

## Hakoda, Riley K

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**From:** Jim Buika <buikaj001@hawaii.rr.com>  
**Sent:** Monday, September 7, 2020 7:35 PM  
**To:** DBEDT LUC  
**Subject:** [EXTERNAL] RESUBMITTED: Written testimony for A89-642 Buika, use this file  
**Attachments:** LUC Docket No A89-642, testimony, vFINAL, Buika, 09.07.20 submitted use this file.docx

Please distribute this file. It includes my residence address. The other one submitted earlier got the address chopped off.

Thank you, Jim Buika

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From: "Jim Buika"  
To: "dbedt.luc.web@hawaii.gov"  
Cc:  
Sent: Monday September 7 2020 7:09:02PM  
Subject: Written testimony for A89-642

Dear State Land Use Commission,

Please accept my attached testimony for your upcoming Sept 9 docket.

Aloha,  
Jim Buika

September 7, 2020

Dear Hawaii State Land Use Commission, (use this file)

SUBJECT: State Land Use Commission Docket No. 89-642, Request to Include a Condition of Approval

My name is James Buika. I live at 514 Komo Ohia Street, Wailuku, Hawaii at Kehalani. Thank you for considering my testimony as part of the subject deliberations. I have included a Condition of Approval for your consideration that is necessary due to past performance by the Master Developer at Kehalani. Below is my Introduction, Stated Problem, Background Information, Proposed Solution, and Conclusion for the LUC to consider as part of your deliberations prior to approval of the subject bifurcation property request.

Introduction:

I am a Kehalani original owner since 2006, and an interested-party property owner in the Wailuku-Kahului Project District 3 (aka Kehalani). In the past, I also served as a Neighborhood Voting Member on the Kehalani Voting Member Committee, reporting to the Board of Directors, for several years representing Ohia II neighborhood. I am NOT representing the Kehalani Community Association. I have provided a draft Condition of Approval for your consideration because of the history and facts that I am aware of and experienced that have transpired in the past, and are susceptible to occur again, if not checked by regulators. Thank you for your attention to this detail.

Problem:

To date, there has been a lack of Kehalani project dedications by the Master Developer as originally envisioned and required by the LUC under the 1990 Decision and Order. The stated problem is that the LUC and County of Maui (tax payers) and homeowners have no guarantee that the completion of the master planned project will include all dedications to the County of Maui, as required and envisioned by the LUC in 1990.

As part of this ongoing 1990 Decision and Order, without a clear mandate and condition to the Master Developer from the LUC to complete all required dedications as part of the project, the County of Maui taxpayers and or Kehalani Community Association homeowners will potentially be burdened with the dedication costs in the millions of dollars and associated liabilities -- your deliberation today provides you with a unique opportunity to condition the bifurcation request, to correct this problem.

Background:

The Kehalani Master Planned Community is a large and significant development that has millions of dollars of still unfulfilled improvements by the Developers that require dedication to the County of Maui – a timeline of ongoing dedications has fallen behind development of the near-completed housing inventory. As the Master Developer completes all the final housing, it is tempting to sell all the houses, claim bankruptcy, abandon its promises to the LUC, and leave the Kehalani Community Association and the County of Maui taxpayers with the cost and liability for these improvements and dedications, as has happened in the past. As a sobering point of reference, in 2009, Stanford Carr, the Master Developer at the time, claimed bankruptcy under his LLC and abandoned the project along with required millions of dollars of dedications originating back to an August 2005 Maui County Department of Public Works punch list that still exists, leaving the Kehalani homeowners at risk as well as responsible for the cost of all unfulfilled dedications. At the time, the Kehalani Community Association unsuccessfully challenged the Master Developer to complete the required dedications – it was a



dire and difficult time. Many of the identified improvements from this 2005 punch list, from my knowledge, remain unfulfilled, with outstanding dedications to the County of Maui. Kehalani is now 30 years old and many other development improvements have accrued since the 2005 punch list and remain not dedicated.

From my understanding, ownership of the parcel designated "Community Center" by the Kehalani Community Association may be in jeopardy and may no longer be available to the Kehalani Community Association to improve for its designated purpose as agreed to with the LUC – please gain an understanding of the status of this ownership situation for the Kehalani Community Association.

Solution:

My recommended solution to this outstanding problem is to include a condition for approval of this bifurcation action that requires completion of improvements and dedications for the existing Kehalani development, as drafted below for your consideration and adoption:

"That prior to the execution of the bifurcation of the two unrelated projects, Piihana Project District 2 and Kehalani Project District 3 parcels, referenced in the 1990 Decision and Order, this bifurcation amendment shall not be approved until a) all outstanding Kehalani-associated dedications are completed and confirmed in writing to the satisfaction of the County of Maui Department of Public Works, Department of Planning, and Department of Parks and Recreation, and b) that the Kehalani Community Association receives the "Community Center" parcel from the Master Developer as part of this transaction, as originally conditioned by the LUC in the 1990 Decision and Order."

Conclusion:

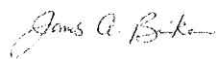
This draft condition, for your review and acceptance, provides a strong incentive for the Master Developer at Kehalani and the owners at Piilani to complete the project as originally envisioned for the people of Maui and agreed to with the LUC. Without the above requested condition placed on this property bifurcation request, the developers have the option to declare bankruptcy via Limited Liability Corporation designations, just as the previous Master Developer did in 2009 during the recession, leaving homeowners with liability and financial responsibilities for the currently unmet dedications.

Please place this condition on the subject LUC request in order to protect both Kehalani Community Association homeowners and the County of Maui (i.e., Maui tax payers) from having to pay the dedication burden of the developers. If the Master Developer is true to his word, he will have no problem complying with this condition. These dedication promises were made to the LUC in 1990 as a condition of "Ag to Urban", and the opportunity to make millions of dollars, and should be kept.

Thank you for your time and consideration and for all you do for Hawaii. I may be reached at 808-283-8636 for any clarifications and at [buikaj001@hawaii.rr.com](mailto:buikaj001@hawaii.rr.com) for any further communications.

CC: Cathy Wong, Kehalani Community Association c/o Hawaiiana Management Company

Sincerely,



James A. Buika, 514 Komo Ohia Street, Wailuku, Hawaii, 96793