



# KĪPUKA KULEANA

## ‘Ohana ‘Āina Workshop

January 21, 2023 | 9am – 1pm | Lili‘uokalani Trust | 4530 Kali Road, Līhu‘e, HI



### Schedule

- 9:00am – 9:15am Welcome and Refreshments
- 9:15am – 9:45am Circle Up and Introductions
- 9:45am – 10:00am Introduction to Kīpuka Kuleana & Workshop Goals  
*Mehana Vaughan, President of Board, Kīpuka Kuleana*
- 10:00am – 10:15am Description of Breakout Sessions by Guest Facilitators:  
*Ke‘eaumoku Kapu: Genealogy of lands*  
*Andrew Sprenger: Trust planning and legal protections*  
*Kamana‘opono Crabbe: Ho‘oponopono*
- 10:15am – 11:00am Breakout Session #1
- 11:00am – 11:15am Break
- 11:15am – 12:00pm Breakout Session #2
- 12:00pm – 12:30pm Large group discussion and reflection
- 12:30pm – Pau Lunch and questions for speakers

**KĪPUKA KULEANA**



A 501(c)(3) Hawai‘i nonprofit organization and  
community land trust on Kaua‘i



[admin@kipukakuleana.org](mailto:admin@kipukakuleana.org)  
[www.kipukakuleana.org](http://www.kipukakuleana.org)

**MISSION:** Perpetuating kuleana, ahupua‘a-based natural resource management and connection to place through protection of cultural landscapes and family lands.

**VISION:** Long-time families continue to live in, share the practices and history of, and care for every ahupua‘a on Kaua‘i.

**HŌ‘AHU LANDS FUND** (*Hō‘ahu: To set aside for the future*): Protecting vulnerable lands for future generations. Learn more: [www.kipukakuleana.org/hoahu](http://www.kipukakuleana.org/hoahu)



## **FACILITATOR: ANDREW B. SPRENGER**

Andrew B. Sprenger is the principal attorney of Kaneohe Lawyer LLLC. Mr. Sprenger has been practicing law since 1990 and is licensed in the States of Hawai'i, California and New Mexico. He is also a licensed attorney for the Navajo Nation and the Federated States of Micronesia courts.

Prior to forming Kaneohe Lawyer LLLC, Mr. Sprenger served as a staff attorney for the Native Hawaiian Legal Corporation for 10 years concentrating on Native Hawaiian land title matters, partition actions, kuleana access rights and federal civil rights protection for traditional and customary practices.

In the past, Mr. Sprenger has also served as a staff attorney for Micronesia Legal Services Corporation providing free legal services to low-income families on the Island of Pohnpei, FSM. He has also served as a staff attorney for DNA-People's Legal Services representing the people of the Navajo Nation in litigation matters. Mr. Sprenger also had the privilege of working as a staff attorney for U.S. Court of Appeals for the Ninth Circuit where he assisted Circuit Judges with reviewing civil rights, habeas corpus and environment protection appeals

## **About Kaneohe Lawyer LLLC**

Kaneohe Lawyer LLLC is a law firm with the experience needed to help families whose land is threatened by:

- A Quiet title lawsuit
- A Partition lawsuit
- Breaks in title history
- Liens or illegal encumbrances on title
- Permanent trespassers
- Mismanagement of co-owners
- Neighbors blocking vehicular or utilities access
- Notice of Cancellation of Hawaiian Home Lands Lease
- Real Property Tax foreclosure sales
- Unreasonable government restrictions on traditional and customary uses

To schedule a free consultation with Kaneohe Lawyer LLLC, complete the online contact form:

<https://www.kaneohelawyer.com/contact/> or call (808) 206-6292

## **FACILITATOR: KAMANA'OPONO M. CRABBE, PH.D.**

Uplifting the *mana* and *mauli ola* of the Hawaiian community through transformation and indigenous excellence are pillars of Dr. Kamana'opono M. Crabbe's leadership values. He serves his community as a *ho'oponopono* practitioner, skilled chanter and orator, and *'aha 'awa* ceremony and protocol expert. In 2006, he established the nonprofit organization, 'Aha Kāne: Foundation for the Advancement of Native Hawaiian Males. He earned his doctorate in clinical psychology from the University of Hawai'i at Mānoa and served countless families, youth and communities as a licensed clinical psychologist for over 12 years. He is guided by this ancient Hawaiian proverb knowing that every good leader needs a strong foundation for their work and vision, *Ke kahu mamua, mahope ke kūkulu*. The foundation first, the building afterwards. (Pukui, 1983, #2459).

