

WRITTEN DIRECT TESTIMONY OF MICHAEL A. DAHLIG

1. **Please state your name and business address for the record.**

Michael A. Dahilig
4444 Rice Street A473
Līhu‘e, Hawai‘i 96766

2. **What is your current occupation?**

Director of Planning

3. **How long have you been a Planner?**

9 years

4. **Did you provide a copy of your resume for these proceedings?**

Yes

5. **Is Petitioner’s Exhibit 3 a true and correct copy of your resume?**

Yes

6. **Please briefly describe your educational background.**

Punahou School
Honors Diploma (1999)

University of Hawai‘i at Mānoa – School of Ocean and Earth Science and Technology
Bachelor of Science with Honors (2003)

University of Hawai‘i at Mānoa – William S. Richardson School of Law
Juris Doctor with Environmental Law Certificate (2006)

University of Hawai‘i at Mānoa – College of Social Sciences
Masters of Urban and Regional Planning (2011)

7. **Do you specialize in any particular areas?**

Environmental and Land Use Law
Geological System Failures
Disaster Management and Humanitarian Assistance, Adaptation

8. **To what professional organizations do you belong?**

Hawai'i State Bar Association
American Planning Association
American Water Works Association

9. **What additional certifications do you have?**

Licensed to practice law before all Hawai'i State Courts (JD8559) (Inactive)
Licensed to practice law before United States District Court District of Hawai'i
American Water Works Association Public Officials Certificate
Hawai'i State Historic Preservation Division Certificate of Training

10. **What does a Director of Planning do?**

Direct operational responsibility of 35-person department and \$1.4M operating budget
Implementation of County's Comprehensive Zoning Ordinance
Regulatory permitting pursuant to State Land Use Law and Coastal Zone Management Act
Long range-general plan development

11. **How long have you worked for County of Kaua'i Planning Department?**

Since 2010.

12. **What is your title at County of Kaua'i Planning Department?**

Director of Planning

13. **Please briefly describe some of the projects that you have been involved with over the course of your career.**

South Kaua'i Community Plan
Līhu'e Community Plan
General Plan Update
Transient Vacation Rental Regulations
Climate Change Integration into Community Planning
Important Agricultural Lands Study
Land Use Litigation Related to Vacation Rentals
Endangered Species Litigation Related to Newell Shearwaters
Maku'u Community Plan – Department of Hawaiian Homelands
Lālāmilo Pu'ukapu Community Plan – Department of Hawaiian Homelands
Moloka'i Island Plan – Department of Hawaiian Homelands

14. **Do you have a specialized knowledge of Land Use Planning in Hawai'i?**

Yes

15. **Have you ever been qualified as an expert witness in Land Use Planning?**

No

16. **How many times have you been so qualified?**

N/A

17. **Are you familiar with the Lima Ola Workforce Housing project (“Project”) being developed by the County of Kaua’i Housing Agency?**

Yes

18. **Please describe your involvement in the Project.**

My Department has provided input in the process, including its integration into the ongoing General Plan Update. We have also provided guidance of future permitting tracks and reviewed the HRS 343 compliance documents.

19. **Please provide an overview of the Project**

It is a 100% affordable housing project adjacent to ‘Ele‘ele on the makai side of Kaumuali‘i Highway.

20. **Please describe the Petition Area**

The petition area is 75 acres of agricultural lands immediately adjacent to affordable housing projects conducted by the state and Habitat for Humanity.

21. **Please describe the land use designations for the surrounding properties**

The project area is currently zoned Agriculture and is designated Agriculture by the General Plan. However, it is proposed to be changed to residential in the upcoming General Plan Update.

22. **Have you reviewed the Final Environmental Assessment (“FEA”) ?**

Yes

23. **In regards to Land Use Planning Is the Project generally consistent with what was assessed under the FEA?**

Yes

24. **Have you prepared any studies or plans that reference the Project area?**

Yes, I am involved in the update of the General Plan which, as an island-wide document, encompasses this area. However, the document is in draft form at this time.

