

Na'i Aupuni process moving forward and welcomes all Native Hawaiians

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In 2011, Gov. Neil Abercrombie, right, signed the Native Hawaiian Recognition Bill into law as Act 195. It formally recognized Native Hawaiian people as “the only indigenous, aboriginal, maoli people of Hawaii” and established the Native Hawaiian Roll Commission. Also on hand were, from left, Mahealani Wendt, representing Maui Nui a Kama, and then-Lt. Gov. Brian Schatz.

Na'i Aupuni is an independent, nonprofit organization made up of a volunteer board of directors from the Hawaiian community.

The purpose of Na'i Aupuni is to establish a path to Hawaiian self-determination by guiding an election of delegates to a constitutional convention, or 'aha, and conducting a ratification process if needed.

Recently a lawsuit was filed by the Grassroot Institute of Hawaii -- against the state of Hawaii, Gov. David Ige, the state Office of Hawaiian Affairs trustees, the Native Hawaiian Roll, the Akamai Foundation and Na'i Aupuni -- claiming that the Native Hawaiian Roll Commission's registration process violates equal protection and voter rights laws that apply to government agencies.

The lawsuit is an attempt to stop any further actions based on the Roll, including Na'i Aupuni's delegate election and 'aha process.

Na'i Aupuni is proceeding with its plans and strongly believes the lawsuit will not succeed in stopping our process.

The constitutional laws upon which it relies do not apply to Na'i Aupuni because it is not a state agency, not controlled by any state agency, and most important, is not performing a state government function.

Our situation is vastly different from that presented in *Rice v. Cayetano* (2000), where the U.S. Supreme Court held that the election of OHA trustees by only Hawaiian voters violated constitutional safeguards because it was an election of the state and not the internal affair of Native Hawaiians.

Rice does not apply to the Na'i Aupuni election because it is not a state election, but rather, an exercise of the rights of Native Hawaiians to self-determination.

Although our legal reasoning uses federal law to explain the defects in the lawsuit, we emphasize that the options for consideration by the delegates at the 'aha are not limited to federal recognition. In fact, no political option will be off limits at the 'aha, including independence or the decision not to organize a Native Hawaiian governing entity.



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Two of the Native Hawaiian Grassroot plaintiffs complain they were deprived of the opportunity to register with the Roll Commission because they do not agree with the Commission's declaration to affirm the "unrelinquished sovereignty of the Native Hawaiian people and an intent to participate in the process of self-governance."

We understand that the Roll Commission has registered and certified voters -- and will continue to do so -- even if these voters refuse to agree to this declaration.

Alternatively, such voters have the option of registering with OHA's Hawaiian Registry program, which does not include this declaration.

We are committed to the Na'i Aupuni process because it is an opportunity for solidarity that Hawaiians should seize.

Hawaiians have historically been frustrated by federal, state and/or county governments exercising decision-making authority over issues that are of grave concern to us. These issues involve ceded lands, Hawaiian Home Lands, water rights, traditional and customary rights, the Thirty Meter Telescope and even OHA and the Roll Commission.

A Hawaiian government formed by a near majority of adult Hawaiians who reside in Hawaii will be a government that has standing to represent all Hawaiians and, thus, will be in a position to secure the authority to make decisions to address these kinds of issues.

Until this type of structural change takes place, individual Hawaiians or groups of Hawaiians will continue to be left seeking relief within the framework of federal, state and county laws.

Na'i Aupuni welcomes and encourages all Hawaiians to participate in the election and 'aha process, even the Native Hawaiian Grassroot plaintiffs.

Voters must be certified by Oct. 15.

Native Hawaiians may register with the Roll Commission at www.kanaiolowalu.org or Hawaiian Registry at www.oha.org/registry. For more on the Na'i Aupuni election and the 'Aha process, see www.naiaupuni.org.