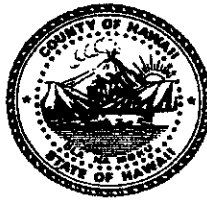


William P. Kenoi  
Mayor



Duane Kanuha  
Director

Bobby Command  
Deputy Director

West Hawai'i Office  
74-5044 Ane Keohokalole Hwy  
Kailua-Kona, Hawai'i 96740  
Phone (808) 323-4770  
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**County of Hawai'i**  
**PLANNING DEPARTMENT**

East Hawai'i Office  
101 Pauahi Street, Suite 3  
Hilo, Hawai'i 96720  
Phone (808) 961-8288  
Fax (808) 961-8742

August 25, 2014

MEMORANDUM

To: Clerk of the Third Circuit Court

From: Sarah Hata-Finley, Secretary *SHF*  
Windward Planning Commission

Re: Community Based Education Support Services vs. Windward Planning Commission, et al.  
Civil No. 14-1-0223 (Agency Appeal)  
Planning Department Reference: Special Permit No. 12-000138  
Tax Map Key: 2-5-006:141

Enclosed for filing is the Index to Record on Appeal; Windward Planning Commission Secretary's Certificate; Certificate of Service regarding the above-referenced matter. Along with this Index, I am submitting two boxes to the Court which contain the record that is referenced in the Index.

Box 1 contains File Nos. 1-6 (Pages 1 thru 2205) and Box 2 contains the Hearing Officer's records and File Nos. 7-8 (Pages 2206-4315). The files and respective pages are referenced as follows:

Box 1

File No. 1, Pages 1 - 416  
File No. 2, Pages 417 - 911  
File No. 3, Pages 912 - 1226  
File No. 4, Pages 1227 - 1701  
File No. 5, Pages 1702 - 2057  
File No. 6, Pages 2058 - 2205.

AUG 25 2014

Memorandum to the Clerk of the Third Circuit Court  
Page 2  
August 25, 2014

Box 2

Hearings Officer's (Sandra Song) Files (Please refer to Item Nos. 350 thru 359 on Page 19 of the Index.):

Pleadings, Pages 2206 – 2595 (Item No. 350)  
Transcript Vol. I, October 21, 2013, Pages 2596 – 2850 (Item No. 351)  
Transcript Vol. II, October 22, 2013, Pages 2851 – 3001 (Item No. 352)  
Transcript Vol. III, November 12, 2013, Pages 3002 – 3042 (Item No. 353)  
Transcript Vol. IV, January 8, 2014, Pages 3043 – 3185 (Item No. 354)  
Transcript Vol. V, January 22, 2014, Pages 3186 – 3196 (Item No. 355)  
Public Testimony, Pages 3196a – 3329 (Item No. 356)  
All Parties Exhibits, Pages 3330 – 3474 (Item No. 357)  
Emails, Pages 3475 – 3693 (Item No. 358)  
Misc. Correspondence, Pages 3694 – 3730 (Item No. 359).

File No. 7, Pages 3731 – 4001  
File No. 8, Pages 4002 – 4315.

For your convenience and use, a CD which contains the electronic version of this record is also enclosed with this transmittal.

Please call me at (808) 961-8157 should you have questions regarding this matter.

Thank you very much.

L3ccspp12-138  
Enclosures – Index; Boxes 1-2; CD

County of Hawai'i  
Windward Planning Commission  
101 Pauahi Street, Suite 3  
Hilo, Hawai'i 96720-4224  
Telephone: (808) 961-8288  
Facsimile: (808) 961-8742

FILED  
CIRCUIT COURT OF  
THE THIRD CIRCUIT  
STATE OF HAWAII

2014 AUG 25 PM 1:44

CLERK L. GLASSOW

Appellee

IN THE CIRCUIT COURT OF THE THIRD CIRCUIT  
STATE OF HAWAII

COMMUNITY BASED EDUCATION  
SUPPORT SERVICES,

Applicant-Appellant,

vs.

WINDWARD PLANNING COMMISSION,  
COUNTY OF HAWAII; DEPARTMENT OF  
PLANNING, COUNTY OF HAWAII,

Appellees,

and

SANDRA SONG, in her capacity as Hearing  
Officer; JEFFREY GOMES, Intervenor;  
SIDNEY FUKU, Intervenor's Representative;  
TERENCE YOSHIOKA, Intervenor's  
Representative,

Intervenor-Appellees.