I have also participated in the Important Agricultural Lands Study

25. **Have you read the Draft Petition for Land Use District Boundary Amendment that was filed in this Docket?**

Yes.

26. **In regards to Land Use Planning, is the Petition accurate?**

Yes.

27. **Are you aware that the Land Use Commission must perform an assessment of the proposed reclassification for conformity with the applicable goals, objectives, and policies of the Hawai'i state plan, chapter 226, HRS, and applicable priority guidelines and functional plan policies?**

Yes

28. **Are you familiar with the Hawai'i State Plan, Priority Guidelines and State Functional Plan?**

Yes.

v Yes.

29. **Please discuss your evaluation of the Project's consistency with the goals, directives and policies of the Hawai'i State Plan?**

The project is in support of state goals, including but not limited to state goal number one, enumerated in Hawai'i Revised Statutes, Section 226-4, to achieve a strong, viable economy, characterized by stability, diversity, and growth, that enables the fulfillment of the needs and expectations of Hawai'i's present and future generations.

Hawai'i Revised Statutes, Section 226-19, specifically states that to achieve the housing objectives, it shall be the policy of this State to:

- (1) Effectively accommodate the housing needs of Hawai'i's people.
- (2) Stimulate and promote feasible approaches that increase housing choices for low-income, moderate-income, and gap-group households.
- (3) Increase homeownership and rental opportunities and choices in terms of quality, location, cost, densities, style, and size of housing.
- (4) Promote appropriate improvement, rehabilitation, and maintenance of existing housing units and residential areas.

- (5) Promote design and location of housing developments taking into account the physical setting, accessibility to public facilities and services, and other concerns of existing communities and surrounding areas.
- (6) Facilitate the use of available vacant, developable, and underutilized urban lands for housing.
- (7) Foster a variety of lifestyles traditional to Hawai'i through the design and maintenance of neighborhoods that reflect the culture and values of the community.
- (8) Promote research and development of methods to reduce the cost of housing construction in Hawai'i.

The purpose of the project is specifically to meet those objectives enumerated above, in particular objectives 1, 2, 3, 5, 6, and 7.

30. **In your professional opinion, does the Project conform to the applicable goals, objectives and policies of the Hawai'i State Plan?**

Yes

31. **Please discuss your evaluation of the Project's consistency with the State Priority Guidelines.**

Hawai'i Revised Statutes, Section 226-106, sets the following priority guidelines for the provision of affordable housing:

- (1) Seek to use marginal or nonessential agricultural land and public land to meet housing needs of low- and moderate-income and gap-group households.
- (2) Encourage the use of alternative construction and development methods as a means of reducing production costs.
- (3) Improve information and analysis relative to land availability and suitability for housing.
- (4) Create incentives for development which would increase home ownership and rental opportunities for Hawai'i's low- and moderate-income households, gap-group households, and residents with special needs.
- (5) Encourage continued support for government or private housing programs that provide low interest mortgages to Hawai'i's people for the purchase of initial owner-occupied housing.
- (6) Encourage public and private sector cooperation in the development of rental housing alternatives.
- (7) Encourage improved coordination between various agencies and levels of government to deal with housing policies and regulations.

- (8) Give higher priority to the provision of quality housing that is affordable for Hawai'i's residents and less priority to development of housing intended primarily for individuals outside of Hawai'i.

The purpose of the project is specifically to meet those priority guidelines enumerated above, in particular objectives 1, 2, 3, 5, 6, and 7.

32. **In your professional opinion, does the Project conform to the goals, objectives and policies of the Priority Guidelines?**

Yes.

33. **Please discuss your evaluation of the Project's consistency with the State Functional Plans.**

34. **In your professional opinion, does the Project conform to the goals, objectives and policies of the applicable State Functional Plans?**

Yes.

