

DEPARTMENT OF THE CORPORATION COUNSEL 205

LAND USE COMMISSION
STATE OF HAWAII

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Attorneys for COUNTY OF MAUI;
COUNTY OF MAUI PLANNING COMMISSION;
COUNTY OF MAUI DEPARTMENT OF
PLANNING; and WILLIAM SPENCE AS
PLANNING DIRECTOR

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Petition of: MAUI
LANI NEIGHBORS, INC., for Declaratory
Order under §§ 15-15-98 *et seq.* of the Land
Use Commission Rules and Hawai'i Revised
Statutes § 91-8

DOCKET No. DR 14-51

THE COUNTY OF MAUI, COUNTY OF
MAUI PLANNING COMMISSION,
COUNTY OF MAUI DEPARTMENT OF
PLANNING, AND WILLIAM SPENCE AS
PLANNING DIRECTOR'S RESPONSE
TO MAUI LANI NEIGHBORS'
OPPOSITION TO COUNTY PETITION
TO INTERVENE; CERTIFICATE OF
SERVICE

**THE COUNTY OF MAUI'S RESPONSE TO MAUI LANI NEIGHBORS'
OPPOSITION TO COUNTY PETITION TO INTERVENE**

COMES NOW, County of Maui, County of Maui Planning Commission, County of Maui
Department of Planning, and William Spence in his official capacity as the County of Maui
Planning Director, ("County") by and through its attorneys, Patrick K. Wong, Corporation
Counsel, and Kristin K. Tarnstrom and Richard B. Rost, Deputies Corporation Counsel, hereby

submit this Response to Maui Lani Neighbors' Objection to County Petition to Intervene in the above-captioned action.

Petitioner Maui Lani Neighbors (MLN) does not state any grounds to deny the County's petition. First, they cite to Hawaii Administrative Rule (HAR) § 15-15-52(d) for the proposition that the County should not be admitted because its admittance will cause unmanageable proceedings and duplicitous evidence. *See* MLN Opposition, p. 2. This rule is inapposite: (1) it is a rule for proceedings regarding a district boundary amendment only; (2) this rule explicitly calls for admitting the County Planning Department in such a proceeding (*see* HAR 15-15-52(a) ("the planning department of the county within which the subject land is situated shall appear in every case as parties, and make recommendations...")); and (3) it permits intervention of "all county departments and agencies of the State and of the county in which the land is situated" (*see* HAR § 15-15-52(c)). Additionally, MLN makes the bald assumption that the County and the State Department of Land and Natural Resources (State DLNR) positions are "exactly the same," simply because they both noted support for the park itself. *See* MLN Opposition, p. 2. The State and County interests in this action are clearly distinct.

Additionally, MLN confuses the County's taking a position and being biased. The County has been informed of MLN's allegations against the State Department of Land and Natural Resources (State DLNR) for some time. *See* Exhibit A to MLN Opposition. As MLN reveals in Exhibit A, on September 8, 2014, they demanded review of the Land Use Commission's Decision & Order (LUC D&O) as it applied to the State's development of the property in question. *Id.* After consideration of the D&O's terms as it applied to the property, the Planning Department found no violations, and informed MLN on its requested response date of September 15, 2014. *See* Exhibit B to MLN Opposition. Simply because the County Planning Department submitted a

concise statement of its position, both then and now, does not warrant an allegation that it has not conducted the requisite analysis. Nor does it warrant an allegation of bias simply because it has taken a position contrary to MLN's.

The County petitions for a seat at the table in this action because it must enforce any decision made; it holds an inherent interest in the interpretation of the LUC D&O on both this and precedential grounds; and finally it believes it can be of assistance to the commission as it reviews MLN's Petition. The County therefore respectfully reiterates its request to be a party in this action.

DATED: Wailuku, Maui, Hawaii, November 12, 2014.

PATRICK K. WONG
Corporation Counsel
Attorneys for COUNTY OF MAUI

By: _____


KRISTIN K. TARNSTROM
RICHARD B. ROST
Deputies Corporation Counsel

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CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this date a true and correct copy of the foregoing document, the County of Maui, County of Maui Planning Commission, County of Maui Department of Planning, and William Spence as Planning Director's Response to Maui Lani Neighbors' Opposition to County Petition to Intervene was duly served upon the following individuals as follows:

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STATE OF HAWAI'I, STATE OF HAWAI'I
DEPARTMENT OF LAND AND NATURAL
RESOURCES, STATE OF HAWAI'I BOARD
OF LAND AND NATURAL RESOURCES; and
WILLIAM AILA, JR. AS CHAIR.

DATED: Wailuku, Maui, Hawaii, November 12, 2014.

PATRICK K. WONG
Corporation Counsel
Attorneys for COUNTY OF MAUI

By: 
KRISTIN K. TARNSTROM
RICHARD B. ROST
Deputies Corporation Counsel