Ku‘u Mo‘olelo Ke Ahupua‘a ʻO Kahana Ame Eminent Domain

My Story of the Kahana Ahupua‘a and Eminent Domain

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Pregil Patria, Barbara Frances
INTRODUCTION

My Mo`olelo or story is about the Ahupua`a `o Kahana and Eminent Domain. A little known law in 1965, Eminent Domain, allowed the Hawai`i State Government to legally “steal” the land and resources from the original, private land-owners at that time. In order to fully comprehend my concern about Eminent Domain and how it affected the Kahana Valley Ahupua`a and the people living there, one would need to know the history of land tenure and the events which lead up to the State’s decision to exercise its power of Eminent Domain.

Based on Senator John Hulten’s 1965 Report Concerning the Proposed Park Development of Kahana Valley, the State Legislature acted on the concept of Eminent Domain. Senator Hulten was instrumental in the implementation of Eminent Domain, based on his recommendations.

In 1965 when the State of Hawai`i started legal proceedings to acquire the Ahupua`a `o Kahana or Kahana Valley, three groups of people were affected by this “large-scale land grab”; people who were the legal landowners, people whose families had lived there for many generations and people who were newcomers to Kahana Valley.
LOCATION

The Ahupua'a 'o Kahana, or more commonly known as Kahana Valley, is located on the island of O'ahu between the natural boundaries of the Ahupua'a 'O Makaua (Kā'a'awa) and the Ahupua'a 'O Punalu'u.

This land division, the Ahupua'a 'o Kahana consists of five thousand two hundred sixty (5,260) acres, which extends from the top of the Ko'olau mountain range down to the ocean (See map below).
THE HISTORY

Our ancestors believed that all lands were sacred and belonged to their Akua (gods). The people were allowed to live on the land with the consent of the Ali`i, chiefs who were the overseers of the lands. The maka`ainana (commoners) maintained a subsistence life-style. They grew kalo in their lo`i (wet-land taro gardens) as it was their staple food.

The Hawaiians grew ki (Cordyline Terminalis). Ki was used for house thatch, food wrappers, sandals, and distilled for `ōkolehao, an alcoholic beverage. `Uala, (sweet potato) and many other foods were used for their nourishment. From mauka (towards the mountain) to makai (towards the ocean), other plants were grown; kapa clothing from the bark of the wauke tree and la`aulapa`au plants used for medicinal purposes. The harvest and resources in the valley were shared and a portion of the harvest was given to the chiefs once a year as tribute to the gods for the privilege of living on the land. In addition to the taro gardens, fishponds were maintained as another resource for their food supply.
The Ahupua`a met the needs of the people living there. Therefore, the maka`ainana (commoners) had to mālama or care for the land and all of its precious resources, primarily the water. This verdant valley, Kahana was once a thriving community. The Kahana Ahupua`a was also rich in lore, dating back to ancient times as noted by Abraham Fornander in the following story:

The legend as told by Fornander spoke of the wrath of `Olapana, the king of O`ahu towards the demi-god, Kamapua`a. Kamapua`a’s father was Kahiki`ula who was the youngest brother of `Olapana. It appeared that Kamapua`a, had obtained his grandmother’s `ohana from Kekeleiaiku, his brother. While the people of Kaluanui went to plant their taro, Kamapua`a planted his grandmother’s shoots in her taro patch, La`auhaele. La`auhaele was located above Kaluanui.

Following the planting, Kamapua`a felt the need to steal the “kapu chickens” of King `Olopana, less they go hungry. It was by order of King `Olapana that the chickens be reserved for himself, and therefore kapu to all others. As night fell, Kamapua`a began stealing the chickens from `Olapana’s lands at Kapaka, Punalu`u, and Kahana.
Olopana of O'ahu once controlled the Ahupua'a o Kahana and the lesser Chief Palani was the konohiki (overseer) before the Māhele of 1848 (Belt, Collins Report; 1955:4-9). During the 12th century, King 'Olopana built the Kāwa`ewa`e Heiau in Kāne`ohe. Abraham Fornander told the story of 'Olopana and Kamapua`a, the Pig God of Ko`olauloa:

“When 'Olopana heard that Kamapua`a was the thief, he sent word to the people from Kahana to Kaluanui, eight hundred strong, to go after Kamapua`a and bring him to his heiau for sacrifice.”

(Kawaharada. 1996:61)

I have read that 'Olopana raised a large army of people from Kahana to Kaluanui (Hau`ula) to capture the chicken thief, Kamapua`a. 'Olopana had made several unsuccessful attempts to capture and sacrifice Kamapua`a. Kahana valley was as rich in its natural resources as well as rich in Hawaiian lore.
THE MĀHELE OF 1848

The Māhele of 1848 changed the conception of how the indigenous Hawaiian people once viewed the land. Contact with western civilization brought laws, which drastically encroached upon the subsistence life-style of the people in the islands, and also of the Kahana people.

The Māhele was a process, which divided all lands between King Kamehameha III and two hundred forty-five High Chiefs. The Crown lands consisted of nine hundred eighty-four thousand (984,000) acres. The High Chiefs received one million six hundred nineteen thousand (1,619,000) acres. The government received one million four hundred ninety-five thousand (1,495,000) acres of land.

Eventually, the makaʻāinana (the commoners or tenants of all the Ahupuaʻa) received a mere twenty-eight thousand (28,000) acres. This appeared to be a gross injustice to the common people who were living on and cultivating the many lands in Hawaiʻi!

Thus, the mechanism of land privatization was established with the Great Māhele of 1848. It was the first and most crucial step with regard to private ownership of lands, which the foreigners had desired for many years.
Black’s Law Dictionary defines property as:

“Ownership, the unrestricted and exclusive right to a thing; the right to dispose of a thing in every legal way, to possess it, to use it, and to exclude every one else from interfering with it... The exclusive right of possessing, enjoying, and disposing of a thing... The highest right a man can have to anything; being used for that right which one has to lands or tenements, goods or chattels, which no way depends on another man’s courtesy (1968: 1382).”

The Māhele of 1848 now gave the foreigners rights to Hawaiian Lands. Not all of the Aliʻi (royalty) were for the Māhele.
THE KULEANA ACT OF 1850

The hoa`aina (tenants) who resided on the twenty-eight thousand (28,000) acres, a mere one percent (1%) of all lands in the valley, were required to register their claims to a pahale (home) and a lo`i (pond field taro garden).

In 1846, The Board of Commissioner was established to Quiet Land Titles. The Commission heard claims and disputes from the people living on the land. Subsequently, the Commission awarded the lands to claimants who fulfilled the requirement of The Kuleana Act, which was created four years later.

The Kuleana Act of 1850 required that the hoa`aina (tenants) were to establish their claims to the lands and the taro gardens. This was done by acquiring two witnesses who would come forth to testify on their behalf to establish that the claimants, indeed, were living on the land, or cultivating the land at the time of the land division.

In regards to the Kahana Ahupua`a, thirty-seven awards were filed with the Land Commission, but only thirty-four awards were granted. Today, a few descendants of the original awardees are named in the Kuleana claims, such as Nuhi (claim #3948) and Kapapa (claim #5220), who currently reside in the Ahupua`a `o Kahana.
Out of approximately five thousand two hundred fifty (5,250) acres of land in Kahana, Chiefess Keohokalole was awarded five thousand fifty (5,050) acres [L.C.A. #8452], (Land Commission Award) and the remaining two hundred (200) acres were awarded to the hoa‘aina (the tenants) of the Kahana Ahupua‘a.

