Broken Promise: Hawaiians Wait

Broken Promise

How Everyone Got Hawaiians' Homelands Except the Hawaiians

Federal Mandate Is Abused As Natives Wait Decades For Small Plots of Land

State Gives VIPs Huge Tracts eight times their rent.

By SUSAN C. FALUDI

Staff Reporter of THE WALL STREET JOURNAL HONOLULU-"You just hang on, Mr. Afong," U.S. Sen. Daniel Inouye said at a public hearing in 1989 to 91-year-old Henry Afong, a frail native Hawaiian who had been on a waiting list since 1952 for land promised his people under a federal law. "You just hang on." Mr. Afong's daughter, Annie Stevens, remembers the senator's advice with some bitterness: Six months later, her father, an aspiring rancher from the Big Island, was dead.

Politicians have been telling native Hawaiians to hang on for 70 years, ever since Congress passed the Hawaiian Homes Commission Act in 1921, setting aside nearly 200,000 acres in scattered tracts across the islands. Congress hoped to save the dying Hawaiian people by returning a small portion of land taken from them in what even a U.S. president had called the unlawful federal seizure of Hawaii in

The federal act requires the state to lease modest residential, farm and pastoral homestead lots for \$1 a year to any Hawalian with at least 50% native ancestry. It instructs the state to provide the infrastructure of utilities, roads and water. And it promises to provide native Hawalians with home and farm loans to get started. Firing Ranges and Car Lots

But many decades later, more than 60% of the land has been rented at bargainbasement prices to non-natives-many of them belonging to the richest and most powerful families in the islands-or swapped or simply given away to other government agencies. The area where Mr. Afong hoped to raise a few head of cattle. for example, has been leased for many years by Parker Ranch, the nation's second-largest private ranching business. The ranching corporation pays the state \$3.33 an acre each year to use the property. locking up 27,000 acres of homelands.

"It's not like we are paying nothing," livestock manager. And he says Parker Ranch has helped out the native Hawaiians-for instance, by leasing them cows to get started.

Other land has gone to multinational corporations for quarrying and mining operations, to the U.S. military for the Pacific naval headquarters, to state agencies for waste-water treatment plants and airports and cemeteries, to mayors and legislators for their own private companies and personal estates, to prominent businessmen for auto dealerships and shopping strips and tourist attractions, and to shrewd investors who have turned around and subleased the property for as much as

A Vast Waiting List

Native Hawalians, who are the poorest and most ill-housed population in the state, hold just 17.5% of the acreage. In the law's entire history, only 3,700 of the tens of thousands of families who have been eligible have actually been allowed to settle on the homelands. While about 5,800 families have been awarded land, the state bars more than a third of them from moving onto their land because it lacks basic infrastructure-which the state itself is supposed to build.

Others do have homes, built under government programs by subcontractors, but

many of the structures are falling apart or deemed substandard by state inspectors. Meanwhile, native Hawaiians who have applied for homelands languish on a ballooning waiting list, now 21,000 names and decades long.





Hoaliku Drake

ians in other ways, albeit belatedly: The state agreed last year to make up for the seizure of more than a million acres of native lands 100 years ago by paying a cash settlement to a state agency that aids native Hawaiians. They say they are making some progress in awarding homelands, but that implementing the law has been frustrated by a lack of funds, which are needed to provide loans to the homesteaders as well as for roads and utilities. So, they say, they must lease land to non-natives to generate revenue for the Department of Hawaiian Home Lands, which administers the

The department's director, Hoaliku says Robert L. Hind III, Parker Ranch's Drake, says she believes applicants for homelands are "mostly high middle class. A lot of them own land already." She adds, 'People should be disciplined enough to As for the substandard houses, she says, "Well, they're probably just getting a little old."

'That Darn Law'

A number of outside audits conducted on behalf of various state and federal agencies have found the homelands department plagued by bureaucratic incompetence and underfunding. A 1983 joint federal-state task force, a Hawaiian governor, a state attorney general and several courts have concluded that the state government has consistently violated the 1921 act.

Little has been done about the violations, however, in part because the act itself authorizes only the federal government, not native Hawaiians, to sue the state for breaking the homelands law. And the federal government has never taken legal action.