CIVIL NO. 14-1-0223  
(Agency Appeal)

INDEX TO RECORD ON APPEAL;  
WINDWARD PLANNING COMMISSION  
SECRETARY'S CERTIFICATE;  
CERTIFICATE OF SERVICE

INDEX TO RECORD ON APPEAL

SCANNED

AUG 25 2014

By: \_\_\_\_\_

**CONNECTIONS NEW CENTURY PUBLIC CHARTER SCHOOL  
AND COMMUNITY BASED EDUCATION SUPPORT SERVICES  
SPP 12-000138**

**Tax Map Key: (3) 2-5-006:141**

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243.		Ivan Mochida	1415
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245.		Shawn Paiva	1421
246.		Unknown	1422-1424
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285.	12/5/12	Letter from Ted Hong requesting postponement of hearing as his office will no longer represent the Applicant and Deputy Attorney General Monica is unable to attend the 12/6/12 meeting	1708-1709

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289.	12/5/12	Information Outreach meetings report	1716-1792

290.	12/6/12	Email from Dr. Carol Zimmerman dated 11/8/12 & 12/6/12	1793-1795
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292.	12/5/12	John Thatcher	1799-1801
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294.		Melvin Yokota	1803-1804
295.		Jeff Gomes	1805-1809
296.		Matthew J. Medeiros (regarding caves and species)	1810-1811
297.		Wendy Gomes	1812-1813
298.		Connections School Board Minutes	1814-1819
299.		Henry Lee Loy, M.D.	1820-1822
300.		Jeff Gomes	1823-1826
301.	12/6/12	Voting Sheet to continue to 1/10/13 meeting	1827
302.	12/6/12	Hearing Transcript	1828-1853
303.	12/10/12	Letter to Monica Morris notifying of Commission action to continue hearing to January and informing her of notification to surrounding property owners	1854-1859
304.	12/20/12	Letter to Monica Morris replacing previously sent 12/10/12 Agenda	1860-1864
305.	12/20/12	Letter to Connections acknowledging receipt of filing fee for continued hearing	1865-1867
306.	12/31/12	Letter from Ted Hong re: notice to surrounding property owners of 1/10/13 hearing	1868-1885

**Items 307 to 324 were received at the January 10, 2013 hearing:**

307.	1/8/13	Kaūmana Community Informational Outreach meeting	1886-1889
308.		Status Report of Community Meeting	1890-1891

309.	1/10/13	Robert Wagner	1892-1893
310.	1/10/13	Lee Botelho	1894-1900
311.		M. Bishop	1901
312.		Terrance Yoshioka	1902-1919
313.		Tom Forbes (submitted by Heather McDaniel)	1920
314.		June Sakamoto	1921
315.		Ming Peng, M.D.	1922
316.		Les Sakamoto	1923-1924
317.		Jeff Gomes	1925-1926
318.		Henry Lee Loy, M.D.	1927
319.		Petition objecting to charter school planned on subject Property	1928-1929
320.		Jeff Gomes with attachments	1930-1931
321.	1/10/13	John Thatcher	1932-1933
322.		General Lease No. S-6029	1934-1959
323.		Power Point by Sidney Fuke	1960-1999
324.	1/10/13	Letter from Monica Morris, Deputy Attorney General urging a favorable recommendation to the State LUC	2000
325.	1/10/13	Voting Sheet on Motion to Deny	2001
326.	1/10/13	Voting Sheet on Executive Session	2002
327.	1/10/13	Hearing Transcript	2003-2056
328.	1/24/13	Letter to Parties from Windward Planning Commission on 1/10/13 meeting action	2057

**FILE 6 OF 8**

329.	2/15/13	Letter to Surrounding Property Owners From Planning Department re: 3/7/13 meeting	2058-2065
330.	2/15/13	Letter to Monica Morris and Ted Hong re: 3/7/13 meeting	2066-2069
331.	2/19/13	Letter from Ted Hong re: suspension of Findings Of Fact, Conclusions of Law, and Decision and Order	2070
332.	2/28/13	Letter to Ted Hong from Commission concurring suspension Of Findings Of Fact, Conclusions of Law, and Decision and Order	2071
333.	3/1/13	Letter from Monica Morris to join in Ted Hong's 2/19/13 letter	2072-2073
334.	3/4/13	JoNelle Fukushima submitting Petition for Standing in a Contested Case Hearing	2074-2077
335.	3/6/13	Letter from Ted Hong, Updated Status Report 3/13	2078-2096
336.	3/7/13	Sidney Fuke's "Enough Already" Powerpoint	2097-2121
337.	3/7/13	Jeffrey K. Gomes submitting Petition for Standing in a contested case hearing	2122-2125
338.	3/7/13	Voting Sheet to go into First Executive Session	2126
339.	3/7/13	Voting Sheet to go into Second Executive Session	2127
340.	3/7/13	Voting Sheet to grant standing to Jeffrey Gomes	2128
341.	3/7/13	Voting Sheet on Motion to hire Hearings Officer	2129
342.	3/7/13	Hearing Transcript	2130-2156
343.	3/13/13	From Ted Hong on notice of activity related to removal of trash and restoration/reforestation plan	2157-2190
344.	3/21/13	Letter to Parties from Windward Planning Commission regarding 3/7/13 meeting	2191-2192
345.	4/8/13	Letter to Connections re: lost Check No. 8218	2193
346.	4/22/13	Letter to Connections re: lost Check No. 8218	2194