35. **Are you aware that the Land Use Commission must perform an assessment of the proposed reclassification for conformity with the objectives and policies of the Coastal Zone Management Program, chapter 205A, HRS?**

Yes.

36. **Are you familiar with the objectives and policies of Chapter 205A?**

Yes.

37. **Please discuss your evaluation of the Project's consistency with the goals and objectives of HRS Chapter 205A**

The subject property is not located within the Special Management Area; therefore, it is not subject to HRS 205A.

38. **In your professional opinion, does the Project conform to the goals and objectives of HRS 205A?**

Yes.

39. **Are you aware that the Land Use Commission must perform an assessment of the proposed reclassification for conformity with the County General Plan?**

Yes.

40. **Please discuss your evaluation of the Project's conformity with the County General Plan?**

The General Plan guides the location and character of new development through graphic and textual policy. The County's existing General Plan was approved in 2000. Section 6.5 "West Side" describes the land use policy and vision for 'Ele'ele. The agricultural zoned land located east of 'Ele'ele was not designated for future residential development in Chapter 6 or on the Land Use Map. However, the following policies support affordable housing development and the compact form of new communities:

5.1.1. (b) Promote compact urban settlements in order to limit public service costs and to preserve open space.

5.1.2. (d) In the outlying West Side and North Shore districts, plan for additional residential use to meet regional demands for housing.

5.1.2. (e) Expansion contiguous to an existing town or residential community is preferred over a new residential community.

8.1.10 (a) Increase the supply of affordable rental housing, as indicated by market conditions.

8.1.10 (b) Increase opportunities for moderate- and low-income households to become homeowners. Work from the bottom up, serving the 35 percent of residents whose income is 80 percent of the median or less. The intent is to move families out of expensive rental subsidy programs into home ownership, developing housing at a very low cost through self-help programs and reduced-rate mortgage financing.

The Planning Department began updating the General Plan in 2015 and a draft is undergoing Planning Commission and Council review. The draft Future Land Use Map designates Lima Ola as "residential community" and sets policy supporting the eastward expansion of Port Allen and 'Ele'ele.

41. **In your professional opinion, is the Project in conformance with the General Plan?**

Not necessarily; however, please refer to comments to question 40 above. I will refer again refer to HRS 201-H that does not require General Plan consistency for this project.

42. **Are you aware that the Land Use Commission must perform assessment of the proposed reclassification for conformity with the Hanapēpē 'Ele'ele Development Plan?**

Yes.

43. **Are you familiar with the Hanapēpē 'Ele'ele Development Plan?**

Yes.

44. **In your professional opinion, is the Project in conformance with the Hanapēpē ‘Ele‘ele Development Plan?**

It conforms with its written policy, but not its spatial policy. However, I will again refer to HRS 201-H. Development Plan consistency is not required for this project.

45. **Are you aware that the Land Use Commission must perform an assessment of the proposed reclassification for conformity with the current zoning designation?**

Yes.

46. **Are you familiar with the current zoning designation for the Petition Area?**

Yes.

Is the Project in conformance with the county zoning?

No; however, I will again refer to HRS 201-H. Development Plan consistency is not required for this project.

47. **Are you aware that the Land Use Commission must review a proposed reclassification for consistency with the Urban District standards set forth under HAR 15-15-18?**

Yes.

48. **Are you familiar with these standards?**

Yes.

49. **Please describe the Project’s conformance with the standards under HAR 15-15-18.**

1. **HAR §15-15-18(1)**

It shall include lands characterized by “city-like” concentrations of people, structures, streets, urban level of services and other related land uses.

The Lima Ola Project, as represented in their Master Plan, is a relatively dense residential development which provides a connected street grid, pedestrian facilities, civic space, and other services necessary for an urban community.