At the U.S. Interior Department, the homelands' administrative agency on the federal level, officials say they feel no obligation to enforce "that darn law," as Timothy Glidden, the Interior Department's sole designated officer for the homelands act, refers to it. "I have a whole page full of other responsibilities," says Mr. Glidden. "I spend very little time on it.

Hawaii has a strong economy and huge cash reserves: State government boasted a \$456.3 million surplus in fiscal 1991. But many of the 50,000 native Hawaiians currently eligible under the 1921 act haven't participated in the boom. According to a 1990 state-sponsored study of the 200,000 people who are any part native Hawaiian. more than 2,000 of them live in cardboard boxes, rusted cars or on the beaches-and 40% of the homeless Hawaiians have been on the waiting list for a homestead for more than seven years. As the state's housing crisis mounts, the number of native Hawaiians on the waiting list has ballooned, more than doubling in the past six years even though officials have at times purged the list of inactive names.

Until recently, the state allocated very little money for the homelands department-it has had the smallest staff and budget of any state agency-and the fed-

eral government allocated no funds at all. But at the same time, when financing is available, the agency has been slow to take advantage of it. Indeed, the federal government has allocated \$1.2 million for the department every year since 1988-and the department has spent none of it. At one point, a local circuit court judge actually ordered the department to request funds from the state Legislature.

In addition, in the past two decades the homelands department, allowed millions of dollars of state capital-improvement-project bond funds to lapse unspent, state records show. It has also left \$24 million in cash untouched in various banks. "Because of delays, we haven't been ready to use that money," says the agency's deputy director, John Rowe.

Moreover, he says the costs of many construction projects were higher than expected, and rather than seek more financing from the government, the department just decided to let the bonds lapse. "If [the bids] were above [the cost of the project].

we chose not to go through with it, because we'd have to go back and get more funds,' he explains.

Yet the department has spent plenty of money to help develop homelands leased by non-natives, a list of whom has read over the years like a Who's Who of state politics and business. They have included J. Atherton Richards (the late former trustee of the powerful Bishop Estate charity, who had a 9,370-acre ranch on homelands), Diamond Head developer and Aloha Air founder Ruddy F. Tongg (who had a 1,126-acre ranch) and state legislator Harvey Tajiri (who operates his campaign headquarters and auto body shop on homelands and who, in the early 1980s, made a substantial profit off the land by subletting it for six times the amount he was paying the Department of Hawaiian Home Lands).

"I'm a businessman," Mr. Tajiri says, and people who object to his making a profit off the homelands "don't understand business." Mr. Tajiri says his position played no role in getting the land. "Being in a public office actually works to my disadvantage," he says, "because a lot of things get misinterpreted to mean that I have favorable treatment. So I have to watch my step even more."

Mr. Tongg's son Ronald, who most recently ran Tongg Ranch, says, "I don't have any qualms" about having rented native Hawaiian land since 1966 for less than \$6 an acre per year. "My thing doesn't have anything to do with their thing," he says of the native Hawaiians. "To be perfectly frank, if they haven't gotten their land or it's been mismanaged or whatever, that's their problem. I don't mean to be so cold and uninterested, but when you get right down it, that's the bottom line." Mr. Tongg says that after his 25-year lease expired a few months ago, he decided not to renew because the department wanted to raise the rent "four to five times," an increase that Mr. Tongg deemed "incredible."

The homelands agency recently allotted \$1.4 million to ease traffic and put up street lights around Prince Kuhio Shopping Center, a sprawling mall in Hilo built on homelands leased by non-natives. The department also put in a road there because "we thought it would be a good addendum to the shopping center," says Mr. Rowe, the agency's deputy director. And it has spent millions of dollars installing infrastructure in two industrial parks that serve only non-native lessees. Mr. Rowe says that expenditure was acceptable because it "was designated 'economic development."

On Kawaihae, on the northern coast of the Big Island, nearly 200 native Hawaiians have been awarded homeland lots, but they have been waiting since 1966 for basic capital improvements, such as running water and electricity, to make their land livable. The homelands department received a \$990,000 appropriation to install the infrastructure in 1979, before the land was even awarded, but delayed so long the appropriation lapsed unspent.

Mr. Rowe says the funds were allowed to lapse because when the department considered using the money, the amount it wanted to spend exceeded the state's annual cap on the agency's expenditures.

