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Attorney for Intervenor  
 COLLEEN HANABUSA

2017 FEB 23 PM 12: 36  
 DEPT OF PLANNING  
 AND PERMITTING  
 CITY & COUNTY OF HONOLULU

BEFORE THE PLANNING COMMISSION  
 OF THE CITY AND COUNTY OF HONOLULU  
 STATE OF HAWAII

<p>In the Matter of the Application of</p>	)	<p>FILE NO. 2008/SUP2</p>
	)	
<p>DEPARTMENT OF ENVIRONMENTAL SERVICES, CITY AND COUNTY OF HONOLULU</p>	)	<p>INTERVENOR COLLEEN HANABUSA'S MEMORANDUM IN OPPOSITION TO DEPARTMENT OF ENVIRONMENTAL SERVICES, CITY AND COUNTY OF HONOLULU'S MOTION TO STRIKE INTERVENOR COLLEEN HANABUSA'S (1) RENEWAL OF SUBMISSION OF PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW, FILED ON FEBRUARY 17, 2017; and CERTIFICATE OF SERVICE</p>
<p>For a New Special Use Permit to Supersede Existing Special Use Permit to Allow a 92.5 Acre Expansion and Time Extension for Waimanalo Gulch Sanitary Landfill, Waimanalo Gulch, Oahu, Hawai'i, Tax Map Key: 9-2-03: 72 1nd 73</p>	)	
<p>_____</p> <p>In the Matter of the Application of</p>	)	
<p>DEPARTMENT OF ENVIRONMENTAL SERVICES, CITY AND COUNTY OF HONOLULU</p>	)	
<p>To Delete Condition No. 14 of Special Use Permit No. 2008/SUP-2 (also referred to as Land Use Commission Docket No. SP09-403) which states as follows:</p>	)	
<p>"14. Municipal solid waste shall be allowed at the WGSL up to July 31, 2012, provided that only ash and residue from H-POWER shall be allowed at the WGSL after July 31, 2012."</p>	)	
<p>_____</p>	)	

INTERVENOR COLLEEN HANABUSA'S MEMORANDUM IN OPPOSITION TO  
DEPARTMENT OF ENVIRONMENTAL SERVICES, CITY AND COUNTY OF  
HONOLULU'S MOTION TO STRIKE INTERVENOR COLLEEN HANABUSA'S (1)  
RENEWAL OF SUBMISSION OF PROPOSED FINDINGS OF FACT AND  
CONCLUSIONS OF LAW, FILED ON FEBRUARY 17, 2017

In response to the Department of Environmental Services, City and County of Honolulu's Motion to Strike Intervenor Colleen Hanabusa's (1) Renewal of Submission of Proposed Findings of Fact and Conclusions of Law, Filed on February 17, 2017 (City Environmental Services' Motion), Intervenor Colleen Hanabusa would like to first of all ask the City Planning Commission to take judicial notice that July 17, 2009, the date on which Intervenor Ko Olina Community Association, Colleen Hanabusa and Maile Shimabukuro Proposed Findings of Fact and Conclusions of Law and Decision and Order<sup>1</sup> was filed before the Planning Commission, is earlier in time than January 27, 2017. That, in and of itself, should dispose of the City Environmental Services' frivolous motion to strike. Intervenor Colleen Hanabusa has always maintained that the City Environmental Services' application for a special use permit should be denied. She also referred to her reliance on the earlier July 17, 2009 submission of proposed findings of fact and conclusions of law and decision and order in her filing of October 7, 2016 regarding Submission of Proposed Findings of Fact and Conclusions of Law and Order.