Was it because our ancestors were not knowledgeable in the western concept of private land ownership title? Or did they lack the ability to read any of the official notices concerning the land claims, which caused them to be displaced or dispossessed from the lands of their birth? Church officials who were more educated tried to assist some of the claimants.

The following quotation by Marion Kelly explained the primary reason why the Hawaiian people lost their lands:

"The primary reason why Hawaiians ‘lost’ their land is that the large majority of Hawaiian people never received fee simple title deeds to land.”

(Amerasia Journal, 1980:66)
Marion Kelly’s above-mentioned quotation concerning deeds applied directly to the following case.

“That, sometime during the 1880’s, one Naili, a Hawaiian surveyor, set-off so-called house lots containing a one-fourth acre houselot and one acre of taro land. These lots were set off in severalty to each member of the Hui by individual survey by metes and bounds. No specific deeds by metes and bounds ever were made covering said allotments, but absolute ownership in severalty in said lots have always been recognized.”

(Civil No. 301-Foster Files)
HIGH CHIEFESS ANE KEOHOKALOLE

High Chiefess Ane Keohokalole, a direct descendant of King Kamehameha I, was one of the Ali`i (royalty) against the Great Māhele of 1848. Nonetheless, Keohokalole registered claim to many acres of land on the islands of O`ahu, Maui and the island of Hawai`i. The Kahana Ahupua`a was one of her extensive land holdings, Palapala Sila Nui (Royal Pattern) Claim #4387,[L.C.A. 8452] (Land Commission Award). Chiefess Keohokalole was the wife of Ceasar Kapa`akea and the mother of King David La`ameakalanikawika Kalākaua, Queen Lili`uokalani, Princess Likelike and Prince Leleio`hō`oku.

Chiefess Ane Keohokalole, an `akamai (intelligent) High Chiefess, knew the value of the land in a fast changing society within the Hawaiian Islands.

Land had now become a valuable commodity or asset in the cash economy system. Knowing this, Chiefess Keohokalole sold the Kahana Ahupua`a, in a transaction dated 1857.
THE CHINESE

Hu Pok Sing, or Ahsing, as he was more commonly known, became the first Chinese Merchant to own the Kahana Ahupua`a. In 1857 Ahsing purchased Kahana from Chiefess Ane Keohokalole and her husband Chief Caesar Kapa`akea for two thousand five hundred dollars ($2,500.00).

[Conveyance 9:300-1]. Ahsing’s deed recorded on the 3rd day of June the year of 1857 at 11:00 o’clock a.m. (attached hereto as page fifteen) reflected acreage in the amount of three thousand (3,000) more or less, and the rights to the sea and fishponds.

Were Keohokalole and Kapa`akea in debt, like most of the Ali`i found themselves to be in a cash flow system with their only assets being land? Or Was it the intention of Ahsing, the prominent Chinese merchant, owner of the schooner Chilean, as well as the proprietor of sugar plantations on the islands of Maui and Hawai`i, to establish Kahana as another sugar plantation on O`ahu?

Was Ahsing’s offer so enticing that Ane Keohokalole and her husband Caesar Kapa`akea could not refuse? Or perhaps they owed him money that they could not pay him, so they gave him the land to pay their debt. Unfortunately we do not know the answer from the court records.
Kapuakea & Keokula to Aihing
Deed

This Indenture made the fifteenth day of May
1871 the thousand, eight hundred and fifty seven
Between Pregil Patria and Mrs. Aihing, daughter of
Mrs. Keokula, of the first part and Aihing (Aihinga) a Chinese
Merchant of Honolulu of the second part.

Know all Men by these Presents that the said Aihing on the one
hand and Pregil Patria on the other hand for and in consideration of
the sum of two thousand four hundred and one dollar and fifty
cents paid by the said Pregil to the said Aihing the receipt
whereof is hereby acknowledged and confirmed
as the same is also acknowledged and confirmed
by these presents to grant, convey, sell, give, and
convey unto the said Pregil of the first part and
his heirs and assigns for ever, all and singular the
foregoing and all lands and tenements and appurtenances
thereunto in any wise belonging or whatsoever in law
or in equity, and all rights, privileges, advantages, and
benefits whatsoever from the same granted promised and
promised to be granted by the Board of \[illegible\] the
lands Commission.

To have and to hold all and singular the
foregoing and described premises with

the bequests and appurtenances subject only to the reservation above made into the said party of the second part his heirs, executors, and administrators, and the said party of the first part, the said Kealoihola for herself and her heirs, and the said Rapahena for himself and his heirs, to receive and agree to and accept the said party of the second part his heirs and assigns to warrant and defend the above granted and conveyed premises unto the said Adahea and his heirs and assigns for ever, against the lawful claims of all persons.

In witness whereof the said parties of the first part have hereunto set their hands and sealed the thirteenth day of May 31, 1859.

A Kealoihola
H Rapahena

Register Office Oahu S D. On the 15th day of May 31, 1859, personally appeared before me, Kealoihola, and acknowledged that he executed the foregoing deed for the purposes therein set forth.

Thomas Brown
Deputy Registrar of Conveyances

Hawaii, Hawaiian Islands May 22nd, 1859
Personally appeared before me, A. Kealoihola, and acknowledged that she had executed the foregoing instrument for the purposes therein set forth and that she dated it of her own free will.

E Cuningham
Agent for taking acknowledgments in Hawaii

Recorded and Component this 3d day of June 1859 at 11 o'clock A M. Thomas Brown
Deputy Registrar of Conveyances.
In 1851 the Royal Hawaiian Agriculture Society reported that Ahsing & Company at Makahanaloa on the island of Hawai‘i shipped out four hundred one thousand (401,000) tons of sugar from their four hundred (400) acre plantation (Char & Char, 1998; 5).

Although Ahsing was a successful sugar planter, he did not utilize Kahana for sugar or rice farming. Like his predecessor, Keohokalole, Ahsing immediately initiated a series of mortgages on the Kahana land. It is not known whether or not Ahsing paid off his mortgages.

In October 1868, Ahsing and his wife Mele sold Kahana to another Chinese merchant, J. Achuck for six thousand dollars ($6,000.00) [Conveyance 26:374-5.] We assume that Ahsing made a huge profit from his investment in Kahana.

Ahsing and his family sailed to China. Mele and Ahsing lived in his ancestral village, Goo Hok, which is in the Heong Shan district in the Kwantang Province.

According to a letter dated December 1, 1876, from John Dominis to Ahsing, Dominis addressed Ahsing as “my dear friend” and extended an invitation for Ahsing to return to Hawai‘i. Dominis mentioned seeing Mele (Mary) who was now, back home in Hawai‘i. Ahsing never returned to the islands. He died in China and Mele died in Hawai‘i at the time of the Wilcox Rebellion.
Achuck, the second Chinese merchant, purchased the Kahana Ahupua`a in 1869, from Ahsing. Soon thereafter Achuck mortgaged the land. He also returned to China. In 1872 Achuck sold the Kahana land to Ahmee for five thousand dollars ($5,000.00) [Conveyance 35:15-16]. Apparently Achuck did not make a profit on his sale of Kahana.