- |      |         |   |           |
|------|---------|---|-----------|
| 347. | 5/23/13 | Letter from Ted Hong regarding activity update of removal of trash and restoration/reforestation plan | 2195-2202 |
| 348. | 5/30/13 | Planning Director's letter acknowledging receipt of Ted Hong's 5/23/13 letter                         | 2203      |
| 349. | 7/12/13 | Letter from Windward Planning Commission to parties<br>Re: Sandra Song retained as hearings officer   | 2204-2205 |

**Submittals by Hearing Officer, Sandra Song (Items 350 to 359):**

- |      |  |   |            |
|------|--|---|------------|
| 350. |  | From Hearing Officer Sandra Song Pleadings                              | 2206-2595  |
| 351. |  | From Hearing Officer Sandra Song Transcript Vol. I, October 21, 2013    | 2596-2850  |
| 352. |  | From Hearing Officer Sandra Song Transcript Vol. II, October 22, 2013   | 2851-3001  |
| 353. |  | From Hearing Officer Sandra Song Transcript Vol. III, November 12, 2013 | 3002-3042  |
| 354. |  | From Hearing Officer Sandra Song Transcript Vol. IV, January 8, 2014    | 3043-3185  |
| 355. |  | From Hearing Officer Sandra Song Transcript Vol. V, January 22, 2014    | 3186-3196  |
| 356. |  | From Hearing Officer Sandra Song Public Testimony                       | 3196a-3329 |
| 357. |  | From Hearing Officer Sandra Song All Parties Exhibits                   | 3330-3474  |
| 358. |  | From Hearing Officer Sandra Song Emails                                 | 3475-3693  |
| 359. |  | From Hearing Officer Sandra Song Misc. Correspondence                   | 3694-3730  |

**FILE 7 OF 8**

- |      |         |   |           |
|------|---------|---|-----------|
| 360. | 8/22/13 | Letter from Planning Department to Jerry Watanabe/DAGS confirming reservation of State Building Conference Room for October 21 & 22, 2013 | 3731      |
| 361. | 9/4/13  | Notice of No Objection to Planning Commission Record; Certificate of Service (CBESS) w/transmittal  | 3732-3735 |

362.	9/5/13	Letter from Planning Department to William Brillhante transmitting disk of revised record file	3736
363.	9/5/13	Letter from Planning Department to Jeffrey Gomes transmitting disk of revised record file	3737
364.	9/5/13	Letter from Planning Department to Sandra Song transmitting disk of revised record file	3738
365.	9/5/13	Letter from Planning Department to Carter Siu transmitting disk of revised record file	3739
366.	10/4/13	Joint Submission of Applicant's Exhibit & Witness Lists (Connections & CBESS) w/email transmittal	3740-3783
367.	10/15/13	Joint Submission of First Amended Witness List (Connections & CBESS) w/transmittal	3784-3793
368.	10/15/13	Revised Exhibit A-20 (Connections & CBESS) w/transmittal	3794-3797
369.	10/17/13	Joint Pre-Hearing Brief; Certificate of Service (Connections & CBESS) w/transmittal	3798-3817
370.	10/21/13	Amended Subpoena for Duane Kanuha (CBESS)	3818-3819

**Item Nos. 371 to 377 were received at the October 21 & 22, 2013 hearings**

371.		"A Project Manager's Review of the Final Environmental Assessment For the Connections Public Charter School Master Plan" by Melvin H. Yokota, P.E.	3820-3849
372.		Testimony by Henry Lee Loy, M.D.	3850-3873
373.		Testimony by Terence Yoshioka	3874-3875
374.		Testimony by Jan Yokoyama	3876
375.		Testimony by Lee Botelho	3877-3908
376.		Return of Service Re: Melvin Yokota & Terence Yoshioka	3909-3910
377.		Testimony by Pauline Ke'ala Lee Loy	3911

