

LAND USE COMMISSION

STATE OF HAWAII

Hearing held on April 28, 2021

Commencing at 9:40 a.m

Held via ZOOM by Interactive Conference Technology

I. Call to Order

II. Adoption of Minutes

III. Tentative Meeting Schedule

IV. ACTION

A07-772 A&B PROPERTIES, INC.(Maui)

Consider Motion for Order to Extend Time in Docket No. A07-772 in which the Commission granted the reclassification of approximately 94.352 acres of land from the Agricultural District to the Urban District at Waiakoa, Maui, for single-and multi-family residential units, and commercial services at TMK Nos. 3-8-04:por.2, por. 22 and por.30

V. ACTION

CONFORMANCE OF C&C OF HONOLULU IMPORTANT AGRICULTURAL LANDS (IAL) RECOMMENDATION TO APPLICABLE STATUTORY AND PROCEDURAL REQUIREMENTS

To consider whether the City and County of Honolulu recommendations for the designation of Important Agricultural Lands on the Island of Oahu complies with the requirements of Sections 205-47, 205-48, 205-49 Hawaii Revised Statutes and whether the proper procedural, legal, statutory and public notice requirements were met in developing the recommendations. The lands recommended for designation are listed in Appendix H of the C&C's IAL petition which, along with meeting materials are available for public review in advance of the meeting at <https://luc.hawaii.gov/city-county-ial>.

The Commission will not be considering or determining at the meeting the legal rights, duties, or privileges of specific landowners or issues relating to particular properties.

VI. Recess

Before: Jean Marie McManus, Hawaii CSR #156

1 APPEARANCES:

2 JONATHAN LIKEKE SCHEUER, Chair (Oahu)
NANCY CABRAL, Vice Chair (Big Island)
3 EDMUND ACZON, Vice Chair (Oahu)
GARY OKUDA (Oahu)
4 LEE OHIGASHI (Maui)
ARNOLD WONG (Oahu)
5 DAWN CHANG (Oahu)
DAN GIOVANNI (Kauai)

6

STAFF:

7 JULIE CHINA, ESQ.
Deputy Attorneys General

8

DANIEL ORODENKER, Executive Officer
9 RILEY K. HAKODA, Chief Clerk
SCOTT DERRICKSON, Chief Planner
10 NATASHA A. QUINONES, Program Specialist

11 BRYAN YEE, ESQ.
Deputy Attorney General
12 RODNEY FUNAKOSHI, Planning Program Administrator
AARON SETOGAWA, Planner
13 ALISON KATO, ESQ.
Deputy Attorney General
14 State Office of Planning
State of Hawaii

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16 CURTIS TABATA, ESQ.
Attorneys for A&B Properties

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18 Deputy Corporation Counsel
JORDAN HART, Planning Director
19 KURT WOLLENHAUPT, Planning Consultant
County of Maui, State of Hawaii

20

DAWN TAKEUCHI-APUNA, ESQ.
21 Deputy Director
RAYMOND YOUNG, Planner
22 DINA WONG, Planner
Department of Permitting and Planning
23 For IAL, C&C of Honolulu

24

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1 CHAIRPERSON SCHEUER: Aloha mai kakou; good
2 morning.

3 This is the April 28, 2021 Land Use
4 Commission meeting, which is being held using
5 recently upgraded interactive conference technology
6 linking video conference participants and other
7 interested individuals of the public via the ZOOM
8 internet conferencing platform to comply with the
9 State and County official operational directives
10 during the COVID-19 pandemic.

11 Members of the public are able to view the
12 meeting via the ZOOM webinar platform. I will depart
13 from my script briefly to say, if this is your first
14 time, that means if you are attending, you only see
15 us, you cannot be seen or heard at this time. But
16 when it's time for public testimony on the matter
17 that you are interested in, which is for most people
18 in this audience primarily our second major agenda
19 item, the City and County of Honolulu's proposal
20 regarding Important Agricultural Lands.

21 One by one you'll be admitted into the
22 meeting to testify. At that time you can be seen and
23 heard by all the panelist.

24 So for you who might come in later, and for
25 everybody who is in the panelist now, I'd like to

1 emphasize the importance of speaking slowly, clearly
2 and directly into your microphone. Before speaking,
3 please state your name and identify yourself for the
4 record.

5 Also please be aware that for all meeting
6 participants you will be recorded on the digital
7 record of this ZOOM meeting. Your continued
8 participation is your complied consent to be part of
9 the public record for this event. If you do not wish
10 to be part of the public record, you may exit now.

11 The ZOOM conferencing technology, again,
12 recently upgraded to allow many more participants,
13 allows each of the parties and each individual
14 Commissioner individual remote access to this meeting
15 via our own individual personal digital devices.

16 Because of that, please note that due to
17 matters entirely outside of our control, occasional
18 disruptions may occur for one or more members of the
19 meeting at any given time. If such disruptions
20 occur, please be patient and let us know as we try to
21 restore audio/visual signals so we can conduct
22 business.

23 For members of the public who wish to
24 publicly testify during the appropriate agenda item,
25 the way that you signify your desire to testify, if

1 you're accessing this via smart phone or desktop ZOOM
2 software, you press the "raise-hand" button. If you
3 are calling in by phone, you press *9 to raise your
4 hand, and *9 to lower your hand; and *6 to request to
5 be unmuted. And, again, I will repeat these
6 directions when it comes time for testimony on
7 Important Agricultural Lands and other agenda items.

8 I will share for participants, we will take
9 breaks from time to time. The LUC conducts
10 quasi-judicial meetings. In addition, we have a
11 court reporter, and among other things we need to
12 give a period of rest to our court reporter once
13 every hour or so.

14 So everyone, my name is Jonathan Likeke
15 Scheuer. I currently have the honor and pleasure of
16 serving as LUC Chair. Along with me, Commissioners
17 Ed Aczon, Dawn Chang, Gary Okuda, Arnold Wong, our
18 LUC Executive Officer Daniel Orodener, our Chief
19 Planner Scott Derrickson, our Chief Clerk, Riley
20 Hakoda, Deputy Attorney General Julie China, our
21 Program Specialist Natasha Quinones, and our Court
22 Reporter, Jean McManus are all on the Island of Oahu.
23 Commissioner Nancy Cabral is on Hawaii Island,
24 Commissioner Lee Ohigashi is on Maui, and
25 Commissioner Dan Giovanni is on Kauai. I'm not sure

1 if he's reentered the meeting yet. I don't see him.

2 Because we are eight Commissioners of a
3 possible nine, I will also note at this time for
4 members of the public who perhaps never even heard of
5 the LUC until you received a notice from us recently,
6 that all eight Commissioners, we serve as volunteers.
7 We are not paid to do this job. We volunteer for it.
8 We have been appointed by the Governor and confirmed
9 by the State Senate. Should you not like any of our
10 performance, and any of us are up for reconfirmation,
11 these are public hearings at the State Senate. You
12 can comment whether you like or dislike, and feel
13 whether or not we need to be reappointed.

14 But we are volunteers, so we especially
15 feel for most of you taking time off from paid work.

16 I will note today Commission Edmund Aczon
17 needs to leave today at 1:45 with the possibility of
18 rejoining us at 2:45 p.m.

19 Our intention will be to go to
20 approximately 4:30 given the extensive amount of
21 public testimony that's participating.

22 Our first order of business is adoption of
23 the April 14th and 15th minutes. I will note that
24 they are not ready for approval yet. Our staff has
25 been fielding a huge number of inquiries regarding

1 the Important Agricultural matter, so we will defer
2 the approval of the minutes.

3 Our next agenda item is the tentative
4 meeting schedule. Mr. Orodener, please go over the
5 tentative meeting schedule.

6 EXECUTIVE OFFICER: Thank you, Mr. Chair.

7 Tentatively we're having a meeting today.
8 We anticipate this meeting to be continued until
9 tomorrow on the Important Agricultural Land matter,
10 that's the 29th.

11 May 12th we are having a hearing on HoKua
12 Place matter as well May 13th.

13 May 26th and 27, once again holding the
14 hearing on Oahu IAL matter.

15 On June 9th we will be taking up SP06-400
16 Pohakea Maui matter.

17 On June 10th we will be taking up the
18 21-411 AES West Oahu Solar matter, and if time allows
19 the HoKua Place matter.

20 On June 23rd we will be taking up the Kula
21 Ridge matter; and once again, if necessary, HoKua
22 Place. June 24th is also set aside for that matter.

23 Mr. Chair, that is as far as we want to
24 take our schedule at this point because right now it
25 is in flux. We request that the Commissioners keep

1 the tentative dates open in anticipation of
2 (indecipherable).

3 CHAIRPERSON SCHEUER: Thank you, Mr.
4 Orodenker.

5 Commissioners, any questions on our
6 tentative meeting schedule? I note the presence of
7 Commissioner Giovanni as well.

8 So folks who are waiting and have been
9 already very patient, we have one other agenda item
10 to consider prior to taking up the City and County
11 regarding Important Agricultural Land designation.

12 A&B PROPERTIES, INC., (Maui)

13 And that is the next agenda item. Docket
14 A07-772 Alexander & Baldwin Properties, Inc. (Maui)
15 their Petition To Consider Petitioner's Motion for
16 Order to Extend Time in Docket No. A07-772 in which
17 the Commission granted the reclassification of
18 approximately 94.352 acres of land from the
19 Agricultural District to the Urban District at
20 Waiakoa, Maui, for single-and multi-family
21 residential units, and commercial services at TMK
22 Nos. 3-8-04: Por.2, por.22 and por.30.

23 Will the parties please identify yourself
24 for the record.

25 MR. MATSUBARA: Good morning,

1 Commissioners. Benjamin Matsubara and Curtis Tabata
2 on behalf of A&B Properties Hawaii LLC, Series T.

3 CHAIRPERSON SCHEUER: Do you have any of
4 your clients with you, or do they need to be
5 admitted?

6 MR. MATSUBARA: I have two witnesses in the
7 audience, and I believe there's a public witness also
8 on this Petition.

9 CHAIRPERSON SCHEUER: County of Maui.

10 MR. HOPPER: Thank you, Chair. Michael
11 Hopper, Deputy Corporation Counsel, Maui County
12 Corporation Counsel Office representing Maui County
13 Department of Planning. With me is Planning Director
14 Jordan Hart. At 11:00 o'clock I believe Michele
15 McLean will be joining us for the department, should
16 the meeting go that long.

17 I do believe Kurt Wollenhaupt will be
18 joining us as an attendee, but I haven't checked for
19 his name, but he maybe available as well.

20 CHAIRPERSON SCHEUER: Office of Planning.

21 MR. YEE: Good morning, Deputy Attorney
22 General, Bryan Yee on behalf of Office of Planning.
23 With me is Alison Kato, the new OP Deputy Attorney
24 General who will be representing the Office of
25 Planning in all new matters. We welcome her for this

1 hearing today.

2 With me as well is Rodney Funakoshi from
3 the Office of Planning.

4 CHAIRPERSON SCHEUER: Now, let me update
5 record on this docket.

6 On February 20th, 2019, the Land Use
7 Commission approved the reclassification of
8 approximately 94.352 acres, the Petition Area,
9 situated at Waiakoa, Island of Maui, identified as
10 Tax Map Key No. 3-8-004, portion of 22 and portion of
11 30, and shown on attached map to this item on our
12 website from Exhibit A, from the State Agricultural
13 District into the State Urban District.

14 On February 27, 2009 the Commission
15 received Notice of Imposition of Conditions by the
16 Land Use Commission from Petitioner.

17 On April 6, 2009, the Commission received
18 the Declaration of Conditions.

19 On November 17, 2020, the Commission
20 received Petitioner's Motion for Order Granting Time
21 Extension and Exhibits 1 through 8.

22 On November 24th, 2020, the Commission
23 received OP's Request for Extension of Time to
24 Respond to Petitioner's Motion.

25 On November 30, 2020, the Land Use

1 Commission responded to OP's request.

2 On December 3rd, 2020, the Commission
3 received OP's second Request for Extension of Time to
4 Respond to Petitioner's Motion.

5 On December 8, 2020, the LUC responded to
6 the Office of Planning's second request.

7 On January 11th, the Petitioner filed a
8 Request for Hearing date.

9 On January 21st, the Petitioner filed its
10 First Amendment to Motion for Order Granting Time
11 Extension and Exhibit 9.

12 On April 13, the Commission received the
13 Petitioner's witness list, Exhibit List, Exhibit 10
14 and Certificate of Service.

15 April 15th, the Commission received Office
16 of Planning's Response to Petitioner's Motion.

17 On April 20, the Commission received County
18 of Maui's Department of Planning's Position Statement
19 on Motion for Order Granting Time Extension.

20 And on the same day, the Commission mailed
21 out the meeting Agenda for April 28 to 29th meeting
22 to the parties in this docket and to the Statewide
23 and County mailing lists.

24 I will first give the opportunity for
25 Petitioner to comment on Commission's Polity

1 governing reimbursement of hearing expenses.

2 Then I will recognize any written testimony
3 on this docket item, which is not the County IAL
4 item, but a separate docket on Maui.

5 I will then call for any individuals who
6 want to provide public testimony for this docket to
7 identify themselves using the "raise-hand" function.
8 I will call them in, offer them two minutes to
9 testify, then they will be available for questions by
10 the Petitioner, County, Office of Planning and the
11 Commission.

12 Following that, the Petitioner will make
13 their presentation. After the Petitioner's
14 presentation, there will be questions from the
15 Commissioners. Following that the same procedure for
16 County of Maui and Office of Planning.

17 Petitioner will be given any chance for
18 rebuttal. After all the parties represented
19 arguments, the Commission will conduct deliberations,
20 and again, from time to time, approximately every
21 50 minutes, I will call for a ten-minute break.

22 Any questions for our procedures today?

23 MR. MATSUBARA: No questions, Mr. Chairman.

24 MR. HOPPER: No, Chair.

25 MR. YEE: No questions.

1 CHAIRPERSON SCHEUER: Mr. Hakoda, is there
2 anybody who wishes to provide public testimony --
3 first, actually, Petitioner, you're familiar with the
4 Commission's policy and rulings regarding
5 reimbursement of hearing expenses?

6 MR. MATSUBARA: Yes, we are familiar and we
7 agree.

8 CHAIRPERSON SCHEUER: With that, Mr.
9 Hakoda, any written public testimony on this agenda
10 item?

11 CHIEF CLERK: Chair, this is Riley. We
12 have not received any written testimony on this
13 docket matter.

14 CHAIRPERSON SCHEUER: So I'm going to ask
15 folks in the audience now who are attendees in this
16 webinar platform to use your "raise-your-hand"
17 function if you wish to testify on this matter, which
18 is extension of time regarding reclassification of
19 lands on Maui. If you could lower your hand,
20 otherwise I'm going to think that you're going to
21 testify on this item.

22 Thank you very much, super helpful.

23 I'm going to first admit -- this is
24 regarding this docket item. I'm going to first admit
25 Sylvia Chiappetta, promote you to be a panelist.

1 Pay attention everyone, this is how we go
2 through with public witnesses when you're allowed in.

3 Please enable your audio and video which
4 you will be able to do when you're allowed in.

5 Ms. Chiappetta, you've been admitted. You
6 should see at the bottom of your screen to enable
7 audio and video. If not, I'm going to briefly, at
8 least, move you back to being an attendee. If you
9 really want to testify on this agenda item, I would
10 encourage you to keep your hand raised.

11 At this time, I'm going to call on Mr.
12 Grant Chun and promote him to be a panelist whose
13 hand is raised on this matter.

14 Mr. Chun, as you're admitted to the
15 meeting, please enable your audio and video. Can you
16 say something so we can hear you?

17 THE WITNESS: Can you hear me?

18 CHAIRPERSON SCHEUER: Yes, we can. I'm
19 confirming you wish to testify on this Maui docket.
20 You need to speak up more clearly. You have to hold
21 your microphone like this (indicating).

22 THE WITNESS: This better?

23 CHAIRPERSON SCHEUER: Far better.

24 I'm going to swear you in and ask you to
25 state your name and address for the record.

1 Do you swear or affirm the testimony you're
2 about to give is the truth?

3 THE WITNESS: Yes, sir.

4 CHAIRPERSON SCHEUER: Please state your
5 name and address for the record and proceed.

6 GRANT CHUN

7 Was called as a witness by and on behalf of the
8 Public, was sworn to tell the truth, was examined and
9 testified as follows:

10 DIRECT EXAMINATION

11 THE WITNESS: Grant Chun, 200 Hina Avenue,
12 Kahului, Hawaii.

13 CHAIRPERSON SCHEUER: Please proceed.

14 THE WITNESS: Good morning, Mr. Chair,
15 Members. My name is Grant Chun and I'm the Executive
16 Director of Hale Mahaolu, a nonprofit providing
17 affordable rental housing, especially focused on
18 senior citizens based on Maui.

19 We have 17 different properties comprised
20 of approximately 1200 units on Maui, Molokai and
21 Lanai.

22 Just by way of background, prior to joining
23 Hale Mahaolu in 2017, I was the Vice President of A&B
24 Properties Maui from 2003 to 2017.

25 Prior to that I served as Managing Director

1 of the County of Maui and also worked for 12 years as
2 an attorney in private practice.

3 I'm here today to ensure that the record
4 reflects the acute need we have on Maui for housing
5 for our residents.

6 Aside from making my career here, I also
7 grew up on Maui, so I've seen how our real estate
8 market has evolved. It would not be an exaggeration
9 when I say that I have never seen our housing market
10 in such desperate need of inventory.

11 Prices are at an all time high driven by
12 natural and steady demand, short supply, and very low
13 interest rates.

14 Maui needs both rental housing as well as
15 opportunities for homeownership at all levels in the
16 market, entry level as well as senior citizen
17 housing.

18 This housing is needed in both the
19 affordable as well as in market realm. Without
20 increased inventory in all categories of housing, it
21 is not possible for families in existing housing to
22 move to other homes as their needs evolve, without
23 the natural ability for families to move to larger
24 homes as their families grow, or downsize as their
25 needs change later in life.

1 We have a market place that makes it much
2 more difficult for a young family to get started on
3 the path to homeownership. That's why it was so
4 satisfying for me when I was involved with the team
5 that brought Kamalani to market a few year ago.

6 We worked with Hale Mahaolu to provide home
7 buyer education to over 200 families. And as a
8 result, families that had never previously owned
9 their homes were able to experience the pride of
10 owning a new home in a planned community, with
11 planned bikeways and future community center.

12 CHAIRPERSON SCHEUER: Two minutes. If I
13 can ask you to summarize, please.

14 THE WITNESS: Each of the units has a
15 private yard, and the prices started at below
16 300,000. I hope that you will look favorable upon
17 Kamalani's request, which will allow more than 460
18 new families to experience the same pride and
19 stability in their lives.

20 Thank you for your consideration.

21 CHAIRPERSON SCHEUER: Thank you very much,
22 Mr. Chun.

23 Since you are well familiar with our
24 proceedings, I would like to make you available for
25 questions, if any, from Petitioner, the County,

1 Office of Planing and the Commissioners.

2 Any questions for the witness?

3 MR. MATSUBARA: No questions from
4 Petitioner. Thank you, Grant.

5 CHAIRPERSON SCHEUER: Mr. Hopper?

6 MR. HOPPER: No questions, Chair.

7 CHAIRPERSON SCHEUER: Mr. Yee?

8 MR. YEE: No questions. Thank you.

9 CHAIRPERSON SCHEUER: Commissioner's, any
10 questions?

11 Commissioner Cabral.

12 VICE CHAIR CABRAL: I would like to
13 basically thank Mr. Chun for coming forward, actually
14 thank you for apparently giving your life to help
15 with housing. I'm here on the Big Island. And
16 housing is kind of my thing. And your presentation
17 (indecipherable) -- and get on my own soapbox,
18 because I see it. We need to do so many more things
19 to allow for more housing (indecipherable) -- once we
20 have supply and demand.

21 CHAIRPERSON SCHEUER: Commissioner Cabral,
22 your audio is not particularly clear today.

23 VICE CHAIR CABRAL: I'm sorry for that. I
24 wanted to thank Mr. Chun. Thank you very much for
25 your presentation and dedicating your life and years

1 for dedicating housing.

2 CHAIRPERSON SCHEUER: Anything further,
3 Commissioners?

4 If not, thank you very much for your
5 testimony and being here today and your patience.
6 I'm going to move you back to being an attendee, and
7 I'm going to admit Michael Hamasu.

8 MR. MATSUBARA: Mr. Chairman, Mr. Mike
9 Hamasu is one of the witnesses I was going to call,
10 so I will be calling him later in the presentation
11 after my first witness testifies.

12 CHAIRPERSON SCHEUER: You can turn your
13 video off and just hang out while we wait for you.
14 Mahalo.

15 Any other members of the public who wish to
16 testify on this item regarding extension of time
17 request on a project on Maui? Seeing none.

18 That will be the close of public testimony
19 on this docket item, and Mr. Matsubara, you can begin
20 with your presentation.

21 MR. MATSUBARA: Thank you.

22 Chairman Scheuer, Commission members, Ben
23 Matsubara and Curtis Tabata on behalf of A&B
24 Properties Hawaii, LLC, Series T.

25 We're asking for two things in this motion

1 we filed. One is to represent A&B Properties Hawaii,
2 LLC, Series T as successor Petitioner to A&B
3 Properties, Inc.

4 And secondly, to allow us an extension of
5 time on the Conditions 22 and 23 of the D&O you
6 issued in 2009.

7 We got to our first request. The
8 Petitioner at that time we filed this District
9 Boundary Amendment was A&B Properties. Since that
10 time, in 2016 it was converted to A&B Hawaii, LLC,
11 Series T, who would like at this time to be
12 considered as successor Petitioner.

13 Our second request relates to the time
14 extension we're requesting. Originally in 2009, ten
15 years was granted from the date of your Decision and
16 Order to provide all the backbone infrastructure
17 needed for the project.

18 After we left you in 2009 we proceeded with
19 the entitlement requirements of Maui County, and that
20 took us five-and-a-half years of the ten years you
21 gave us. So as a result we will be needing
22 additional time to complete the project.

23 We have just finished Increment 1, and have
24 170 homes sold that satisfy the affordable housing
25 provision attached to our Petition.

1 My request relating to Condition 23 and the
2 language thereon, I'll address after my witnesses
3 regarding the extension of time as have testified.

4 The first witness I will call will be
5 Natalie Kiehm, the Vice President of A&B Properties
6 Hawaii, LLP, Series T to provide background on the
7 entitlement process undertaken with Maui County to
8 satisfy the County entitlement requirements.