Ahmee, according to Robert H. Stauffer’s dissertation, was the first Chinese owner to live on the Kahana land and utilize the land as a rice farm until 1875 (Stauffer 1990: 142). I believe that H. Ahmi named on the deed was Hu Ami, the nephew of Hu Pok Sing who was also known as Ahsing or Asing.

Some Kuleana owners soon came to the realization that not only did the rice plantation utilize the land, but it also seriously threatened their access to fresh clean-running water for the maintenance of their lo`i (wetland taro gardens).
Fresh water pollution was a grave concern to the well being of the Kuleana owners. Their survival depended upon clean water for drinking, and above all, for growing their taro.

Members of the United Church of Christ and the Mormon Church formed the first resistance group in Kahana called the Ka Hui I Ka 'aina o Kahana (hereinafter referred to as the “Hui”) in 1875. The Hui shares were limited to one hundred and fifteen (115). The Hui purchased the land from Ahmee, the owner of the Ahupua`a at the time for six thousand dollars ($6,000.00). Ahmee apparently made a profit of one thousand dollars ($1,000.00) through this transaction.

The deed for the Ahupua`a was recorded in the name of G. W. Kamakaniau, because the members were only able to raise three thousand dollars ($3,000.00). Kamakaniau (Kamaka Niau) secured a mortgage for the remaining balance of three thousand dollars ($3,000.00). The shares entitled the members to an undivided interest in the land, however, they also wanted divided parcels for their pahale (homes) and lo`i (taro gardens). Each family received one `apana, (about an acre), for their lo`i (taro garden) and another quarter acre for their pahale (home).
The Hui established By-laws. It is my opinion that By-law #13 was a significant requirement:

"Each member of the Hui after the payment of the mortgage and interest, should any one abandon his interest in the Hui land, and thinks of selling it, he shall sell it to the Hui, for one hundred and fifty dollars, ($150.00) or if to any member, one hundred fifty dollars."

(Foster Files, Exhibit I: 2)

Numerous infractions of By-law #13 occurred when some members of the Hui used their shares as collateral for loans to outsiders. The failure to repay the loans resulted in foreclosures. The Hui members and the Kuleana owners found themselves trapped in a societal system, based on a cash economy. The Westerners imposed upon the Hawaiian people a way of life that required money for taxes and living expenses.
MARY E. FOSTER

Mary E. Foster became a significant actor in the Kahana Ahupua’a. Foster, a part Hawaiian woman, was a member of the prominent Robinson family. Her Husband was Captain Thomas Foster and their home was located on Vineyard Street, the site presently called Foster Gardens. Mary Foster maintained a country home in Kahana.

The following mele (song) composed in 1915 by Mary J. Montano and Charles E. King for Mary Foster and her Kahana home described the beauty of Kahana:

Beautiful Kahana

Mau loa no ko‘u mahalo nui
I ka nani punono o Kahana
Ka moani ‘a’ala anuhea
O na pali a ‘o Ko’ olauloa

Hui:

‘O ka home ia o ka wahine
Pu‘uwai aloha a ‘Inia
He pua ua Mililani ‘ia
E ka Malualua ki‘i wai

‘O Kalahikiola no ka ‘oi
He pu‘ulena ia na ka maka
Kohu Kihene pua ka u‘i
I luluhe i ka ‘ae o ke kai

Hui:

He maile kaluhea ia la‘i
Ha‘cheo a ke ao nauulu
Ulu a‘e ka mana’o he aloha la
Kuini pua o Kahana.

Pregil Patria, Barbara Frances
Beautiful Kahana (translation)

Forever shall I sing the praises
Of Kahana’s beauty unsurpassed
The Fragrance of beauteous mountains
By the Zephyrs to thee is wafted

Chorus:

This is the home of that noble woman
Who is beloved of India’s hosts
A precious flower of their homeland
Caressed by the gentle Malualua wind

Kahikiloa is unexcelled
In grandeur stands forever near you
For you are endowed with special charms
And favored with a place by the sea

Chorus:

Fragrance of maile in the stillness
Is stirred by the sudden showers
The Ulu brings thought of love and
Desire for the flowers or Kahana.

(Martin:2005)

The last chorus in the song Beautiful Kahana is
descriptive as it brought back memories of a variety of
fragrances after the rains in Kahana.

During her lifetime Mary Foster managed to gain
control over the Hui O Kahana shares. Mary Foster loaned
money to individuals, and in return she asked that they
sign “legal papers” with regard to their interest in said
property until payment was made. Some of these mortgage
loans resulted in foreclosure. Here is one example of a
transaction dated May 25, 1904, from Mary’s files:

Pregil Patria, Barbara Frances
"KNOW ALL MEN BY THESE PRESENTS, that I,
KALUA LIILII, of Honolulu, Island of Oahu,
Territory of Hawai`i, in consideration of
THIRTY ($30.00) Dollars to me paid by
MARY E. FOSTER, of the same place the
receipt where-of is hereby acknowledged,
and the release of that certain mortgage
for Forty-five Dollars ($45.00), dated
September 1st 1903 made by me to her,
hereby grant, bargain, sell and
convey to said Mary E. Foster,
her heirs, all my one half (½ )
undivided share and interest in
and to the one undivided share
and interest of Mahelona in the
Hui āina o Kahana, at Koolauloa,
island of Oahu, aforesaid,
and in all lands owned by said
Hui including the Ahupuā of Kahana..."

What a bargain! For a total of seventy-five dollars,
($75.00) Mr. Kalua Li`ili`i lost his home and taro garden
in Kahana to his benefactor, Mary Foster.
A letter from Mark Warren Thayer, Attorney At Law to E.J. Wodehouse dated November 29th, 1911, listed some deeds concerning Mary Foster’s interests in Kahana:

“Nuhi Kuleana: By deed of Kenoi you secured this Kuleana;


Kapapa Kuleana You have owned

This Kuleana since 1906,

But you purchased it again on

June 6th 1911 from Kalehua;

Deed in book 342. Page 497;

Purchase price $350.00”.

The original one-hundred and fifteen (115) Hui shares were reduced one-hundred and five (105) shares by 1887. At the time of Mary Foster’s death, in 1930, she owned one-hundred and one (101) of the one-hundred and five (105) shares in the Hui O Kahana and evidently some Kuleana Lands.
To illustrate how easily property was lost in Kahana Valley, my aunty relayed a story to me approximately two years before her death. Aunty Daisy mentioned, “When tutu was having a difficult time, she (Tutu) borrowed money from Mary Foster. Tutu said, “Mary loaned me money and I gave a share to Mary.” Tutu went on to say, “That’s all right, Mary is my friend…” Aunty Daisy said, “Tutu received some money for a share.”

Consequently, the transaction between my Aunty Daisy’s Tutu and Mary Foster resulted in Tutu relinquishing a share of her property in Kahana Valley. Mary Foster was a real estate agent, loan officer, mortgage broker, barrister, foreclosure commissioner, and “a friend”. Mrs. Mary Foster was your modern day banking institution.

