the State of Hawai'i can transform itself into an occupying government, well, if there is a provision that allows that in the State of Hawai'i Constitution, by all means, use it. But again, it's the rule of law. Now, as far as the effects that Hawai'i...that what happened in 1893 has today, private property is private property. Government can't touch it, it's private. That's how the law works. He can't affect private rights in land because it's vested so when you have people who file a defective title, they're going to file a loss of title in the amount covered from the policy. You hear me now? Loading.

COUNCILMEMBER LEE: You might want to turn off your video. That helps with your audio when you turn off your video.

MR. SAI: Oh. Okay, I'm sorry. Can you hear me?

COUNCILMEMBER LEE: Yes.

CHAIR PALTIN: Oh, much better.

MR. SAI: Oh, okay. Now we know. Sorry about that. I think Councilmember Paltin, you told me to do that, I thought you hit audio, you didn't say hit video. Okay. So when we're looking at the fixing of this problem, that's why you have to rely on individuals and scholars who know what they're talking about, and it's not a political situation.



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We're in a legal situation. But when people have property, and that they found out that there's a defect in title, they don't need permission from the government to file their insurance claim, they paid the premium for that. And what would be the driving force for individuals to file their claims? Well, the imminent threat of a foreclosure and an eviction. That...that's...that's...that's what's going to justify them to do what they're going to do because it's their contracts. So the presentation today that I did was really addressing title insurance and how it works. In the previous workshops that I did for the Maui County, for...for your Committee, was on that bigger issue. And you know, Councilmember Lee, you were saying back then, "oh, this is huge. What's going to happen?" I remember that, you know. And that's fine. That...that shows that...that you see the severity of the situation, but you can't see a solution. Before you can move toward a solution, you have to understand the problem because we basically have been misdiagnosed, and everything that people have been trying to do never worked. If the United States could have fixed this problem, why didn't they do a warranty deed with Kaho'olawe? Because if they did, they're going to have to pay damages because they won't be able to warrant and defend. They become economically liable. Because if the United States could have fixed the problem, don't you think they would've? In over 100 years? They can't. They can't. And that's the reality.

COUNCILMEMBER LEE: Dr. Sai, Dr. Sai, I do have to leave, but I have to tell you, I mean, I would have done a quitclaim deed on Kaho'olawe myself. With all the bombs still unexploded and everything, that's a huge liability that I certainly wouldn't want to be responsible for. So I can see why they...you know, we did get the short end of the stick, but I can see why.

MR. SAI: Quitclaim...

COUNCILMEMBER LEE: That's...

MR. SAI: Oh, just to clarify though, just because it's land titles. A quitclaim deed isn't because the property is...is mined with explosives. You could exclude that in there, and actually, in the deed, it does say...and it addresses the unexploded munitions. But you don't grant the quitclaim deed because of unexploded munitions, you grant a quitclaim deed because you can't defend the title. That's how titles work, right. Now, the problem is why would the State of Hawai'i want to buy an island that still has unexploded ordinances unless they accept it, you know? So you don't get a quitclaim deed for that. You can still get a warranty deed that would warrant and defend the title, but now you gotta walk in, possibly get injured because there's an unexploded ordinance, right. So these are...these are issues that...that are important to know so that we know how to move forward, right. So the main point that I wanted to kind of bring it together before people start to leave is it's really looking at the people of Maui and title insurance. That's really all it is, and dealing with the pandemic. And there's so much uncertainty going on, you know, all of our people, not just in Maui, everybody in Hawai'i...there needs to be some...some sense of...of satisfaction, and knowing that something is there, and not just sitting around going when is that door going to knock, you know. When am I going to be...when I got...where do I go...where do I go if

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I'm getting kicked out of my house. I mean, California, they did a story there on MSNBC yesterday...massive foreclosures are coming with evictions, and they interviewed the sheriffs. They felt so bad what they got to do, but they said, we got to follow the courts. But if they have insurance, I'm sure people in California would be using it. But people in California didn't have an illegal overthrow of its government and an executive agreement. What California got was a Treaty of Guadalupe Hidalgo 1848 that actually transferred title to what we know as California. So we are in a very different situation. But again, I just want to stay the course on insurance, which is what this workshop was all about. Other matters can come up down the road, and I'm more than happy to work with any of you or the committees to get more information in that. Mahalo.

CHAIR PALTIN: Thank you, Dr. Sai. Members, if there's any other questions? Doesn't look like there are any. If there's no objections, I'll defer this item.

**COUNCILMEMBERS VOICED NO OBJECTIONS.** (Excused: AL, TK, KRF, and YKS)

**ACTION: DEFER PENDING FURTHER DISCUSSION.**

CHAIR PALTIN: Okay. This concludes today's Planning and Sustainable Land Use Committee meeting. Thank you very much, Committee Members. The time is now 4:43. And thank you very much to Dr. Sai for presenting all your research. This meeting is now adjourned. . . .(gavel). . .

**ADJOURN:** 4:43 p.m.

APPROVED:



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TAMARA PALTIN, Chair  
Planning and Sustainable Land Use  
Committee

pslu:min:210119

Transcribed by: Crystal Sakai, Terianne  
Arreola & Jaylene K. Hamilton

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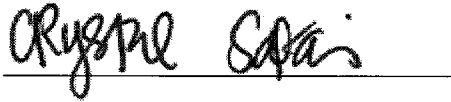
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CERTIFICATIONS

I, Crystal Sakai, hereby certify that pages 1 through 15 of the foregoing represents, to the best of my ability, a true and correct transcript of the proceedings. I further certify that I am not in any way concerned with the cause.

DATED the 16th day of February 2021, in Wailuku, Hawai'i



Crystal Sakai

I, Terianne Arreola, hereby certify that pages 16 through 28 of the foregoing represents, to the best of my ability, a true and correct transcript of the proceedings. I further certify that I am not in any way concerned with the cause.

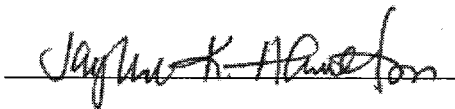
DATED the 16th day of February 2021, in Wailuku, Hawai'i



Terianne Arreola

I, Jaylene K. Hamilton, hereby certify that pages 29 through 42 of the foregoing represents, to the best of my ability, a true and correct transcript of the proceedings. I further certify that I am not in any way concerned with the cause.

DATED the 16th day of February 2021, in Wailuku, Hawai'i



Jaylene K. Hamilton