

April 29, 2021

VIA E-MAIL ONLY

State of Hawaii, Land Use Commission
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Dear Chair Scheuer and Commissioners:

This is a follow up to my April 26, 2021 letter on behalf of The Edmund C. Olson Trust No. 2 concerning the City & County of Honolulu's ("C&C") IAL mapping proposal. Your April 28-29 Meeting Notice specifically stated that the Land Use Commission ("LUC") "will not be considering or determining the legal rights, duties, or privileges of specific landowners or issues relating to particular properties." Further, the Agenda stated the LUC "...will not be considering or determining at this meeting the legal rights, duties, or privileges of specific landowners or issues relating to particular properties."

After the close of public comment, in the morning of April 29, the Chair stated that the LUC would be taking action on the C&C proposal, including whether the County IAL process mandated by State law was followed. The C&C then presented its position that all procedures had been followed and that they fully complied with the State statute. C&C asked the Commission to find that the process was complete and in compliance with State law and LUC rules.

Taking the requested action would violate the due process rights of affected landowners by eliminating a meaningful opportunity to be heard on C&C's State law compliance. Public comment at a meeting is not a substitute for a fair hearing. The process violations are critical because they resulted in an incomplete record based on a definition of IAL that does not comply with State law and excluded any meaningful cooperation and consultation with affected landowners. Any LUC confirmation that the C&C IAL process complied with State law, is an action that requires a hearing.

If the LUC does not remand the matter back to the C&C, the only other appropriate action to take is to continue the matter and to properly notice future hearing(s) to determine both: (1) whether the C&C process complied with State law and LUC rules and (2) whether individual landowner properties meet the requirements of IAL for designation.

Sincerely,



Timothy H. Irons
Dentons US LLP
On Behalf of The Edmund C. Olson Trust No. 2