378.	11/4/13 (filed)	Petition for Standing in a Contested Case Hearing by Terence Yoshioka w/Supporting Affidavits by Terence Yoshioka & Jeff Gomes	3912-3919
379.	11/8/13	Applicant CBESS' Memorandum in Opposition to Petition for Standing in a Contested Case Hearing Filed on November 4, 2013; Declaration of Ted H. S. Hong; Exhibits 1-3; Certificate of Service	3920-3953
380.	11/8/13	Applicant Connections New Century Public Charter School's Objection to Terence Yoshioka's Petition for Standing in a Contested Case Hearing; Certificate of Service	3954-3959

**Item Nos. 381 to 389 were received at the November 12, 2013 Hearing**

381.		Written Final Testimony of Terence Yoshioka	3960-3969
382.		Testimony by Melvin Yokota	3970
383.		Testimony by June Sakamoto	3971-3979
384.		Testimony by Clayton Kua	3980
385.		Testimony by Larry Kimura	3981
386.		Testimony by Henry K. Lee Loy, M.D.	3982-3992
387.		Testimony by Pauline Ke'ala Lee Loy	3993-3996
388.		Testimony by Dana G. Kenny	3997-4000
389.		Testimony by Larry Gering	4001

**FILE 8 OF 8**

390.	11/8/13	Errata to Applicants Connections New Century Public Charter School and CBESS Joint Pre-Hearing Brief; Certificate of Service	4002-4007
391.	12/31/13	Email by Ted Hong to Sandra Song, et al.	4008
392.	12/31/13	Email by Sandra Song to Ted Hong, et al.	4009-4010

393.	2/12/14	Applicants Connection New Century Public Charter School and CBESS Joint Proposed Findings of Fact, Conclusions of Law, and Decision and Recommendation; Certificate of Service	4011-4044
394.	2/18/14 (filed)	Order Adopting Proposed Findings of Fact, Conclusions Of Law, and Decision and Order Denying Application w/ Certificate of Service (Gomes)	4045-4077
395.	2/12/14	Duane Kanuha, County of Hawai'i's Planning Director's Statement of Taking No Position as to the Submission of Findings of Fact, Conclusions of Law and Decision and Order; Certificate of Service w/transmittal	4078-4083
396.		Certificate of Service ( <i>duplicate</i> of #394 above)	4084-4085
397.	3/13/14	Letter from Ted Hong to Planning Director and Planning Commission re: providing Hearings Officer an extension of time to prepare Findings of Fact, Conclusions of Law & Decision and Order	4086
398.	4/7/14	Letter to Surrounding Property Owners w/copy to Parties notifying them of 5/1/14 Windward Planning Commission meeting	4087
399.		5/1/14 Public Hearing Notice and list of surrounding property owners	4088-4096
400.	4/7/14	Hearing Officer's Report w/transmittal	4097-4112
401.		Returned mail from Sandra Sato TMK 2-5-027:005	4113-4114
402.	4/17/14	Letter to Daryn Arai from Sandra Song transmitting Record	4115-4116
403.	4/17/14	Request to Access a Government Record (Hong) to Stephen Ono	4117-4124
404.	4/17/14	Request to Access a Government Record (Hong) to Raylene Moses	4125-4132
405.	4/17/14	Request to Access a Government Record (Hong) to Wally Ishibashi	4133-4140
406.	4/17/14	Request to Access a Government Record (Hong) to Ronald Gonzales	4141-4148



407.	4/21/14	Applicants Connection New Century Public Charter School and CBESS Joint Exceptions to Hearing Officer's Report, Finding of Fact, Conclusions of Law, and Recommendation dated April 7, 2014; Certificate of Service	4149-4169
408.	4/21/14	Duane Kanuha, County of Hawai'i Planning Director's Exceptions to Hearings Officer's Report dated April 7, 2014; Certificate of Service w/transmittal	4170-4176
409.	4/21/14	Letter from Ted Hong to Planning Director and Planning Commission re: request for oral argument	4177-4178
410.	4/28/14	Intervenor Jeffrey K. Gomes' Request to Provide Oral Arguments; Certificate of Service w/transmittal	4179-4183
411.	4/28/14	Intervenor Jeffrey K. Gomes' Support Brief or Statement; Of Hearings Officer's Report dated April 7, 2014; Certificate Of Service; <i>duplicate</i> copy of #410 above	4184-4214