Mr. Rowe says Kawaihae is still in the "design stages." The department forbids homesteaders to move onto their own land before the infrastructure is in place, and often evicts those who try. Joanie Dela Cruz and her sister Josephine each got awarded half-acre lots at Kawaihae after years on the waiting list, but they weren't permitted to settle on them. Between them they have three jobs-Josephine works all day cleaning rooms at a nearby resort hotel and half the night delivering newspapers. But she still can't afford the high Hawaii rents.

So first, the sisters and their four children squatted on a nearby beach for two years, until the police threw them off. "The Hawalian has no home but the says Joanie Dela Cruz. Frustrated, they quietly moved onto Josephine's boulder-strewn plot with their four children, erecting a plywood shack and bathing in a nearby public restroom.

Last year, the department sent Josephine Dela Cruz a letter warning her she might be evicted. After an extended battle, she thwarted the move by securing a county building permit.

Many of the more than 1,000 native Hawallans who have received homes from the department find the problems don't end after they claim occupancy. On the east coast of Kauai, "Auntie" Rachel Rapozo lives in a development of more than 60 homes built under a department contract in the 1970s. She and her husband moved here after spending 30 years on the waiting list. First, she recounts, the sewage backed up-again and again and again. Then the floor started sinking. Then the roof began caving in and had to be replaced. Now the second roof is collapsing. The electrical wiring is hazardous and hardly works. "I have only two lights here," she says, as she moves in the dim house, stepping around the pots that collect water from the many roof leaks. "Try staying in darkness for 10 years.'

While Mrs. Drake, the department director, says the only problem is that the homes in the development are getting old, her public relations director, Hardy Spoehr, who is sitting by her side as she speaks, interrupts to say: "There were a lot of problems actually with those homes." He adds: "We're building the roofs for the third time. . . . There have been sewage problems that have resulted from freak, well, not freak but-ah, not an understanding of the topography under those homes.

Diegal Occupants

Most of the non-native lessees obtained their land rights illegally, because the 1921 act reserved the land for natives. Leasing to non-natives was supposedly allowed under a 1965 state law that empowered the department to rent to non-natives, but that didn't make it legal because the federal statute can be amended only by Congress. It wasn't until 1986 that Congress approved the practice as part of blanket approval of a raft of amendments that the state had made without congressional authorization since Hawaii's statehood.

By that time, former state legislator and Maul Mayor Elmer Cravalho, who sponsored the 1965 bill, had already been enjoying his 15,000-acre homelands plantation for 19 years. After the bill passed, he was one of the first non-natives to sign up, at \$1.60 an acre a year. He now pays \$2.50 an acre. "Where is the conflict of interest?" he asks in response to a question. He says his support for leasing to non-natives "contributed greatly to the financial capability" of the homelands program.

Sometimes the department has simply given property away to non-natives for a game reserve, military depot or the like. In 1984, Gov. George Ariyoshi ordered the department to rescind nearly 30 of these illegal deals, covering about 30,000 acres. The state attorney general, meantime, decreed the U.S. Navy's occupation of 1,400 acres of prime homelands near Honolulu to be a "fundamental breach of trust."

But the department, in most cases, rescinded the agreements only on paper. It has not evicted the offending land users, which include state and federal agencies. The Department of Hawaiian Home Lands made one attempt to evict, mounting a court challenge to the U.S. Navy's occupancy of Oahu homelands. But the judge found that the department had waited too long to sue.

Forty Years on the List

Even when the department charges non-natives for leases, the rates are often bargains. At least 15 non-natives in recent years have subleased their homelands to others at a substantial profit, state records show. The department once considered appropriating some of the profits, but abandoned the plan when the lessees threatened legal action. One of them, George Madden, a wealthy developer, calls the agency's efforts "obnoxious." By leasing homelands, he says, "I am contributing to those 20,000 people [on the waiting list] drawing nearer to realization of their homes."

Actually, only a tiny handful are getting anywhere on the list. At the beginning of 1990, the homelands department announced it would build 448 new houses during the year. It built 16. Last fiscal year, the department gave out only 30 loans to the thousands of applicants. "We aren't ready with the loans because there have been some delays in putting in infrastructure,

explains Mr. Rowe.

