

# HAWAII

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## Lease-to-fee conversion reached by consensus

■ Mormon Church and lessees agree on prices

BY ROB PEREZ  
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The Mormon Church is selling land under some Laie homes using an unconventional approach.

It sat down with the homeowners to decide on a price.

The offer by Property Reserve Inc., which technically owns the 92 lots, differs from most lease-to-fee offerings by other Hawaii landowners because that decision was made jointly, not unilaterally.

It's a strategy at least one lease-to-fee Realtor believes eventually will become commonplace.

"The old days of take-it-or-leave-it offerings are over," said Michael Pang, who represents lessees but was not involved in the Laie deal. "This shows you can reach an agreement . . . and keep both sides happy."

Representatives from the church and Laie homeowners have been meeting since August to decide on terms of the offering, which was presented to residents Wednesday night. Officials with

Hawaii Reserves Inc., manager of the church's property, wouldn't disclose prices, other than to say owner-occupants would be offered prices 20 percent below the land's estimated market value.

Absentee owners would be able to purchase the fee interest at the estimated market value, which Lucky Fonoimoana of Hawaii Reserves said was determined based on an internal appraisal.

Laie homeowner Joe Wall, who headed the landowner-homeowner committee, lauded the process, saying the result was beneficial to all involved. Wall purchased his land in an offering last year, but those prices were set by the church. In this offering, he said, prices in almost all cases are significantly lower. Hawaii Reserves said the offer will continue for the duration of the leases.

The church sold about 300 other lots in the area in three previous offerings dating to the early 1980s. But this was the first time it solicited the help of homeowners to set terms.

"We wanted to include resident participation so we could meet our objective in helping sell the lots at a price that would be fair to everyone concerned," Fonoimoana said. Single-family homes are on the lots, and the homeowners hold long-term leases on the property.

In recent years, landowners who have made unilateral offers to homeowners have had mixed results in reaching deals. Many homeowners have balked because prices were too high, Pang said.

If landowners such as Bishop Estate intend on selling their property, they will have no choice but to negotiate with homeowners on pricing, he said.

Elisa Yadao, a Bishop Estate spokeswoman, defended the estate's methodology, saying the prices have been fair and the sales voluntary. She said she couldn't speculate on how prices would be set in the future.

## Protecting burial sites

REVULSION to the unearthing of about 900 Hawaiian remains during excavation for a hotel on Maui in 1987 prompted the Legislature in 1990 to establish a state program to protect unmarked historical or prehistoric burial sites. Native Hawaiians who believe a person's spirituality, or mana, inhabits the bones after death have insisted on strict rules to implement the law. However, the proposed rules are so strict that they could bring all scientific examination to a halt. Surely that is not what the Legislature intended.

The law prohibits all activity in the area of a newly discovered grave site until a county medical examiner and archaeologist have had a chance to examine it. If the burial is determined to be historic — defined as more than 50 years old — the state Department of Land and Natural Resources, presumably through the archaeology branch of its State Historic Preservation Division, is to try to find out more about it.

That might not be easy. The same law makes it illegal to "take, appropriate, excavate, injure, destroy or alter" the remains without permission of the landowner on private land or the city or state on public lands. Under the proposed rules, all historic bones in unmarked burial sites are presumed to be native Hawaiian without evidence to the contrary. "No further archaeological testing is authorized" for ancient Hawaiian burial sites without the ancestors' permission. Nor are photographs to be taken.

The problem is obvious. How can archaeologists possibly determine whether remains are Hawaiian or non-Hawaiian without conducting scientific tests, much less identify ancestors? It has private archaeologists fuming and others in the Historic Preservation Division in dissension. Nine staff members from the division's archaeology and culture and history branches have expressed their concerns in a strongly worded memorandum to state Land and Natural Resources Director Mike Wilson.

Some burial sites can be assumed to be Hawaiian by placement of bodies or the proximity of Hawaiian artifacts. Where uncertainties arise, archaeologists should be allowed to conduct minimal testing to determine if a burial site is Hawaiian or not. Scientific research should not be sacrificed to protect what can only be speculated to be a Hawaiian burial site. Moreover, research should be permitted even at verified Hawaiian sites under appropriate restrictions. The quest for knowledge can co-exist with respect for Hawaiian custom.