9 My second witness Michael Hamasu who will
10 testify on the economic impact of COVID-19 on the
11 Kamalani project.

12 The first witness will be Natalie Kiehm.

13 CHAIRPERSON SCHEUER: Do you swear or
14 affirm the testimony you're about to give is the
15 truth?

16 THE WITNESS: I do

17 CHAIRPERSON SCHEUER: Your witness.

18 NATALIE KIEHM

19 Was called as a witness by and on behalf of the
20 Petitioner, was sworn to tell the truth, was examined
21 and testified as follows:

22 DIRECT EXAMINATION

23 BY MR. MATSUBARA:

24 Q Good, morning, Natalie.

25 A Good morning.

1 Q State your name and business address for
2 the record, please.

3 A My name is Natalie Kiehm, and my address is
4 822 Bishop Street in Honolulu, Hawaii.

5 Q Where are you employed, Natalie?

6 A I'm employed by A&B Properties Hawaii, LLC,
7 Series T.

8 Q What are your responsibilities in regard to
9 this particular project, Kamalani?

10 A So I have been the project team leader for
11 Kamalani, and I have oversight responsibilities for
12 the planning, design, construction, sales and
13 marketing and finance activities for the project.

14 Q After A&B -- I'll just say A&B received
15 approval for this District Boundary Amendment from
16 the LUC -- the Maui entitlement process began.

17 Could you give the Commission a brief
18 summary of the steps undertaken and the time period
19 it took?

20 A So after the State Land Use Commission
21 approved the project in February 2, 2009, we were
22 planning to file for a Community Plan Amendment as
23 well as change in zoning, but we were unable to
24 because at that time the County of Maui's Planning
25 Department had a policy of not supporting any

1 Community Plan Amendments, because the Maui Island
2 Plan was in its update phase. And subsequent to
3 that, at the end of 2009, they reversed that policy.
4 And we applied for the change in zoning and community
5 plan amendment in April of 2010; received Planning
6 Commission approval for the project. And it was
7 referred to the Maui County Council at the end of
8 2010.

9 At that juncture, the council was still
10 reviewing and deliberating on the Maui Island Plan,
11 and that plan was not approved until December 2012.

12 So thereafter, our change in zoning and
13 community plan amendment started through the process
14 at the County Council, and we started public
15 hearings.

16 By then that was 2013. So in August of
17 2014 we received County Council -- well, we received
18 full approval at that point in time. The mayor
19 signed off in August of 2014. So that in total took
20 five-and-a-half years.

21 CHAIRPERSON SCHEUER: Mr. Matsubara, if I
22 may. I don't at all -- so do not misunderstand my
23 comments -- want to deprive you or your client of
24 your ability to thoroughly present a case today. But
25 I'm also painfully cognizant of the 176 people

1 waiting in the attendee function for the next agenda
2 item.

3 MR. MATSUBARA: Let me just say this. We
4 have attached exhibits to our motion, which
5 Exhibit 3, for example, is our status report to you
6 that explains in detail the entitlement process we
7 went to Maui County and the dates and the times, and
8 we indicate the current status of the project.

9 We built 170 affordable homes in the first
10 increment, and are working on Increment 2 and 3. And
11 that, because of COVID, we've been severely impacted
12 in terms of sales and proceeding with construction
13 and so on.

14 And all of those exhibits are attached to
15 our motion, and have been verified by this witness,
16 Natalie Kiehm.

17 So unless there's specific questions, that
18 basically, in a nutshell, would cover what I wanted
19 to illicit from Natalie.

20 CHAIRPERSON SCHEUER: I very much
21 appreciate it, Mr. Matsubara. If you're done, I'm
22 going to offer questioning of the witness to the
23 other parties.

24 Any questions for the witness, Maui County,
25 Mr. Hopper?

1 MR. HOPPER: No questions, Chair. Thank
2 you.

3 CHAIRPERSON SCHEUER: Mr. Yee?

4 MR. YEE: No questions, thank you.

5 CHAIRPERSON SCHEUER: Commissioners?
6 Commissioner Okuda.

7 COMMISSIONER OKUDA: Thank you, Mr. Chair.
8 I'm cognizant of the time constraints here.

9 Mr. Matsubara, can you answer this question
10 if it is more efficient, and I would take his answer
11 as also an offer of proof.

12 Is there any danger to the community by
13 allowing the substitution of parties, that somehow
14 the successor or the present entity, the Series T A&B
15 entity is somehow less financially solvent to carry
16 out its promises, because as you know, one concern
17 the LUC always has, we want to make sure that when
18 promises are made to the community, those promises
19 are kept.

20 Is there any solvency issue, or is the
21 solvency of both the original Petitioner and the
22 successor in interest the same?

23 And, Mr. Matsubara, you can present an
24 offer of proof on that.

25 MR. MATSUBARA: Regard to that question,

1 there's nothing I've seen in regard to the transfer
2 that would affect the solvency between the original
3 Petitioner and the Petitioner we're asking to
4 substitute at this time. It would still be basically
5 A&B that stands behind all the projects they have
6 committed to.

7 COMMISSIONER OKUDA: Thank you very much,
8 and I do agree, Chair, that Mr. Matsubara's
9 documentation, if I may say, as usual is very
10 complete, very thoughtful and pursuant to the law.
11 Thank you.

12 CHAIRPERSON SCHEUER: Thank you very much.
13 Any other questions for Ms. Kiehm from the
14 Commissioners? If not, any redirect, Mr. Matsubara?

15 MR. MATSUBARA: No redirect, Mr. Chair.

16 CHAIRPERSON SCHEUER: Thank you very much
17 as well. Sorry to cut you short. I know you'll
18 appreciate the reasons.

19 THE WITNESS: Thank you, Chair.

20 CHAIRPERSON SCHEUER: You're ready for your
21 second witness, Mr. Matsubara?

22 MR. MATSUBARA: Michael Hamasu.

23 CHAIRPERSON SCHEUER: Do you swear or
24 affirm the testimony you're about to give is the
25 truth?

1 THE WITNESS: Yes, I do.

2 MICHAEL HAMASU

3 Was called as a witness by and on behalf of the
4 Petitioner, was sworn to tell the truth, was examined
5 and testified as follows:

6 DIRECT EXAMINATION

7 BY MR. MATSUBARA:

8 Q Would you state your name and address,
9 please?

10 A Michael Brian Hamasu, 220 S. King Street,
11 Suite 1800, Honolulu, Hawaii.

12 Q We have asked you to prepare a study on the
13 impact COVID-19 has had on the Kamalani project, and
14 especially in view of us proceeding with Increment 2
15 and 3. And you provided a report which we filed and
16 included as Exhibit 10.

17 Could you basically summarize your findings
18 and conclusions in regard to that issue that we asked
19 you to testify?

20 But before you proceed, you've been
21 qualified as an expert by LUC in terms of market
22 analysis absorption and economics, have you not?

23 A Yes, I have.

24 Q Thank you.

25 I would like to have Mr. Hamasu qualified

1 as an expert, Mr. Chair.

2 CHAIRPERSON SCHEUER: Any objections, Maui
3 County?

4 MR. HOPPER: No objections, Chair.

5 CHAIRPERSON SCHEUER: Office of Planning?

6 MR. YEE: No objection.

7 CHAIRPERSON SCHEUER: Commissioners?

8 Seeing none, so qualified. Please proceed.

9 THE WITNESS: Thank you, Commissioners and
10 Chairman.

11 Basically what I was brought in to do was
12 evaluate Maui's residential marketplace as well as
13 its impact from an economics perspective due to
14 COVID.

15 So I realize you have a shortage of time,
16 so I'm going to quickly summarize.

17 Based on the data that we compiled from
18 both DBED and from UHERO both forecast anticipated
19 recovery to Maui and Hawaii's economy will not occur
20 until well after 2023.

21 Job growth (indecipherable) -- they are
22 very familiar with what has occurred.

23 What has also been impacted is Maui home
24 sales. At the end of 2020, when we compare the data
25 to 2019, there was a 12.4 percent decline in a number

1 of home transactions that occurred on Maui, despite
2 median home prices rising by 17 percent to buy
3 (indecipherable) at the end of the year.

4 We also evaluated data for the Kihei and
5 Wailea area where the Kamalani project is located,
6 and similarly that submarket of Maui was adversely
7 affected by the 21.6 percent drop in home sales over
8 the past year.

9 The reason why we brought up evaluation of
10 the economy is because of the way the Kamalani buyer
11 pool, so out of 170 units that were sold at Kamalani
12 to workforce homes, basically 69 percent of those
13 were owner users, and about 136 out of 170 were sold
14 to Maui residents.

15 We took a quick analysis of where these
16 buyers were employed at, and 27 percent were employed
17 by the hospitality industry, 18 percent employed by
18 education, 15 percent by construction, and 15 percent
19 by health care. So you can see it's a broad brush of
20 the Maui employment scene.

21 As a result of the pandemic, jobs were lost
22 in that year end 2020, there was about 22,000 jobs
23 total lost, majority of these sectors that I just
24 mentioned where the buyers were located had been
25 adversely affected as well.

1 So what we're trying to present here is a
2 case that the recovery of the economy doesn't occur
3 until well after 2023, and a lot of the jobs that had
4 been impacted such as hospitality, retail,
5 construction and education will not be replaced in
6 that time period.

7 The Kamalani Increment 2 and 3 would be
8 adversely affected by the fact that a lot of these
9 people that were employed by these sectors would not
10 likely jump out and buy a new house right away
11 because as a result they are probably very
12 conservative. If they lost their jobs, they're not
13 going to be spending a lot of money on buying a new
14 home.

15 So realizing this, that was the second
16 point, other than the fact that the economy will not
17 recover until 2023, '24 at the soonest, that the
18 Kamalani buyer profile is adversely affected by the
19 economy, will not buy homes right away.

20 We all know that residential real estate is
21 cyclical, and despite all that's happened, low
22 interest rates and the boom in buying on Maui, a lot
23 of those home sales were attributed to offshore
24 buyers. Those offshore buyers were the primary
25 reasons that median home prices shot up dramatically

1 just in the last quarter alone.

2 And the last point I wanted to raise in
3 conclusion is that the first increment of Kamalani
4 roughly sold about seven units per month. And if we
5 were given the authority to move forward on
6 460 units, that would take five-and-a-half years to
7 sell out. Not to mention this extension is asking
8 for ten years, we're already about two-and-a-half
9 years past the 2019 deadline.

10 So if we add two-and-a-half years, plus
11 five-and-a-half years, plus probably two years
12 required for design and continued infrastructure
13 development, we're looking at close to ten years in
14 the most optimistic of scenarios to move forward on
15 the project.

16 So those are the four or five major points
17 I wanted to raise in the study that was conducted.

18 Q Thank you, Mike.

19 So basically the buyers we were designing
20 this project for, which are Maui residents, because
21 of COVID, have been more severely impacted based on
22 the characteristics of the buyer pool for our first
23 increments where so many of them employed in the
24 hospitality industry?

25 A That is correct.

1 Q And the inability to market or sell these
2 homes would affect the volume and speed by which the
3 rest of the project could be developed and sold;
4 correct?

5 A That is correct.

6 Q Thank you.

7 MR. MATSUBARA: I have no further
8 questions, Mr. Chairman.

9 CHAIRPERSON SCHEUER: Thank you very much,
10 Mr. Matsubara.

11 Are there questions for the witness from
12 the County of Maui?

13 MR. HOPPER: No, Mr. Chair.

14 CHAIRPERSON SCHEUER: Thank you.

15 Office of Planning?

16 MR. YEE: No questions. Thank you.

17 CHAIRPERSON SCHEUER: Commissioners,
18 starting with Commissioner Giovanni.

19 COMMISSIONER GIOVANNI: Thank you, Chair.

20 Mr. Hamasu, I find your testimony to be
21 very interesting, and perhaps to have applicability
22 beyond the instant docket.

23 Would you characterize your findings and
24 conclusions to be unique for the property that is the
25 subject of this Petition? Or would you find your

1 conclusion and findings to be more broadly applicable
2 throughout the State of Hawaii regarding the buyer's
3 market for affordable housing?

4 THE WITNESS: Very good question. We did
5 analyze for -- the garbage truck is running up the
6 hill here, I'll hold off on speaking.

7 We actually did analysis of Maui County in
8 particular, and it was definitely impacted by
9 offshore buyers in terms of median home price rising
10 and shortage of supply, all of which contributed in
11 addition to the low interest rates that probably
12 helped in the spike. First quarter 2021 we have all
13 seen dramatic increase in homes sales.

14 And a lot of that was driven by U.S.
15 mainland buyers that were trying to escape
16 metropolitan areas on the mainland, because they
17 could work from home, so why not pick Maui as a place
18 to work from home.

19 COMMISSIONER GIOVANNI: We have observed on
20 other islands the same type of price spike and low
21 demand. So would you speculate that the scenario
22 which you described specific to this project might be
23 applicable for other islands as well that are
24 considering affordable housing development?

25 THE WITNESS: Yes, I would agree with that.

1 COMMISSIONER GIOVANNI: Thank you, Chair.
2 I have no further questions.

3 CHAIRPERSON SCHEUER: Thank you very much,
4 Commissioner Giovanni.

5 Commissioner Ohigashi.

6 COMMISSIONER OHIGASHI: I just have some --
7 my question is this.

8 Seems as though that 2019 we were like,
9 according to your documents, like three years behind
10 your schedule. It took additional 2011 to 2014 to
11 obtain zoning approval. I was looking at that.

12 Are you saying the 2020 events compounded
13 this, and that is why you're requiring 2020 to 2029?
14 And if so, because it's immeasurable as to when the
15 recovery would take place, would there be a necessity
16 to take a look at further extension than 2029?

17 THE WITNESS: Well, the report findings
18 indicated that even under the most optimistic of
19 scenarios, based on delay, in terms of approvals,
20 compounded with the need for additional time for both
21 design and development of the next increments as well
22 as possibly the impact of current economic climate,
23 yeah, there is that possibility that it would take
24 longer than just the initial ten years to get the two
25 increments completed and sold.

1 But I would defer to Ben and to Natalie in
2 regards to what their long-range plans are.

3 COMMISSIONER OHIGASHI: Only talking about
4 the backbone infrastructure, right, Mr. Matsubara?

5 MR. MATSUBARA: Right, to complete the
6 backbone infrastructure. But the construction of the
7 backbone infrastructure proceeds hand and hand with
8 the development sales of homes.

9 So the sale of homes has impact on how fast
10 we can move along with constructing infrastructure,
11 and the concern we had was that many of the buyers we
12 design these homes for will still have some impact,
13 even though they're employed again, because of
14 COVID-19.

15 Based on -- and I misspoke -- Michael also
16 studied the attached report is Exhibit 9, not Exhibit
17 10.

18 And on the last page of that report he
19 points out three different scenarios on completion,
20 and the most optimistic is 9.8 years. The base case
21 would be 11.1 years, and the pessimistic case would
22 be 12.6 years.

23 Considering that we're applying for this
24 extension now, as opposed to 2019, we've lost some
25 years. So I would like to basically extend it from

1 the time you give us this decision. But there was
2 some concern by other parties that we should stick
3 with the original amount that you gave us, which is
4 ten years, even though the ten years would begin from
5 this decision, which will be several years past the
6 expiration of the original ten years.

7 CHAIRPERSON SCHEUER: Mr. Matsubara, we're
8 still under questioning for your witness.

9 Was there anything further, Commissioner
10 Ohigashi?

11 COMMISSIONER OHIGASHI: No, but I had some
12 questions for Mr. Matsubara directly, if possible.

13 CHAIRPERSON SCHEUER: Let me see if there's
14 any other questions for this witness.

15 Commissioners?

16 Mr. Hamasu, can I just ask you to restate
17 the percentage of the units at Kamalani that were
18 acquired by Maui County and/or Hawaii residents?

19 THE WITNESS: That would be 69 percent of
20 170 homes.

21 CHAIRPERSON SCHEUER: And that was Maui
22 residents or Hawaii residents?

23 THE WITNESS: Both. Maui residents, it was
24 136 out of 170 sold to actual Maui residents.

25 CHAIRPERSON SCHEUER: Thank you very much.

1 Mr. Ohigashi, I'll leave it up to you. Do
2 you want to ask your questions of Mr. Matsubara now
3 or should we go on with presentation from Maui County
4 and Office of Planning?

5 COMMISSIONER OHIGASHI: Just to follow up
6 on my previous question. My question is, are we
7 really short changing the timeframe here? And is
8 there sufficient evidence that you believe that you
9 provide that supports additional time be granted by
10 Land Use Commission?

11 If so, based on the projections that you
12 outlined in -- based on those projections that you
13 outlined by Mr. Hamasu, whether or not that would
14 support additional time, at lease maybe 11 years,
15 given the pessimistic outlook of what --
16 (indecipherable)?

17 MR. MATSUBARA: I believe Exhibit 9, which
18 is Mr. Hamasu's report, states the reasons as to why
19 Kamalani may be developed in terms of construction
20 scheduling. And on the last page, page 13 of his
21 report, he has those three different scenarios. And
22 yes, 11 years would be helpful, especially if the 11
23 years ran from the date of your decision on this
24 motion, that would give us time -- not that I don't
25 want to come back and appear before you again -- but

1 I think reasonably and logically based on data, COVID
2 and the unknown factors, that would be safe and
3 appreciated, because A&B's plan is to proceed as
4 quickly as possible and develop and sell the homes.

5 They will not sit and wait if they finish
6 building all the homes and are ready for sale. But
7 an extra buffer based on the unknown factors created
8 by COVID would be very helpful. Thank you.

9 COMMISSIONER OHIGASHI: Would your client
10 accept the ten-year extension from the date of
11 approval this -- of your motion, assuming that it is
12 approved?

13 MR. MATSUBARA: Yes, if the time runs from
14 this decision, that would be very helpful.

15 COMMISSIONER OHIGASHI: I don't have any
16 further questions.

17 CHAIRPERSON SCHEUER: Please continue with
18 your presentation, if any, Mr. Matsubara.

19 MR. MATSUBARA: The only additional thing I
20 was going to add was that at your Staff's suggestion,
21 we distributed a stipulated decision and order to the
22 parties to see whether or not there were any concerns
23 with what was being proposed by this motion, and
24 whether there were language changes or things that
25 could be resolved ahead of time.

1 Based on discussions we have had and
2 communications we have had with the parties, we
3 believe the proposed D and O we submitted, except for
4 Condition 23, which Office of Planning has concerns
5 with, has been -- is acceptable.

6 So I would just, basically, like to comment
7 on our reasons for drafting our Condition 23, our
8 proposed Condition 23 as it was drafted.

9 And basically the reason is to make the
10 language consistent with your statute, 205-4(g) based
11 on the 1990 amendment which specifically had the
12 provision that uses "commencement" as the threshold
13 as opposed to "completion".

14 The second reason was the Hawaii Supreme
15 Court decision in Bridge Aina Lea uses the standard
16 of substantial commencement. And in your recent
17 decision on Hawaiian Memorial Park last year in
18 October, you used that language in your Condition 18.

19 So since the language that is currently in
20 the D and O for Kamalani occurred in 2009, and since
21 that time various things have occurred, we were just
22 asking to update the wording of the language so it's
23 consistent with statute, case law and what you did
24 last year.

25 That was the only further comment I had in

1 regard to our proposal, Mr. Chair.

2 CHAIRPERSON SCHEUER: Thank you, Mr.
3 Matsubara. I appreciate your condensing of your
4 presentation.

5 Commissioners, are there any questions for
6 the Petitioner? Commissioner Okuda.

7 COMMISSIONER OKUDA: Thank you, Mr. Chair.

8 As a followup question to Mr. Matsubara's
9 statement.

10 Mr. Matsubara, do you have any response to
11 the Office of Planning's concern that to allow these
12 types of amendments may result in allowing amendments
13 to D and O's issued by the Land Use Commission way
14 after the fact that it undermines the Doctrine of
15 Finality of Orders?

16 Do you have a response to the Office of
17 Planning's concerns of which I've tried to summarize?

18 MR. MATSUBARA: I recognize and honor also
19 the concept of Finality of Decisions. The only
20 reason I'm doing this is for the Commission's
21 purposes in terms of their decisions and orders that
22 the consistency occur.

23 So in terms of any potential challenges
24 that come up, you're covered. You're consistent
25 pursuant to the statute, case law, and prior

1 decisions. So that's the only reason why. I'm not
2 asking to change anything, I'm just saying let's be
3 consistent. And if you agree, fine; if not, I
4 understand, but that's the reason why.

5 CHAIRPERSON SCHEUER: Anything further,
6 Commissioner Okuda?

7 COMMISSIONER OKUDA: No. Thank you, Mr.
8 Matsubara, for that explanation. Thank you very
9 much.

10 CHAIRPERSON SCHEUER: Anything further for
11 Mr. Matsubara at this time, Commissioners?

12 Seeing none. Before I call on the County,
13 for all of you patiently attending and wondering how
14 long will this go on, we don't exactly know on any
15 particular docket. We try to be efficient while
16 granting due process.

17 So my guess is this is going well, but I
18 won't prejudge.

19 With that, Mr. Hopper for County?

20 MR. HOPPER: Thank you, Mr. Chair. I'm
21 going to try to be brief here. I don't think it's
22 necessary to call someone from the Planning
23 Department. I think I can try to summarize the
24 County's position.

25 Essentially the County does support the

1 time extension, and the amendment to Condition No.
2 22. This is not a case like some of the others that
3 we have seen where really nothing's happened since
4 approval.

5 As you heard, a substantial number of units
6 have been built, so County is optimistic that the
7 project can continue on, and is supportive of the
8 time extension, the request in amendment to Condition
9 No. 22.

10 With respect to Condition 23, the County
11 does not take a position. We understand there's a
12 bit of discussion between Office of Planning and
13 Petitioner on this issue, and certainly LUC can
14 resolve that as it sees fit.

15 But at this stage, we support the amendment
16 to Condition 22 and are available for questions.

17 CHAIRPERSON SCHEUER: Thank you very much.

18 Any questioners, Commissioners?

19 Commissioner Ohigashi.

20 COMMISSIONER OHIGASHI: Mr. Hopper, do you
21 object to adding, extending the date to
22 February 20th, 2031 on Condition 22?

23 MR. HOPPER: When that came up,
24 Commissioner, I did email the department to check
25 with them. I needed to check with my clients on

1 that. I don't necessarily anticipate a problem, but
2 I didn't want to speak without asking, since that's
3 different than what was proposed. I think it's up to
4 the Commission, and if I get a response, I'll let you
5 know. But right now we don't have a clear position
6 on extending that time since that wasn't originally
7 requested.

8 CHAIRPERSON SCHEUER: I do note Mr. Hart is
9 with us.

10 MR. HOPPER: He actually had to go to the
11 Molokai Planning Commission, Chair, but we do have
12 Kurt Wollenhaupt, and I've emailed the Director, so
13 hopefully we will hear, but if not, then I can't
14 really offer a position right now.

