

**STATE OF HAWAI'I
OFFICE OF HAWAIIAN AFFAIRS
560 N. Nimitz Highway, Suite 200
Honolulu, HI 96817**

**Minutes of the Office of Hawaiian Affairs Board of Trustees
Thursday, November 14, 2017
8:00 am**

ATTENDANCE:

TRUSTEE COLETTE MACHADO
TRUSTEE LEINA'ALA AHU ISA
TRUSTEE DAN AHUNA
TRUSTEE ROWENA AKANA
TRUSTEE W. KELI'I AKINA
TRUSTEE PETER APO
TRUSTEE ROBERT LINDSEY
TRUSTEE JOHN WAIHE'E IV

PAUL ALSTON, ESQ., COUNSEL

EXCUSED:

TRUSTEE ROWENA AKANA
TRUSTEE CARMEN HULU LINDSEY

ADMINISTRATION STAFF:

ALBERT TIBERI, CC
RAINA GUSHIKEN, CC
KAWIKA RILEY, ADV

BOT STAFF:

CAROL HOOMANAWANUI
LAURENE KALUAU-KEALOHA
DAYNA PA
KAUIKEAOLANI WAILEHUA
DAVIS PRICE
CLAUDINE CALPITO
LEHUA ITOKAZU
KAMA HOPKINS
ANI PANG

GUESTS:

NONE

I. CALL TO ORDER

Chair Colette Machado Calls the Board of Trustees meeting to order at 8:09 am. Roll call is taken; Trustees Ahuna, Akina, Apo, Robert Lindsey, and Machado are present; constituting a quorum of five (5) trustees. Trustee Waihe'e, IV is expected shortly and Trustees Ahu Isa is expected at the courthouse. Excused absences were received from both Trustee Akana, and Trustee Carmen Hulu Lindsey.

Today we have an agenda; it is a very unusual agenda. We are here to convene a meeting with regards to a directive from the Courts. We have a court order that requires us to have a discussion on this potential matter with Akana v. Machado. Today in executive session we will be having a one to one discussion with our attorney pursuant to 92-5 (4) questions and issues pertaining to the board's power, duties and privileges, immunities and liabilities regarding the Trustee Rowena Akana v. Machado lawsuit.

This is why we can convene to meet with Paul Alston. But the court order that we have is under HRS 92-5 (a)(8) and HRS 92-5 (a)(4), HRE Rule 408 , and HRCC Rule 12.1.

II. PUBLIC TESTIMONY ON ALL AGENDA ITEMS

Chair Colette Machado – Chair asks is there is anyone here to address this single item. Hearing none, she moves on to Item III. Executive Session.

Albert Tiberi, Corp Counsel – I suggest that we wait for Trustee John Waihee before we go into Executive Session, the discussion will be brief and Paul will have to go over again once Trustee John Waihee does appear. The process here is if we accomplish something here, we will not have to go to Circuit Court. I suggest we wait.

Chair Colette Machado – Can you explain why we have to do it this way? We have never addressed this process under these HRS.

Albert Tiberi, Corp Counsel – We have consulted closely on every step of the way on this with OIP to make sure we were doing this the correct way. It is a little different in that the Court required all of you to attend this settlement conference. Sometimes the attorneys can attend by themselves, but she requested by Court Order your appearance so we had to work with OIP to make sure we agendized this properly and allowed for public testimony that we open the meeting and close the meeting properly and go into executive session properly. That is why we had to schedule here to accomplish the public testimony, go into executive session correctly then we will continue and go to Circuit Court and continue our discussions there with Judge Crandall in her Courtroom. It

Paul Alston, Esq. – It is very common for a Court to tell a party to a lawsuit that they must show up for a settlement conference. Unfortunately, because of the sunshine law you can't convene to talk about anything without the formalities of convening a meeting. We had to get guidance from OIP to make sure that we didn't inadvertently create a bigger problem or a new problem by the way we responded to the Judge's request that you attend the Settlement Conference.

Chair Colette Machado – OIP insisted that the public have some input. This is why we had to convene this meeting in this manner.

Paul Alston, Esq. – We didn't feel comfortable convening a public meeting in the Courthouse because we didn't know who would show up, we didn't know the logistics to take minutes and that sort of thing. As inconvenient as it is it seemed to be the best solution to a novel problem that no one ever thought about before.

Chair Colette Machado – I thank you those who are at the table now to come in early.

Chair Colette Machado calls a recess at 8:16 am

Chair Colette Machado Reconvenes the meeting at 8:19 am

8:19 am Trustee John Waihee arrives.

