

CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

ASB TOWER, SUITE 2100
1001 BISHOP STREET
HONOLULU, HAWAII 96813
TELEPHONE 808.523.2500 FAX 808.523.0842
WWW.CARLSMITH.COM

DIRECT DIAL NO.
808.523.2557

JLIM@CARLSMITH.COM

LAND USE COMMISSION
STATE OF HAWAII
2015 NOV 17 A 11:06
OUR REFERENCE NO.:
063792-0001

November 17, 2015

VIA HAND DELIVERY

Daniel Orodener
Executive Officer
Land Use Commission, State of Hawai'i
State Office Tower
Leiopapa A Kamehameha Building
235 South Beretania Street, Room 406
Honolulu, Hawai'i 96813

Edmund Aczon, Chair and Members of the
Land Use Commission, State of Hawai'i
State Office Tower
Leiopapa A Kamehameha Building
235 South Beretania Street, Room 406
Honolulu, Hawai'i 96813

Re: LUC Docket A10-786 Final Environmental Impact Statement for the Proposed
Olowalu Town Master Plan

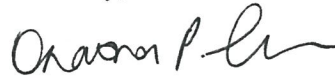
Dear Chair Aczon, Executive Officer Orodener and Members of the Commission:

We represent Olowalu Town LLC, a Hawai'i limited liability company, and Olowalu Ekolu LLC, a Hawai'i limited liability company (collectively "**Petitioner**"). On October 26, 2015, Petitioner filed with the Commission the Final Environmental Impact Statement for the Proposed Olowalu Town Master Plan ("**FEIS**"), prepared by Munekiyo Hiraga. Petitioner inadvertently omitted the last page of the 16-page draft EIS comment letter received by Maui Tomorrow, dated April 23, 2012. *See* FEIS Vol. III. Page 16 of the Maui Tomorrow comment letter contains the signature of Ms. Irene Bowie, former Executive Director of Maui Tomorrow, and seven lines of substantive text. Attached hereto as **Exhibit 1** is a copy of page 16 of the Maui Tomorrow comment letter. The substantive text from page 16 of the Maui Tomorrow letter was fully reproduced in Petitioner's response letter dated October 26, 2015, a copy of which was included in the FEIS (*see* FEIS Vol. III), and mailed to Maui Tomorrow on October 26, 2015. Attached hereto as **Exhibit 2** is a copy of the relevant portions of Petitioner's October 26, 2015 response to Maui Tomorrow, which reproduces verbatim the Maui Tomorrow letter.

Daniel Orodener
Edmund Aczon, Chair and Members of the Land Use Commission, State of Hawai'i
November 17, 2015
Page 2

If you have any questions, please feel free to contact me at 808-523-2557 or by email at jlim@carlsmith.com or my secretary Jeannie Hirabara at 808-523-2683 or by email at jhirabara@carlsmith.com.

Sincerely,



Jennifer A. Lim
Onaona P. Thoene

JAB1/PPT

Enclosure(s)

cc: Leo R. Asuncion, State of Hawai'i, Office of Planning
Bryan C. Yee, Esq., Deputy Attorney General
William Spence, County of Maui, Department of Planning
Patrick Wong, Esq./Michael Hopper, Esq., Department of Corporation Counsel, Maui
County
Exhibits 1 – 2

4827-4807-8891.1.063792-00001

analysis shall be sufficiently detailed to allow the comparative evaluation of the environmental benefits, costs, and risks of the proposed action and each reasonable alternative. For any agency actions, the discussion of alternatives shall include, where relevant, those alternatives not within the existing authority of the agency."

The DEIS dismisses the idea that the project could have secondary and cumulative impacts even though the project proposes urbanizing an area that last had a significant population several hundred years ago. We ask that the LUC find the project's DEIS incomplete.

Mahalo for the opportunity to comment.

Irene Bowie

Irene Bowie
Executive Director

Cc:

Applicant: Olowalu Town, LLC and Olowalu Ekolu, LLC bill@fwmaui.com

Consultant: Munekiyo & Hiraga, Inc. colleen@mhplanning.com

Director, Planning Department william.spence@mauicounty.gov

Hawaii State Office of Environmental Quality oeqc@doh.hawaii.gov

55 N. Church St. Ste. A5, Wailuku, HI 96793 808.244.7570 director@maui-tomorrow.org

advisory groups who reviewed the project for inclusion in the Maui Island Plan, (MIP) yet repeatedly refers to the fact that both bodies recommended the project be included in the MIP growth boundaries.

Response:

Preparation of the EIS includes review of your cited documents, as well as available reports by other researchers to address your comments. We recognize the HRS Chapter 343 review as a process which involves revisions to the Draft EIS to address comments received. In this regard, we believe that the Final EIS has been prepared in accordance with the criteria for an EIS pursuant to HAR 11-200-16. Furthermore, the content requirements for a Draft EIS under HAR Section 11-200-17 have been met.