2. **HAR §15-15-18(2)**

It shall take into consideration the following specific factors: (A) Proximity to centers of trading and employment except where the development would generate new centers of trading and employment; (B) Availability of basic services such as schools, parks, wastewater systems, solid waste disposal, drainage, water, transportation systems, public utilities, and police and fire protection; and (C) Sufficient reserve areas for foreseeable urban growth.

The Project is located within a 30-minute drive of the Po'ipū Resort area and the Pacific Missile Range Facility, both major employment centers. It is adjacent to the smaller jobs centers of Port Allen and Hanapēpē Town.

3. **HAR §15-15-18(3)**

It shall include lands with satisfactory topography, drainage, and reasonably free from the danger of any flood, tsunami, unstable soil condition, and other adverse environmental effects.

The petition area is consistent with this requirement, based on the findings of the FEIS.

4. **HAR §15-15-18(4)**

Land contiguous with existing urban areas shall be given more consideration than non-contiguous land, and particularly when indicated for future urban use on state or county general plans;

The petition area is adjacent to existing Urban District and residential development.

5. **HAR §15-15-18(5)**

It shall include lands in appropriate locations for new urban concentrations and shall give consideration to areas of urban growth as shown on the state and country general plans or county community plans or development plans.

The petition area is not consistent with the General Plan, but HAR §15-15-18(6) allows for an exemption from this standard.

6. **HAR §15-15-18(6)**

It may include lands which do not conform to the standards in paragraphs (1) to (5): (A) When surrounded by or adjacent to

existing urban development; and (B) Only when those lands represent a minor portion of this district.

The petition area is adjacent to existing Urban District and residential development.

7. **HAR §15-15-18(7)**

It shall not include lands, the urbanization of which will contribute toward scattered spot urban development, necessitating unreasonable investment in public infrastructure or support services.

The petition area meets this requirement.

8. **HAR §15-15-18(8)**

It may include lands with a general slope of twenty per cent or more if the commission finds that those lands are desirable and suitable for urban purposes and that the design and construction controls, as adopted by any federal, state, or county agency, are adequate to protect the public health, wealth and safety, and the public's interests in the aesthetic quality of the landscape.

The petition area has an average slope of 4 percent, so this requirement is applicable.

50. **In your professional opinion, does the proposed reclassification conform to the standards set forth in HAR 15-15-18?**

Yes.

51. **Are you aware that prior to granting a reclassification the Land Use Commission must specifically consider certain matters as set forth under HRS Section 205-17?**

Yes.

52. **Please provide your evaluation of the Project's conformance with those criteria?**

The Commission must consider the following:

(1) The extent to which the proposed reclassification conforms to the applicable goals, objectives, and policies of the Hawai'i state plan and relates to the applicable priority guidelines of the Hawai'i state plan and the adopted functional plans;

(2) The extent to which the proposed reclassification conforms to the applicable district standards;

(3) The impact of the proposed reclassification on the following areas of state concern:

(A) Preservation or maintenance of important natural systems or habitats;

(B) Maintenance of valued cultural, historical, or natural resources;

(C) Maintenance of other natural resources relevant to Hawai'i's economy, including agricultural resources;

(D) Commitment of state funds and resources;

(E) Provision for employment opportunities and economic development; and

(F) Provision for housing opportunities for all income groups, particularly the low, low-moderate, and gap groups;

(4) The standards and criteria for the reclassification or rezoning of important agricultural lands in section 205-50;

(5) The county general plan and all community, development, or community development plans adopted pursuant to the county general plan, as they relate to the land that is the subject of the reclassification petition; and

(6) The representations and commitments made by the petitioner in securing a boundary change.

I have already discussed the Project's conformance with the applicable goals, objectives and policies of the Hawai'i State Plan, Priority Guidelines and Functional Plans, and the Project's conformance with the Urban District standards, the County General Plan and the Hanapepe 'Ele'ele Development Plan.

My assessment on the Project's impact on those six areas of State concern is as follows:

(A) Preservation or maintenance of important natural systems or habitats.