After Mary’s death in 1930, The Robinson Family who were Mary Foster’s heirs, decided to develop Kahana Valley. The Robinson Agency contracted Belt, Collins Agency in 1955. The objective was a development plan, which would show the most feasible way to utilize this “Beautiful Kahana” (the title of the report). Besides the drawings of the proposed resort, golf course, expensive subdivisions, etc., there were many descriptive phrases in the report:
“Unique beauty of the valley:
“Only a matter of a few years before real estate for residential, farming or resort purposes.”
“Endeavored to explore all potential commercial uses for the lands which in our opinion would be practical and financially beneficial, and which would further enhance the beauty of the valley”.

Belt, Collins Report: (1955:4-9)

(underlined words added)

The reason why the commercialization plans never materialized was not known. Could it have been the fact that an unclear title to the land might have prevented financial institutions to grant an enormous loan for such a development?
EMINENT DOMAIN

Eminent Domain, inevitably, would become a force to be reckoned with by the people of Kahana Valley. Landowners, who assumed that they had property rights, which no one could take away from them, discovered that the State of Hawai`i could and would condemn their land using the little known law of Eminent Domain.

Anyone, not connected to Kahana legally, did not fully understand “Eminent Domain” and how this law would affect the Hawaiian people in the future.

Black’s Law Dictionary defines Eminent Domain as:

“The power to take private property for public use....
The right of eminent domain is the right of the State, through its regular organization, to reassert, either temporarily or permanently, its dominion over any portion of the soil of the State on the account of public exigency and for the public good. Thus, in time of war or insurrection, the proper authorities may possess and hold any part of the territory of the
State for the common safety; and
in time of peace the legislature
may authorize the appropriation of
the same to public purpose, such
as the opening of roads, construction
of defenses, or providing channels
for trade or travel.” (1968:616)

In 1965, Senator John Hulten, a licensed commercial
real property appraiser prepared a report for the
Department of Land and Natural Resources and the State
Legislature. He recommended that the State of Hawai`i
acquire Kahana Valley for use as a mountain recreational
park to attract the tourist. Hulten even suggested how to
“legally steal the land”, which is my choice of words, from
the owners through the use of a little known law “Eminent
Domain”.

The State Government controlled by “outsiders”, not
Hawaiians, accepted John Hulten’s recommendations. The
State then immediately began to file lawsuits against the
legal owners of Kahana Valley.
THREE GROUPS OF PEOPLE

There were three groups of people impacted by the law of “Eminent Domain”. They are grouped as the follows:

**Group A:** Kuleana people who could trace their legal ties to the land from their ancestors;

**Group B:** Members of the Hui `o Kahana who had genealogical ties who might have or might have not had legal claims to the land because shares may have been sold, transferred or encumbered.

**Group C:** “Newcomers” to the land who did not have legal ownership; however, they were residing in Kahana at the time of the time of condemnation, or at the time of protest, to remain as residents in Kahana.
BARBARA'S EXPERIENCE

I consider myself a member of both Group A, and Group B, because I had genealogical ties and I had a legal claim to the land.

**Group A:** Kuleana people who could trace their legal ties to the land from their ancestors;

**Group B:** Members of the Hui 'o Kahana who had genealogical ties who might have or might have not had legal claims to the land because shares may have been sold, transferred or encumbered.

My connection to the Ahupua`a began six generations ago, because Mele, the wife of Hu Pok Sing, was my great-great-great-grandmother. Mele’s daughter was Louisa, my great-great-grandmother. Ema, Louisa’s daughter, was my great-grandmother. Mary Ann, the daughter of Ema was my grandmother. Puanani, Mary Ann’s daughter was my mother. My grandmother Mary Ann was born in Kahana.

My inheritance from my grandmother Mary Ann in 1964 included, an undivided interest in Kahana Valley. Soon thereafter, I became acquainted with the legal term Eminent Domain as used on the court documents:

Pregil Patria, Barbara Frances
“The State of Hawai`i is vested with the power, right and capacity to condemn private property for public use and to condemn vested rights...”

The following two legal documents are proof of my legal interest in Kahana Valley. I am named as a defendant in both Civil Court No. 16614 and Civil Court No. 19338 filed in the Court on behalf of the State of Hawai`i (pg. 30-32).
IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

CIVIL NO. 1661

STATE OF HAWAII, by its Attorney General
BERT T. KOBAYASHI,

Plaintiff,

vs.

MARY KAPUAHAULANI HART ROBINSON, CHINN HO
and HERMAN G. P. LEMKE, Trustees under the
Will and of the Estate of Mark Alexander
Robinson, deceased; CURTIS WARD HUSTACE,
FRANK WARD HUSTACE, JR. and EDWARD CLARENCE
HUSTACE, Trustees under the Will and of the
Estate of Mellie Elizabeth Hustace, deceased;
EDWARD CLARENCE HUSTACE and HAWAIIAN TRUST
COMPANY, LIMITED, Administrators of the
Estate of Hattie Kulamanu Ward, deceased; J.
GARNER ANTHONY, Executor of the Estate of
Lani Booth, also known as Keakealani K. P.
Booth, deceased; CENRIC NOURSE WODEHOUSE;
FRANK W. HUSTACE; CURTIS HUSTACE; HENRY
HUSTACE; HAROLD HUSTACE; EDWARD C. HUSTACE
and HAWAIIAN TRUST COMPANY, LIMITED, Administr-
ators of the Estate of Victoria Kathleen
Ward, deceased; RANDALL JAEGGER WORTHINGTON;
FRANCES MITSUE MCKAYNE; CHARLES ANDREW
McWayne; BISHOP TRUST COMPANY, LIMITED,
Trustee under the Will and of the Estate of
Scott McWayne, also known as Clarence Scott
McWayne, also known as C. Scott McWayne,
deceased; KULAMANU MCKAYNE NASH; PUALEILANI
WATTY WELCH; PALOMA JAEGGER KUHN; BERNICE
JAEGGER WOLTERS; JAMES HERMAN WOLTERS; MELITTA
HENKENIUS CULLOM; KULAMANU HENKENIUS STEWART;
JOHN GUTHRIE HEYWOOD; MARY ELLEN McWayne;
DOROTHY VAUGHAN KATZ; LILLA MAY ROBINSON and
BISHOP TRUST COMPANY, LIMITED, Trustees under
the Will and of the Estate of James Lawrence
Prever Robinson, deceased; BISHOP TRUST
COMPANY, LIMITED, Trustee under the Will and
of the Estate of Iwalani Amelia Robinson,
deceased; CHINN HO, MARY KAPUAHAULANI HART
ROBINSON and HERMAN G. P. LEMKE, Trustees
under deed of trust of Mark Alexander Robin-
son and Mary Kapuahaulani Hart Robinson
dated July 30, 1953; COOKE TRUST COMPANY,
LIMITED; CAPITAL INVESTMENT COMPANY, LIMITED;
ELIZABETH LOY McCANDLESS MARKS; DAISHY H.
LUNING and DORIS H. HOSTETTLER, Executrixes of
the Estate of Mary Ann Helenihi, deceased;