15 CHAIRPERSON SCHEUER: Further questions for
16 Mr. Hopper at this time?

17 Commissioner Cabral.

18 VICE CHAIR CABRAL: Thank you, Chair.

19 Mr. Hopper, we hear it over and over again
20 about some of the delays, and when we look at our
21 housing crisis that we have, clearly Maui has a
22 crisis as the entire state does; and yet it took
23 five-plus years to just get to the starting gate
24 here.

25 Has Maui found a way to get over that? I

1 mean, does government even realize how much of a huge
2 part of the problem they are, and why we have a
3 housing crisis? I mean, back when the single-wall
4 little redwood homes could get built and you could
5 get them approved, and could get them built within a
6 couple of months, we didn't have a housing problem.

7 Has Maui -- I guess my question is, has
8 Maui County recognized this, and have you done
9 anything in these prior -- in the last five years to
10 help improve on this problem, or is it still bogged
11 down in bureaucratic minutiae?

12 That's my question. Has anything improved?

13 MR. HOPPER: I'll do my best to answer at
14 least with respect to this project.

15 The general issue is something that you
16 cite is I think probably a statewide issue where you
17 have the interest of making sure that the development
18 process is conducted in a responsible manner, as well
19 as not trying to, you know, delay projects that have
20 merit that would result in houses being built.

21 In this particular case, I think one thing
22 that happened, if I recall, was that the Maui Island
23 Plan was in the process of being adopted while this
24 project was coming through, and the County had
25 concerns about the project going forward before that

1 Maui Island Plan was adopted which would have growth
2 boundaries showing where growth would occur.

3 This project did end up being in that. I
4 think adopting those boundaries, and that plan being
5 adopted should assist in that clarity, but that may
6 have been one of the reasons for the delay in this
7 case, because that plan was in the middle of being
8 updated, and was something that was important to have
9 updated at the time and has since been updated.

10 But your general issue I think is probably
11 one that's going to be present across the State, and
12 we will continue to grapple with recognizing that
13 it's important to have responsible development.

14 Particularly when considering the
15 constitutional requirements of, you know, allowing
16 projects to go forward that will have a permanent
17 affect on the land, and certainly recognizing the
18 need for housing for residents.

19 I think you've certainly, you know, have
20 repeatedly discussions at your meetings, and it's an
21 issue that is a statewide issue.

22 CHAIRPERSON SCHEUER: Thank you, Mr.
23 Hopper.

24 Anything further, Commissioner Cabral? Any
25 further questions for Maui County at this time?

1 I note the presence of Ms. McLean.

2 MS. McLEAN: I apologize for being late.

3 CHAIRPERSON SCHEUER: No problem.

4 There was a specific question. I don't
5 know if you were in attendance regarding potentially
6 giving further extension of date.

7 Do you have a response to that question?

8 MS. McLEAN: We do not object to adding
9 another two years.

10 CHAIRPERSON SCHEUER: I'm sorry, actually
11 do you swear or affirm the testimony you gave is the
12 truth?

13 THE WITNESS: I do swear.

14 MICHELE McLEAN

15 Was called as a witness by and on behalf of the
16 County of Maui, was sworn to tell the truth, was
17 examined and testified:

18 CHAIRPERSON SCHEUER: Rather you just did.

19 THE WITNESS: I swear to that too.

20 CHAIRPERSON SCHEUER: Anything further, Mr.
21 Hopper?

22 MR. HOPPER: No, Chair.

23 CHAIRPERSON SCHEUER: Any other questions
24 for Mr. Hopper at this time? If not, Mr. Yee, how
25 long do you think need?

1 MR. YEE: Minutes, ten minutes.

2 CHAIRPERSON SCHEUER: So it's 10:42 A.M.
3 We have been going a full hour. I'm going to take a
4 ten-minute break and we will reconvene at 10:52 A.M.,
5 hearing from the Office of Planning, any final
6 comments from the Petitioner and then moving onto
7 Commission deliberations. Break until 10:52.

8 (Recess taken.)

9 CHAIRPERSON SCHEUER: Back on the record,
10 10:52. Moving on, presentation of Mr. Yee from
11 Office of Planning.

12 MR. YEE: Thank you. The Office of
13 Planning supports the motion. We believe that they
14 have documented the reasons why they need the
15 additional time, and I think it's been well
16 presented.

17 We also have no objections to their
18 proposed Condition 22. We note that this particular
19 project was caught up in the Maui Island Plan
20 revision and as, you know, community plans, such as
21 Maui Island Plan, are revised periodically, but in
22 between revisions, individual developments can go to
23 the County and ask that their particular parcel be
24 included within the development boundaries or growth
25 boundaries, which is probably what A&B intended to

1 ask just for their particular parcel to be allowed to
2 be included in that growth boundary, which would have
3 been a shorter process to amend.

4 But because it just so happened that Maui
5 County was in the midst of doing the revision for
6 their entire Maui Island Plan, the Petitioner had to
7 wait not just until the issues about their project,
8 but the issues across the island were worked out. A
9 long process.

10 So that obviously did holdup the
11 development through no fault of the Petitioner.

12 We, the Office of Planning has no objection
13 to the extension until ten years from today, which
14 would be April 28, 2031. We do however have
15 difference of agreement, it's almost -- it's almost a
16 technical difference in agreement regarding an idea
17 of how conditions should or shouldn't be changed.

18 Office of Planning has strong feelings
19 about fidelity, and that is once a decision is made,
20 that's the decision. Things can change, and if you
21 demonstrate why that natural circumstances changed,
22 we support these amendments, but, you know, to amend
23 conditions simply to reflect the more recent case law
24 we think is not necessary to do.

25 In this case it's not that hard to look at

1 the issue, but in other cases a decision as to what
2 is the current case, what is currently reflective of
3 the current case law could be much, much more
4 difficult. So we don't advise, for example, going
5 back to look at various conditions relating to native
6 Hawaiian rights.

7 Whatever the condition that was placed in
8 the D and O is the condition that exists. That's
9 important actually for developers, because they need
10 certainty if they want to develop. Businesses cannot
11 operate without certainty. So they need to know that
12 whatever decision that was reached and the wording
13 decided on, and after all the appeals processes are
14 over, that's the decision everyone is going to live
15 with.

16 And the Office of Planning, even though we
17 disagree with the underlying decision, or even if we
18 think that we would have phrased it differently
19 today, we don't support changes to D and O's.

20 There was a case on Big Island where the
21 Commission made a decision on a piece of property
22 that didn't get enough votes to approve the
23 reclassification, in part because there weren't --
24 the full Commission was not present at the time of
25 the vote.

1 Subsequent motion for reconsideration was
2 raised where more Commissioners were present, even
3 though the Office of Planning was supportive of the
4 initial reclassification, we opposed the Motion for
5 Reconsideration because we said once you make a
6 decision, we think everyone just needs to live by it,
7 unless there's a change in the factual circumstances,
8 you don't reconsider.

9 We don't support generally reconsideration.
10 So finality is a very, very important concept of
11 which the Office of Planning supports.

12 In that particular case, admittedly the
13 change is consistent with another decision that you
14 reached, but again, it just goes to the issue of we
15 don't support petitioners coming in, or anyone coming
16 in, petitioner, intervenor or whatever, to just
17 revise conditions because we think the law has
18 changed, or because we think we have a better idea of
19 what the condition ought to be, or better wording of
20 how the condition should be stated.

21 So because of that, we've taken sort of a
22 bright line rule on this and just have asked, or
23 recommended that the Land Use Commission not make the
24 entire change that the Petitioner has asked for in
25 Condition 23, but just made a small revision, which

1 in light of the more recent request would have to be
2 amended, but in our -- based upon the original
3 request, we said instead of saying within ten years,
4 say within 20 years, a very simple change.

5 Let me add, given the more recent request,
6 we assumed Condition 23 would be amended to something
7 like if Petitioner fails to complete proposed
8 infrastructure by April 28, 2031, the Commission may
9 issue and serve upon the Petitioner an order to show
10 cause and proceeding on the remainder of the
11 paragraph.

12 It's a simple fix. It's clear. It
13 accomplishes everything that Petitioner needs, and we
14 don't think it affects any of the rights.

15 We don't think -- certainly we're not
16 asking to change the rights, whatever rights they
17 have today should be the same rights they have after
18 the Motion to Amend.

19 We don't think this change, that this more
20 restrictive change would affect that.

21 So because we don't think it would
22 prejudice the Petitioner, because we have a strong
23 feeling about the concept of finality, and our strong
24 preference for bright line rule on the issue, we
25 support the motion. We recommend that it be adopted,

1 Condition 22 be amended as requested, and Condition
2 23 be more simply amended as I've laid today.

3 Thanks.

4 CHAIRPERSON SCHEUER: Thank you, Mr. Yee.
5 Commissioners, questions for the Office of
6 Planning.

7 Commissioner Okuda.

8 COMMISSIONER OKUDA: Thank you very much,
9 Mr. Chair.

10 Mr. Yee, I'm going to ask you these
11 questions about the standard of review, and I'm
12 asking specifically you, because the Office of
13 Planning as a State agency and office is essentially
14 one of the guardians of the public trust and the
15 public interest. And I'm asking you this question
16 because we have used the term that the Land Use
17 Commission is quasi-judicial, meaning we are not like
18 the legislature where we can just make a decision
19 willy-nilly. We have to follow the law.

20 In some ways we're almost like a jury in a
21 courtroom where the judge instructs us as the jury
22 what the law is, and we are to apply to it to the
23 evidence presented to us, even if we might not like
24 what the law is.

25 So, Mr. Yee, what is the rule of law or the

1 standard we have to apply in determining whether to
2 grant the Petitioner's request for an extension of
3 time? What is the rule that we have to follow to
4 make that decision? Is it simply good cause?

5 CHAIRPERSON SCHEUER: Mr. Yee, you're
6 muted.

7 MR. YEE: Yes, I think broad discretion is
8 given to the Commission. It is restricted -- it's
9 really restricted not by standard of review, but by
10 other laws which may restrict your ability to make
11 changes. So, for example, the taking question. You
12 cannot amend a decision that would violate the
13 takings law or due process or something like that.
14 But the standard in and of itself I think is simply
15 good cause.

16 COMMISSIONER OKUDA: And number two, what
17 is the rule of law or the standard that we have to
18 apply to determine whether or not to grant the
19 Petitioner's second request, which is basically if we
20 agree with their presentation, to basically make the
21 language in that condition consistent with, you know,
22 one of the recent Hawaii Supreme Court cases, which
23 is Bridge Aina Lea?

24 What is the standard or rule that we have
25 to apply to decide whether we can or should or

1 shouldn't or can't do it?

2 MR. YEE: I would say it's the same. It's
3 your discretion to decide, again, restricted somewhat
4 to the extent due process, for example, but if you
5 decide that you want -- I am not objecting to the
6 change, because it is outside your jurisdiction or
7 beyond your authority.

8 I should be clear about that. We're not
9 saying that you have no authority to grant, to agree
10 to Condition 23 as suggested by Petitioner. We're
11 just saying it's a bad idea.

12 COMMISSIONER OKUDA: Thank you very much.
13 Appreciate your explanation on what law or standard
14 we have to apply. Thank you very much.

15 Thank you, Chair.

16 CHAIRPERSON SCHEUER: Thank you,
17 Commissioner Okuda.

18 Commissioner Chang, you might have had your
19 hand up first.

20 COMMISSIONER CHANG: Thank you very much,
21 Mr. Chair. Thank you, Mr. Yee.

22 I really do appreciate your rationale and
23 your desire for finality. But let me just ask you,
24 present to you several questions.

25 Do you believe that the Petitioner would

1 have come before LUC to amend Condition 23 to be
2 consistent with the law in the absence of this
3 request for time extension?

4 MR. YEE: In this case, no. The point
5 we're trying to make is not every case will be as
6 simple as this one.

7 COMMISSIONER CHANG: That's going to be my
8 second point.

9 I understand OP is wanting to draw a bright
10 line, but wouldn't you agree that LUC can look at, on
11 a case-by-case basis, the fact that we amend
12 Condition 23 to be consistent with the current law
13 does not in any way set a precedent that petitioners
14 will come in to change conditions based upon changes
15 in the law?

16 MR. YEE: Well, remembering that it's not
17 just Petitioner, and that other intervenors, for
18 example, might come to you -- when you say
19 "precedence", I think if you're asking like a
20 decisive, no, but in terms of coming back to you and
21 citing prior case, saying you did it before, you
22 should do it again, then certainly, yes.

23 So one is more of a legal obligation. The
24 other is this is a good practice to follow what you
25 did in the past.

1 COMMISSIONER CHANG: And I guess the reason
2 I say "precedence" is OP's position is wanting to
3 draw a bright line so that we don't -- you know,
4 we're not changing conditions. Conditions are final
5 and there's some degree of certainty.

6 My final question to you is: Doesn't this
7 create an opportunity for Land Use Commission that
8 there are some very outdated conditions that perhaps
9 would have been decided differently by the LUC
10 Commission in light of changes, that when an
11 opportunity comes up to make appropriate amendment
12 based upon, you know, the specific facts, that making
13 these amendments to be consistent with the law is an
14 appropriate action on the part of the Land Use
15 Commission?

16 MR. YEE: Every Commissioner, every group
17 of Commissioners have used their own judgment to
18 decide what's the best decision to reach.

19 Part of it is the acceptance, I think, of
20 subsequent Commissioners to say I would not have
21 decided it that way, not going to change the prior
22 decision.

23 So when you say does it give you an
24 opportunity to rephrase the language of prior D and
25 O's issued in the past, I think that is a temptation

1 the Office of Planning would generally discourage you
2 from following.

3 COMMISSIONER CHANG: And I want to be clear
4 and I want to clarify. I'm not intending to convey a
5 message that we would go back and revisit all of the
6 previous D and O's, but there's somewhat of a benefit
7 on the part of the Petitioner for coming forward and
8 getting an extension, or when they come forward and
9 ask for modification of amendment, that in light of
10 maybe community request that there be some action
11 taken on some of these other conditions, that there
12 is somewhat of a -- I'm not too sure if it's the
13 right word, "quid pro quo", we give you an extension,
14 but also look at some of the conditions to build a
15 community center or to timely build a community
16 center because you have not, and put a specific
17 timeline on it.

18 Isn't that reasonable?

19 MR. YEE: I think we would agree, because
20 if the extension causes an impact, so if because
21 you're taking longer, that is causing impact, then I
22 think you can mitigate that impact.

23 But if you're simply using the extension as
24 a quid pro quo as sort of a contractual leverage to
25 get agreement from a party for something separate

1 from and unrelated to the extension, the Office of
2 Planning I think would be opposed to that.

3 I think that's an appropriate use of motion
4 to amend to get something unrelated to the basis of
5 the amendment.

6 COMMISSIONER CHANG: That's very helpful
7 for me to understand where you draw the line on. So
8 I have no further questions, Mr. Chair.

9 CHAIRPERSON SCHEUER: Thank you,
10 Commissioner Chang.

11 Anything further for Mr. Yee? If not, I
12 will ask Mr. Matsubara to make any final presentation
13 and see whether the Commission wishes to enter
14 deliberations on this.

15 MR. MATSUBARA: In the essence of time, Mr.
16 Chairman, I'll just basically indicate that I believe
17 through witnesses and exhibits we submitted today
18 we've established enough reason why our motion should
19 be granted.

20 In regard to Condition 23, I leave it to
21 the Commission's discretion to decide how they would
22 like to word or phrase that, and I have nothing
23 further.

24 The only reason there's some sentimental
25 attachment to that was that in 1990 when the Land Use

1 Commission and Office of Planning moved to amend
2 205-4(g) to provide OSC language for purposes of
3 making sure that petitioners did what they
4 represented to the Commission they were going to do
5 when they got their approval, the term they used was
6 if there was no substantial commencement, the OSC was
7 the basis or tool the Commission had.

8 Because at that time Commission was fed up
9 with Petitioners who would come, make grand
10 representations of what they would do, and sat on the
11 property, subsequently sell it at a profit, and the
12 Commissioners hated to be used in such a way.

13 And that's still -- I was still serving as
14 special deputy at the time, so I know how strongly
15 they felt about that. If they hadn't commenced, the
16 theme for them was "use it or lose it".

17 So if you haven't used it, you should lose
18 the classification.

19 Sorry for the digression. I have nothing
20 further.

21 CHAIRPERSON SCHEUER: Thank you,
22 Petitioner.

23 Mr. Ohigashi.

24 COMMISSIONER OHIGASHI: I was just raising
25 my hand for when we deliberate.

1 CHAIRPERSON SCHEUER: So the Commission
2 will now conduct formal deliberations on whether or
3 not to deny the motion. I will note for members of
4 the parties as well as the public, that during the
5 deliberations, I won't entertain any additional input
6 from the party or public unless those individual
7 entities are specifically requested to do so by me,
8 and if so, comments be limited to the question at
9 hand.

10 Commissioners, let me confirm with each of
11 you that you have reviewed the record and are
12 prepared to deliberate on the subject docket.

13 After I call your name, please indicate via
14 either "aye" or "nay" that you're prepared to
15 deliberate on this matter.

16 Commissioner Chang?

17 COMMISSIONER CHANG: Aye.

18 CHAIRPERSON SCHEUER: Commissioner Cabral?

19 VICE CHAIR CABRAL: Yes.

20 CHAIRPERSON SCHEUER: Commissioner

21 Giovanni?

22 COMMISSIONER GIOVANNI: Aye.

23 CHAIRPERSON SCHEUER: Commissioner

24 Ohigashi?

25 COMMISSIONER OHIGASHI: Aye.

1 CHAIRPERSON SCHEUER: Commissioner Okuda?

2 COMMISSIONER OKUDA: Yes.

3 CHAIRPERSON SCHEUER: Commissioner Wong?

4 COMMISSIONER WONG: Aye.

5 CHAIRPERSON SCHEUER: Commissioner Aczon?

6 VICE CHAIR ACZON: Yes.

7 CHAIRPERSON SCHEUER: The Chair is also
8 prepared to deliberate on this matter.

9 Commissioners, I will entertain a motion
10 that the LUC accepts or does not accept the motion
11 for an order granting a time extension, a motion to
12 take acceptance or nonacceptance of the Petition and
13 any conditions that will apply.

14 Commissioners, what is your pleasure?

15 Commissioner Ohigashi, you had raised your
16 hand.

17 COMMISSIONER OHIGASHI: Mr. Chair, I'm
18 going to make a motion, but several parts.

19 One, I move that we authorize the
20 substitution of parties as requested by the
21 Petitioner.

22 Second thing, I move to grant the
23 Petitioner's Motion for Order granting time
24 extension, and amend Condition 22 as proposed by the
25 Petitioner, except that the time date would be

1 extended to April 28, 2031.

2 Also I would like to Amend Condition 23 as
3 proposed by Office of Planning, and that it would
4 include the planning language that if the
5 participants fail to complete the proposed backbone
6 infrastructure on or before April 28, 2031 and
7 continue on.

8 Also like to authorize Land Use Commission
9 Staff to make non-substantive changes to conditions
10 as appropriate regarding format, style, other
11 modifications to make sure that there is consistency.

12 Finally, I'd like to move to authorize the
13 Chair to sign the order on behalf of the Commission.

14 I would be glad to explain my reasons for
15 my motion.

16 CHAIRPERSON SCHEUER: Thank you,
17 Commissioner Ohigashi.

18 A motion with five parts has been made by
19 Commissioner Ohigashi. Commissioner Cabral.

20 VICE CHAIR CABRAL: I would like to second
21 that motion being also from a neighbor island.

22 CHAIRPERSON SCHEUER: Sorry, Commissioner,
23 I tried to -- I muted you inadvertently. I was
24 trying to lower your hand. Can you unmute?

25 VICE CHAIR CABRAL: I'd like to second that

1 motion.

2 CHAIRPERSON SCHEUER: Commissioner
3 Ohigashi. Would you like to speak to your motion?

4 COMMISSIONER OHIGASHI: I would like to
5 extend the time because all indications are that this
6 project has been delayed, not only due to the
7 requirements by the County, but it also appears that
8 the problems of the pandemic have affected it, and I
9 would like to give it as best shot as it can because
10 of the Petitioner's dedication to trying to develop
11 the property in accordance, and already there's
12 substantial amount of construction that has already
13 been done.

14 So that's why I'm asking that we schedule
15 it to April 28, 2031. I don't believe that it's --
16 given as much time so they don't have to come back.
17 This costs money, time and effort when they should be
18 working on this project.

19 As to Condition 23, I'm somewhat in
20 agreement with OP, and the reason why I'm in
21 agreement with OP is that the original condition
22 spoke to -- I believe it was the backbone
23 infrastructure, and it did not relate on whether the
24 project was substantially commenced or like that. It
25 spoke directly to the backbone infrastructure.

1 So for the purposes of making sure
2 consistency, and I don't want to take away from
3 whatever past, or whatever reasons the past why they
4 included -- why they made it backbone infrastructure.
5 I think extension of time to April 28, 2031 should
6 suffice, and it wouldn't affect any of the rights or
7 privileges of the Petitioner.

8 For those reasons I ask for --
9 (indecipherable).

10 CHAIRPERSON SCHEUER: Commissioners, we are
11 in deliberation by the motion made by Commissioner
12 Ohigashi.

13 COMMISSIONER CABRAL: I would like to also
14 echo the words of Commissioner Ohigashi, and in that
15 I read a lot of this information and was happy to see
16 that a Petitioner, that a developer actually has
17 tried to follow through and do the right thing. And
18 has come to us, because it seems like over the last
19 several years we have had so many developers, again,
20 sort of disappear and not respond, and we've had to
21 chase them down.

22 So I'm really happy to see that A&B, and
23 whatever format they have morphed into, are following
24 up and trying to provide housing for Maui community.

25 So I support all we can to enable that to

1 happen in a timely manner.

2 CHAIRPERSON SCHEUER: Commissioner Wong.

3 COMMISSIONER WONG: I'm going to vote in
4 support of this motion. The reason is that because
5 of what Commissioner Ohigashi said, but also I'm very
6 concerned about that bright line that Mr. Yee talked
7 about, so I just wanted to say that I understand and
8 hear what Mr. Yee said, and I understand about the
9 term "finality", don't have anyone come back and say
10 I want to change all these things just because, so we
11 should have some sort of bright line that other
12 people understand. So that's the only thing I just
13 wanted to say. Thank you.