He is a seasoned spokesperson and representative for the Native Hawaiian community on Native Hawaiian rights, social inequities, community health and resilience, and current social, cultural, educational, economic and political issues affecting Native Hawaiians, Hawai'i and the Pacific. His executive leadership is demonstrated through civic positions serving on the Hawai'i Executive Conference Advisory Board; Executive Committee of the Assembly of Austronesian Leaders; IUCN World Conservation Congress, Steering Committee Member; Former President and Member of Nā Limahana O Lonopūhā Native Hawaiian Health Consortium; and The Native Hawaiian Criminal Justice Task Force as Vice Chair. He was the Director of Psychology Training at the Wai'anae Coast Comprehensive Health Center from 2008-2010. In 2010, he joined the Office of Hawaiian Affairs (OHA) as its Research Director, focusing on socio-demographic, land, culture, and history, and educational and economic research where he began some of Hawai'i's most innovative projects. In March 2012, Dr. Crabbe was appointed to Chief Executive Officer for OHA, a semi-autonomous government agency whose charge is to empower Native Hawaiians and strengthen Hawai'i. As OHA's *Ka Pouhana*, the main post of the *hale*, he grounded the organization in *Kūkulu Hou* – his vision to reestablish and rebuild the *mana* of *kānaka maoli*, Native Hawaiians. He also served as OHA's International Liaison to the Polynesian Leader's Group, an international governmental cooperation group bringing together eight independent or self-governing countries or territories in Polynesia (2013-2019).

From 2019-2021 he served as *Ka Pouhana*-CEO for the Kohala Institute at 'Iole where he led the organization on a new vision to "be a world leader in sustainable thinking through a model 21<sup>st</sup> century ahupua'a, where land is chief and man is steward." The organization strived to build a foundation of indigenous, Native Hawaiian ancestral knowledge and wisdom grounded in the stewardship of 2,400 acres of cultural, natural-environmental, and elemental assets and resources using the ancient ahupua'a-moku land system structure, cultural place-based educational programs, and a pu'uhonua sanctuary as the nexus of culture and sustainability in Kohala, Hawai'i island. Currently, he is the *Ka Pouhana*-CEO for *Pouhana Consultation Services* specializing in executive leadership, strategic planning and management, organizational culture, and the integration of Hawaiian cultural in organizations.

His awards include the World Indigenous Peoples Conference on Education Leadership Award, Council for Native Hawaiian Advancement's Native Hawaiian Advocate Award, the Hawai'i Psychological Association's Patrick H. DeLeon, Ph.D. Lifetime Achievement Award, and American Psychological Association's Minority Fellowship Program Predoctoral Fellowship, among others.