Pregil Patria, Barbara Frances

30
COMPLAINT

EXHIBITS "A" AND "B"

and

SUMMONS

BERT T. KOBAYASHI
Attorney General
State of Hawaii

NOBUKI KAMIDA
Deputy Attorney General
Iolani Palace Grounds
Honolulu, Hawaii

Attorneys for Plaintiff

CARNATION TAKAHARA BIVEN; HINA HANA IKI, also known as VICTORIA H. HANA IKI; VIOLET PEAR; THERMIA OPUNUI GOMES; HENRY WATSON; LYDIA WATSON VINCENT; SUA WATSON, also known as MITCHELL M. WATSON; ELIZABETH HELENIHI VALANT; DAISY H. LUNING; DORIS H. HOSTETLER; WILLIAM S. HELENIHI; ADAM S. HELENIHI; ALFRED S. HELENIHI; FREDERICK K. HELENIHI; BARBARA PREGIL; LAVERNE PREGIL; BEATRICE PREGIL; ALFRED PREGIL; LAEA AU QUAN YAN; Heirs of E. H. Wodehouse, W. L. Wilcox, Mrs. E. K. Wilcox, W. R. Castle, S. Kapali (k), Emma Keakahiwa (w), Noka (k), Hana Nainoa elua (w), Puali Keawe (w), Pelani (w), Kukapu (k), Pua (w), Keawekaleo (k), Kahalawai (k), Kaaikaula (k), Kela (k), Peter Makia (k), Kenoi (k), Koeielele (k), Nawelu (k), Mele (w), Makanoa (k), Uluhani (k), Poalomaka (k), Kaaikaula (w), Nawahine (w), Keawe Kanakaoele (k), H. Kauaihilo (k), Punee (k), Frank Pahia, David Watson, C. B. Maile, Keawe Kalunui (k), Mokuhi (k), Kalualiiili (k), Lukaliili (w), Kamealani (w), and Poloiea (k); All Persons claiming rights in the Sea Fishery of Kahana, at Kahana, Koolauloa, Island of Oahu, State of Hawaii; JOHN DOE 1 to JOHN DOE 100, inclusive; MARY ROE 1 to MARY ROE 100, inclusive; and DOE CORPORATION 1 to DOE CORPORATION 100, inclusive,

Defendants.

I hereby certify that the attached file is true and correct copies of the originals on file in this office.

Clerk, Circuit Court, First Circuit, State of Hawaii
IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

STATE OF HAWAII, by its Attorney General, BERT T. KOBAYASHI,

Plaintiff,

vs.

LAEA AU KWAN YAN; ELIZABETH LOY McCANDLESS MARKS; CARNATION T. BIVEN; VIOLET FEARY; VICTORIA H. HANAIKI; THELMA O. GOMES; HENRY WATSON; LYDIA WATSON VINCENT; SUE WATSON; DORIS H. HOSTETLER; DAISY H. LUNING; ELIZABETH H. VALANT; WILLIAM HELENIHI; ADAM HELENIHI; ALFRED HELENIHI; FREDERICK HELENIHI; BARBARA PREGIL PATRIA; LAVERNE PREGIL MEDERIES; CENRIC NOURSE WODEHOUSE; LIZORIO; FREDERICK PREGIL, JR.; MARY W. GILMAN WATSON; MINNIE HELENIHI; ELIZABETH HELENIHI; JOSEPHINE HELENIHI; MARY HELENIHI;

Defendants.

I do hereby certify that the attached folio of COMPLAINT, EXHIBIT "A", EXHIBIT "B-1", EXHIBIT "B-2", SUMMONS

And

DEMAND FOR JURY TRIAL

BERT T. KOBAYASHI
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Attorneys for Plaintiff

Pregil Patria, Barbara Frances
There were contradictions between Western law regarding property and ownership and the Hawaiian belief in land succession. Our Kupuna (ancestors) wanted the land to be passed down to their ‘ohana (family). Land was scarce. How could this happen when we had always thought, or had been led to believe, that the individual landowner had the right to dispose of his or her property through the means of sale or inheritance? Well, we quickly found out that this was not a fact etched in stone.

According to the definition of Black’s Law Dictionary, we read Private Property:

“As protected from being taken for public uses, is such property as belongs absolutely to an individual, and of which he has the exclusive right of disposition; property of a specific, fixed and tangible nature, capable of being had in possession and transmitted to another, such as houses, lands, and chattels” (1968;1382-3)

As native Hawaiians have we been duped into thinking that private property rights were not to be taken away by governments or other individuals?

Pregil Patria, Barbara Frances
In 1965, my brother and I went to the office of Deputy Attorney General, Francis Izumi, to inquire about the condemnation proceeding using Eminent Domain. Izumi answered, “The State had vested power to condemn lands for the good of the public.” Remember the phrase, “good of the public”! We accompanied Mr. Izumi to the basement of the 'Iolani Palace, where a large-scale model of the recreational facility was stored. There were to be mountain cabins for the people to rent, boating activities in the dammed water area and marked hiking trails throughout the valley. At no time did Izumi mention that the park was really to attract visitors to Hawai‘i. Like a good law-abiding American citizen I believed what I was told by Mr. Izumi.

Frustrated and unable to get legal assistance, we reluctantly succumbed to the States wishes. The State led our family to believe that they would use Kahana as a recreational park for everyone to enjoy. With that condition in mind, and based on our personal experiences; we hiked the land, swam in fresh water streams, picked ‘awapuhi (ginger), ate ‘ohi’a’ai (mountain apples) and rose apples, we fished for O’opu (Gobidae Fish), and netted ‘opai (fresh water shrimp), as an ohana (family), we with
reservation, agreed not to fight the State. Most attorneys in Honolulu felt that the individual property owners in Kahana would be wasting their money to fight the State on the law of Eminent Domain and the outcome would be fruitless.

I accepted the eighty-one ($81.00) dollars for my fee simple undivided interest in the Ahupua`a o Kahana. Was this compensation of eighty-one $81.00) dollars for my undivided fee simple interest in Kahana Valley really of a fair market value? I say, `a`ole (no)! If the water rights and the fishing rights were inclusive in the condemnation, then, how could the State make the determination on the fair market value of the most valuable resource, water?

By 1969 the State owned Kahana with all the water rights and Konohiki fishing rights. The State paid only five million two hundred thirteen thousand eight hundred sixty three dollars ($5,213,863.00) for Kahana Valley making it the largest “land grab” by the State using the power of Eminent Domain.
Other people had expressed interest in Kahana Valley. In June of 1966, the law office of Michael Cullen sent me a letter, which offered all the owners five million three hundred thousand dollars ($5,300,000.00) cash for five thousand two hundred forty-seven (5247) acres more or less with fishing rights, water rights and other rights. The purchaser was never disclosed in the letter.

Doris Duke, tobacco heiress, expressed an interest in Kahana because she wanted to build a museum to display all of her oriental treasures, which were stored in warehouses in undisclosed locations. My brother, Fred, who was in the employment of Doris Duke, took her to attorney Vincent Esposito to look into the matter of purchasing Kahana Valley.

Like many Hawaiians, I did not want to sell my interest in Kahana. Land, a precious commodity, is even more valuable when water rights and fishing rights are attached to it.
LILLIANA’S EXPERIENCE

Lillian Watson Vincent, at ninety years of age is the Kupuna (elder) of my family. Liliana also belongs as a part of Group A and Group B.

Group A: Kuleana people who could trace their legal ties to the land from their ancestors;

Group B: Members of the Hui ‘o Kahana who had genealogical ties who might have or might have not had legal claims to the land because shares may have been sold, transferred or encumbered.