14 CHAIRPERSON SCHEUER: Thank you,
15 Commissioner Wong.

16 Commissioner Okuda, followed by
17 Commissioner Aczon.

18 COMMISSIONER OKUDA: Thank you, Mr. Chair.

19 I will also be voting in favor of this
20 motion. I believe that the Petitioner's attorneys,
21 Mr. Matsubara, Mr. Tabata, and I can say, as usual,
22 have presented clear documentation in support of
23 their motion.

24 I say that, remembering the fact that the
25 last petition they brought I did vote against them,

1 notwithstanding what they probably thought was a
2 clear presentation of the evidence.

3 So I would like to assure everyone I'm not
4 hypotized by either Mr. Tabata or Mr. Matsubara. I'm
5 voting in favor of this motion. I do so with some
6 reservation about the position, which is well
7 articulated about changing the last -- or the second
8 condition.

9 I believe that good cause for change in a
10 condition can be supported by a subsequent change, or
11 subsequent clarification in the law.

12 But given the totality of the presentation
13 here, I don't believe that my view on the latter
14 matter should holdup voting in favor of the motion.
15 So I will support the motion. Thank you.

16 CHAIRPERSON SCHEUER: Commissioner Aczon.

17 VICE CHAIR ACZON: Thank you, Mr. Chair. I
18 recognize the lengthy entitlement process that took
19 place, and Petitioner's good faith effort to
20 substantial work and construction, and given the fact
21 of the pandemic, I will be voting in favor of the
22 motion.

23 And I just want to thank the Petitioners
24 for persevering to continue with this project in
25 spite of the delays that happened.

1 CHAIRPERSON SCHEUER: Thank you,
2 Commissioner Aczon.

3 Commissioner Giovanni.

4 COMMISSIONER GIOVANNI: Thank you, Chair.
5 I also will be voting in support of this motion
6 primarily for the reasons articulated by Commissioner
7 Ohigashi. I do, however, want to make an observation
8 for the record.

9 I am particularly concerned about
10 affordable housing projects which are -- and the
11 uncertainty associated with them when it's all for
12 sale housing to workforce and lower income people,
13 which as the Petitioner's witnesses put on the
14 record, can result in a lengthy period of time for
15 these projects to come to completion because the
16 demands for these for sale low-income housing may not
17 materialize due to other economic conditions within
18 the state.

19 I might note that a similar affordable
20 housing project by A&B on the Island of Kauai in
21 which it's all rental affordable housing has enjoyed
22 incredible demand and has been subscribed well beyond
23 its availability.

24 So the note I want to make is there is a
25 significant difference between affordable housing for

1 sale, which can take time to materialize, and
2 affordable housing to rent, which there's a great
3 demand for.

4 Thank you. That's all have to say.

5 CHAIRPERSON SCHEUER: Commissioner Chang.

6 COMMISSIONER CHANG: Thank you, Mr. Chair.
7 I too will be voting in favor of the motion. While I
8 may have a difference of perspective from the OP on
9 Condition 23, ultimately I think we've come to the
10 same point with this particular project.

11 I found Mr. Matsubara's testimony to be
12 very interesting and telling. I think it kind of
13 confirms a lot of our instincts about the market, and
14 I appreciate the fact that this developer is trying
15 to create opportunities, recognizing the economic
16 impacts of COVID on the particular constituency that
17 it intends to serve.

18 I would like to see housing affordable that
19 is available for the local community.

20 I do echo Commissioner Giovanni's comment
21 about affordable rentals as well. I think we have to
22 provide an array of different options for our local
23 community so that they can stay here and live.

24 But I do appreciate the Petitioner, the
25 work that they've done, and the work that they're

1 planning to do. So I will vote in favor of this
2 motion. Thank you.

3 CHAIRPERSON SCHEUER: Anything further,
4 Commissioners?

5 The Chair, I will also be voting in favor
6 of this motion for the good cause described very
7 articulately by Commissioner Ohigashi, and like
8 Commissioner Giovanni and Chang, very briefly I will
9 note that my concerns -- and it's really less about
10 this project and more about affordable housing in
11 general -- that this project is a really good example
12 of a project that is truly targeted in local
13 community to local residents, and at best now they're
14 hitting about two-thirds of it actually going to
15 local buyers.

16 And so we just have to do better as a State
17 to actually do a good job at building housing for
18 people who actually live here already.

19 If there are no further questions, Mr.
20 Orodenker, please poll the Commission on the
21 five-part motion.

22 EXECUTIVE OFFICER: Thank you, Mr. Chair.

23 The motion is to authorize the substitution
24 of the parties, to grant the Motion to Amend
25 Condition 22, accept to extend the deadline to

1 4/28/2031, amend Condition 23 as posed by OP,
2 including language referencing the 4/28/2031
3 deadline, and to authorize Staff to make
4 non-substantive changes, and to authorize the Chair
5 to sign the order.

6 Commissioner Ohigashi?

7 COMMISSIONER OHIGASHI: Aye.

8 EXECUTIVE OFFICER: Commissioner Cabral?

9 VICE CHAIR CABRAL: Yes.

10 EXECUTIVE OFFICER: Commissioner Aczon?

11 VICE CHAIR ACZON: Aye.

12 EXECUTIVE OFFICER: Commissioner Okuda?

13 COMMISSIONER OKUDA: Yes.

14 EXECUTIVE OFFICER: Commissioner Wong?

15 COMMISSIONER WONG: Aye.

16 EXECUTIVE OFFICER: Commissioner Giovanni?

17 COMMISSIONER GIOVANNI: Aye.

18 EXECUTIVE OFFICER: Commissioner Chang?

19 COMMISSIONER CHANG: Aye.

20 EXECUTIVE OFFICER: Chair Scheuer?

21 CHAIRPERSON SCHEUER: Aye.

22 EXECUTIVE OFFICER: Thank you, Mr. Chair.

23 The motion passes unanimously with eight
24 affirmative votes.

25 CHAIRPERSON SCHEUER: Thank very much, Mr.

1 Matsubara.

2 MR. MATSUBARA: On behalf of my client,
3 Commissioners, thank you very much.

4 CHAIRPERSON SCHEUER: Let's just pause for
5 a moment while the parties on this docket leave the
6 virtual meeting room, and the parties on our next
7 docket come in.

8 We have made it through the opening act and
9 we are on to the main show.

10 MR. YEE: If I could just note, Alison Kato
11 will be the attorney for Office of Planning for this.

12 CHAIRPERSON SCHEUER: We have City and
13 County, Office of Planning.

14 MR. HOPPER: Goodbye, Chair.

15 CHAIRPERSON SCHEUER: Goodbye, Mr. Hopper.

16 We have Mr. Young and we have Ms. Wong for
17 City and County of Honolulu.

18 For everyone in the audience, thank you for
19 your great patience as we clear another important
20 matter.

21 (Recess taken.)

22 CITY AND COUNTY OF HONOLULU - IAL

23 It is now 11:26.

24 Our next agenda item action regarding the
25 Conformance of City and County of Honolulu's

1 Important Agricultural Lands or IAL Recommendation to
2 Applicable Statutory and Procedural Requirements.

3 Specifically we are to consider whether or
4 not the City and County of Honolulu's recommendation
5 for the designation of Important Agricultural Lands
6 on the Island of Oahu complies with the requirements
7 of Sections 205-47, 205-48 and 205-49 of the Hawaii
8 Revised Statutes, and whether the proper procedural,
9 legal, statutory and public notice requirements were
10 met in developing the recommendations.

11 The lands recommended for designation are
12 listed in Appendix H of City and County's IAL
13 Petition which are available for public review in
14 advance of this meeting of the Land Use Commission's
15 website.

16 Parties, please identify yourself for the
17 record.

18 MS. APUNA: Good morning, Deputy Director
19 Dawn Apuna on behalf of DPP. Also on the panel is
20 Ray Young and Dina Wong.

21 CHAIRPERSON SCHEUER: I think Ms. Wong
22 might need to be admitted.

23 MS. APUNA: I think she's with Ray.
24 They're in a conference room together.

25 CHAIRPERSON SCHEUER: Understood, thank

1 you.

2 Office of Planning?

3 MS. KATO: Alison Kato, Deputy Attorney
4 General's Office of Planning. Also here is Rodney
5 Funakoshi from Land Division.

6 CHAIRPERSON SCHEUER: Thank you, and
7 welcome Ms. Kato.

8 Before we begin, and for members of the
9 audience, the next thing I'll do is update the record
10 which describes the filings that the Land Use
11 Commission has received on this matter.

12 On February 11th -- and other matters,
13 related matters.

14 On February 11th, 2021, the Commission met
15 via ZOOM virtual conference technology to inform the
16 Commissioners and the Public on the Process and
17 Procedures Required to Review and Render a Decision
18 on the County IAL submittal pursuant to Part III of
19 Chapter 205 Hawaii Revised Statute, and Subchapter 17
20 of Chapter 15-15 Hawaii Administrative Rules.

21 On February 12th, the Commission mailed out
22 the Meeting Agenda Notice for the April 24 and 25
23 meeting to the Parties and Statewide County mailing
24 list.

25 On February 16th, we mailed out an Amended

1 Meeting Agenda on the same.

2 On March 5th, the Commission received
3 public testimony from Blue Ivory Hawaii Company.

4 On April 12th, the Commission mailed out
5 the Agenda for the April 28 and 29th meeting, along
6 with the Notice for this proceeding to all property
7 owners of the TMK's identified as the proposed IAL
8 designation for the City and County of Honolulu.

9 April 20th, the Commission mailed out the
10 Meeting Agenda for the April 28 and 29th meeting to
11 Statewide and County mailing lists.

12 On the 21st we received City and County of
13 Honolulu's recommendation of Important Agricultural
14 Lands.

15 And on April 27th we received Department of
16 Planning and Permitting's errata to the City and
17 County of Honolulu's recommendation.

18 From April 12th to April 27th, the
19 Commission has received at least 120 phone calls from
20 the public regarding this proceeding. I would note a
21 record in my six-and-a-half years serving on the
22 Commission.

23 On April 20th to 27th the Commission has
24 received multiple additional testimonies by email,
25 which are posted on the website as received.

1 Let me now go over or procedures for today.

2 I realize many of you who have been waiting
3 to testify are particularly interested in this.

4 I'm going to go through in the order they
5 were received by LUC, noting the written public
6 testimony that has been submitted on this matter.

7 If you are in the audience and you wish to
8 give oral testimony on this matter, when I call your
9 name on written testimony, you should use the
10 raise-your-hand function on the ZOOM meeting
11 software; or if you're calling by phone, press *9 to
12 raise your hand.

13 At that point in the order that written
14 testimony was received already by the Land Use
15 Commission, I will admit you into the hearing room.
16 You will then have the ability to enable your audio
17 and video.

18 I will swear you in, given -- and this is
19 always a struggle at the discretion of the Chair, I
20 will give everybody two minutes to try to summarize
21 your testimony on this matter. The reason for the
22 small amount of time is to allow as many people as
23 possible who are waiting to testify.

24 Following the conclusion of your testimony,
25 you will be asked to remain on the line to be

1 available for any questions from the City and
2 County's counsel, counsel from Office of Planning or
3 any of the Commissioners.

4 After that, I will move you back into being
5 a meeting attendee and resume on the written
6 testimony list.

7 Following that, I will then ask for any
8 individuals who have not provided written testimony
9 but wish to provide oral testimony today to use the
10 raise-your-hand function, and I will call them in
11 order that their hands are on my meeting screen.

12 Following the conclusion of public
13 testimony, should we be able to conclude public
14 testimony on this matter today, I will ask the City
15 and County of Honolulu to make their presentation.
16 The Commissioners will then ask questions of the City
17 and County.

18 Following that, we will make some time
19 available to hear from the Office of Planning on this
20 matter. And finally, based on those presentations
21 and questions from the Commission, the Commission
22 will determine how, and if it will proceed with
23 regard to the County's request to this Commission.

24 For the County and Office of Planning, are
25 there any questions on our procedures for today?

1 Ms. Apuna?

2 MS. APUNA: Mr. Chair, did you say that
3 there would be a break at 1:45 to 2:30?

4 CHAIRPERSON SCHEUER: No, I said
5 Commissioner Aczon might need to leave us at 1:45.
6 We will need to take a break for lunch. I try to
7 take a break every hour or so, both so that the
8 Commissioners can be as fresh and listen as keenly as
9 possible to all testimony and presentations, as well
10 as to give a break to the court reporter.

11 In ten minutes we will have gone for
12 another 50 minutes. So my intention is to take --
13 well, what we might do, we might go slightly longer
14 than an hour, take a break at noon, take a brief
15 lunch break at noon to 12:30, given the number of
16 people patiently waiting and then -- but I noted
17 Commissioner Aczon has to leave the meeting at one
18 point.

19 Does that answer your question?

20 MS. APUNA: Yes, thank you.

21 CHAIRPERSON SCHEUER: Office of Planning,
22 any questions on our proceedings, Ms. Kato?

23 MS. KATO: No questions. I just wanted to
24 mention that Earl Yamamoto is also here.

25 CHAIRPERSON SCHEUER: Thank you.

1 With that, Commissioner Okuda, I'm going to
2 ask any Commissioners, do you have any disclosures to
3 make at this time? Commissioner Okuda.

4 COMMISSIONER OKUDA: Thank you very much,
5 Mr. Chair.

6 At this time I would like to announce and
7 state that I will be recusing myself from this
8 matter. And let me provide the explanation why I am
9 recusing myself.

10 Our firm represents a number of landowners
11 whose properties are subject to this IAL Petition,
12 and even though we have not been retained by these
13 clients with respect to land use matters, it creates
14 a potential for an appearance of bias.

15 I would also like to disclose the fact that
16 I am representing two parties on different matters
17 that have items which are pending before or affected
18 by the Department of Planning and Permitting.

19 So, again, to avoid even the appearance of
20 a potential bias, I will be recusing myself. But
21 before I recuse myself, I would like to thank all the
22 citizens of the community that have logged onto this
23 meeting who are participating, or simply are taking
24 their time to listen and participate by listening and
25 attending this meeting.

1 I have said this before. I know my other
2 Commissioners share the same feeling that our
3 democracy functions the more people get involved, and
4 the more we have an honest and clear discussion of
5 the issues.

6 So with that, Mr. Chair, I will be recusing
7 myself. And unless you instruct me to stay on, I'll
8 also be signing off from this meeting.

9 CHAIRPERSON SCHEUER: The Chair would like
10 to object because you're always so helpful in our
11 deliberations, but I understand your recusal on this
12 matter.

13 Any further comments on this recusal by the
14 parties or Commission? If not, thank you very much,
15 Commissioner Okuda.

16 COMMISSIONER OKUDA: I will be signing off
17 now. Thank you very much.

18 CHAIRPERSON SCHEUER: Commissioner Cabral.

19 VICE CHAIR CABRAL: Is it possible that he
20 can stay on listening and provide input and just not
21 vote?

22 CHAIRPERSON SCHEUER: No. When the Chair
23 recuses you, you need to leave the room.

24 Commissioner Chang.

25 COMMISSIONER CHANG: Mr. Chair, I'm not too

1 sure if this is the right time. I'm not raising a
2 conflict of interest, but I do want the Attorney
3 General at some point in time to address the question
4 of -- this will take -- an action on this item will
5 take six affirmative votes, and with Commissioner
6 Okuda leaving, that leaves us seven.

7 If anyone of us has an interest in one of
8 the TMK parcels, are we then conflicted from hearing
9 the entire Petition, or just on matters related to
10 that particular parcel?

11 CHAIRPERSON SCHEUER: Ms. China?

12 MS. CHINA: I would try to figure out -- I
13 mean, we are at the beginning right now. I would try
14 to figure out a way to separate one parcel out from
15 this right now, if we intend to have all of the
16 Commissioners deliberate and listen to the testimony
17 on this, otherwise it might be an issue.

18 As far as whether or not there is an actual
19 conflict of interest, I think you'd need to consult
20 with, I think -- what is it, ethics, right? Because
21 it's a personal matter.

22 CHAIRPERSON SCHEUER: If I may manage this
23 discussion a little bit.

24 First, Ms. China, can I confirm with you,
25 or Mr. Orodener, whether Commissioner Chang's

1 statement that we need six affirmative votes is
2 correct, or five, a simple majority on this
3 designation?

4 EXECUTIVE OFFICER: Mr. Chair, it depends
5 on the nature of what you are voting on. If we are
6 voting to adopt the maps in their entirety, or in
7 part, then we need six.

8 CHAIRPERSON SCHEUER: Which is not before
9 us today.

10 EXECUTIVE OFFICER: That's correct.

11 CHAIRPERSON SCHEUER: What about the action
12 before us today to simply determine whether or not
13 the City and County of Honolulu's submission has met
14 all applicable requirements?

15 EXECUTIVE OFFICER: I think it's kind of
16 unclear, but my personal initial opinion is that it's
17 five, because it's a procedural matter.

18 CHAIRPERSON SCHEUER: Thank you. Sorry,
19 and then going on to the conflict.

20 If I may interject into this discussion,
21 Commissioner Chang and Deputy AG China.

22 Part of the answer on whether there's a
23 conflict or not depends on the pending question of
24 whether or not people's actual rights are affected by
25 this matter or not, of which there are different

1 opinions; is that correct?

2 MS. CHINA: Yes. My understanding, today's
3 decision will not affect any private property rights.
4 So as far as today's discussion is concerned --
5 sorry, hold on.

6 The light is automatic and goes off if I
7 don't move around. Sorry, it's ridiculous.

8 So I think -- so I think that Commissioner
9 can participate in today's discussion, because it is
10 a procedural discussion, and it's not going to affect
11 anybody's property rights, not even anybody in the
12 waiting room or anything, it's just a procedural
13 discussion today.

14 CHAIRPERSON SCHEUER: Should the
15 Commission -- which I'm not prejudging one way or the
16 other -- but if the Commission decides that the City
17 has not met its procedural burden, that would
18 possibly be the end of the matter before us right
19 now.

20 Does that address your questions,
21 Commissioner Chang?

22 COMMISSIONER CHANG: Yes, it does.

23 Thank you, Ms. China.

24 CHAIRPERSON SCHEUER: Commissioners, any
25 further disclosures at this time? If not, I'm now

1 going to move on to the proceedings with public
2 testimony.

3 The last thing I'll say before starting to
4 read names, I want to re-emphasize to everyone,
5 especially those attending this meeting, that we are
6 not today reviewing whether or not City and County's
7 recommendations for IAL designation are appropriate
8 for any particular property, or whether any
9 individual property should or should not be included
10 in the County's recommendation.

11 Today's proceedings are limited to whether
12 or not the procedures used by the County in
13 developing its recommendations met the requirements
14 of Chapter 205 Hawaii Revised Statutes.

15 To the degree you are able -- and we
16 appreciate both the emotional intensity and concern
17 that this matter has raised -- but to the degree you
18 can limit your comments to whether or not you believe
19 the City has met their procedural burden, that will
20 assist us even more in our deliberations.

21 Should the Commission choose to proceed
22 with the review of the County's recommendations, each
23 and every landowner who so desires will be given
24 opportunity to present evidence as to why or why not
25 property should be included in the County

1 recommendation designation at a later date.

2 With that, it's 11:32. We are going to
3 start down the written testimony list. If you are in
4 the attending room and you hear your name raised, I'm
5 going to ask whether or not to raise your hand when I
6 state your name, or the organization you're
7 representing, if you wish to provide oral testimony.

8 Wendy Hee of Blue Ivory Corporation.
9 You're here. Your hand was just raised, and it's not
10 raised. Is that because somebody has admitted you?
11 Scott or somebody, did you admit -- there she is.

12 I'm going to admit you, promote you to
13 panelist. When you come in, please enable your audio
14 and video. You're now in the meeting room, Ms. Hee.
15 Please enable your audio and video. Towards the
16 bottom of your ZOOM screen --

17 You might have to move your cursor. I can
18 hear you now. Can you enable your video? I'm going
19 to swear you in. You have two minutes for your
20 testimony, then questions from the parties.

21 Do you swear or affirm that the testimony
22 you're about to give is the truth?

23 THE WITNESS: Yes, I do.

24 CHAIRPERSON SCHEUER: Please proceed.

25 -o0o-

1 WENDY HEE

2 Was called as a witness by and on behalf of the
3 Public, was sworn to tell the truth, was examined and
4 testified as follows:

5 DIRECT EXAMINATION

6 THE WITNESS: Aloha. My name is Wendy Hee.
7 I'm Vice President of Blue Ivory Hawaii, Corp.

8 About two months ago a lawyer emailed us
9 about IAL lands and the proposed designation of a
10 parcel we had just purchased less than a year
11 earlier. So our awareness of this issue was quite
12 accidental.

13 We had not received written notice, so I
14 called State Land Use Commission and was told, but
15 because Blue Ivory never received prior notices, I
16 wrote a letter on March 4th to make sure our
17 objections were on record. And most of that letter
18 talks about the inappropriateness of the designation
19 of Important Agricultural Lands for the property at
20 77-808 Kamehameha Highway, which is TMK 9-5-02:003.

21 However, because you're focusing on the
22 procedural matter of whether the City has followed
23 its procedure, I would like to make note that prior
24 to last week we did not receive any written notice of
25 hearing for this matter.

1 Also I would like to go on record to say
2 that the process that the Land Use Commission is
3 using to make this designation is unclear. We were
4 informed that this is a modified rule-making process
5 that may not be proper in comparison to the typical
6 petition that affects a private landowner's property
7 uses.

8 Basically those are our objections about
9 the procedures.

10 CHAIRPERSON SCHEUER: Thank you very much,
11 Ms. Hee. Thank you for keeping it under two minutes.
12 Are there questions for the witness from Ms. Apuna?

13 MS. APUNA: No questions.

14 CHAIRPERSON SCHEUER: Ms. Kato?

15 MS. KATO: No questions.

16 CHAIRPERSON SCHEUER: Commissioners?
17 Commissioner Cabral.

18 VICE CHAIR CABRAL: Yes. Thank you for
19 coming and talking to us.

20 You say you purchased the property about a
21 year ago, and in that timeframe have you received
22 bills from the City and County to pay taxes, upon
23 which you had to pay taxes, or have you never
24 received anything from anyone?

25 THE WITNESS: I believe we had one tax bill

1 perhaps.

2 I have a question. I just want to make
3 sure that I understand correctly that at a later date
4 you will be looking at the question of the
5 appropriateness of the designation of Important
6 Agricultural Lands for specific property.

7 CHAIRPERSON SCHEUER: Should we proceed,
8 should we decide as a Commission, which is not
9 determined yet, whether the procedural requirements
10 of Hawaii Revised Statutes 205 have been met by the
11 City, then we would move onto that question.