Sonny Kaniho's family has been on the walting list for nearly 40 years; he is one

of 139 so-called "Aged Hawalians" who applied for lots in 1952 but never got them. His father, also on the list, died waiting. His grand-parents, ironically, were evicted from their land when the state laid claim to 108,000 acres on the Big Island under the 1921 act.



Sonny Kaniho

When Mr. Kantho retired in the 1970s,

retired in the 1970s, after 24 years in the U.S. Navy, he went to Honolulu to inquire about the 1952 list. Department officials told him the list "never existed," he says. At the state archives, he found it without much trouble—published in a 1952 newspaper. Mr. Kaniho was No. 14. It took years and a court battle to force the department to reinstate the list, which it finally did in 1984. Still, the Aged Hawailans waited for their land.

Above the Frost Line

In the meantime, politically influential native Hawaiians, including homeland department officials, were moved ahead of the claims of the Aged Hawaiians, receiving large parcels. In 1965, Albert Akana, the agency's project manager on the Big Island, was jumped past more than 100 people on the 1952 list to get a 300-acre ranch. "Yeah, I was lower down on the list," says Mr. Akana, who says the department picked him to serve as a "role-model" rancher to other Hawaiians. His ranching effort fizzled, however, and he used the land to build and sell boats.

Mr. Kaniho, on the other hand, was repeatedly arrested and served jall terms for trespassing on homeland pastures in protest of the Aged Hawaiians' treatment. Finally, last fall, just before the statewide election, the homelands department announced it would award some land to the Aged Hawaiians. Then it revealed that the size of the lots would be reduced. Homestead pasture lots, as opposed to residential lots, are supposed to be 300 acres because it takes at least that much acreage to sustain livestock on the arid land. But the lots now were cut to as small as 10 acres. And Mr. Rowe says it probably will take "years" before there will be any water, utilities or roads. "The land is pretty much useless," says Mr. Kaniho, now 69 years old. His lot is above the frost line.

Battles Over Water

Native Hawaiians who have farmed and ranched the homelands find they often are crowded out by the big non-native corporations that lease neighboring homelands. On Kauai, Hawaiian homesteaders have less than 900 acres, while the Kekaha Sugar Co., a subsidiary of giant Amfac Inc., leases about 15,000 acres of homelands at \$1.79 an acre. Kekaha Sugar also has exclusive rights to all the available water from the nearby Walmea River and the entire network of irrigation ditches.

With little water, only two native Hawaiians still try to ranch their land. One of them is Joe Manini, whose grandparents were driven off their ancestral land on Kaual at gunpoint in the 1830s. He received permission in writing from the Hawaiian Homes Commission, which supervises the department, to tap into Kekaha's irrigation ditch. But in 1389, when he installed his pipe, the company got an injunction. The

court ruled that the sugar company had a valid prior claim on the water, and that Mr. Manini's use of the water would cause the company "lost income" and "irreparable harm."

The department didn't back him up. Mr. Rowe says that while Mr. Manini did have the department's permission to tap into the ditch, "at the same time we were in the process of negotiating with Kekaha" and the department didn't want to jeopardize the negotiations. What became of these talks? "I don't know," Mr. Rowe says. "I think we are still negotiating."

Mr. Manini, however, says the department is "only a blockade to Hawalians getting on the land." His herd is down to four skinny cows. He supports his children and diabetic wife with two jobs. Nights he pumps cesspools. Days he works as a tractor operator for the Robinson Sugar Co.

Gov. John Waihee, the first part-Hawailan governor, whose own father died while on the waiting list, has taken some steps to increase state funding of the homelands department. He also promoted passage of a bill that allows native Hawaiians to sue over violations of the 1921 act in some circumstances. "Only in the past few years has the program begun to turn around despite the odds," he says. His policies have "begun to pay off," he says.

But the right-to-sue bill bars suits over violations that occurred before 1988. And if native Hawaiians win any damages, the bill requires them to give the money to the Office of Hawaiian Affairs - a controversyplagued agency that many native Hawaiians don't trust. During the first three years of Gov. Waihee's first term-through 1989, the latest year for which statistics are available—the awarding of home lots slowed even more, while the amount of acreage leased or licensed to non-natives climbed by another 8,319 acres, department records show. Gov. Waihee says the awarding of home lots slowed because his administration had made installing infrastructure on the homelands a "major pri-

Fed up, about 19 families on the waiting list took to squatting a few years ago on a homeland beach on Kauai called Anahola, a Hawaiian word meaning "time set aside." It is a beach the county wants to turn into a park for tourists. The families planted a community garden, tapped the county electric lines and built a big Aframe in the sand. "My father waited all his life for his land," says Michael Grace, the Anahola squatters' unofficial leader. "That's not going to happen to me."