In matters concerning Kahana, Liliana is the most knowledgeable member of my ohana (family). Although her given name is Lillian, she is known as Liliana, which is the “Hawaiianization” of her English name.

In taped interviews, Liliana remarked to me that her experience was quite different from mine. She stated that it was more meaningful to her as she was born and lived in Kahana with her parents and her grandparents, Makanui. Liliana recalled as a little girl, working in the lo‘i with her grandparents.
After her "mama" died she left Kahana to live with her aunt and uncle in Honolulu. However she continued to visit Kahana because her brother Mitchell, also known as Sua, lived on the Kahana Valley property.

The State’s condemnation of Kahana was devastating to her. She and her brother Sua tried to hire attorneys to fight the State. The attorneys informed them that it would be costly and futile, as the State had the right to condemn the valley for public use. Liliana was angry because she did not want to lose the land where she had fond memories of her childhood. Her grandparents Makanui told her about the history of their land.

She remembered the life of subsistence with everyone sharing the food, taro, fish, ti-leaves, etc. Everything from the mountain to the sea was shared. Liliana explained, “we had no choice, we had to sign the paper and take the money, which was not a just payment for the land and fishing rights". Liliana also remarked that the State did not have clear title because “one owner never accepted the money”. I was provided with the name of that individual who did not accept the monetary consideration; however, I have never confirmed the name of that individual with their family.
The State was going to put their elaborate plans for a State Recreational Park into motion. As of 2005, at the age of ninety, Liliana has yet to see this plan materialize. According Liliana the State never lived up to taking care of the land. Liliana relayed to me one incident where the State leased the land to a Mr. Lambert, who raised cattle. Liliana continued to explain how Mr. Lambert left rotting carcasses of dead cattle in the stream, thus polluting the water.

To make matters worst, "Juggy", the first Konohiki, (caretaker) hired by the State, did not take care of the land. Juggy allowed people to dispose of their "junk and stolen cars in the fish pond area."

Liliana and Luka Naluwai, President of Mālama o Koʻolau, at a meeting protested the importation of unagi, (Japanese fresh water eel) into Hawaiʻi by the State. Liliana and Luka needed to be assured that these eels would not be released in the Kahana streams. They were successful in preventing the introduction of this foreign species into our streams.

Liliana Watson Vincent
THE SECOND RESISTANCE IN THE AHUPUA’A

Millions of dollars were paid by the State of Hawai‘i for reports and proposed plans from two different agencies, Tongg Associates and Mogi, with regard to the development of Kahana Valley State Park.

The Tongg Associates plan was to have created a tourist-oriented park similar to the Polynesian Cultural Center in La‘ie. The Mogi plan was to create a State Park for recreational use. The residents, from the three classified groups in Kahana, were angry because all the proposed plans would displace them.

I fully understand why Group C, “newcomers” did not come forward when the State proceeded with the condemnation of Kahana Valley. As Group C, the newcomers were not given legal notice. The people in Group C were not given legal notification because they were not legal owners.

Once the three groups, Group A, Group, B and Group C came to the harsh realization that they would no longer be able to live on the land, they took immediate action and formed organizations to fight the State.
Dan Beirne, a resident of Kahana, asked Liliana to join in the fight to remain on the land in Kahana. Although Liliana was not living in Kahana at the time she formed her organization called Hui Mālama 'o Kahana. Liliana’s objective was “to fight for our rights and to get back on the land”. Lydia Dela Cerna formed Ka Nani ‘o Kahana. Shortly thereafter, other outside organizations supported the cause of the people in Kahana Valley.

They held numerous demonstrations at the State Capital wrote letters and lobbied the State Legislature in efforts to stop the Kahana Valley State Park.
KAHANA VALLEY STATE PARK

In 1977, the State hired Ernest Heen Jr. in the position of a Konohiki to ease the relationship between the residents of Kahana Valley and the State. Mr. Heen, also known as “Juggy” to the community, was unsuccessful in creating an atmosphere of harmony amongst the residents. Thus ending his contract within two (2) years.

In a letter from William W. Paty, Chairperson of the Department of Land and Natural Resources, to the Kahana Advisory Council Members and Friends, Mr. Paty refers to the appointment of a temporary park manager, Al Rogers. As stated in this letter, “1989 the State Legislature established a permanent park manager position for Kahana Valley State Park. This is a new type of position for our State Parks Division, so until a civil service position can be established, we have been authorized a temporary position. We are please to announce that Mr. Al Rogers has been selected from among the several names of persons expressing an interest in the position. He will begin immediately...”.

For almost twenty years the residents fought the State to remain in Kahana. Then on July 24, 1992, an Agreement was reached between the State Board of Land and Natural
Resources and the residents of Kahana. The Agreement was a sixty-five year lease between the two parties, the State and the residents.

Senate Bill No. 1753, stamped dated February 11, 1987, Stated: the Department of Land and Natural Resources is hereby authorized to negotiate and enter into long-term residential leases, not to exceed sixty-five years in duration with persons who meet the following criteria:

1. "Persons who at the time of enactment of this act reside in Kahana Valley on land acquired for Kahana Valley State Park and have lived continuously on this land since before 1970;"

2. Persons who on the effective date of this Act have permits issued by the department of land and natural resources allowing them to resided on designated parcels of land acquired for Kahana Valley State Park".

The significance of this Agreement led to the legal owners, like Liliana and myself, to be locked out of our property.
Passage of many bills in the legislature culminated in the creation of a “living State park” to “foster traditional Hawaiian values and provide education in Hawaiian culture to park visitors.” After a period of over twenty years the State drew up leases for thirty-one families in May of 1993.

These families had to prove that they were living in Kahana. Relocation of the existing families further up in the valley onto ten thousand (10,000) square foot parcels was one of the conditions of the lease.

The Lessees were offered fifty thousand dollar ($50,000.00) loans at (3%) three percent interest for the construction of new homes. A Kokua Committee, comprised of three residents would mitigate any disputes between the residents and park manager, Al Rogers. The State provided paved roads, streetlights, underground utilities etc. The Lessees must also pay their own utilities, pay the property taxes and have homeowners’ insurance. The most significant requirement of the lease is that the residents participate in a twenty-five hour per month interpretive program involving Hawaiian crafts, agriculture, food preparation or health practices in relationship to the Hawaiian culture.
Kuleana Kapapa, descendant Beatrice Gorai Soga and her son built two homes on the makai (ocean) side of Kamehameha Highway. Bea and her husband Vernon flew to a State Land Board Meeting on Kauai to be assured that they would not be relocated from the beach site. The State wanted to relocate this family because they were considered to be in a flood zone area. The Soga’s were assured that they were “grandfathered” in and would not have to be displaced.

Adella Johnson, a descendant of the Kuleana Nuhi owner, daughter of Hattie Laea Nuhi Au, received a ten thousand (10,000) square foot State allocated parcel farther in the valley. In reality Adella wanted to remain on her mother’s land which was located on Kamehameha Highway. Johnson currently resides on the aforesaid property. The properties of Bea and Vernon Soga and Adella Johnson are considered to be in flood zone areas of Kahana, because they are close to the ocean.

On August 8, 2000, I attended a Kahana Community Association meeting. The community meetings are held every second Tuesday of each month to discuss issues of concerns. At the August 8, 2000, meeting, Alan Murakami of the Native Hawaiian Legal Corporation attended the meeting for Mahealani Kamau‘u.

