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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 Hawaii'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 PETITION TO
INTERVENE; CERTIFICATE OF
SERVICE

**THE COUNTY OF MAUI, COUNTY OF MAUI PLANNING COMMISSION, COUNTY
OF MAUI DEPARTMENT OF PLANNING, AND WILLIAM SPENCE AS PLANNING
DIRECTOR'S 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 Petition to Intervene in the above-captioned action. This petition is submitted pursuant
to Hawaii Administrative Rule (HAR) Chapter 15 and sections 15-15-37, 15-15-52, and 15-15-53.

On September 2, 2014, Maui Lani Neighbors, Inc. (“MLN”) filed a civil action in the Second Circuit Court, challenging the State Department of Land and Natural Resources’ (“State DLNR”) development of a central Maui public park containing softball, baseball, and soccer fields. *See* Appendix A to MLN Petition. MLN allege standing to sue the State DLNR as neighbors to the park property. *Id.*, ¶¶19-25. Members of MLN also allege grievances associated with development and operation of the park, including increased traffic, increased noise, and loss of quiet enjoyment of their homes. MLN have fashioned multiple legal arguments to stop the State’s building of the park, including challenging the processing and issuance of a County Special Use Permit by the County of Maui Department of Planning and the County of Maui Planning Commission, respectively. *Id.*, ¶¶140-292. While the Circuit Court action was in its very initial phases, on October 6, 2014, MLN filed the instant action with the Land Use Commission (“LUC”) for a Petition for Declaratory Order.

MLN’s allegations that invoke the LUC’s jurisdiction are the same in both the Circuit Court action and the instant petition. MLN alleges that in developing this park, the State DLNR is in violation of five (5) conditions of the LUC’s Decision and Order issued on June 21, 2012 in Docket No. A10-789 (“LUC D&O”). *See* Appendix B to MLN Petition. The LUC D&O is a lengthy order which ultimately granted the district boundary amendment sought by Alexander & Baldwin as a necessary step to achieve the proper entitlements to build their master planned community, “Wai’ale.” *Id.* The park in question was partly-imagined, and the land was wholly encompassed, in the Wai’ale master plan when the LUC D&O was issued. The park land has since been separately purchased by the State DLNR. The State DLNR, Petitioner MLN, and the County now dispute the applicability of what, if any, of the LUC D&O terms and conditions relate to and require action on the state-owned park land, as opposed to the master Wai’ale development.

Given this context-specific review, and honoring the special expertise of the Land Use Commission, the Circuit Court issued an order in open court on October 15, 2014 staying the Circuit Court action until the LUC reaches a decision on whether the State DLNR is in violation of its Decision and Order. Under these circumstances, the County seeks to intervene in the above-captioned petition, currently scheduled to be considered at the November 19-20, 2014 LUC meeting in Maui. The decision of the LUC could greatly influence the parties' and the Court's posture in the Circuit Court action, and the County seeks to intervene so that it may have its voice heard in this potentially pivotal hearing. Additionally, the County has an interest in the building of this park; it is likely to be handed over to the County for operation and management, and the public will greatly benefit from the additional open-air playing fields and park grounds that the park will provide to the growing population center of Maui.

Finally, if the LUC finds a breach of any condition of the D&O, the County of Maui Department of Planning must enforce such a finding under existing law. *See* HRS §205-12. The County of Maui Planning Department, William Spence as Director, and the Planning Commission all hold an interest in proper interpretation and analysis of the underlying LUC D&O, and alternatively and/or additionally seek to intervene on these grounds. The County also requests that if a hearing on the petition is ordered, it be set with enough time for the parties to prepare for a thorough presentation.

DATED: Wailuku, Maui, Hawaii, October 22, 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 Petition to Intervene was duly served upon the following individuals as follows:

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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, October 22, 2014.

PATRICK K. WONG
Corporation Counsel
Attorneys for COUNTY OF MAUI

By: 

KRISTIN K. TARNSTROM
RICHARD B. ROST
Deputies Corporation Counsel