# KĪPUKA KULEANA



## **FACILITATOR: KE'EAUMOKU KAPU**

- Member and Council to Na Papa Kanaka O Pu'ukohola Heiau, National Park, Hawaii Island, 1992 - present
- Member of the National Association for Interpretation, 1994 - present
- POHAI O KAMEHAMEHA, Member March 11, 2001
- Cultural Consultant for the Friends of Moku'ula and present the ROE holder to Maluuluolele/Moku'ula
- 501 c3 Organization, Hui O Wa'a Kaulua, Voyaging academy from 2001 to 2010
- State of Hawaii Maui Lana'i Island Burial council. Appointment to a full 8-year term from 2005-2013
- Vice chairperson from 2004, to 2008, to a 5-year term of office with the Maui County Cultural Resources, Commission County of Maui
- Director and founder of Kuleana Ku'ikahi LLC, Organization formed to educate public awareness through the Protection of Historic sites, Properties and Environment, 2001-present.
- Cultural Advisor and founder to H.O.E.A. Inc. Hawaiian Outreach Economic Association Inc. The Revitalization of Ancient Fishponds, Sites, reconstruction of Pi'ilani Auwai (Traditional Waterways) and at this moment restoring Earthquake damage at Pu'ukohola Heiau Kawaehae Hawaii National Parks. 2006 to present.
- Currently serving on The Native Hawaiian Historic Preservation Council for Lahaina District as chairperson to the Office of Hawaiian Affairs. Appointed 2006 to 2015
- Served as an advisory council to West Pacific Fisheries Management Council (WESPAC) from 2007 to 2016
- President of Hui Aloha Aina O Maluulu o lele Lahaina the Patriotic league 2019 - present
- President of Na'aikane O Maui cultural and research center formed in 2011 - present.
- The Hawaii supreme court handed a victory to Ke'eaumoku Kapu and his family regarding the kuleana parcel that his house sits on in Kaua'ula valley Lahaina Maui on November 28, 2022. <https://www.civilbeat.org/2022/12/how-one-hawaiian-family-battled-in-court-for-20-years-to-reclaim-ancestral-land/>

## **Supreme Court Hands Win to Kauaala Valley Kuleana Family**

LAHAINA, Maui -- The Hawai'i Supreme Court yesterday handed a victory to Ke'eaumoku Kapu and his family regarding the kuleana parcel that his house sits on.

In 2009, West Maui Land subsidiary, Makila Land, filed suit in Maui Circuit Court claiming that it was the true owner of the parcel known by the name of its Land Commission awardee, Olala.

In 2012, the Maui Circuit Court ruled in Makila Land's favor and Kapu appealed. In 2016, the appeals court vacated the circuit court's decision and sent it back for further proceedings.

In 2017, without notice to the Kapu family, Makila Land sought summary judgment which the Maui Circuit Court granted, without the Kapu family in attendance. The following month, Kapu learned of the decision from Makila Land attorneys and requested the circuit court reopen the matter and allow him a hearing. Retired Judge Rhonda Loo denied the request.

Kapu appealed again. In 2019, the appeals court affirmed Judge Loo. Kapu sought the Supreme Court's review. It granted the review and held oral arguments in September, 2019.

The Supreme Court vacated Judge Loo's 2017 decision and also the 2016 decision of the appeals court. In its opinion, Supreme Court states the Circuit Court not only erred but also abused its discretion in denying Kapu's request for a hearing. In effect, Judge Loo's decision interfered with the fair

dispensation of justice. The case will now return to the circuit court for the parties to begin from the start for each side to prove their superior claim of title.

Kapu was represented by Daniel Gluck as part of the Appellate Pro Bono Program.

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Contact: Ke'eaumoku Kapu

808-298-5639

<https://www.civilbeat.org/2022/12/how-one-hawaiian-family-battled-in-court-for-20-years-to-reclaim-ancestral-land/>



[Maui](#)

## How One Hawaiian Family Battled In Court For 20 Years To Reclaim Ancestral Land

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In Kauaula Valley, one family is working to show others what it takes to reclaim ancestral lands.

By [Marina Starleaf Riker](#) / December 30, 2022

Reading time: 11 minutes.

Back then, Ke'eaumoku Kapu worried about his father.

He wondered if he might be drinking too much. At the time, they were both living on Oahu. Kapu was a young man in his 20s working in construction building highways. His father, Paul Kapu, was living in an apartment in Waikiki.

Paul wouldn't stop talking about a dream he kept having, of a woman telling him it was time to come home. The home in the dream was their family's ancestral land deep in the Kauaula Valley. Nestled high above Launiupoko in West Maui, it's where he grew up as a child, in an area where a powerful plantation had taken over massive swaths of land to grow sugarcane for more

than a century. He left as a teenager, joined the U.S. Marine Corps, and never returned.



Taro patches in the Kaua'ula Valley this summer, before a wildfire scorched the area.

But by the 1990s, Paul felt a pull to go back that was too strong to ignore.

So Kapu, his father and family members flew to Maui, drove to the west side of the island and traveled up a long dirt road deep in the valley. They planned to camp. At the time, everything was so overgrown they couldn't make out what had been there before.