We have noted that the Draft EIS may not be in alignment with the West Maui Community Plan and that a Community Plan Amendment will be required to address the recently adopted MIP. As you know, the MIP has been adopted by the County of Maui and portions of the OTMP is within the UGB and RGB. Importantly, the MIP states that "the future delineation of potential urban growth areas makai of the existing Honoapiilani Highway may be undertaken in conjunction with updates or amendments to the West Maui Community Plan".

Comment No. 65:

The Olowalu Town DEIS does not review, describe, or consider any meaningful alternative design, density or configurations for the project that could reduce its environmental impacts.

Such alternatives could include:

- *A smaller project footprint and unit-count to avoid impacts to groundwater supplies*
- *Deletion of development areas maikai of the current Honoapiilani Hwy (as recommended by the Maui Planning Commission and adopted in their MIP map)*
- *Project redesign to avoid development in low lying regions along the existing highway.*
- *Minimizing urban elements of the project into a smaller footprint*
- *5. Proposing a similar project design in a more inland location*

Because the DAR does not discuss any of these alternatives it does not comply with disclosure and discussion standards required under HAR 11-200-17: "The draft EIS shall describe in a separate and distinct section alternatives which could attain the objectives of the action, regardless of cost, in sufficient detail to explain why they were rejected. The section shall include a rigorous exploration and objective evaluation of the

environmental impacts of all such alternative actions. Particular attention shall be given to alternatives that might enhance environmental quality or avoid, reduce, or minimize some or all of the adverse environmental effects, costs, and risks” including alternatives related to different design or details of the proposed actions which would present different environmental impacts. In each case, the analysis shall be sufficiently detailed to allow the comparative evaluation of the environmental benefits, costs, and risks of the proposed action and each reasonable alternative. For any agency actions, the discussion of alternatives shall include, where relevant, those alternatives not within the existing authority of the agency.”

Response:

The proposed OTMP is a refinement of the preferred alternative reached during a community-based planning effort that reviewed numerous alternatives in the context of the principles of “Smart Growth”. The participants of “Olowalu Talk Story” during the community-based planning effort considered suggested alternatives for a smaller unit count, deletion of the areas makai of Honoapiilani Highway, avoidance of environmentally sensitive areas and consideration of a more mauka location. The various alternatives were evaluated by the participants in relationship to the historic, cultural and environmental constraints of Olowalu. The various alternatives were refined into the OTMP included in the Draft EIS.

The planning process undertaken by Olowalu Town, LLC and Olowalu Ekolu, LLC involved an extensive evaluation of alternatives. As noted previously, the OTMP in the Draft EIS is a refinement of these alternatives and have been evaluated in the Draft EIS.

The MIP Alternative, which addresses lands mauka of the existing Honoapiilani Highway, meets your request for 1) a smaller footprint, 2) delete development makai of Honoapiilani Highway, 3) avoid development in low lying regions and 4) propose a more inland location. The MIP Alternative will be included in the Final EIS. As such, the EIS discussion of Alternatives meet the standards under HAR 11-200-17. See **Exhibit “12”**.

Comment No. 66:

The DEIS dismisses the idea that the project could have secondary and cumulative impacts even though the project proposes urbanizing an area that last had a significant population several hundred years ago. We ask that the LUC find the project’s DEIS incomplete.

Response:

As noted previously, Chapter 343 HRS defines a process which involves revisions to the Draft EIS to address comments received. As required, the Draft EIS contained a discussion on cumulative and secondary impacts. That discussion has been expanded in the Final EIS, which addresses foreseeable secondary and cumulative impacts. See **Exhibit "13"**.

Thank you for your participation in the Chapter 343, Hawaii Revised Statutes review process. A copy of your letter and this response letter will be included in the Final EIS. Should you wish to receive a copy of the Final EIS document or portion thereof, please submit your request in writing to Munekiyo Hiraga at 305 High Street, Suite 104, Wailuku, Hawaii 96793 (Attention: Colleen Suyama).

Very truly yours,



William Frampton
Olowalu Town LLC



David Ward
Olowalu Town LLC

WF:DW

Enclosures

cc: Peter Martin, Olowalu Ekolu, LLC
Tom Nance, Water Resource Engineer
Craig Lekven, Brown & Caldwell
Steven Dollar, Marine Research Consultants, Inc.
Stacy Otomo, Otomo Engineering, Inc.
Roger Dyar, Transportation Engineer
Jennifer Lim, Carlsmith Ball, LLP
Colleen Suyama, Munekiyo Hiraga