The City Environmental Services has also not stated what objections or rebuttal it intends to make, but it certainly made its objections back in 2009, and it could have also drafted any further responses during the last couple of weeks, instead of working on its instant motion. What then is the prejudice that City Environmental Services is trying to assert? The only party that has been prejudiced is Intervenor Hanabusa who objected to the consolidation of the proceedings

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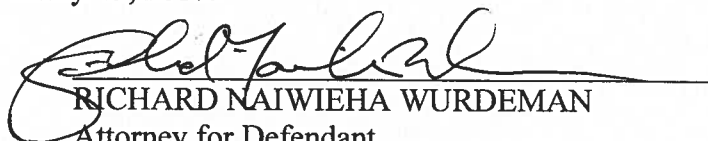
<sup>1</sup> In Intervenor Colleen Hanabusa's: Renewal of Submission of Proposed Findings of Fact and Conclusions of Law; and (2) Objections and Rebuttals, she reiterated that obviously, the July 17, 2009 proposed Findings of Fact, Conclusions of Law and Decision and Order should not include the current positions of Ko Olina Community Association and Maile Shimabukuro as they have submitted their own revised Findings of Fact and Conclusions of Law through other counsel who has appeared in this case.

and record from In the Matter of the Application of Department of Environmental Services, City and County of Honolulu, To Delete Condition No. 14 of Special Use Permit No. 2008/SUP-2, as she was not a party, was not able to cross-examine any of the witnesses called during those proceedings and was not able to put on her own further evidence, and was otherwise deprived of due process through the consolidation. Despite her objections, this Planning Commission consolidated the records of the two proceedings, nonetheless.

Finally, it has been the City Environmental Services that has engaged in dilatory tactics for years since the remand of the matter from the Hawaii Supreme Court, under the guise of trying to negotiate with the Ko Olina Community Association (Intervenor Colleen Hanabusa did not participate in any of the purported discussions). The fact that the matter has not reached a resolution between the parties is certainly reflective of the lack of good faith in the continuous requests for continuances by the City Environmental Services over the years so that it could seemingly try to get out of the requirement of finding an alternative site. The City Environmental Services' complete disregard in moving forward with the selection and preparation of a new site is inexcusable and it has no intention of doing so, no matter what conditions the Planning Commission puts on it. The Waimanalo Gulch Sanitary Landfill needs to be closed and the application for a special use permit denied.

Respectfully submitted.

DATED: Honolulu, Hawaii, February 23, 2017.

  
RICHARD NAIWIEHA WURDEMAN  
Attorney for Defendant  
COLLEEN HANABUSA

BEFORE THE PLANNING COMMISSION  
OF THE CITY AND COUNTY OF HONOLULU  
STATE OF HAWAII

In the Matter of the Application of ) FILE NO. 2008/SUP2  
)  
DEPARTMENT OF ENVIRONMENTAL ) CERTIFICATE OF SERVICE  
SERVICES, CITY AND COUNTY OF )  
HONOLULU )  
)  
For a New Special Use Permit to Supersede )  
Existing Special Use Permit to Allow a 92.5 )  
Acre Expansion and Time Extension for )  
Waimanalo Gulch Sanitary Landfill, )  
Waimanalo Gulch, Oahu, Hawai'i, Tax Map )  
Key: 9-2-03: 72 1nd 73 )  
)  
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In the Matter of the Application of )  
)  
DEPARTMENT OF ENVIRONMENTAL )  
SERVICES, CITY AND COUNTY OF )  
HONOLULU )  
)  
To Delete Condition No. 14 of Special )  
Use Permit No. 2008/SUP-2 (also referred )  
to as Land Use Commission Docket No. )  
SP09-403) which states as follows: )  
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"14. Municipal solid waste shall be )  
allowed at the WGSL up to July 31, 2012, )  
provided that only ash and residue from )  
H-POWER shall be allowed at the WGSL )  
after July 31, 2012." )  
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the date set forth below, a true and correct copy of the foregoing document was served on the following parties by leaving the same at the respective addresses set forth below:

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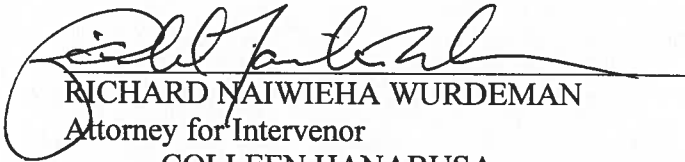
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DATED: Honolulu, Hawaii, February 23, 2017.

  
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COLLEEN HANABUSA