12 THE WITNESS: Thank you.

13 CHAIRPERSON SCHEUER: Commissioner Cabral,
14 you still had a question?

15 VICE CHAIR CABRAL: I just want to see if,
16 because I deal with this myself, I'm always tracking
17 down people.

18 So when you purchased the land, was it a
19 private transaction and you just did paperwork, or
20 did you actually go through like an escrow company,
21 and have your purchase of the property recorded with
22 the Bureau of Conveyances, and everything one would
23 call normal?

24 THE WITNESS: Yes, it was documented in the
25 Bureau of Conveyances, so it went through the normal

1 process.

2 VICE CHAIR CABRAL: So you're not aware of
3 any reason that your ownership of it would be hidden
4 or not able to be found for someone looking for the
5 proper new owner of the property?

6 THE WITNESS: Correct, it's all public.

7 VICE CHAIR CABRAL: Thank you very much.
8 Thank you for coming and talking to us also. Thank
9 you.

10 THE WITNESS: Thank you for talking to me.

11 CHAIRPERSON SCHEUER: Commissioner Chang.

12 COMMISSIONER CHANG: Good morning, Wendy.
13 Nice to see you again.

14 I wanted to ask you, when you submitted the
15 letter, did you submit that to the City, or to the
16 Land Use Commission?

17 THE WITNESS: To the Land Use Commission,
18 because it was -- the lawyer who emailed us, who we
19 just didn't even know, sent us information about a
20 Land Use Commission process or procedure or
21 something, and so that was the phone call, and that
22 was the followup that I made was to the Land Use
23 Commission.

24 COMMISSIONER CHANG: Can I ask you, have
25 you submitted anything to the City objecting to this

1 designation?

2 THE WITNESS: No. From what I understand,
3 when I spoke to the person at the Land Use
4 Commission, he had indicated that the City had
5 already gone through its full process, so I felt that
6 the appropriate venue would be the Commission, having
7 heard that the City was all pau with what it was
8 doing.

9 COMMISSIONER CHANG: I guess my final
10 questions is: Do you know whether the previous owner
11 received any notice from the City about this IAL
12 designation?

13 THE WITNESS: I do not know. I looked in
14 the documents that we received as part of the sale,
15 and found nothing.

16 COMMISSIONER CHANG: Thank you so much.
17 And I really do appreciate you coming to us this
18 morning. Thank you.

19 CHAIRPERSON SCHEUER: Are there further
20 questions for the witness? If I may, briefly, Ms.
21 Hee.

22 A few questions. Do you understand the
23 role of the LUC today is not as the proposer of the
24 designation, but rather we're sitting essentially in
25 a quasi-judicial manner to decide whether or not the

1 adequacy of the City's proposal has been met?

2 THE WITNESS: I understand now that you're
3 looking at the procedure, and whether or not the City
4 has met it, met its requirements. And that is why my
5 oral testimony is a bit different from the written
6 testimony that I sent on March 4th, which talks more
7 about the appropriateness or inappropriateness really
8 of designating our parcel as an Important
9 Agricultural Lands.

10 However, because you indicated that it is a
11 procedural matter that you're looking at, I did want
12 to make sure that you were aware that we had not
13 received any written notices prior to last week.

14 CHAIRPERSON SCHEUER: Thank you very much.

15 Anything further? If not, I'm going to
16 move you back to being an attendee. Thank you very
17 much for your testimony this morning.

18 THE WITNESS: Thank you.

19 CHAIRPERSON SCHEUER: The next public
20 testimony that we received was from Roland Harvest.
21 If Roland Harvest is in the room and wishes to
22 provide oral testimony, please raise your hand using
23 the raise-your-hand function or *9 if you're calling
24 in. If not, your written testimony is on the website
25 and reviewed by the Commissioners.

1 Following Roland Harvest we received on
2 April 20th testimony from John Foti.

3 On April 22nd and 23rd we received
4 testimony from -- I'm sorry, I'm looking -- sorry,
5 from Kainoa or Bronson Azama. I see your hand.
6 Thank you very much. I'm promoting you to panelist.
7 Enable your audio and video.

8 THE WITNESS: Aloha mai kakou.

9 CHAIRPERSON SCHEUER: Do you swear or
10 affirm that the testimony you're about to give is the
11 truth?

12 THE WITNESS: Yes.

13 CHAIRPERSON SCHEUER: Please proceed and
14 I'm going to give you two minutes.

15 BRONSON AZAMA

16 Was called as a witness by and on behalf of the
17 Public, was sworn to tell the truth, was examined and
18 testified as follows:

19 DIRECT EXAMINATION

20 THE WITNESS: Mahalo.

21 So I understand that this matter was more
22 of a procedural matter. I know my written testimony,
23 as of last night, former testifier, was more so
24 regarding the designation.

25 But I do think there is still some

1 underlying concerns whether or not C and C really did
2 due process in the land designation that proposed for
3 the Koolaupoko moku, because for our moku which is
4 the Koolau all the way up to Maunaloa, which is
5 Hawaii Kai, there's a whole lot more agricultural
6 lands that should be designated as IAL based on the
7 traditional use, as well as the purpose and
8 resurgence of practices to restore kalo and various
9 other things, in particular the lands of Waikane,
10 Waiahole, Kahulu'u, a majority of the heiaus in the
11 ahupua'a of Kaneohe, which includes Lulu Point, in
12 particular, where there is resurgence of kalo
13 production, and Kailua, some of the organizations
14 that had listed in my written testimony are actively
15 working to restore their places and spaces for
16 traditional agricultural use in Kawainui Marsh, as
17 well as in Maunawili, which is the upper reaches of
18 Kailua. And then other areas in Waimanalo as well.

19 So I think for me it's just a matter of the
20 C and C needing to revisit the process in the
21 Koolaupoku moku, just to ensure as much of our lands
22 are included as much as possible.

23 I'm not sure these organizations that I
24 listed were contacted for C and C for proposed
25 designation.

1 That's all I have to say. Mahalo.

2 CHAIRPERSON SCHEUER: Mahalo. Mahalo for
3 keeping your testimony under two minutes.

4 Questions, counsel?

5 MS. APUNA: No questions.

6 CHAIRPERSON SCHEUER: OP?

7 MS. KATO: No questions, thank you.

8 CHAIRPERSON SCHEUER: Commissioners,
9 beginning with Commissioner Chang.

10 COMMISSIONER CHANG: Good morning, Bronson.
11 Thank you for being here and your patience.

12 I wanted to ask you, were you aware of any
13 of the previous meetings that the City and County
14 held on this IAL designation?

15 THE WITNESS: I was not aware. I was still
16 in high school at the time too, so I was definitely
17 trying to keep tabs with a lot of issues, but I
18 didn't hear too much about Important Agricultural
19 Land designation.

20 COMMISSIONER CHANG: As I understand your
21 testimony, yours would be a little unique. You're
22 not necessarily opposing any of the -- opposing the
23 designation of any IAL lands, you're actually saying
24 more land should be in IAL designation; is that what
25 you're saying?

1 THE WITNESS: Yes, correct.

2 COMMISSIONER CHANG: Thank you so much. I
3 appreciate your testimony this morning.

4 THE WITNESS: Mahalo.

5 CHAIRPERSON SCHEUER: Further questions for
6 the witness?

7 Commissioner Wong.

8 COMMISSIONER WONG: Thank you, Chair.

9 Good morning, Mr. Azama, I think it's still
10 morning yet. You know the land that you're on right
11 now, is that yours or your parents? Who owns that
12 land?

13 THE WITNESS: So right now I'm at my
14 grandparents hale, which is in Kalihi. So we have
15 our own garden and such. But my Azama side has lived
16 here for like over three generations.

17 COMMISSIONER WONG: I'm following
18 Commissioner Chang's line of questioning.

19 Were they ever notified about the City 's
20 process or talk story process?

21 THE WITNESS: In regards, like my public
22 process more so on the Koolaupoko region which is
23 where I live. To my knowledge the area where my
24 grandparents live, it's not agricultural lands.

25 COMMISSIONER WONG: I'm just wondering

1 about the Koolaupoko region, if they were ever
2 notified about talk-story sessions?

3 THE WITNESS: In particular for the area, I
4 believe we weren't notified of anything, to my
5 knowledge.

6 COMMISSIONER WONG: So none of your friends
7 or family members were, correct?

8 THE WITNESS: Not to my knowledge.

9 COMMISSIONER WONG: So I just wanted to
10 reaffirm that and put it on the record that no one,
11 that you know of, was ever touched by the City.
12 That's all I needed to know. Thank you, Mr. Azama.

13 Thank you, Mr. Chair.

14 CHAIRPERSON SCHEUER: Other questions for
15 the witness?

16 Very briefly, can I surmise from your
17 testimony that there seems to be an orientation from
18 the County in which lands to designate as IAL, that
19 there's a preference or prejudice towards lands
20 former used for plantation agriculture and away from
21 lands used for traditional and customary in
22 agriculture?

23 THE WITNESS: Can you repeat that question,
24 again?

25 CHAIRPERSON SCHEUER: In reading your

1 testimony, is one way to summarize your testimony
2 that there may appear to be in the City and County's
3 decisions regarding which lands to propose as IAL, a
4 preference for former plantation lands and
5 non-preference for lands used for traditional and
6 customary native Hawaiians for agriculture?

7 THE WITNESS: I don't necessarily say I can
8 exactly answer that. It's like close enough to bias,
9 I think, more so my only concerns are like these
10 areas that aren't designated, at least in Koolau
11 region, were former lands for development in previous
12 years that our kupuna still fought for to ensure that
13 agricultural use could be permitted today.

14 I think that's more so where I fall in line
15 is the concern that it can be turned into real estate
16 in the future, again, an issue we would have to face
17 once more.

18 CHAIRPERSON SCHEUER: Thank you very much.
19 Any further questions?

20 If not, thank you very much for your
21 testimony -- Commissioner Giovanni.

22 COMMISSIONER GIOVANNI: I don't have a
23 question for this witness. I thought we were
24 through. I wanted a question for the Chair.

25 CHAIRPERSON SCHEUER: I'm going to move you

1 to be an attendee, Mr. Azama.

2 Commissioner Giovanni.

3 COMMISSIONER GIOVANNI: I am really
4 overwhelmed with the public interest in this docket,
5 and I welcome the citizens and residents of Oahu in
6 particular having come forward to the Commission.

7 At the same time, it appears that their
8 interest is really driven by whether or not specific
9 lands are designated or not designated, which is
10 really not the procedural question of this docket at
11 this time.

12 If the first two witnesses are any
13 indication, time that will be devoted to their
14 particular individual interests, which are not
15 necessarily the procedural interest in this docket,
16 we're going to be here 25 to 30 hours listening to
17 this testimony.

18 I want to raise a concern about that and
19 ask if there's any way that we can work with the
20 public to focus their comments to the issue at hand.

21 CHAIRPERSON SCHEUER: The comment is well
22 taken, Commissioner Giovanni.

23 I do -- when the Commission, this
24 Commission had an option before us to simply attach
25 to our regularly posted agenda, and sent to only

1 people on the mailing lists, the list of TMKs, but we
2 chose instead to individually mail notice of this
3 proceeding to every owner to just ensure that there
4 might be plenty people who don't normally track LUC,
5 don't normally subscribe to our list, so this has
6 indeed generated a great deal of interest.

7 I do request again that members of the
8 public try to restrict your statements to with regard
9 to procedure.

10 So were you told by the patient City? Were
11 you informed? If you were informed, when, and
12 matters pertinent to that.

13 And I realized, yes, we might be in for a
14 long day or two days given the public interest in
15 this. I want to err on the side of caution. If
16 people feel the need to testify on this, I'll ask
17 them to keep their comments related to the question
18 before us.

19 With that, our next testifier who provided
20 written testimony -- sorry, I'm looking at the wrong
21 screen -- Bert Beaman.

22 If you are in the audience and wish to
23 provide oral testimony, please raise your hand.

24 Bert Beaman followed Pepito Paguirigan.
25 John Foti. Michael Shuman. Michael S. Shuman. If

1 you heard your name, please raise your hand.

2 Next group of public testifiers, Alexander
3 Garber, Alexander Garber. I see you in the audience.
4 If you wish to provide public testimony, please raise
5 your hand.

6 Albert Chiappetta. I note somebody with
7 the same last name raised their hand on the previous
8 docket. Sylvia Chiappetta, I'm going to admit you.
9 When you come in, please enable your audio and video.
10 It should be down towards the bottom of your screen.
11 I saw you briefly. I believe I can hear you. I can
12 see you and hear you.

13 Welcome. Do you swear or affirm the
14 testimony you're about to give is the truth?

15 THE WITNESS: Yes.

16 CHAIRPERSON SCHEUER: In two minutes try to
17 summarize your testimony particularly in relation to
18 the procedural question at hand.

19 SYLVIA CHIAPPETTA

20 Was called as a witness by and on behalf of the
21 Public, was sworn to tell the truth, was examined and
22 testified as follows:

23 DIRECT EXAMINATION

24 THE WITNESS: One is procedural. I did not
25 receive notice until the meeting of April 12th, other

1 than that, I have no information or notices as to the
2 property being on this list, and why it's on this
3 list.

4 And basically as far as procedure, that's
5 it. Just a little note, my property is only an acre
6 with a house on it, so I don't understand why the
7 department would put little small parcels of acres or
8 less on the list for agriculture when you cannot farm
9 for a livelihood on that property.

10 That's all I have to say.

11 CHAIRPERSON SCHEUER: Thank you. Please
12 remain for any questions.

13 Mrs. Apuna?

14 MS. APUNA: No questions, thank you.

15 CHAIRPERSON SCHEUER: Office of Planning?

16 MS. KATO: No questions, thank you.

17 CHAIRPERSON SCHEUER: Commissioners?

18 Commissioner Chang.

19 And I will similarly ask, I know we've been
20 asking questions of witnesses, in part, educational
21 towards the audience, but I will try to limit
22 Commissioners' questions as well to give everyone a
23 chance to speak.

24 COMMISSIONER CHANG: Thank you for being
25 here this morning.

1 I just want to ask you how long have you
2 lived on the property?

3 THE WITNESS: Five years.

4 COMMISSIONER CHANG: Are you the owner of
5 the property?

6 THE WITNESS: Me and my husband.

7 COMMISSIONER CHANG: So do you receive the
8 real property tax assessment?

9 THE WITNESS: Yes, we pay property tax
10 every year.

11 COMMISSIONER CHANG: And during that period
12 of time that you've owned the land, have you received
13 any notice from the City and County of Honolulu
14 regarding this IAL process?

15 THE WITNESS: We received something a
16 couple years ago about this. Other than that,
17 nothing. Just a letter about they're going to be
18 doing this agriculture designation thing. But since
19 then, I haven't heard anything. I never got any
20 notices about any meeting since. That was couple
21 years ago.

22 COMMISSIONER CHANG: Do you recall in that
23 letter whether it was an invitation to attend a
24 public meeting or submit any comments? Do you
25 remember what that letter was about?

1 THE WITNESS: It was to attend the public
2 meeting somewhere in downtown, and we did attend it.
3 It seemed like it was a done deal. The message we
4 got from it, it was a done deal, and that was it.

5 But we didn't get any other further notices
6 about any other meetings or information, nothing
7 until I got this letter dated April 12th.

8 COMMISSIONER CHANG: So after that meeting
9 that you attended, did you ever -- did the City ever
10 notify you that your land was going to be designated
11 IAL and you had an opportunity to object?

12 THE WITNESS: No, they did not.

13 COMMISSIONER CHANG: Thank you so much. I
14 really appreciate that.

15 THE WITNESS: Thank you.

16 CHAIRPERSON SCHEUER: Thank you very much,
17 Commissioner Chang. Any other questions?

18 Commissioner Wong.

19 COMMISSIONER WONG: Thank you, Chair.

20 Ms. Chiappetta, I got a question. So you
21 know where your house is, or where your land is, is
22 there any other agriculture lands around it or just
23 houses?

24 THE WITNESS: Next to me is a farmer.

25 COMMISSIONER WONG: One farmer. Is it left

1 side, upside --

2 THE WITNESS: Coming up to my house, it's
3 on the left side, and he's the only farmer. After
4 that we're all houses, like eight houses in that
5 area. Hawaiian Homes above us, but all of us have
6 like an acre. He's the only one who is a farmer.

7 COMMISSIONER WONG: So I'm just trying to
8 kind of think it through, just because I want to make
9 sure that if there's lots of farms around you, or
10 just like just houses.

11 CHAIRPERSON SCHEUER: One second. Can the
12 room be quiet that Commissioner Wong is in? Picking
13 up some audio.

14 THE WITNESS: There's one farmer before me,
15 he farms green onions. There's my house, another
16 house, and a group of houses after that, and that's
17 it.

18 COMMISSIONER WONG: So the other side of
19 the road --

20 CHAIRPERSON SCHEUER: Mr. Wong, are your
21 questions going towards procedural matters?

22 COMMISSIONER WONG: Part of the procedure
23 to see if the City has met the requirements to see if
24 it's a contiguous agricultural area.

25 THE WITNESS: It is not, because across

1 from me is a watershed, Board of Water Supply.

2 COMMISSIONER WONG: That's it. Thank you,
3 ma'am. Thank you, Chair.

4 CHAIRPERSON SCHEUER: Other questions for
5 Ms. Chiappetta? If not, thank you for your patience
6 and testimony before us today.

7 I will note that I blew past the
8 12:00 o'clock stop time that I promised, and it is
9 12:10. I'm going to put you to be an attendee again.
10 Thank you again for your testimony.

11 It is 12:10. We do need to take a pause
12 for lunch, so that we can in part continue to
13 carefully listen to all of the testimony.

14 So it's 12:10. We normally take a 45
15 minute lunch. I'm going to ask us to take a limited
16 30 minutes, reconvene our procedures at 12:40 P.M.

17 With that we will go into recess until
18 12:40 P.M. promptly, thank you.

19 (Noon recess taken.)

20 CHAIRPERSON SCHEUER: We're ready to
21 proceed. We're back on the record.

22 Just to recap where we're at. We have our
23 procedural matter before us today to determine
24 whether or not the City and County have met the
25 procedural requirements under Chapter 205, not on the

1 merits or substance of whether or not any individual
2 property does or does not meet the criterion required
3 for IAL designation.

4 To recap, also for those who tuned in
5 perhaps at different times, due to our technical
6 difficulties, just a reminder.

7 As all of you are attending this meeting on
8 your own time, the Commissioners, all seven of us
9 here, serve as volunteers. We are not working today
10 at our paid employment. We are working trying to
11 make Hawaii a better place by helping implement
12 Chapter 205 in a fair and impartial matter.

13 With that we are going through the witness
14 testimony first, and offering people who filed
15 written testimony the opportunity to amend their
16 written testimony with oral statements.

17 After that we are providing for people who
18 have not provided written testimony, the chance to
19 provide oral testimony.

20 We are -- we left off with Chiappetta.
21 Kathleen Shimizu. If so, use the raise-your-hand in
22 the ZOOM software.

23 Samantha Grossi, Samantha Grossi.

24 Mieko Yamamoto. I believe I saw you
25 earlier, Mieko Yamamoto or Yamamoto Mieko. Raise

1 your hand on the ZOOM software. I see you, okay.
2 I'm going to admit you as a panelist, and we're going
3 to do our best to receive your request, but before we
4 can address it in terms of providing a translator,
5 there will be attempts to do so in a future hearing.
6 I can see your image. Can you say something?

7 THE WITNESS: Yes.

8 CHAIRPERSON SCHEUER: We are receiving an
9 echo. Can you enable your video?

10 THE WITNESS: First I would like to thank
11 the Land Use Commission for --

12 CHAIRPERSON SCHEUER: Ms. Yamamoto, one
13 moment. Are you connected in two devices?

14 THE WITNESS: Yes.

15 CHAIRPERSON SCHEUER: You need to mute one.
16 We're getting feedback. And then I need to swear you
17 in before you provide testimony. I can see you.

18 THE WITNESS: Yes, and we got this letter
19 in August 2018.

20 CHAIRPERSON SCHEUER: One moment.

21 Do you swear or affirm that the testimony
22 you're about to give is the truth?

23 THE WITNESS: Yes.

24 MIEKO YAMAMOTO

25 Was called as a witness by and on behalf of the

1 Public, was sworn to tell the truth, was examined and
2 testified as follows:

3 DIRECT EXAMINATION

4 CHAIRPERSON SCHEUER: Please proceed.

5 THE WITNESS: My problem is English.

6 CHAIRPERSON SCHEUER: You're doing very
7 well, thank you. Please proceed.

8 THE WITNESS: Can I start?

9 CHAIRPERSON SCHEUER: Yes, please.

10 THE WITNESS: We got this letter 2018
11 because this was not agriculture land with a history
12 of the lot being single family not for over 80 years.
13 And this is reason --

14 UNIDENTIFIED SPEAKER: We were never
15 notified.

16 THE WITNESS: So any way, we don't know for
17 the first time we hear the kind of using for
18 agriculture land.

19 Unidentified speaker: First time heard it
20 was when --

21 CHAIRPERSON SCHEUER: Can the individual --
22 for our record, there is another individual with you.

23 Please identify yourself.

24 MR. LENZ: This is Michael Lenz, and we are
25 at the same address, and I wrote written testimony as

1 well.

2 And, yes, her English isn't that good, but
3 what she wanted to say is -- what we discussed was,
4 we wanted to thank the Commission for giving us
5 notice. We had never heard of it before. We got
6 this land in 2018, and this is the first that we have
7 heard about this procedure.

8 And so what we did, of course, is wrote you
9 a testimony and wanted to be present here today to
10 reflect our feelings on this. And that they hadn't
11 notified us, and the lot is too small, feasibly, to
12 farm and make a living off of. And that we have even
13 tried a little bit of gardening here. It's too rocky
14 and infeasible. So that being said, we don't really
15 have access to ag water.

16 I wanted to ask. I looked at rules of this
17 law, and part of it was access to water. And my
18 question would be, would that be public water at that
19 rate? Or would there be ag water? And at that point
20 I wouldn't be eligible, because I don't have ag
21 water.

22 CHAIRPERSON SCHEUER: Since we seem to be
23 taking both of your testimony simultaneously, I'm
24 going to swear you in.

25 Do you swear or affirm that the testimony

1 you're about to give is the truth?

2 THE WITNESS: Yes, I do.

3 MICHAEL LENZ

4 Was called as a witness by and on behalf of the
5 Public, was sworn to tell the truth, was examined and
6 testified as follows:

7 DIRECT EXAMINATION

8 CHAIRPERSON SCHEUER: Thank you.

9 If you could offer some concluding remarks,
10 and then I'll offer the opportunity for City, the
11 Office of Planning and the Commissioners to ask any
12 questions, and respond to your inquiry. Do you have
13 any further thoughts --

14 THE WITNESS: I do, actually. I was
15 looking at the HRS Section 205-44 sets forth the
16 following standards and criteria. And --

17 CHAIRPERSON SCHEUER: If you can limit it
18 to the procedural matters.

19 THE WITNESS: Wouldn't this be about what
20 we're talking about today, procedural matter, if they
21 did it correctly or not?