Based upon the historical uses of the land within the Petition Area, the requested reclassification and redevelopment of Lima Ola is not expected to have a significant adverse effect on the environment, including any important natural systems or habitats. No threatened or endangered plant species are located within the Petition Area. No endangered or threatened avifaunal, feral mammal or invertebrate species are located within the Petition Area. No native water birds, nesting seabirds or migratory shorebirds

were observed at the Petition Area. We also understand lighting restrictions will require cut of luminaries and downward facing lights

(B) Maintenance of valued cultural, historical, or natural resources.

The Cultural Impact Assessment concluded that the development of Ola Lima would have no significant impact on Hawai'ian cultural resources, beliefs and practices.

Archaeological sites are limited to the historic area (i.e. ditch).

(C) Maintenance of other natural resources relevant to Hawai'i's economy, including agricultural resources.

Although the Lima Ola project would end the cultivation of coffee on the Petition Area, there are sufficient other nearby areas on which agriculture may be continued. It has been known since the conveyance of the property by McBryde Sugar to the County that this area was going to be devoted to the development of affordable housing.

(D) Commitment of state funds and resources

The development of the Project at this date will not require the commitment of State funds and resources, as it is being administered by the County of Kaua'i Housing Agency.

(E) Provision of Employment opportunities and economic development.

The Lima Ola project is designed to provide needed affordable housing for those making under 140-percent of the Kaua'i median household income.

(F) Provision for housing opportunities for all income groups, particularly the low, low-moderate, and gap groups.

The Lima Ola project is designed to provide needed affordable housing for those making under 140-percent of the Kaua'i median household income.

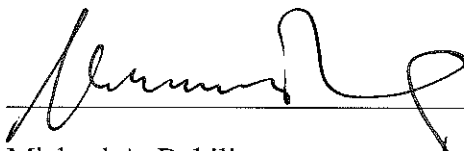
53. **In your professional opinion, have the Commission's decision-making criteria been satisfied**

Yes.

54. **In your professional opinion as an expert in land use planning in the State of Hawai'i, would you recommend reclassification of the Petition Area for development of the Lima Ola Project?**

Yes.

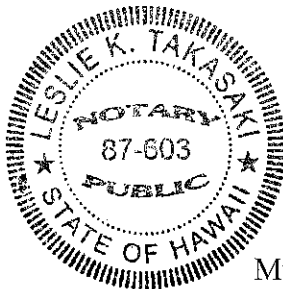
DATED: Līhu'e, Hawai'i, May 12, 2017

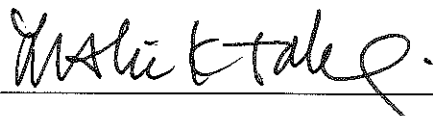


Michael A. Dahilig

STATE OF HAWAII)
) ss.
COUNTY OF KAUA'I)

I, Leslie Takasaki, do hereby certify that the written testimony of Michael A. Dahilig was submitted to me on May, 12, 2017 at 1:40 o'clock p m. The said Michael A. Dahilig was duly sworn by me according to law to tell the truth, the whole truth and nothing but the truth and thereupon did testify as set forth in the above written testimony. I do further certify that the above document is full, complete and true record of all the testimony given by the said witness.

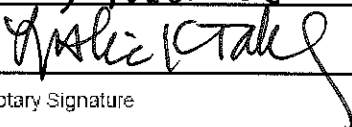




Notary Public, State of Hawai'i

Name of Notary: LESLIE K. TAKASAKI

My commission expires: 11-04-19

Doc. Date: <u>05-12-17</u>	# Pages: <u>13</u>
Notary Name: <u>LESLIE K. TAKASAKI</u> <u>5th</u> Circuit	
Doc. Description: <u>Written Direct Testimony</u> <u>of Michael A. Dahilig</u>	
<u></u>	<u>5-12-17</u>
Notary Signature	Date