III. EXECUTIVE SESSION

Chair Colette Machado - I would like a motion to recuse ourselves into Executive Session pursuant to the Court's directive in *Civil No. 13-1-2485-09 VLC*, HRS § 92-5(8), HRS § 92-5(4), HRE Rule 408, and HRCC Rule 12.1.

Trustee Dan Ahuna motions to move into Executive Session Pursuant to the Court's directive in *Civil No. 13-1-2485-09 VLC*, HRS § 92-599(a)(8), HRS § 92-5(a)(4), HRE Rule 408, and HRCC Rule 12.1.

Trustee John Waihe'e IV seconds the motion.

Chair Colette Machado – Roll call vote please.

Trustee Dan Ahuna motions to move into Executive Session Pursuant to the Court's directive in <i>Civil No. 13-1-2485-09 VLC</i> , HRS § 92-5(8), HRS § 92-5(4), HRE Rule 408, and HRCC Rule 12.1. Trustee John Waihee Seconds the motion.						
TRUSTEE	1	2	'AE (YES)	A'OLE (NO)	KANALUA (ABSTAIN)	EXCUSED
TRUSTEE LEINA'ALA AHU ISA						Excused
TRUSTEE DAN AHUNA	x		X			
TRUSTEE ROWENA AKANA						Excused
TRUSTEE KELI'I AKINA			X			
TRUSTEE PETER APO			X			
TRUSTEE CARMEN HULU LINDSEY						Excused
TRUSTEE ROBERT LINDSEY			X			
TRUSTEE JOHN WAIHE'E		x	X			
TRUSTEE COLETTE MACHADO			X			
TOTAL VOTE COUNT			6			3
MOTION: [] UNANIMOUS [x] PASSED [] DEFERRED [] FAILED Motion passed with six (6) YES votes and three (3) excused						

The Board resolved into Executive Session at 8:20 am.

- A. Pursuant to the Court's directive in *Civil No. 13-1-2485-09 VLC*, HRS § 92-5(8), HRS § 92-5(4), HRE Rule 408, and HRCC Rule 12.1:
- (1) to attend the Court-directed confidential settlement conference requiring the physical presence of the available parties in *Akana v. Machado, et al. Civil No. 13-1-2485-09 VLC* at the First Circuit Court, State of Hawaii located at 777 Punchbowl Street, Ka'ahumanu Hale, Fourth Floor, Honolulu, Hawaii, 96813 on November 14, 2017 at 8:30 a.m.;
 - (2) to consult with Attorney Paul Alston, Esq. pursuant to HRS § 92-5(4) re: questions and issues pertaining to the board's powers, duties, privileges, immunities, and liabilities regarding *Akana v. Machado, et al., Civil No. 13-1-2485-09 VLC*;
 - (3) to consult with the Honorable Virginia L. Crandall, Judge of the First Circuit Court and/or settlement conference mediator, Mark Bernstein, pursuant to HRS § 92-5(8), for purposes of the aforementioned confidential settlement conference on said date and time, or as the confidential settlement conference may be continued by Order of the Honorable Virginia L. Crandall, Judge of the First Circuit Court; and
 - (4) to take any necessary action re: questions and issues pertaining to the board's powers, duties, privileges, immunities, and liabilities regarding *Akana v. Machado, et al., Civil No. 13-1-2485-09 VLC*.

The Board reconvenes into Open Session at 9:28 am.

IV. ADJOURNMENT WILL TAKE PLACE AT THE FIRST CIRCUIT COURT, 777 PUNCHBOWL STREET, KA'AHUMANU HALE, FOURTH FLOOR, HONOLULU, HAWAII 96813 FOLLOWING THE EXECUTIVE SESSION AT THE COURTHOUSE.

Chair Colette Machado – I'd like to entertain a motion to adjourn.

Trustee Dan Ahuna moves to adjourn.

Trustee John Waihe'e IV seconds

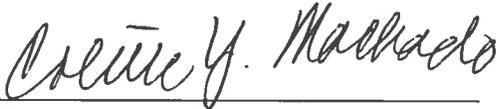
The meeting was adjourned at 9:29 am.

Respectfully submitted,



Dayna Pal, Board Secretary

As approved by the Board of Trustees on December 21, 2017 .



Colette Y. Machado, Chairperson
Board of Trustees

Attachments:

1. Excuse memo from Trustee Rowena Akana
2. Excuse memo from Trustee Carmen Hulu Lindsey