22 CHAIRPERSON SCHEUER: Go ahead.

23 THE WITNESS: So it says here that
24 agricultural production could be beneficial and
25 profitable in the future to my land, doesn't really

1 apply. And that the soil quality of the land, the
2 fact that it's full of rocks would be very difficult
3 to farm.

4 And that there was nobody that ever came
5 out to even look at the property before putting me on
6 a map.

7 So my question would be, how do they come
8 up with this map that includes, I understand,
9 graveyards and churches and residential properties?

10 What was the procedure that was taken to
11 produce this map?

12 CHAIRPERSON SCHEUER: Thank you for your
13 testimony.

14 THE WITNESS: I think that's about the gist
15 of my questions.

16 CHAIRPERSON SCHEUER: Thank you to both of
17 you for your testimony.

18 I'm now going to ask the parties whether
19 they have some questions for you, some of your
20 questions may be answered later in the procedures.

21 Any questions for the witnesses the, City
22 and County?

23 MS. APUNA: No questions, thank you.

24 CHAIRPERSON SCHEUER: Office of Planning?

25 MS. KATO: No questions, thank you.

1 CHAIRPERSON SCHEUER: Commissioners? Any
2 questions, Commissioners?

3 If not, thank you very much for your
4 patience and for your thorough written testimony
5 which we received -- oh, Commissioner Cabral.

6 VICE CHAIR CABRAL: Yes, thank you very
7 much, and thank you, all you folks, for appearing.

8 It's a mystery. I don't believe I heard
9 how large is your parcel of property that has been
10 identified?

11 THE WITNESS: I believe it's 085, under an
12 acre.

13 VICE CHAIR CABRAL: And you said you've
14 owned it since about 2018?

15 THE WITNESS: Uh-huh.

16 CHAIRPERSON SCHEUER: Thank you very much.
17 Hopefully we resolve all these mysteries. Thank you
18 very much.

19 THE WITNESS: You guys have a good day.

20 CHAIRPERSON SCHEUER: Thank you very much
21 to the witnesses.

22 I'll move you back to an attendee. Aloha.

23 Linda Baptiste. Back to written testimony.
24 I see your hand. I'm going to admit you to be a
25 panelist. When you come in, if you can figure out

1 how to enable your audio and video. If you move your
2 cursor around the bottom of your screen, you'll see
3 an icon with the camera and the microphone. I can
4 see you, can I hear you.

5 THE WITNESS: I hope so.

6 CHAIRPERSON SCHEUER: I'll swear you in.

7 Do you swear or affirm that the testimony
8 you're about to give is the truth?

9 THE WITNESS: I do.

10 CHAIRPERSON SCHEUER: Thank you. So please
11 proceed.

12 LINDA BAPTISTE

13 Was called as a witness by and on behalf of the
14 Public, was sworn to tell the truth, was examined and
15 testified as follows:

16 DIRECT EXAMINATION

17 THE WITNESS: You know, my letter was very
18 specific in my opposition to this IAL, but I was also
19 very specific about the fact that I had not been
20 informed. And I'm not a new owner. I have owned my
21 property for 53 years. I get taxes. I comply with
22 all of the ag rates that are involved.

23 This IAL designation, while I'm opposed to
24 it, I believe procedurally the announcements and
25 notifications, to the most important people, have not

1 been transparent and not clearly presented. And the
2 most important people are the landowners.

3 I did not get all of those notices that you
4 read off starting from February until the April 12th.

5 If my neighbor hadn't called me, and said
6 did you get this April 12 letter from the LUC, which
7 I did not receive, I initially thought it was her
8 property that was involved.

9 It wasn't until I got a letter from a law
10 firm, that is completely unacceptable that that's how
11 I had to find out, that I realized my properties were
12 involved. We're not new to the neighborhood. We've
13 been there a half of a century. And when I started
14 talking to my neighbors, did you get these notices?
15 They did not get the notices either.

16 So in my opinion, that's a very serious
17 procedural error. You know, the owners need to be
18 notified. And my neighbors are long-time owners.
19 They've been down there as long as I have, and they
20 had no idea that this was going on.

21 These are honest law abiding citizens who
22 pay taxes, who file ag documents that we're required
23 to file, and they had no idea that this was going on.

24 So honestly, I feel that under due process
25 my rights have been diminished, because I haven't

1 gotten it. If you guys are notifying the owners, the
2 most important people, you should be doing it by
3 certified mail, some documentation from your part
4 procedurally that these folks have gotten the
5 notification that they need to protect their
6 property.

7 CHAIRPERSON SCHEUER: Can I ask you to
8 summarize, please?

9 THE WITNESS: Yes.

10 If this is supposed to help me, then it
11 should be an option of whether they want to
12 participate or not participate in it, individually,
13 assessed individually. And I understand that some of
14 the parcels have already been excluded from this
15 prior, because they were notified, and on what basis
16 were they excluded?

17 Thank you so much for your time.

18 CHAIRPERSON SCHEUER: Mahalo for your
19 testimony. Are there questions for the witness from
20 the County?

21 MS. APUNA: No questions, thank you.

22 MS. KATO: No questions, thank you.

23 CHAIRPERSON SCHEUER: Commissioners?
24 Commissioner Chang.

25 COMMISSIONER CHANG: Thank you, very much

1 Mrs. Baptiste, for being so patient and participating
2 in this process.

3 I just want to confirm several things that
4 you said. One, you are the record of owner of this
5 property?

6 THE WITNESS: Yes, I am.

7 MS. APUNA: Where is this property located?

8 THE WITNESS: Located in Waimanalo.

9 COMMISSIONER CHANG: And how big of an acre
10 is this property?

11 THE WITNESS: It's two parcels that make up
12 8.89 acres.

13 COMMISSIONER CHANG: What I heard you say
14 is that you have never been notified by the City and
15 County of Honolulu of this IAL process.

16 THE WITNESS: That is correct.

17 COMMISSIONER CHANG: Thank you very much.
18 I appreciate it.

19 THE WITNESS: Thank you.

20 CHAIRPERSON SCHEUER: Further questions?

21 Commissioner Wong.

22 COMMISSIONER WONG: Thank you, Chair. Ms.
23 Baptiste, I have a question for you.

24 You know, did you ever look at the Land Use
25 Commission's website regarding this issue at all?

1 THE WITNESS: Not until I got a letter from
2 a lawyer that informed me that this was going on.
3 That was the first time I would even think to look at
4 it.

5 COMMISSIONER WONG: The other question,
6 Exhibit H in the Land Use Commission about the IAL,
7 Appendix H. Is your TMK, the property, the TMK
8 number in this Appendix H?

9 THE WITNESS: Yes. I'm 179 and 180. I
10 only looked that up this morning.

11 COMMISSIONER WONG: That's all I needed to
12 know if it was even on there. Thank you.

13 THE WITNESS: Thank you. That's what I
14 thought too, because I've never heard anything from
15 you folks. Thank you.

16 CHAIRPERSON SCHEUER: Further questions for
17 Ms. Baptiste?

18 If I can ask you about this. You are not
19 the first witness to mention a letter from an
20 attorney, who seems to have whipped up a certain
21 frenzy.

22 Are you aware whether or not this attorney
23 has ever appeared in front of the Land Use Commission
24 in any matters?

25 THE WITNESS: I have no knowledge of this.

1 If you call informing people about what is going on,
2 whipping up a frenzy, then I'm very grateful that I
3 got this, because I had no idea I was whipped up in
4 this frenzy until I heard from them.

5 CHAIRPERSON SCHEUER: The point I'm trying
6 to make -- I'm not going to opine the representations
7 by the attorney who contacted you, correct or
8 incorrect. I am noting for the record that I've
9 never seen that attorney appear in front of the LUC.

10 THE WITNESS: Again, I would like to state
11 that had I not gotten this letter, I would have had
12 no knowledge that I was involved with the IAL
13 procedure.

14 CHAIRPERSON SCHEUER: I hear you very
15 clearly on that. I appreciate that.

16 And I appreciate your patience and your
17 participation in these matters.

18 THE WITNESS: Thank you.

19 CHAIRPERSON SCHEUER: Anything further for
20 Mrs. Baptiste?

21 THE WITNESS: Thank you so much.

22 CHAIRPERSON SCHEUER: Seeing none, I'm
23 going to move you back to being an attendee.

24 Our next written testifier Karen Wong. If
25 you are here and you wish to orally testify, please

1 raise your hand.

2 Triple G Stables. Any representative from
3 Triple G Stables?

4 Unfortunately if you are here, I -- let me
5 pull up the testimony to see whether there was an
6 assigned testifier, Bonnie Costa Grassi.

7 Derek Arakaki, Derek Arakaki.

8 Yvonne Watari. Yvonne Watari. I see you.
9 Thank you for raising your hand. I'm going to admit
10 you to be a panelist. You should see an ability to
11 enable your audio and video.

12 Aloha, I can see you. Can you say
13 something?

14 THE WITNESS: Can you hear me?

15 CHAIRPERSON SCHEUER: It's a little soft,
16 maybe speak louder.

17 Do you swear or affirm that the testimony
18 you're about to give is the truth?

19 THE WITNESS: I do.

20 CHAIRPERSON SCHEUER: Please proceed.

21 YVONNE WATARI

22 Was called as a witness by and on behalf of the
23 Public, was sworn to tell the truth, was examined and
24 testified as follows:

25 DIRECT EXAMINATION

1 THE WITNESS: Before I start, can I read
2 what I wrote? I'm not a speaker, at the same time
3 it's short. During lunch --

4 CHAIRPERSON SCHEUER: Go ahead. I have
5 read and received and posted your written testimony,
6 but please go ahead.

7 THE WITNESS: I feel that small landowners
8 have not had proper notification, as many of us do
9 not have the knowledge, the intelligence with all of
10 these processes like for the resources like big
11 landowner -- I'm not blaming you guys. The
12 government did not contact landowners adequately for
13 each individual property proposed.

14 My property, for example, doesn't have any
15 water. I would have appreciated if I had gotten a
16 notice, and time for an official to actively visit my
17 property and discuss and inform me of the proposal
18 for my property.

19 We should all have been individually
20 notified and to be part of informing us, and -- many
21 of us have not be been able to attend meetings for
22 some reason or other. All owners, whether or not
23 attending or not could have been sent notices so we
24 know what was covered, and should be in terms that we
25 understand. Not everyone of us is educated.

1 Also I know of a property owner that has no
2 idea what was going on until I called them to find
3 out if they understood, because like the lady prior,
4 I got a letter from the attorney.

5 And the thing is, they're in a trust.
6 There are several owners on this property. The other
7 owners had no idea at all as to what was going on
8 until I called them on Saturday. So that means that
9 the communication part was not done properly.

10 They should have been notified. And also
11 if the person that got the letter, and I spoke with
12 him, had gotten like say a notice, saying okay, we
13 have to come and inspect your property, I'm sure he
14 would have informed the other people on the trust of
15 this and taken some action.

16 He thought that -- even me, I'm sorry, I
17 did get the notice, but in my mind I thought -- I
18 wasn't able to attend for some reason, but I thought,
19 oh, no, the government is just -- they want more tax
20 money, just going to tax my tax. I have to pay more
21 taxes. And I had the similar --

22 CHAIRPERSON SCHEUER: Can I ask you to
23 summarize, please?

24 THE WITNESS: That's it.

25 CHAIRPERSON SCHEUER: Thank you very much.

1 Questions for the witness from the County?

2 MS. APUNA: No questions, thank you.

3 CHAIRPERSON SCHEUER: OP?

4 MS. KATO: No questions, thank you.

5 CHAIRPERSON SCHEUER: Commissioners?

6 Commissioner Chang.

7 COMMISSIONER CHANG: Good afternoon, Ms.

8 Watari. Thank you for being here and thank you for
9 your patience.

10 I just want to confirm that your testimony
11 is that you did receive a notice, but you didn't go
12 to the meeting; is that correct?

13 THE WITNESS: Yes, I didn't go. I wasn't
14 able. I think I got maybe two so many years apart,
15 but for some reason I didn't go. Maybe it's my fault
16 too. But same thing like my neighbor, I just
17 thought, okay, the government doing something, going
18 to get more money for my taxes.

19 Maybe stupid of me, but we should have been
20 given more information in that letter.

21 COMMISSIONER CHANG: That's a fair
22 question.

23 Can I ask you, do you recall if any of
24 those letters that you did receive, did any of those
25 letters say your land is being designated as IAL, and

1 if you have an objection, this is what you have to
2 do? No, okay.

3 And how long have you lived on your land?

4 THE WITNESS: See, I don't live on the
5 land. It was land that I inherited from my father.
6 It's in Waianae.

7 COMMISSIONER CHANG: Is anybody on the land
8 right now?

9 THE WITNESS: Yes. He built two homes on
10 it, 40, 50 years ago, so they're being rented, but
11 that's on about an acre. The other four acres, they
12 were being farmed by the farmer next door, but my
13 property doesn't have any waterline. He was using
14 the waterline on his property, but he retired. So
15 now, because I don't have a water, what you call
16 pipeline, or whatever that is called, I can't find a
17 renter.

18 COMMISSIONER CHANG: Thank you again. Go
19 ahead.

20 THE WITNESS: So just being rented so I can
21 pay my property taxes.

22 COMMISSIONER CHANG: Thank you again for
23 being here and your patience.

24 CHAIRPERSON SCHEUER: Further questions for
25 the witness, Commissioners?

1 Commissioners, any further questions? If
2 not, thank you very much for your testimony and your
3 patience in attending today's meeting and making your
4 efforts to help us through this issue. We really
5 appreciate it.

6 I'm going to move you back to being an
7 attendee.

8 I'm going to call on Mr. John Foti. You
9 raised your hand in the chat -- I'm going to -- you
10 were one of the earliest testifiers. I'm going to
11 move you into being a panelist.

12 When you come in please enable your audio
13 and video.

14 THE WITNESS: Did I get it?

15 CHAIRPERSON SCHEUER: Yes, you did.

16 Do you swear or affirm that the testimony
17 you're about to give is the truth?

18 THE WITNESS: Yes, I swear.

19 CHAIRPERSON SCHEUER: Thank you. So please
20 proceed.

21 JOHN FOTI

22 Was called as witness by and on behalf of the Public,
23 was sworn to tell the truth, was examined and
24 testified as follows:

25 DIRECT EXAMINATION

1 THE WITNESS: My name John Foti. I
2 appreciate you guys being on the Commission. I know
3 that's got to be a difficult job. You but put in a
4 lot of hours.

5 In the meantime though, I'm a life-long
6 resident of Hawaii. My kids are fifth generation.
7 We have a farm out in Kahuku. I just found out about
8 this like this is kind of a broken record, everybody
9 got caught by surprise by this thing.

10 So the April 12th letter was my first
11 knowledge, which I got on the 16th. And if you look
12 in the letter, it actually says there was a hearing,
13 and it recommends that I go to it on March 24th, but
14 the letter isn't even dated until April, so how could
15 I possibly go to that?

16 In any case, right off the bat, from a
17 procedural standpoint, we don't have enough time to
18 study this to know whether we want or not IAL. I
19 think IAL is a good idea but, you know, whether it
20 has the kind of attributes that are good for us
21 farmers and landowners, I cannot say. We need more
22 time.

23 But from everything that I can tell about
24 it, just for starters, the criteria for designating a
25 piece of property to be in the IAL is incomplete or

1 inadequate. There is three criteria.

2 You have to have water.

3 You have to be designated ag.

4 And you have to have good soil conditions
5 and growing conditions.

6 And the third one, which is the most
7 critical, is the one that's the most challenging for
8 my farm. I'm making a go of it anyway, but if that
9 throws me into IAL, and then there ends up being, you
10 know, a lot of restrictions and other things that
11 make it more difficult for me to farm an already
12 difficult piece of property, I don't want to have
13 anything to do with this thing.

14 CHAIRPERSON SCHEUER: Can I ask you to
15 summarize?

16 THE WITNESS: At the end of the day, we
17 need more time, and it appears that the law is flawed
18 in that Honolulu should just opt out of this whole
19 damn thing, if you ask me, until we get the law
20 right. That's my summary.

21 CHAIRPERSON SCHEUER: Thank you very much.
22 I will reserve my comments. Questions for the
23 witness from the County?

24 MS. APUNA: No questions, thank you.

25 CHAIRPERSON SCHEUER: Office of Planning?

1 MS. KATO: No questions, thank you.

2 CHAIRPERSON SCHEUER: Commissioners?

3 Commissioner Chang.

4 COMMISSIONER CHANG: Thank you, Mr. Foti.

5 I'm asking all the witnesses a series of the same
6 questions.

7 Is it your testimony that you have -- let
8 me ask you this one first.

9 Are you the registered owner for this
10 property?

11 THE WITNESS: Well, I have a LLC that is,
12 yes.

13 COMMISSIONER CHANG: Do you pay taxes? Do
14 you receive the real property tax assessment?

15 THE WITNESS: Yes.

16 COMMISSIONER CHANG: And is it your
17 testimony that you have never received any notice
18 from the City and County of Honolulu either inviting
19 you to a meeting or to provide comments, or to let
20 you know that your property is being designated IAL?

21 THE WITNESS: No, I hadn't received
22 anything until the April 12th letter.

23 COMMISSIONER CHANG: And the April 12th
24 letter, was that letter from the City or from the
25 Land Use Commission?

1 THE WITNESS: That was from the Land Use
2 Commission. I never received anything from the City,
3 I guess.

4 COMMISSIONER CHANG: Thank you so much, and
5 I appreciate your patience, because I know you were
6 here earlier, and you submitted written testimony.
7 Thank you very much.

8 THE WITNESS: Thanks again for your guys'
9 work.

10 CHAIRPERSON SCHEUER: Commissioners,
11 further questions for the witness?

12 I will share with you more of a comment
13 than a question for the witness.

14 I am not a fan of the IAL law. I do not
15 think that it necessarily achieves what it is
16 intended to do, but when we become Commissioners we
17 take an oath and swear to uphold and defend the
18 constitution and laws, and so we don't get to choose
19 whether or not to follow a law. We commit ourselves
20 to implementing it.

21 So when the County comes before us with a
22 request, we need to consider that request, rather
23 than ignore it because maybe we don't agree with it
24 or not.

25 Thank you for your comments, your presence

1 and your patience, really appreciate it.

2 THE WITNESS: Thank you. Could I just make
3 one closing comment.

4 CHAIRPERSON SCHEUER: Please go ahead.

5 THE WITNESS: One of my biggest concerns
6 here, and I know this doesn't apply to you guys, but
7 I would like to state for the record that I don't
8 think that it's right that a bureaucrat sitting in
9 some office who's never done any farming or any of
10 that, is making decisions about how our land should
11 be used and all that kind of thing.

12 That law just doesn't have enough detail in
13 it for us to know, so somebody is going to be making
14 these decisions and isn't going to be me if I'm stuck
15 in that IAL.

16 CHAIRPERSON SCHEUER: Thank you for your
17 testimony. I'm going to move you back to being an
18 attendee.

19 Our next witness is Randall Sakumoto.
20 Randall Sakumoto is here and available to testify if
21 you choose to testify.

22 Paul and Kathleen Shimizu.

23 Moving onto testimony received on April 26.
24 We have already heard from Michael Lenz along with
25 Ms. Yamamoto.

1 Kaipolani Laea. If you are here and wish
2 to testify, please use the raise-your-hand function.
3 I can go through again the list of people who have
4 submitted written testimony before moving onto
5 others.

6 Diana Young, testimony of April 26.

7 I will move you to be panelist. When you
8 come in, please enable your audio and video. Do so
9 by moving your cursor below on the bottom of your
10 screen.

11 THE WITNESS: Okay, I made it.

12 CHAIRPERSON SCHEUER: I'm going to swear
13 you in first.

14 Do you swear or affirm that the testimony
15 you're about to give is the truth?

16 THE WITNESS: Yes.

17 CHAIRPERSON SCHEUER: Please proceed.

18 DIANA YOUNG

19 Was called as a witness by and on behalf of the
20 Public, was sworn to tell the truth, was examined and
21 testified as follows:

22 DIRECT EXAMINATION

23 THE WITNESS: My name is Diana Young. I
24 live at 41-655 in Waimanalo, Hawaii.

25 Our land has been in four generations. My

1 husband's grandparents, his parents, him -- and I
2 lost my husband two years ago. We dedicated our
3 property to do ag, and we did it for ten years. And
4 I'm already -- I've already signed up for another ten
5 years.

6 So I was really shocked that I got this
7 notice on April 12th, which was just -- that was the
8 only notice I ever received about this program. And
9 I was really in shock.

10 And so I started asking a lot of my
11 neighbors, and a lot of them had not received notice,
12 but they got a letter from the attorney. And then
13 some of them, they got their letters -- matter of
14 fact, ones here at my house today who only got her
15 notice today, and so I feel that the communication of
16 this program that they're trying to start is not real
17 clear.

18 It doesn't explain it real well. And I
19 wouldn't want to give up my nursery. I've been happy
20 doing it, and want to continue doing it.

21 And when you read the information that
22 resource that I'm doing now on it, it feels like a
23 land grab. It feels like they're not explaining in
24 detail to the landowners about what's going on.

25 When I pass away, it's going to be handed

1 down to the next generation. Our property is in
2 trust. So if you don't think I wasn't in shock. I
3 have been very upset. And I would like to be removed
4 from it, because I don't feel that if I'm already
5 doing ag, why am I getting this letter? Why are you
6 changing what we're doing already?

7 CHAIRPERSON SCHEUER: Thank you. That's
8 two minutes. Any concluding remarks before
9 questions?

10 THE WITNESS: I just want to make sure that
11 you folks know that a lot of people did not get this
12 letter, and this is the first time I was informed of
13 this program, and first letter I got was April the
14 12th. Thank you.

15 CHAIRPERSON SCHEUER: Are there questions
16 for Ms. Young from the City?

17 MS. APUNA: No questions, thank you.

18 CHAIRPERSON SCHEUER: Office of Planning?

19 MS. KATO: No questions, thank you.

20 CHAIRPERSON SCHEUER: Commissioners?

21 Commissioner Chang.

22 COMMISSIONER CHANG: Aloha, Ms. Young.
23 Thank you. I'm sorry about your husband's passing.

24 THE WITNESS: Thank you.

25 COMMISSIONER CHANG: I appreciate your

1 family's commitment to this land, obviously, and
2 you're going to want to keep it in ag?