**Item Nos. 412 - 423 were received at the May 1, 2014 hearing**

412.		Powerpoint of Oral Argument by Ted Hong	4215-4223
413.		Testimony by Norine Okuhara	4224
414.		Testimony by (Michael) Bishop	4225-4226
415.		Testimony by Donald Ikeda	4227-4231
416.	5/1/14	Testimony by Elizabeth Truesdell	4232
417.	4/30/14	Testimony by Pauline Ke'ala Lee Loy	4233
418.		Testimony by Henry Lee Loy, M.D.	4234-4235
419.	5/1/14	Testimony by Wayne Kanemoto	4236-4237
420.		Testimony by Jeff Gomes	4238-4240
421.		Testimony by Joy Mcleod	4241
422.		Testimony by Kahio Papalimu	4242
423.		Powerpoint by Jeff Gomes	4243-4260

424.	5/1/14	Hearing Transcript 5/1/14	4261-4288
425.	5/1/14	Record of Voting (4)	4289-4292
426.	5/1/14	Letter from Windward Planning Commission to Ted H. S. Hong w/copy to parties re: action at 5/1/14 meeting	4293-4296
427.		Returned mail from Dorene and Tara Leao TMK: 2-5-040:011	4297
428.	5/19/14	Email by Daryn Arai to Ted Hong, et al.	4298
429.		Returned mail (unclaimed) from Jeff Gomes	4299
430.	5/19/14	County of Hawai'i Windward Planning Commission's Findings of Fact, Conclusions of Law and Decision and Order; Certificate of Service	4300-4315

IN THE CIRCUIT COURT OF THE THIRD CIRCUIT  
STATE OF HAWAI'I

COMMUNITY BASED EDUCATION  
SUPPORT SERVICES,

Applicant-Appellant,

vs.

WINDWARD PLANNING COMMISSION,  
COUNTY OF HAWAII; DEPARTMENT OF  
PLANNING, COUNTY OF HAWAII,

Appellees,

and

SANDRA SONG, in her capacity as Hearing  
Officer; JEFFREY GOMES, Intervenor;  
SIDNEY FUKE, Intervenor's Representative;  
TERENCE YOSHIOKA, Intervenor's  
Representative,

Intervenor-Appellees.

CIVIL NO. 14-1-0223  
(Agency Appeal)

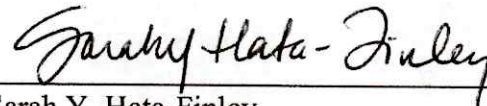
WINDWARD PLANNING  
COMMISSION SECRETARY'S  
CERTIFICATE

WINDWARD PLANNING COMMISSION SECRETARY'S CERTIFICATE

I, Sarah Y. Hata-Finley, Secretary to the County of Hawai'i Windward Planning Commission, do hereby certify that the documents listed in the Index to Record on Appeal to the Circuit Court of the Third Circuit, State of Hawai'i, and attached hereto, are true copies of the documents of record in the Planning Commission's file regarding the request by Connections New Century Charter School and Community Based Education Support Services (CBESS) for a Special Permit (SPP No. 12-000138) to develop a K to 12 charter school campus with dorm

facilities and related uses on approximately 70 acres of land situated in the State Land Use  
Agricultural District, Tax Map Key: (3) 2-5-006:141.

Dated: Hilo, Hawai'i, AUG 25 2014



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Sarah Y. Hata-Finley  
Secretary to the Windward Planning Commission

IN THE CIRCUIT COURT OF THE THIRD CIRCUIT  
STATE OF HAWAII

COMMUNITY BASED EDUCATION  
SUPPORT SERVICES,

Applicant-Appellant,

vs.

WINDWARD PLANNING COMMISSION,  
COUNTY OF HAWAII; DEPARTMENT OF  
PLANNING, COUNTY OF HAWAII,

Appellees,

and

SANDRA SONG, in her capacity as Hearing  
Officer; JEFFREY GOMES, Intervenor;  
SIDNEY FUKU, Intervenor's Representative;  
TERENCE YOSHIOKA, Intervenor's  
Representative,

Intervenor-Appellees.

CIVIL NO. 14-1-0223  
(Agency Appeal)

CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing document was served upon the  
following, in the manner indicated below on AUG 25 2014:

Ted H. S. Hong, Esq.  
P.O. Box 4217  
Hilo, HI 96720

Attorney for Applicant-Appellant  
Community Based Education  
Support Services  
*Via U.S. Mail, postage prepaid*

Carter K. Siu, Esq.  
Deputy Attorney General  
State of Hawai'i  
235 S. Beretania Street, Rm. 304  
Honolulu, HI 96813

Attorney for Applicant  
Connections New Century Charter  
School  
*Via U.S. Mail, postage prepaid*