But his father remembered. He vanished into the brush and pulled out an old poi pounder.

"Dad, you're home," Kapu remembers telling his father.

And so began the family's decades-long journey to reclaim their ancestral land, one that's still unfolding today. Almost 170 years ago, Kapu's ancestors were awarded the land to live on, care for and farm during the Great Mahele, the 19th century land division that for the first time in history allowed private property ownership in Hawaii. But like an untold number of families, they lost

hold of land in the century that followed, forced to seek work in the cities or displaced when plantations moved in and sucked up stream water that once fed flourishing taro patches.



The Kapus now live on ancestral lands in Kaua'ula Valley on Maui.

There were also legal methods large landowners used for decades to gobble up acreage. A landowner could go to court to ask a judge to resolve any disputes over ownership, sometimes forcing the sale of a property to the highest bidder. In other instances, they could argue they held onto a property with a questionable title long enough that it became theirs — which, until the 1970s, was 10 years.

Even after the plantation era came to an end, and laws were strengthened to prevent such losses, the practice was used to buy up land for development or estates. In recent years, for example, [Facebook founder Mark Zuckerberg drew public outrage when he tried to use the quiet title process](#) to force the sale of land on Kauai so it would go to a public auction.

It's a similar legal process the Kapus have fought in Kaua'ula Valley for the last two decades. Pioneer Mill, the sugar plantation, sold its land to a development company that planned to pave the way for subdivisions of luxury estates complete with pools and lush green lawns. The Kapus, however, have

asserted in a number of court cases that some of the parcels that Pioneer Mill sold to West Maui Land were never rightfully the company's to sell.

Peter Martin, a developer and top executive of West Maui Land, was not available for an interview. In 2019, [he told the Maui News that he inherited the problem](#) and that he addresses ownership disputes through the legal system.



West Maui Land paved the way for development on large areas of land.

Throughout the early 2000s, West Maui Land filed lawsuits to clear up disputes over the property transferred from Pioneer Mill in Kauaula. The Kapus fought back.

In 2017, they won [their first major legal victory](#) when a jury ruled that Kapu's family owned the entirety of a 3.4 acre parcel that had been awarded to his family more than a century and a half earlier. His attorneys, Lance Collins and Bianca Isaki, proved that Pioneer Mill had acquired the deed to the property in the 1890s by a person the family didn't know — and who didn't actually exist.

Then last month, the Hawaii Supreme Court handed down what Kapu sees as another win in the fight for a parcel neighboring the one he already owns, on which he built his father's home years ago. The justices said that a lower court was wrong when it initially sided with West Maui Land during a hearing years ago that Kapu didn't know about because his first attorney, Richard McCarty,

had died. The ruling also said that the lower court abused its power when it denied Kapu's request for a hearing when he was representing himself without an attorney.

Now, West Maui Land must start the entire process over again if it wants to continue the fight over ownership in court.



The road leading to Kauaula Valley, which was burned by a fire in November.

## 'A Legacy'

For centuries, land has been viewed as a shared and sacred resource for Native Hawaiians, a member of the ohana that must be cared for, according to a [legal primer created by the University of Hawaii's Ka Huli Ao Center for Excellence in Native Hawaiian Law](#).

Historically, land was held by the sovereign for the benefit of all people, but that changed during the Mahele, which has been called the "[the single most important event in the history of land title](#)" in Hawaii. It also paved the way for Native Hawaiians to claim a house lot and land that they were cultivating — known as a kuleana award. But [fewer than 30%](#) of Native Hawaiian men

received those awards. In total, those lands made up 28,658 acres, less than 1% of Hawaii's land area, [according to the UH legal primer](#).

After the illegal overthrow of the monarchy, many Hawaiian families continued to lose property, for reasons ranging from the lack of a will outlining inheritance to the fact that after parcels were leased to sugar plantations they “changed so much in appearance that they literally could not be found,” [according to the primer](#). Plantations also acquired land through quiet title, a legal process in which someone asks a court to clear up any issues that arise through title transfers.



Families for generations have grown taro in the Kaua'ula Valley.