Pregil Patria, Barbara Frances
During this meeting some residents were trying to enlist the aid of the Native Hawaiian Legal Corporation in their quest to solve the problems they have faced with the State and the Park Manager, Al Rogers.

Some residents complained that the State had not fully brought to light the aspect of the interpretive project (twenty-five hour a month work requirement). Furthermore, these residents felt that the conditions of the interpretive program had been set-up in a manner which would result in the failure to live out the sixty-five (65) year lease.

A few of the residents strongly desired to be in control of the cultural aspects in Kahana and preferred to be under the State Land and Natural Resources and not under the Department of State Parks.

Some of the residents had not fulfilled their twenty-five hour per month work agreement. Therefore, some of the tenants had expressed concerns that the park manager, Al Rogers, was not holding such families accountable. In question was whether Mr. Rogers could provide a list of all residents in the program who had or had not performed the twenty-five hour work agreement.
Any vocal protest by the residents resulted in various forms of harassment by Mr. Al Rogers. Mr. Rogers remarked that some hours submitted by a few residents on the Huilua Fishpond restoration was "overkill".

One resident remarked that some of the parents of the present day residents fought to remain in Kahana, however, the problem was that the younger generation of children were too busy working outside of Kahana, or did not care to complete the twenty-five hour work agreement.

Mr. Murakami inquired how many families were in attendance at this meeting. Only five families were in attendance. Murakami said that the park manager had been allowed to have more power because the residents were not unified. Murakami suggested that residents insist that all proposals for credit hours be placed in writing sixty days prior to the event or work done. Additionally, the residents were to report to the park manager, exactly what they had done in the restoration of the fishpond.
Alan Murakami further suggested that residents needed common vision/strategy/plans:

A. Revitalize the Kokua Committee. How the committee should operate;

B. Submit real disputes to the Kokua Committee;

C. Train a member in mediation/dispute resolution;

D. Give service credit hours to Kokua Committee members;

E. Unify the community (bonding activities);

F. Help needed members with assistance;

G. Obtain addenda to leases for all tenants;

H. Agree collectively to prioritize for movement towards transition;

I. Get legal representation-expert in organizational session;

J. Ask for legal audit (program/financial).

The members in attendance received good advice from Alan Murakami. Members gained some knowledge on conflict resolution.
At the quarterly informational meeting held by the State for Kahana residents on October 21, 2000, one of the topics for discussion included the proposed name change of the park. The name was to be changed from the Kahana Valley State Park to the Ahupua‘a ‘o Kahana. Additionally, restoration of the Kam Mon Store was another item under review. Restoration projects such as the Mormon Chapel, and the Huilua Fishpond were among other topics that were discussed. These projects were to be funded by the State since they were considered to be historical sites in Kahana.

The deadline for the completion of homes by the residents was in the fall 1993. In 1999, some residents had not completed their homes and had not fulfilled the twenty-five hour work agreement. The park manager, Al Rogers had not held those residents accountable. The State’s representative, Rogers, in his failure to enforce the twenty-five hour work agreement had created dissension among the residents of Kahana.
HUILUA FISHPOND

The Huilua fishpond an ancient Hawaiian fishpond consisted of two hundred and seventy acres (270). Private fishing rights were established in 1905 when a group of people filed an action against the Territory of Hawai‘i. My Kupuna was one of the plaintiffs in such action. However all these rights to the sea fishery were lost through Eminent Domain.

The organizations of the Friends of Kahana Valley had undertaken the task to restore the fishpond.

President, Ben Schafer, the Beirne Ohana, and some community members and outside communities meet every second Saturday of each month to reconstruct the ancient fishpond. Grants from the Office of Hawaiian Affairs (OHA) and the State have kept this restoration an ongoing project.

Uncle Billy Fields, a Hawaiian expert in Hawaiian dry-
stacked walls assisted in this ongoing strenuous project. This unique construction uses no mortar to bind the rock walls. This is an amazing feat to behold especially when some parts of these rock walls were below the waterline and have to contend with the ocean wave currents. The large rocks are placed down as the foundation and the smaller rocks and sand are fitted into the crevices to secure the walls. Students of Hawaiian culture classes, University of Hawai‘i and Immersion Schools participated in this activity. A State Archeologist must be present on the site of the fishpond each workday.

On September 23, 2000, my son Dana worked on the construction of the Huilua Fishpond. My son and I, were overcome with a feeling of great remorse; knowing that we were working on our ancestral land, which was striped from us forty years ago, through Eminent Domain.

On April 20, 2000, I read an article in the Honolulu Advertiser about the tons of trash in the area of the fishpond. I felt the State, as “the owner”, had an obligation to mālama the land. As responsible stewards of the Ahupua‘a ‘o Kahana, the State has a duty to maintain a safe environment in this area.
A statement in this article by acting administrator for the Division of the State Parks, Dan Quinn, was troublesome to me. He said, “that the State wanted to remove all the beach side homes which were present when the State ‘purchased Kahana in the 1970’s’.” The State did not “purchase” the land in 1970. In 1965, the State used their power of Eminent Domain to legally “steal” Kahana from its rightful owners.

The Friends of Kahana Valley should be commended for their diligent efforts in the restoration of the Hui Lua fishpond and keeping the surrounding areas environmentally safe for the fish and wildlife, as well as for the people.

Sometime in the future, the people will be able to see how some Kahana residents have been successful in achieving their cultural goal in having a working fishpond, which will become a fresh fish “supermarket” for the community to enjoy.
THE LO`I

The restoration of some lo`i back in Kahana valley have become a successful reality. The responsibility was assumed by two people in Group A (The Kuleana people, who could trace their ties to the land).

Ron Johnson and Kaipo Gorai, along with a few residents and volunteers, had undertaken the immense task of the lo`i restoration project. To fully understand and appreciate the concept of taro growing one must actively participate in the reconstruction of long neglected taro gardens.
The taro gardens are flourishing from the vast amounts of fresh water in Kahana. The cool clear waters from the mountains are diverted into the ponds from the stream. What a beautiful sight to see healthy green taro leaves on a misty day! However, the wire fences which have been placed around the Lo‘i to discourage the wild pigs from destroying the gardens, are an aesthetic distraction.
CONCLUSION

My feelings remain ambivalent about what has transpired in regards to the Ahupua`a `O Kahana. The condemnation proceedings using Eminent Domain in 1965 through 1969 should never have taken place in the Kahana Ahupua`a. Regardless of several sources, who have told me that many of the residents were considered squatters and did not belong on the land; I feel that our family, as well as others were in possession of the legal documents that proved claims to the lands, water rights and fishing rights on the Ahupua`a `O Kahana.

The State of Hawai`i was deceptive when it claimed that the condemnation of Kahana was for the “good of the public”. The State knew it did not have the funds to implement the beautiful mountain cabins with boating activities and marked hiking trails throughout the valley. The State falsely led the owners of Kahana to believe in an elaborate plan that never came to fruition. The money spent for engineering companies and their plans by the State were used to no avail. The State Government’s intention was to somehow transform Kahana into a “tourist-oriented” park, and not a park for recreational use by local people.
Truly amazing is the neglect by the people residing in Kahana and the leaders of other community organizations to take a firm stand on the condemnation of the Kahana Valley controversy of 1965 at its inception. How could the “newcomers” and those with family ties to Kahana, not realize that they would not be able to live on State Park lands, which would be only for public use?