But in July, a few days after eclipsegawking tourists had left the islands, state police and the National Guard arrested the squatters for trespassing and bulldozed the A-frame.

Mrs. Drake, the homelands department director, says the squatters weren't playing fair. "They should wait their turn," she says. "They should follow the list." But one squatter, Daniel Manaku, has no faith in this system.

"It's a hit list, that's what it is to me," he says. "They put you on a list and they let you die."

Hands Off the Watermelon King

OLOKAI, Hawaii...An Indiana businessman named Larry Jerbs is the watermelon king of Hawaii, thanks to some tancy dancing around the federal homelands law.

Under the 1921 act, native Hawaiians aren't allowed to sublease their plots. But without sufficient loans, infrastructure or water to farm or build on their land, many have filegally rented the property to big corporations or non-native entrepreneurs. Mc Jefts became the state's largest watermelon producer by buying up the right to farm from Hawaiians. The few holdouts here eventually couldn't compete with him, filing for bankruptcy.

The homelands department is aware of Mr. Jefts's practices, but has adopted a hands-off attitude. "The department has not really come out and told him to tay off," says George Helm, the agency's district manager in Molokai. "The way we handle it is, it's okay as long as it's a verbal agreement and not a lease."

"The topic...Is something I cannot talk about," Mr. Jefts says of his dozen "cropsharing agreements" with the Molokai tarmers. "It takes you down a road you don't want to go." He adds, "There are no written agreements anywhere, so there is nothing to talk about."

A Peek Inside the 'X' File

ONOLULU—Veteran staff members of the Department of Hawaiian Home Lands say the agency has been a hotbed of patronage and favoritism for many years.

Roy Ah Nee, a department manager for more than 30 years, recalls that one former director, Abraham Pilanairi, required staffers to consult a secret file marked "X" before awarding any land. That file, Mr. Ah Nee says, contained a list of policially connected people who were to get land before Hawalians on the official waiting list.

"I was so dumbfouncied when I saw it," says Mr. Ah Nee. But when he told a judge about it, during a court case in which it native Hawaiian woman unsuccessfully complained that the department exercised favoritism in its handling of the weiling list, "the judge got mad at me for talking about it."

Mr. Piianaia acknowledges that he kept such an "X" folder. In fact, he says he kept several. But, he says, "that doesn't at all imply that there was an attempt to give those guys a jump over other people." He says the "X" files were only meant as a way "to keep track of who called in to say, "Oh, I'm a friend of so and so," "I'm Senator so and so and I'm calling for so and so." There's nothing wrong with that."

Asked If any of the prople in the "X" file did get a jump, Mr. Pliana is says: "Hardly any."

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impoverished group in the state.

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"The prinsequences of the overthrow of the kingdom (at Hawaii by the United States are not confined to historical wrong or compensable claims for lost ancestral land rights and interests," wrote three members of the Native Hawaitan's Study Commission in their report to the federal government in 1983, "Dispossession and defirst also have psychological, social and cultural consequences.".

A 1390 state study found that about 1% of native avoiding are homeless. They represent suit

bright of the state in content population. The highest than their percentage of the printer propulation.

Native Hawalians also have the worst house in the state. According to U.S. Carissis data.

they five in the most crowded conditions as are the most Body of any ethnic group in its except Plipinos to have partial to no plumbing in their homes, ¿

In their hornes.
According to state figures, 15% of hative
Hawailans are below the poverty line, compared. with 8% of the total population, Native Hawailans also have twice the unemployment, rate of the state's general population and rep-+, resent 30% of its recipients of Aid to Families... With Dependent Children. About 15% of native :-Hawaitans receive AFDC assistance, versus 6%:

of the total population.