For example, a number of siblings might have owned a family parcel they inherited from their parents without a will, and then one of the brothers transferred his interest to someone else — except the brother, legally, could only transfer his share of the ownership, not the entirety of the property. If that mistake wasn't caught until decades later, there might be dozens of heirs who can trace back their ownership claims to the siblings who never gave up their rights to that property.

“When most people buy their houses, they have title insurance, and they probably don’t even know why they have title insurance,” said Lance Collins, one of Kapu’s attorneys. “And that’s specifically for this issue.”

In Hawaii, however, that quiet title process was often used by large landowners to take over property because they automatically won if no one else showed up in court. Plantations were also able to claim land through adverse possession — holding onto land with a questionable deed until it was legally deemed theirs. The practice that was so widespread that the Hawaii Constitution was amended in 1978 so that landowners could only take 5 acres at a time — and only once every 20 years. That change was also part of the reason why, in the decades that followed, Kapu’s father wanted to return home.



Ke’eaumoku Kapu stands in front of the home he built for his father.

Pioneer Mill still controlled the land when Kapu and his family arrived there in the late 1990s. Kapu said the plantation worked with them. Its employees gave his family keys to the gates blocking the property, and the Kapus started notifying the state, county and even the U.S. census they were living there. The family built a small home, in the footprint where their house once stood generations earlier.

In 2001, West Maui Land purchased the deeds from Pioneer Mill. Soon after, West Maui Land filed a quiet title action on a 3.4 acre parcel at the top of the valley where the Kapus were living. On that parcel was a large pipeline carrying [stream water down into the valley](#) — a piece of infrastructure that the development company needed for the water system to supply the planned developments below.



Kapu said the water pipe supplying subdivisions below runs through his property.

“It’s all about business as usual,” Kapu said about West Maui Land. “If Pioneer Mill got away with it, then we’re going to get away with it, too.”

But after a nearly [20-year court battle](#), Kapu won the 3.4 acres. It was one of three main land disputes that the Kapus have been involved with West Maui Land, according to attorneys involved in the lawsuits. One is the case the Hawaii Supreme Court issued a decision on last month; the other is also waiting to be heard by the court.

From Kapu's attorney's perspective, the court proceedings have shown that it's possible to work to correct the wrongs of the past — in the Kapu's case, going all the way back to the 1890s, when Pioneer Mill took the deed.

“Because you can only sell what you have,” Collins said.

What's unfolded in Kauaula has also increased public awareness about the issues that can arise with the transfers of titles.

A couple of years ago, West Maui's council member Tamara Paltin said she began receiving calls from a citizen on the other side of the island about concerns over displacement because of title disputes. In response, she asked the Maui Police Department to articulate its policy on responding to such issues. The department said land ownership is a civil, not criminal, issue. If officers can't determine the legal owner while on scene, they have no right to remove anyone from the property, according to MPD policy.

In her West Maui district, she's watched over the years as families have lost land battles. And while the court battles continue over lands planned for development, Paltin said more issues have arisen — like whether [the region even has enough water](#) to supply the new homes.

“Just give the people back their land,” Paltin said.

After his legal victories, Kapu is now using his experience to help teach others about the court processes that for a long time shut many people out. He's taught over 20 workshops across the islands to show people how to trace their genealogy and collect the government documents like birth, death and marriage certificates needed to prove lineage in a court. Most of the time, this isn't so they can go reclaim property, but so they can prove they qualify for Hawaiian homelands or admission to Kamehameha Schools, Kapu said.



Ke'eaumoku Kapu said he came back to care for the land, where his ancestors are buried in the Kauaula Valley.

Looking back, Kapu said, he never imagined that he'd spend years studying court decisions and a century's worth of government records to reclaim land. It's all because of his father, he said, who was able to spend the last two decades of his life restoring his ancestors' taro patches and rebuilding the family homestead. Paul died in 2019.

But the fight continues, Kapu said. In his view, it's all worth it — not because of the wins in court, but because it might give hope to other families who would've otherwise given up on going back to the lands where their ancestors once lived.

“There's a legacy, a story to be told,” Kapu said. “And hopefully that gives a lot of families the strength and courage to go forward.”