3 THE WITNESS: Yes.

4 COMMISSIONER CHANG: I want to make sure
5 that I fully understand your testimony.

6 The first time you ever received any
7 information from a government agency about this IAL
8 designation was from the Land Use Commission on a
9 letter dated April 12th, 2021?

10 THE WITNESS: That is correct. And I'm
11 very -- whenever I get anything from the State, I'm
12 right on it. I'm that type of person. And I pay my
13 taxes. My husband was sick. I was a home caregiver
14 for a long time. And trust me, if something would
15 have come in the mail, we would have been right on
16 it. And my husband would not have wanted to do a
17 program like this.

18 We do landscaping plants, and he was
19 retired. He was a school teacher for 32 years. I
20 worked, and now I'm retired, and I continue doing the
21 nursery. I makes me feel close to my husband. So
22 why would I want to give it up?

23 You know, if you was to ask me to try to
24 grow food, sure, I'd try; if I could help the
25 community out, I would do it. But the problem is

1 they're not even asking. No one ever came to test
2 our soil, never came out to check our property in any
3 way.

4 So the community, the people that are
5 involved are having to do their own research to find
6 out what the guidelines are. It is very upsetting.

7 COMMISSIONER CHANG: I'm sorry to hear
8 that. Again, I thank you so much for your patience
9 and for your testimony. That's been very helpful. I
10 wish you well. Thank you again.

11 THE WITNESS: Than you for your time.
12 Aloha.

13 CHAIRPERSON SCHEUER: Other questions for
14 Ms. Young, Commissioners?

15 If not, thank you very much for your
16 patience and for your testimony before us today. We
17 really appreciate it.

18 THE WITNESS: Thank you.

19 CHAIRPERSON SCHEUER: I'm going to move you
20 back to being attendee.

21 Robert Cherry. I see you again. When you
22 come in, you should be able to see if you move your
23 cursor to the bottom of your screen and enable your
24 audio and video. You might need to move your cursor
25 over the bottom of your screen. See an icon of a

1 camera and microphone? Right on. I see you.

2 Can you say something?

3 THE WITNESS: Can you hear me?

4 CHAIRPERSON SCHEUER: Do you swear or
5 affirm that the testimony that you're about to give
6 is the truth?

7 THE WITNESS: Yes, I do swear.

8 CHAIRPERSON SCHEUER: Mahalo. Please
9 proceed.

10 ROBERT CHERRY

11 Was called as a witness by and on behalf of the
12 Public, was sworn to tell the truth, was examined and
13 testified as follows:

14 DIRECT EXAMINATION

15 THE WITNESS: I want to address the
16 criteria in which they failed on.

17 According to the statute, Hawaii Revised
18 Statute 205-44(c) there's eight criteria to be
19 followed. The City and County has chosen to use only
20 one criteria, and there's no way to determine whether
21 or not a piece of land is an important piece of ag
22 land, and belongs in IAL simply by using one
23 criteria. And the one criteria that is such badly
24 flawed is if the property is already in agricultural
25 use.

1 That does not determine whether the
2 property is suitable for IAL. All it does is tells
3 you that it is agricultural land. There's so many
4 different types of land that have been put into this
5 IAL, because of the one criteria threshold.

6 So I think that that is one of the major
7 flaws of this.

8 And the other thing is, is that in the
9 statute it says that there will be things given to
10 us, tax breaks and so forth and so on, if we're in
11 the IAL. Instead the City and County has come up
12 with some very harsh and very unreasonable rules
13 that -- well, they're going to enforce on IAL land.
14 And they've given no perks that I am aware of.

15 Now, I received one letter. And I went to
16 the meeting in Haleiwa in 2016, I believe. And
17 unfortunately what we were told in that meeting does
18 not apply at this time. We were told that there
19 would be -- the only way that it would affect our
20 land if it was put in the IAL would be that we
21 have -- we would have to go into front of a nine
22 member committee and get at least six votes in order
23 to rezone our property.

24 CHAIRPERSON SCHEUER: Can I ask you to
25 summarize now, please?

1 THE WITNESS: Yes. Basically it's a flawed
2 system and it shouldn't be allowed.

3 CHAIRPERSON SCHEUER: Thank you very much.
4 County, questions for Mr. Cherry?

5 MS. APUNA: Thank you, no questions.

6 CHAIRPERSON SCHEUER: Office of Planning?

7 MS. KATO: No questions, thank you.

8 CHAIRPERSON SCHEUER: Commissioners?
9 Commissioner Wong.

10 COMMISSIONER WONG: Thank you, Chair. Good
11 afternoon, Mr. Cherry.

12 THE WITNESS: Good afternoon.

13 COMMISSIONER WONG: Just want to make sure
14 you can hear me. I got a question.

15 So you went to the City talk story
16 meetings?

17 THE WITNESS: I did in 2016.

18 COMMISSIONER WONG: So did they ever give
19 you a chance to say or even talk to you about saying
20 I want to be opted out?

21 THE WITNESS: I asked to speak in that. I
22 had a rotator cuff surgery and I stayed and stayed
23 and stayed, and couldn't stay any longer because of
24 the pain, so I didn't have my opportunity to speak.

25 COMMISSIONER WONG: Do you know if any of

1 your friends was there at that meeting?

2 THE WITNESS: Yes. I had friends there.

3 COMMISSIONER WONG: Are they going to
4 testify today? I just want to know, or do you know
5 if they're going to testify?

6 THE WITNESS: I have no idea.

7 COMMISSIONER WONG: So I'm going to ask you
8 just the question about them now. Did they ever say
9 they could opt out or what I just asked you?

10 THE WITNESS: They said that we would have
11 an option to opt out. It was not clear when we would
12 have that option. But the biggest point about that
13 is the information that they fed us at that time was
14 that we basically didn't need to opt out because it
15 was going to have no affect on us basically.

16 COMMISSIONER WONG: That's all I need to
17 know.

18 Thank you, Mr. Chair; Thank you, Mr.
19 Cherry.

20 THE WITNESS: You're welcome.

21 CHAIRPERSON SCHEUER: Commissioners, are
22 there further questions for this witness? If not,
23 thank you very much for your patience and for your
24 testimony before us today. We very much appreciate
25 it. I'm going to move you back to being an attendee.

1 Our next written testimony Michelle
2 Correia. I see your hand. Thank you very much. I'm
3 going to promote you to be a panelist. When you come
4 into the room, you should see at the bottom of your
5 screen, if you move your cursor, camera and
6 microphone icon. If you click on those, enable them.

7 I can see you, now I can hear you. Thank
8 you very much. I'm going to swear you in.

9 THE WITNESS: Good afternoon.

10 CHAIRPERSON SCHEUER: Good afternoon.

11 Do you swear or affirm that the testimony
12 you're about to give is the truth?

13 THE WITNESS: Yes.

14 CHAIRPERSON SCHEUER: Please proceed.

15 MICHELLE CORREIA

16 Was called as a witness by and on behalf of the
17 Public, was sworn to tell the truth, was examined and
18 testified as follows:

19 DIRECT EXAMINATION

20 THE WITNESS: I understand there's many
21 people that wish to speak, so I'm going to try to
22 keep my comments brief.

23 First, in regard to the written testimony I
24 submitted, there was an indication in there as to the
25 lack of objection and to specific property.

1 I understand this does not pertain to the
2 specific property, but based on further information
3 received and discussion with my mother-in-law, I
4 would like to retract that statement from my written
5 statement. We no longer are objectionable to the
6 redesignation.

7 As to the notice requirements by City and
8 County, my mother-in-law who has been an owner of the
9 property these past several years and lived on the
10 property since 2012, outside of the April 12th, 2021
11 letter, she never received any notification, any
12 letter from City and County in regards to the IAL,
13 and no information in regard to these talk story
14 sessions that I keep hearing about.

15 In regards to the notice requirement, it's
16 our position that the City and County has not met the
17 requirement required to proceed further with the
18 recommendation. Thank you.

19 CHAIRPERSON SCHEUER: Thank you very much,
20 and actually for the kindness you've shown your
21 fellow testifiers in keeping your comments as brief
22 as possible. We appreciate it.

23 County?

24 MS. APUNA: No questions.

25 CHAIRPERSON SCHEUER: OP, Office of

1 Planning?

2 MS. KATO: No questions, thank you.

3 CHAIRPERSON SCHEUER: Commissioners?

4 Seeing none, thank you very much for your testimony.

5 We really value it. Thank you for your patience.

6 I'm going to move you to be an attendee.

7 David Apana. David Apana if you are here
8 and with to testify orally.

9 Chow Wang and Norman Wang.

10 Diana Puulei. Again, if we have received
11 your written testimony and you don't give oral
12 testimony, we still read all of the testimony.

13 Margaret Isaacs. Margaret Isaacs.

14 James Shipman.

15 Nodie Namba.

16 Lawrence Uyeda and Eunice Uyeda.

17 Tom and Janet Witten, Tom Witten.

18 Kaleo Searle.

19 Joshua Ramos and Caridad Leiva. I see you.

20 I will admit you. Thank you for raising your hand.

21 I'm promoting you to be a panelist. Again, if you
22 move your cursor, you'll see an icon of audio, camera
23 and microphone. When you click on those, they will
24 enable your audio and video.

25 Aloha.

1 Do you swear or affirm that the testimony
2 you're about to give is the truth?

3 THE WITNESS: Yes.

4 CHAIRPERSON SCHEUER: Please proceed, and
5 thank you for your patience.

6 CARIDAD LEIVA

7 Was called as a witness by and on behalf of the
8 Public, was sworn to tell the truth, was examined and
9 testified as follows:

10 DIRECT EXAMINATION

11 THE WITNESS: Me and Joshua Ramos purchased
12 this property in 2018. Upon purchasing the property,
13 we had no information on the possible designation of
14 the IAL.

15 After purchasing it, a neighbor had
16 informed us of a meeting that was to take place in
17 Pearl City, I believe it was. I did attend the
18 meeting. I was not informed that I would be able to
19 opt out of being part of the IAL. I was informed
20 that I would be notified of more information about
21 it, and upcoming meetings. And I have not heard
22 anything since that meeting.

23 CHAIRPERSON SCHEUER: Thank you. Is that
24 it for now?

25 THE WITNESS: Yeah, because you don't want

1 to hear how much I object to it, but I'm trying to
2 keep it short. Don't want you guys to fall asleep.

3 I was not informed anything before
4 purchasing. It after purchasing it from the City and
5 County, no letter was sent. I was informed by a
6 neighbor. I did attend the meeting and did not get
7 any information about anything written.

8 CHAIRPERSON SCHEUER: Mahalo.

9 Questions for the witness, County?

10 MS. APUNA: No, questions. Thank you.

11 MS. KATO: No questions.

12 CHAIRPERSON SCHEUER: Commissioners?

13 Commissioner WONG.

14 COMMISSIONER WONG: Thank you, Chair. Good
15 afternoon, ma'am.

16 I have a couple questions. Where your
17 property is, are there other ag lands around it, or
18 is it all houses?

19 THE WITNESS: I believe this whole street
20 is designated ag.

21 COMMISSIONER WONG: Is it houses around you
22 or all farmers around you?

23 THE WITNESS: Houses.

24 COMMISSIONER WONG: That is all I need to
25 know. Thank you.

1 THE WITNESS: Also military land right
2 directly across the street, so all military. So
3 houses and military.

4 COMMISSIONER WONG: So you live on the
5 upside of area by the pig farm?

6 THE WITNESS: Not by the pig farm. No pig
7 farm around my area, but by the military antennas.

8 COMMISSIONER WONG: Sounds good. Thank
9 you, ma'am; thank you, Chair.

10 CHAIRPERSON SCHEUER: Other questions for
11 the witness? If not, again, we really appreciate
12 your patience and participation and your testimony.
13 Thank you so much.

14 THE WITNESS: Thank you.

15 CHAIRPERSON SCHEUER: I'm going to move you
16 back to being attendee.

17 I noticed while this witness was
18 testifying, Nodie Namba raised and unraised their
19 hand. I had called on Nodie earlier. If you wish to
20 testify now, please do so by raising your hand.

21 I'm going to promote you to be a panelist.
22 Again, move your cursor to the bottom of your screen.

23 THE WITNESS: There I am.

24 CHAIRPERSON SCHEUER: Yes, there you are.
25 Aloha. I'm going to swear you in.

1 Do you swear or affirm that the testimony
2 you're about to give is the truth?

3 THE WITNESS: Yes.

4 NODIE NAMBA

5 Was called as a witness by and on behalf of the
6 Public, was sworn to tell the truth, was examined and
7 testified as follows:

8 DIRECT EXAMINATION

9 CHAIRPERSON SCHEUER: Please proceed.

10 THE WITNESS: First of all, thank you very
11 much all of you for your time, attention and a lot of
12 patience for everyone involved today.

13 You know, not to beat a dead horse, but
14 based on previous testimony today, obviously the City
15 has not fulfilled its procedural obligations to
16 include landowners in a, quote/unquote, inclusive
17 process of public involvement, or as the IAL law
18 requires, develop the maps of potential IAL with
19 consultation and cooperation of landowners.

20 Just from a personal experience to add to
21 all the other testimony, you know, our first
22 notification of this was the LUC letter that we
23 received, the famous or infamous April 12th letter.

24 We've also heard from a law firm as well.

25 Beyond this, I would just like to kind of

1 broaden out the issue by saying that for effective
2 IAL policy, and I think we all are for agricultural
3 lands and its preservation and development, you know,
4 the City should consider including the landowners,
5 and based on all these angry responses from us
6 landowners, obviously the policy is not proceeding in
7 the correct way to be very effective.

8 I really feel that it should consult with
9 landowners in drafting not only restrictions, but
10 also benefits and incentives.

11 Finally, on the much larger issue, enforced
12 agricultural land policy have not had a good history
13 of being successful.

14 Fortunately we're in a democracy, and we
15 can hopefully rely on due process, of which this
16 hearing is a part.

17 Thank you very much. I hope that you will
18 listen to all of us upset landowners, and consider
19 this when you decide on your recommendation.

20 CHAIRPERSON SCHEUER: Thank you very much.
21 Questions for the witness, County?

22 CROSS-EXAMINATION

23 BY MS. APUNA:

24 Q Thank you, Ms. Namba, for your testimony.

25 Could you provide us your TMK number, if

1 you're willing?

2 A Let me look it up. 5-9-005:040.

3 Q Thank you.

4 CHAIRPERSON SCHEUER: Office of Planning?

5 MS. KATO: No questions. Thank you.

6 CHAIRPERSON SCHEUER: Commissioners?

7 Commissioner Chang.

8 COMMISSIONER CHANG: Good afternoon, Ms.
9 Namba, thank you so much for being here and taking
10 the time to provide your statement. Thank you very
11 much.

12 I just wanted to followup and ask you, how
13 long have you owned your property?

14 THE WITNESS: Probably around 12 years,
15 something like that.

16 COMMISSIONER CHANG: And you're the owner
17 of record?

18 THE WITNESS: Myself and my husband, yes.

19 COMMISSIONER CHANG: So that your address
20 is, for real property tax purposes, you get mailed
21 your tax property assessment?

22 THE WITNESS: Yes, we do.

23 COMMISSIONER CHANG: And you receive that
24 regularly?

25 THE WITNESS: Oh, yes.

1 COMMISSIONER CHANG: Okay. And again, just
2 confirming you have never received a notice from the
3 City regarding IAL? Is that correct?

4 THE WITNESS: Yes.

5 COMMISSIONER CHANG: Thank you so much. I
6 really appreciate your time.

7 THE WITNESS: Thank you very much all of
8 you for your time and really patience.

9 CHAIRPERSON SCHEUER: Commissioners,
10 further questions?

11 I may have a disclosure. Ms. Namba, are
12 you related to Zoey Namba?

13 THE WITNESS: Yes, my niece.

14 CHAIRPERSON SCHEUER: She is my son's
15 teacher.

16 THE WITNESS: I'll put in a good word.

17 CHAIRPERSON SCHEUER: No. I need to be
18 fair and impartial on this.

19 Any further questions? Seeing none. Thank
20 you very much for your testimony. I'll move you back
21 to being attendee.

22 It is 1:41. We have now gone a full hour.
23 I'm going to take a ten-minute break and reconvene at
24 1:51.

25 (Recess taken.)

1 I think we are back on the record. So it
2 is 1:52, and the next written testimony was received
3 by Lucy Miranda.

4 And I see Alexander Garber has raised his
5 hand. I called his name. I'll admit Alexander
6 Garber to be an oral testifier.

7 When you come into the room, if you can
8 enable your audio and video. You do so by moving
9 your cursor at bottom of the screen. You should see
10 an icon of a camera and microphone.

11 I can see you, and I can hear you. I'm
12 going to swear you in.

13 Do you swear or affirm that the testimony
14 you're about to give is the truth?

15 THE WITNESS: I do.

16 CHAIRPERSON SCHEUER: Please proceed.

17 ALEXANDER GARBER

18 Was called as a witness by and on behalf of the
19 Public, was sworn to tell the truth, was examined and
20 testified as follows:

21 DIRECT EXAMINATION

22 WITNESS: So I'm going to try to stick to
23 what was asked is, has the County fulfilled its
24 obligation under Statute 205-47?

25 I submit that they have not. Other people

1 have already done this to a certain extent. I'm
2 going to try to do in a little more detail and
3 evidence.

4 In part, the statute states that each
5 County through its Planning Department shall develop
6 an inclusive process of public involvement.

7 If you have my written testimony, it has
8 the full, more of a complete amount.

9 So I submit that having public meetings
10 where you give false information is not involving the
11 community. False information at public meeting is
12 not an inclusive process involving public and
13 landowners.

14 So I have evidence that you can find on the
15 LUC website under the City and County report under
16 Appendix D, under meeting two, Kapolei.

17 It says question: No. 41, can you give
18 examples of what uses will be more difficult to get
19 permission for?

20 The response was the only difficulty really
21 would be if you wanted to urbanize your land. If
22 your land is zoned ag for the County level, again,
23 you're entitled to take advantage of all the benefits
24 that agricultural zoning has allowed you.

25 Other people have stated that, but it's

1 documented in the City and County's own report.

2 Additionally question No. 37, what is the
3 significant difference in IAL versus agricultural
4 land designated AG 1 or AG 2 now?

5 Response: The basic difference in
6 designation of IAL opens up opportunities to take
7 advantage of incentives.

8 Additionally, also mark meeting two in
9 the --

10 CHAIRPERSON SCHEUER: Can I ask you to
11 summarize, please?

12 THE WITNESS: Oh, so we have evidence that
13 the City and County's process mislead, either
14 intentionally or through negligence, mislead the
15 ability of landowners to understand what this process
16 was, so it did not qualify as an inclusive process.

17 CHAIRPERSON SCHEUER: Thank you very much.
18 Are there questions for this witness,
19 County?

20 CROSS-EXAMINATION

21 BY MS. APUNA:

22 Q Are you a landowner? And are you willing
23 to provide the TMK for your property?

24 A 6-6-02-7:011.

25 MS. APUNA: Thank you.

1 CHAIRPERSON SCHEUER: Office of Planning?

2 MS. KATO: No questions, thank you.

3 CHAIRPERSON SCHEUER: Commissioners?

4 Commissioner Chang.

5 COMMISSIONER CHANG: Good afternoon, Mr.
6 Garber. Thank you so much for your written and oral
7 testimony.

8 I just want to confirm, did you receive
9 notice from the City about any of these public
10 meetings?

11 THE WITNESS: I did receive notice. It
12 wasn't very clear. I did not attend the meetings,
13 but I knew people who did, and they took away exactly
14 what's written, you know, written in evidence here.
15 And that's that this wasn't going to affect us. None
16 of us want to urbanize our land. They said you can
17 urbanize it. We don't want to urbanize it.

18 I'm in business, I have a day job, then I
19 have the weekend job, which is the farm.

20 As soon as I heard it only affects you if
21 want to urbanize your land, I didn't pay any
22 attention until somebody said you also can't retire
23 on your land.

24 In my written comments here, if you go
25 farther down, I do put in there from the State

1 statutes the difference in farm dwellings between an
2 agricultural property and the IAL property. And it's
3 very significant.

4 And they had multiple times that they could
5 have said this during their public meetings, and they
6 did not. And so that got out into the community.
7 Which is exactly what a public meeting should do,
8 should get information out into the community,
9 however this was false information.

10 COMMISSIONER CHANG: Can I ask you, did
11 they ever send out information either inviting you to
12 submit comments, or letting you know that you could
13 opt out of the IAL designation?

14 THE WITNESS: Not to my knowledge.

15 COMMISSIONER CHANG: Thank you very much,
16 Mr. Garber. I really appreciate your testimony.

17 CHAIRPERSON SCHEUER: Are there further
18 questions?

19 Commissioner Wong.

20 COMMISSIONER WONG: Thank you, Chair.

21 Mr. Garber, when you said retire on your
22 land, where did it say that, or who told you that?

23 THE WITNESS: Do you have my written
24 testimony in front of you? I wasn't able to get
25 through the whole thing. Right below where the

1 second page of the written testimony, it says in
2 regard to farm dwelling, subsection 4, so this is
3 from Chapter 205-4.5 pertains to uses within the
4 Agricultural District, so that would be not IAL
5 district, but the Agricultural District.

6 We're all in right now, and that says No. 4
7 farm dwellings, employee housing, farm buildings or
8 activities or uses relating to farming animal
9 husbandry, farm dwellings as used in this paragraph
10 means a single-family dwelling located on and used in
11 connection with the farm, and then goes on beyond
12 that.

13 Basically the farm dwelling has to be
14 located on, and used in connection with the farm.
15 Once we change designation to Important Agricultural
16 Lands, we will be under, what I understood, is
17 Chapter 205-45-5. And that says No. 1: The farm
18 dwelling, employee housing uses shall be used
19 exclusively by farmers and their immediate family
20 members who actively and currently farm on important
21 agricultural lands which the dwelling is situated.

22 So to me that means I have to be actively
23 and currently working the land as a farmer. I'm
24 doing that now. Most of my family is. My one year
25 old does not actively and currently farm the land.

1 According to this statute, the way I read
2 it, the immediate family members must also be
3 actively and currently farming lands.

4 So if by letter of this law, if you pass
5 today, my one year old has to move out and start
6 farming.

7 COMMISSIONER WONG: Sorry, I'm just trying
8 to ask the question about if you retire, let's say
9 you retire from a day job, right? You go to retire
10 out to the land, and you're going to still farm?

11 THE WITNESS: Until I'm unable to, right.
12 Farming's hard.

13 COMMISSIONER WONG: That's the way you
14 interpreted the HRS. No one else told you about it,
15 correct?

16 THE WITNESS: I think somebody told me --
17 so I got something saying this means we're not going
18 to be able to retire. Retired farmers are going to
19 have to move out. I said that's fake news, not real.
20 No way anybody put this out there.