Native Hawaiians have the lowest life. expectancy of any ethnic group in the state, the highest death rates from heart disease, cancer. diabetes, hypertension and strokes and the highest infant mortality rate. They have the lowest education levels in the state and the highest sulcide rate

The Prince's Plan Is Co-Opted

n 1893, a group of businessmen, backed by U.S. Marines, toppled the popular Hawailan queen and took over the islands, including 1.5 million acres that were supposed to go to native Hawaiian commoners according to a decree by the Hawailan king in 1848. President Grover Cleveland commissioned an investigation and concluded that the takeover was "a lawless occupation.

President Cleveland was ignored by Congress, however, and the businessmen began selling chunks of the 1.5 million acres to fellow merchants and planters. When the Hawaiian islands were later annuald to the United States, the islands' government acknowledged that this acreage belonged to native Hawaiians, and ceded it to the United States with the stipulation that it be held in trust for native Hawaiians. The federal government then lopped off about 20% of the land for its own use, mostly for military

Nearly 30 years after the businessmen's coup, it looked as if native Hawatians would at least set to rent a small sliver of the 1.5 million acres. The Hawailan Homes Commission Act began as a well-meaning effort by Prince Jonah Kuhio, the part-Hawaiian territorial delegate to Congress, who saw urban sturns, veneraal disease and cholera rapidly killing off the Hawaiians and hoped that returning Hawaiians to the land could save them. "The Hawaiian race is passing," he mourned in 1920, "And if conditions continue to exist as they do today, this splendid race of people, my race, will pass from the face of the earth.

But no sooner did Prince Kuhio float his plan in Congress than it was co-opted by sugar and pineapple planters, who saw it as a way to

secure their own uncertain futures. Their leases on 26,000 prime acres were about to expire, and a general homesteading law threatened to transfer their lucrative holdings to other hands.

So the planters struck a deal with the territory's politicians: Get rid of general homesteading, allow planters to keep their lands, and in exchange they would agree to allot less than 200,000 acres of "fourth-class" lands to native Hawaiians for homesteading. They made sure that the homelands department's first directorate was sympathetic—its executive secretary was George Cooks of Castle & Cooks, one of the Big Five planter powers.

The coded lands of the native Hawalian commoners, meantime, were still being held in trust by the federal government. With statehood in 1959, the U.S. required that this land and the revenues it generated be used for "the betterment" of native Hawalians, but that never happened.

Finally, in 1978, a state constitutional convention instructed the state government to compensate native Haweilans for the ceded lands' lost revenues. More years passed without action. In 1990, the state government settled the matter by agreeing to pay a state agency \$100 million plus \$8.5 million a year, to be used to aid native Hawaiians. However, the state agency charged with this task, the Office of Hawalian Affairs, is plagued by poor budget controls, mismanagement and cronyism, according to two outside audits in 1966 and 1990.

The Office of Hawailan Affairs, while conceding that many of the auditors' findings are "reasonable and acceptable," blames its problems on uncertain funding and "complex and sometimes ambiguous relationships with other agencies of state government.

he Are Sull at the Bottom of the Barrel' s inistracted as they were some other native Americane received for more compensation for the sebart of their fends. In 1971, netwo Alestons, for Instance, received \$1 billion and 40 million acres of land from the federal government, The Indians have come a long way, but we Havestians are still at the bottom of the berret," says Heatard Downe, 81, who truttessly appoint for homestead land in 1929. Hawallans are the only indigenous

group in this country who have gotten no formal recognition of their sovereign rights," says Alan Murakarri, Rigation director of the Nutive Hawerian Legal Corp. Mind ironically, Hawaltans are the ones with the most compelling case for laderal recogni-tion." Units other native American groups the Hawalian Kingdom had several form Interredonal treaties with other regions, it is consulates and a network of diplometer Many netive Hawalians attrouce their 70 ers of frustration to the flaws in the 19213 years of frustration to the flaws in the 162 nomelands act itself, to homelands depart ment mismanagement, to machine politics and to their own political impotence.

They bemoan their fate in private, but they also have one of the smallest turnouts on Election Day.

Recently, a native Hawaian sovereignty movement" has sprung up, complete with a shadow povernment. But the natives' numbers are dwindling. Between native Hawalians' terrible health statistics and the state's 46% interracial marriage rate, the native Hawaiian population has nearly been obliterated. There were a million native Hawalians at the time of Captain Cook's landing in 1778; now there are only 11,000 full-blooded Hawalians---and only 50,000 people have the 50% or more Hawalian blood required to claim a homelands lot.