The residents accomplished their goal by remaining in the Kahana Valley Land. After numerous protests, the State issued the families long-term leases. In the future, I believe that there will be additional problems for some of the residents of the Kahana Valley Ahupua‘a. Will the State continue to lease public lands that have been set aside for park use? After all, the State has set precedence. Will the State allow people to use Kahana as a business venture? I have heard a rumor that someone wants to bring the homeless to Kahana? What do I have to say to that? “Not in my back yard!”
If we, the original legal owners in Kahana have been “locked-out”, then why should the many homeless, some of whom are not from Hawai‘i, be given the privilege of living on my ancestral land? My cold-hearted attitude is in order. I cannot separate the possibility that our family will not be able to own land in Hawai‘i. The availability of land in Hawai‘i is scarce and it is increasing in its value.

I realize that many Hawaiians are homeless and living on the beaches. There have been cases where the homeless seem to think that they own the beaches, and no one else is allowed to be in their area. Some of the people mālama (care) for the ‘āina (land), while others have little or no respect for it. Allegations of criminal acts such as drug activity, thefts, and murder are often attributed to the homeless.

As of February 2005, a few of the residents have not completed building their homes in Kahana. The State has given these families sixty days to comply. What happened to these families who were given fifty thousand dollar ($50,000.00) loans at three (3%) percent interest rates? Were they financially able to assume such a loan or did they become unemployed in the ensuing years?
I hope they will be able to receive labor-related help from outside organizations and other families in order to complete their homes. The question remains, where have these families resided all these years?

As of December 2004, the new Park Manager is Kaliko Polmer, a former Department of Education employee. Kaliko is a part Hawaiian woman who has ties to Kahana (Haili `Ohana). I am of the opinion that Kaliko will be good for Kahana. Kaliko appears to have a positive attitude; however, she will need wisdom and patience to handle all of the different personalities in Kahana. The residents' twenty-five hour monthly requirement of interpretive work has risen to fifty (50%) percent since Kaliko has taken the park manager position. Moreover, there has been a marked increase in attendance at the monthly resident meetings, with 12 families in attendance compared to a meeting held in the year 2000 in which only five families were present.

Problematic is that the City, State and Federal Government Agencies continue to force people to sell their lands using unjust laws, such as Eminent Domain and land reform laws. Many Hawaiians continue to be attacked by newcomers who want to own a share of Hawaiian lands.
Everyone wants a piece of the land which many Hawaiians do not want to sell, especially when they are being “forced to sell” by a government agency. People who purchased lease-hold condominiums and homes knew at the time of their purchase that in twenty years or twenty-five years, they would have to renegotiate their monetary payments at six (6%) percent of the fair market value of the lands. Did the lessees want the landowners to take the brunt of the increasing land taxes and other incidentals associated with land ownership? To these people, I say, “accept the fact that you do not have a moral or legal right to Hawaiian lands”... The greed of the lease-hold condominium owners, and their desire to make a profit at the expense of the Hawaiian people, is unacceptable.

Large landowners like the Bishop Estates/Kamehameha Schools, have obligations to continue the education of Hawaiian children. Why should valuable land in Kahala and other areas be continually under attack by the institution of unjust laws in favor of individuals who do not want to pay an increase of lease rental fees? The education of Hawaiian children should be the primary focus of their attention. The Liliʻuokalani Trust is another institution whose beneficiaries are the Hawaiian children.
Phyliss Zerbe, a friend and classmate of mine, has for over twenty years fought a long battle of constant attacks trying to force a lease to fee-simple ownership in their small family land on Pi`ikoi Street. Other Hawaiian families in Waikiki face the same plight in trying to keep their family properties for their descendants. When will all of this stop! We are the indigenous people of Hawai’i and “foreigners” in Hawai’i have made attempts to steal our rights to lands. Although, Native Hawaiian rights have been challenged in court by private landowners, and developers, who are also foreigners to Hawai’i. Fortunately, our Native Hawaiian rights to access lands have never been extinguished.

I, like many Hawaiians, did not want to sell my interest in Kahana. Land is a rare commodity. In one of my Pacific Island Studies courses, I recall a Pacific Islander’s words which read:

“A man without land is like a man without legs”.
Glossary of Hawaiian Terms

Ahupua`a 1. Land division usually extending from the uplands to the sea, so called because the boundary was marked by a heap (ahu) of stones surmounted by an image of a pig (pua`a) or because a pig or other tribute was laid on an altar as tax to the chief.

2. The altar on which the pig was laid as payment to the chief for use of the ahupua`a land.

Akua God, goddess, spirit, in divine, supernatural.

`Aina Land, earth

Ali`i Chief, chifess, ruler, king, queen.

`A`ole No, not, never.

`Auwai Ditch, canal.

`Awapuhi Wild ginger (Zingiber zerumbet) a forest herb.

Hoa`aina Tenant, caretaker, as on a Kuleana.

Hui Club, association, corporation, company.

Kalo Taro.

Kamapua`a The pig demigod.

Kapa Tapa, as made from wauke or mamaki bark formerly clothes of any kind of bed clothes.

Ki Ti, a woody plant (Cordyline terminalis) in the lily family... leaves used by the Hawaiians for house thatch, food wrappers, hula skirts, sandals, the thick, sweet rots were baked for food or distilled for brandy.

Konohiki Headman of the Ahupua`a land division under the chief; land or fishing rights under control of konohiki; such rights are sometimes called konohiki rights.
Kuleana  Right, privilege, concern, responsibility, title, business, property, estate, portion, jurisdiction, authority, liability, claim, ownership, tenure...small piece of property, as within an Ahupua'a.

Lau  Leaf.

Luau Kapaa  Medicine; Lit; curing medicine.

lo'i  Irrigated terrace, especially for taro but also for rice; paddy.

Māhele  Land division of 1848.

Maka'āinana  Commoner, populace; people in general, subject.

Makai  On the seaside, toward the sea, in the direction of the sea.

Mālama  Care, tend to.

Mauka  Inland, upland, towards the mountain. Make - district, island, or ship.

Mo`olelo  Story, tale, myth, history, tradition, record, legend, history, literature.

`Ohā  Taro corm, growing from the older root, especially from the stalk...shoot, sucker, branch.

`Ohia`ai  The mountain apple (Eugenia malaccensis) a forest tree...belongs to the myrtle tree family.

`Olelo  Language, speech, word, statement, tell.

`O`opu  General name for fishes included in the families of Eleotridae, Gobidae, and Blennidae. Some are in salt water near the shore, others in fresh water.

`Okolehao  Liquor distilled from it root in a still of the same name. (`Okolehao)
Pahale

`Uala, Uwala  The sweet potato (Ipomea batatus). The tuberous roots are a valuable food source... plant has been a staple food since ancient times in many parts of Polynesia, as well as other regions.

Wauke  The paper mulberry (Broussonetia papyrifera), a small tree or shrub, Eastern Asia... belongs to the fig or Mulberry family. The bark was made into tough tapa used for clothing, bed clothes.
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Huilua Fishpond

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Huilua Fishpond

Barbara Pregil Patria & Bea Soga
George & Pualoke De La Cerna Home

Hui meetings were held at the Mormon Chapel

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