21 Then I looked it up, and I found out that
22 it is real. Somebody wrote this. This is law.

23 COMMISSIONER WONG: That's all I need to
24 know. Thank you. I just needed to know where you
25 got that information from.

1 THE WITNESS: I got it from the internet on
2 the State, the government, the State website that has
3 the Hawaii Revised Statutes.

4 COMMISSIONER WONG: Thank you, sir; thank
5 you, Chair.

6 CHAIRPERSON SCHEUER: Thank you.

7 Are there further questions for this
8 witness? Seeing none, thank you for your written
9 testimony, as well as your oral testimony on this
10 matter. We very much appreciate it.

11 I'm going to move you back to being
12 attendee. And I'm going to continue to call others
13 who have submitted written testimony.

14 Marcia Peterson. Reuben Fung. Joann
15 Robello. Gary Ilalaole.

16 Joann Robello, I see you. I'm promoting
17 you to be a panelist. Again, okay, you seem to be on
18 it. Enable your audio and video.

19 Aloha, I'm going to swear you in first.

20 Do you swear or affirm that the testimony
21 that you're about to give is the truth?

22 THE WITNESS: I do.

23 JOANN ROBELLO

24 Was called as a witness by and on behalf of the
25 Public, was sworn to tell the truth, was examined and

1 testified as follows:

2 DIRECT EXAMINATION

3 CHAIRPERSON SCHEUER: Please proceed.

4 THE WITNESS: Well, like everybody else,
5 the same thing, I hadn't found out about this until
6 just this April 12th letter, and then something from
7 a lawyer. And then like I said, you know, from a
8 neighbor, you know.

9 And I don't agree with that, because when I
10 purchased this land, I purchased my land 17 years
11 ago, and it's hard enough as-is. I'm a single
12 parent, and I don't agree with this because I didn't
13 even understand any of that.

14 I don't know where this came from, just out
15 of the blue, and then a neighbor came up to me and
16 said, you know, did you get something? And the
17 neighbor next door wasn't even aware of any of it,
18 you know.

19 So then we got together, and I'm here
20 today. I'm against it because like the previous guy
21 was saying too, also I'm a single parent. I work and
22 the ground out here where I live, it's clay, you
23 know.

24 So it's harder to farm if you're going to
25 be like planting, you know, and the water situation,

1 just everything.

2 But, you know, I would like to know how to
3 opt out. Is that going to be available for us to do
4 that? You know, because like I wasn't even aware.
5 So if I wasn't aware of this going on, but like I
6 heard that they had a meeting where you could opt
7 out.

8 How can I get a part of that opting out?
9 Maybe it should have just been where the people who
10 are for this should just opt in. You know, we
11 shouldn't be, because of being notified and all that,
12 it wasn't really clear. So maybe should just, if you
13 didn't respond to one of the -- then you just out,
14 you know?

15 I think that would have been like more
16 fair. And how will we find out what you folks
17 determine? You know, it's like when are they going
18 to notify us again through the mail with the outcome
19 of all of this?

20 That's my question. Are we going to be
21 notified the same way where we might and might not
22 get it?

23 CHAIRPERSON SCHEUER: Mahalo for your
24 testimony. I'm going to see if there is people who
25 have questions for you.

1 County, Mr. Young, City and County?

2 THE WITNESS: Maybe they opted out.

3 CHAIRPERSON SCHEUER: City and County?

4 CROSS-EXAMINATION

5 BY MS. WONG:

6 Q Could you provide your tax map key parcel
7 number or address?

8 A Address 87-1001 Ili'ili Road, Waianae
9 96792.

10 Q The name of the road?

11 A I-L-I-I-L-I.

12 Q Thank you. No further questions. Thank
13 you.

14 CHAIRPERSON SCHEUER: OP, Office of
15 Planning?

16 MS. KATO: No questions, thank you.

17 CHAIRPERSON SCHEUER: Commissioners?

18 If I may, Ms. Robello.

19 THE WITNESS: Is that still available for
20 us to opt out like right now?

21 CHAIRPERSON SCHEUER: This portion of the
22 proceedings is just public testimony. We're supposed
23 to hear a presentation from the County on their
24 proposal, and like today all we're looking at is did
25 they procedurally follow the law, before we even get

1 into the substance of it.

2 THE WITNESS: I know I wasn't even aware of
3 this, so kind of scary. I just went forward and
4 had --

5 CHAIRPERSON SCHEUER: I can say with great
6 confidence, I am sure one or more of my fellow
7 Commissioners will be asking the County during the
8 presentation what the procedures, if any, that have
9 been provided and may be provided in the future for
10 opting out.

11 THE WITNESS: All right, thank you.

12 CHAIRPERSON SCHEUER: I want to follow up
13 with you. You made a quick reference to the water
14 situation.

15 Could you expand a little bit on the nature
16 of water issues with your property?

17 THE WITNESS: Yeah. I guess like the water
18 pressure and stuff, you know, our property is like --
19 I got 2.8 acres, and it's kind of, it's longer like,
20 you know, wider where closer to the house. So I
21 guess the pressure is like not as good.

22 CHAIRPERSON SCHEUER: From County water?

23 THE WITNESS: Yeah.

24 CHAIRPERSON SCHEUER: From BWS. Mahalo.
25 Thank you for that clarification.

1 THE WITNESS: Thank you.

2 CHAIRPERSON SCHEUER: Are there further
3 questions, Commissioners? If not, mahalo for your
4 testimony, we really appreciate it and your patience.

5 Going to move to You attendee again.

6 Gary Ilalaole. Hobbushin International
7 corporation, which I believe an attorney for Damon
8 Key submitted testimony on. Hold on. Let me pull
9 that up, get the correct name.

10 Have patience with me as I scroll through
11 this voluminous testimony. Nicholas Ernst. I see
12 your hand. Promoted to panelist. Aloha, Mr. Ernst.

13 THE WITNESS: Aloha.

14 CHAIRPERSON SCHEUER: You're counsel, so
15 I'm not going to swear you in. You're representing a
16 client. Please proceed.

17 NICHOLAS ERNST

18 Was called as a witness by and on behalf of the
19 Public, was not sworn to tell the truth, was examined
20 and testified as follows:

21 DIRECT EXAMINATION

22 THE WITNESS: I'm here on behalf of the law
23 firm Damon Key Kupchak Hastert on behalf of my
24 clients.

25 CHAIRPERSON SCHEUER: Please proceed.

1 THE WITNESS: Thank you for your time in
2 allowing us this testimony to be as brief as
3 possible.

4 CHAIRPERSON SCHEUER: Please speak up.

5 THE WITNESS: Is that better?

6 CHAIRPERSON SCHEUER: Little better.

7 THE WITNESS: I'll try to slow down as
8 well. I do talk kind of fast.

9 CHAIRPERSON SCHEUER: Thank you.

10 THE WITNESS: In terms of the primary issue
11 our clients have with the IAL designation that we
12 also mention in our written testimony has to do with
13 the idea that there are no land use ordinances that
14 provide any guidance. And we would think that the
15 City would establish a little bit of procedure, and
16 articulate how this whole process is brought about
17 with the Land Use Ordinances.

18 The Land Use Ordinances in Chapter 21
19 currently mention Important Agricultural Land, but
20 only in relation to AG-1 land automatically, and this
21 is the case with our clients, you know, when some
22 portion of the land are also designated as AG-2, we
23 don't know what that necessarily means or implies for
24 the property in terms of what kind of restrictions
25 are now being imposed on that property.

1 Does tat land get promoted to AG-1? Does
2 it stay AG-2? And have IAL AG-2 even though
3 ordinances only make mention of IAL and AG-1 land?

4 So without this clarity, we think there are
5 too many problems, and we are hoping that we would
6 get a response from the Department of Planning and
7 Permitting when we received a notice back in 2016
8 regarding this process.

9 We had rejected the process back then, and
10 asked for clarification with the same complaints, but
11 we haven't received a response since.

12 The only other notification our client
13 received afterwards was the April 12th letter from
14 the Land Use Commission.

15 CHAIRPERSON SCHEUER: That's two minutes.
16 Did you have any concluding remarks?

17 THE WITNESS: Other than we think the
18 procedure is a little premature, that's it.

19 CHAIRPERSON SCHEUER: Are there questions
20 for Mr. Ernst, City?

21 MS. WONG: No questions.

22 CHAIRPERSON SCHEUER: Thank you, Dina.
23 Office of Planning?

24 MS. KATO: No questions. Thank you.

25 CHAIRPERSON SCHEUER: Commissioners?

1 Commissioner Chang.

2 COMMISSIONER CHANG: Thank you very much,
3 Mr. Chair.

4 Good afternoon, Mr. Ernst. When you wrote
5 the letter in 2016, did you write it to the City and
6 County of Honolulu, a government official, or was it
7 to a consultant? Who was the letter written to?

8 THE WITNESS: To be clear, we had received
9 a letter from Department of Planning and Permitting
10 in late 2016 and we responded in early 2017. The
11 letter was written to Kathy Sokugawa of Department of
12 Planning and Permitting.

13 COMMISSIONER CHANG: And your
14 representation is you have not received any response
15 from the City in regards to the letter that you sent?

16 THE WITNESS: Again, to clarify, we
17 received a response saying we will get back to you;
18 and they never got back to us.

19 COMMISSIONER CHANG: Did you ever receive a
20 letter regarding opting out of the IAL designation?

21 THE WITNESS: So the initial letter that
22 our client received in 2016 did mention -- cover
23 letter, then had attachments saying what was IAL
24 procedure, meaning what does it look like, then it
25 had a paragraph that had a section that said what if

1 I don't want my property to be designated IAL, please
2 contact Department of Planning and Permitting if you
3 don't want your property placed in IAL. Contact
4 Department of Planning and Permitting and we will
5 address the issue before it comes before the City
6 Council and State.

7 Unfortunately, that process didn't go
8 (indecipherable). Here we are before the Commission
9 without having a response to our letter asking to opt
10 out.

11 COMMISSIONER CHANG: Thank you very much.
12 I appreciate your comments.

13 CHAIRPERSON SCHEUER: Further questions for
14 Mr. Ernst? Seeing none. Thank you very much for
15 your testimony with us today.

16 THE WITNESS: Thank you, Mr. Chair.

17 CHAIRPERSON SCHEUER: Moving back to the
18 written testimony, Alicia and Zac Aletha. Alicia and
19 Zac Aletha. If I'm going slower, my eyes are getting
20 slower as I look at the list of people whose hands
21 are raised in the ZOOM meeting. It's a lot of screen
22 time.

23 Jennifer and Jieson Ballera. I see you.
24 Jennifer Ballera, I'll promote you to be a panelist.

25 We can hear you. I'll swear in.

1 Do you swear or affirm that the testimony
2 you're about to give is the truth?

3 THE WITNESS: Yes.

4 CHAIRPERSON SCHEUER: Please proceed.

5 JENNIFER BALLERA

6 Was called as a witness by and on behalf of the
7 Public, was sworn to tell the truth, was examined and
8 testified as follows:

9 DIRECT EXAMINATION

10 THE WITNESS: So me and my husband, we
11 bought a parcel of land that was included in a TMK
12 list from the State, but when I was looking through
13 the Land Use Commission website, it said that DPP
14 deemed certain lands IAL in April of 2018, yet that
15 property that we bought was given a building permit
16 in November 2018 of the same year.

17 So what I don't understand, if it's IAL,
18 why is the same people saying it's IAL, giving a
19 building permit for that parcel of land? And I was
20 not given any notice of it being IAL when I bought
21 it.

22 I went through the regular process when I
23 bought it, private purchase. We didn't get anything
24 saying it was considered.

25 That's it, thank you.

1 CHAIRPERSON SCHEUER: Mahalo for your
2 testimony.

3 Questions, City?

4 CROSS-EXAMINATION

5 BY MS. WONG:

6 Q Could you provide us your tax map key
7 parcel number or street address?

8 A TMK 7-1-001:011.

9 MS. WONG: Thank you. No more questions.

10 CHAIRPERSON SCHEUER: Office of Planning?

11 MS. KATO: No questions, thank you.

12 CHAIRPERSON SCHEUER: Commissioners?

13 Commissioner Giovanni.

14 COMMISSIONER GIOVANNI: When you purchased
15 the property in 2018, did you do -- did you purchase
16 title insurance policy?

17 THE WITNESS: No, I did not -- actually,
18 I'm sorry, so I wasn't -- I actually bought the
19 property in 2020, so last year I got it.

20 COMMISSIONER GIOVANNI: So you purchased
21 the property after it had the building permits on it?

22 THE WITNESS: Yes, that's correct.

23 COMMISSIONER GIOVANNI: When you did
24 purchase it, did you do a title insurance policy?

25 THE WITNESS: No, I did not.

1 COMMISSIONER GIOVANNI: Thank you for your
2 testimony.

3 CHAIRPERSON SCHEUER: Further questions for
4 this witness, Commissioners?

5 Can you, for the record, just share. You
6 said the regular process. Can you detail, was it
7 listed on a multiple listing service and that's how
8 you purchased?

9 THE WITNESS: That's correct. It wasn't
10 advertised as IAL land. My husband is building our
11 home right now on the property, so I wouldn't waste
12 my time buying this lot if I knew it was agricultural
13 land, because that's not what we are going to use it
14 for.

15 CHAIRPERSON SCHEUER: Thank you.

16 Are there further questions for this
17 witness? If not, thank you for your patience in
18 providing testimony today. We really appreciate it.

19 I'll move you to be attendee. And continue
20 down the list.

21 Marcus Gillespie. Mark Hamamoto. Michael
22 G. Wright, W-R-I-G-H-T.

23 Do you swear or affirm that the testimony
24 you're about to give is the truth?

25 THE WITNESS: Yes.

1 MICHAEL G. WRIGHT

2 Was called as a witness by and on behalf of the
3 Public, was sworn to tell the truth, was examined and
4 testified as follows:

5 DIRECT EXAMINATION

6 THE WITNESS: Thank you, Chairman and
7 Commissioners.

8 We own a five-acre parcel of land outside
9 of Haleiwa zoned AG-1 restricted. We live full-time
10 on the land and have done so for ten years and have
11 farmed the land for ten years.

12 We have about 50 fruit producing trees
13 including avocado, citrus, banana and mango.

14 I'm strongly opposed to the placement of
15 designation on property for reasons I articulated in
16 my testimony. I realize today's meeting is about
17 process, so I want to make comments about City and
18 County process in determining IAL.

19 I've also, to my best recollection, never,
20 ever received any notice from DPP or City and County
21 prior to receiving the April 12 letter from LUC.

22 I would like to point out a couple things
23 in the process that I think are flawed.

24 No. 1, I have no clue how various
25 committees that were established to assist the

1 criteria against the various properties, how they
2 were able to make their determination without ever
3 setting foot on the land.

4 For example, I don't know how they would
5 know what our soil conditions are, water capacity,
6 how our land is used when nobody has visited the
7 property.

8 Secondly, I think the IAL designation is
9 not applied evenly, and has not been through this
10 process by way of example, myself and my three
11 neighbors who all live on agriculture land, actually
12 there's four neighbors, about 19 acres surrounded by
13 hundreds of acres of ag lands owned by Kamehameha
14 Schools, yet the land to the makai side of us as well
15 as to the west and north side of us, none of their
16 lands have been identified as IAL land, even though
17 our properties are. So land immediately next to me,
18 same zoning, same land, same attributes has not
19 received an IAL designation.

20 CHAIRPERSON SCHEUER: Can I ask you to
21 summarize.

22 THE WITNESS: Also would have liked to have
23 the opportunity to opt out if possible, and never was
24 presented that opportunity.

25 I think there are a lot of question marks

1 with regard to process. Thank you for hearing me
2 out.

3 CHAIRPERSON SCHEUER: Thank you very much
4 for your testimony.

5 CROSS-EXAMINATION

6 BY MS. APUNA:

7 Q Are you many willing to provide your TMK
8 number?

9 A TMK is 1-6-1-5, parcel 21.

10 Q Thank you. No further questions.

11 CHAIRPERSON SCHEUER: Office of Planning?

12 MS. KATO: No questions, thank you.

13 CHAIRPERSON SCHEUER: Commissioners?

14 Do you -- you have an orchard on your
15 property? Is it for sale or mostly non-sale
16 consumption?

17 THE WITNESS: It's for our family's
18 consumption. And part of our service to the
19 community is we give everything away. We probably
20 give away a couple thousand pounds of fruit every
21 year, and literally have no revenues from our farming
22 operation. Never have for the last ten years. We
23 give it away.

24 CHAIRPERSON SCHEUER: But you feed people?

25 THE WITNESS: Yes.

1 CHAIRPERSON SCHEUER: Anything further,
2 Commissioners?

3 If not, thank you very much, Mr. Wright,
4 for your testimony. Thank you for your patience.

5 THE WITNESS: Aloha.

6 CHAIRPERSON SCHEUER: Moving you to be an
7 attendee.

8 Shirley Simao. Shirley Simao. I see you.
9 I'll move you to be a panelist. You somehow
10 disappeared in the course of coming into the room.
11 There you are. Didn't want to lose you. I can see
12 you, and I think --

13 THE WITNESS: I think my internet is slow
14 here.

15 CHAIRPERSON SCHEUER: It's good now. I'll
16 swear you in.

17 Do you swear or affirm that the testimony
18 you're about to give is the truth?

19 THE WITNESS: I do.

20 CHAIRPERSON SCHEUER: Please proceed.

21 SHIRLEY SIMAO

22 Was called as a witness by and on behalf of the
23 Public, was sworn to tell the truth, was examined and
24 testified as follows:

25 DIRECT EXAMINATION

1 THE WITNESS: My name is Shirley Simao.
2 Our family purchased five acres of Agriculture 1
3 property nearly five years ago.

4 The letter that we received dated April
5 12th from the LUC was the first we heard of the
6 proposed IAL designation.

7 After reading through the City's
8 recommendation submitted to the LUC on April 21st, we
9 believe there are problems with how the maps were
10 compiled.

11 HRS 205-47(b) requires the mapping process
12 be in consultation and with cooperation with
13 landowners, the Department of Agriculture,
14 agricultural interest groups, et cetera.

15 The City's document goes onto say that in
16 their Technical Advisory Committee there was only one
17 landowner included. We don't believe that that is
18 fair, and we don't believe that is a fair
19 representation of landowners to have only one
20 landowner on the committee.

21 First in 205-47(c) inclusive process for
22 public involvement, the landowner feedback that was
23 gathered through the City's method of public
24 involvement yielded 90 per cent landowner
25 dissatisfaction with the preliminary designation, and

1 as a result more than half of the landowner requests
2 were granted. By this overwhelming percentage, there
3 should have been more widespread notification and
4 landowner involvement in the process.

5 205-47(d) the City was required to take
6 reasonable action to notify each owner.

7 Our family did not receive any notice from
8 the City. The first notice we received was this
9 month from the LUC.

10 Further problems for the properties
11 included in the mapping are the size of the parcels,
12 slopes on parcels, infrastructure and water available
13 to parcels, to name a few. Due to the
14 under-representation of landowners in the process,
15 these problems were not adequately addressed.

16 We just heard in the previous docket that
17 the State is faced with housing inventory shortages.
18 we believe that as landowners who want to build on
19 our property some day, this would add further
20 restrictions to our building homes on the property.
21 We haven't built a home yet on the property. So we
22 strongly oppose this.

23 CHAIRPERSON SCHEUER: Exactly two minutes.
24 Just as if you had rehearsed it. Well done.

25 Are there questions for this witness, City?

CROSS-EXAMINATION

1
2 BY MS. APUNA:

3 Q Thank you for your testimony.
4 If you're willing, can you provide us TMK
5 number?

6 A 6-5-001:042, Unit 1.

7 MS. APUNA: Thank you.

8 CHAIRPERSON SCHEUER: Office of Planning?

9 MS. KATO: No questions, thank you.

10 CHAIRPERSON SCHEUER: Commissioners?

11 Commissioner Chang.

12 COMMISSIONER CHANG: Good afternoon. I
13 greatly appreciate your well-thought out testimony.
14 You hit all the right key elements, and thank you
15 very much.

16 I wanted to know, you said you bought the
17 property five years ago. Do you know who the
18 previous landowner was?

19 THE WITNESS: Well, obviously we signed
20 documents, but I don't know her name offhand.

21 COMMISSIONER CHANG: And she made no --
22 during your transaction, she made no indication that
23 the City was considering placing this property in an
24 IAL designation?

25 THE WITNESS: No, she did not. And that's

1 a good point, because normally when you buy property,
2 the seller is required to make certain disclosures
3 that would affect your value and so forth.

4 And, yes, we did not receive any such
5 notification from the seller.

6 COMMISSIONER CHANG: The first notification
7 you received regarding IAL designation by the City
8 was by the LUC on April 12, 2021?

9 THE WITNESS: Yes, that is correct. We
10 received no prior notification from the City; and,
11 yes, we do pay real property taxes; and, yes, we do
12 get billing from them, so they have our address.

13 COMMISSIONER CHANG: Thank you so very
14 much.

15 THE WITNESS: Thank you.

16 CHAIRPERSON SCHEUER: Further questions?
17 You're ready to get back to work, right. Thank you
18 very much for your testimony. We really appreciate
19 it.

20 THE WITNESS: Thank you.

21 CHAIRPERSON SCHEUER: We have four more
22 pieces of written testimony that has been submitted,
23 then I can go to people who just submitted oral
24 testimony.

25 174 Power Global. The signatory of 174

1 Power Global -- there is no name, not sure how I'm
2 going to know if the signatory, the non-signatory for
3 174 Power Global wishes to put in Q and A who I
4 should call on, that would be appreciated.

5 Hawaii Clean Power Alliance, Frederick
6 Redell. Hawaii Clean Power Alliance.

7 Marisa McKnight. Marisa McKnight.

8 Colleen Hanabusa, who I believe was on
9 behalf of Dairy Company, Ltd.

10 Was there anyone who submitted written
11 testimony who I called their name but I have not
12 called on you, and you wish to testify orally?

13 Randall Sakumoto. Promoting you to be a
14 panelist, Mr. Sakumoto.

15 THE WITNESS: Aloha, Chair.

16 CHAIRPERSON SCHEUER: For everybody who
17 might be wondering, you're an attorney. I'm not
18 going to swear you in.

19 RANDALL SAKUMOTO

20 Was called as a witness by and on behalf of the
21 Public, was not sworn in, was examined and testified
22 as follows:

23 DIRECT EXAMINATION

24 THE WITNESS: I'm here on behalf of a
25 client, and you know I appreciate everybody's

1 patience. It's been a long day. I'll try to make it
2 brief.

3 CHAIRPERSON SCHEUER: Are you going to
4 disclose the name of your client?

5 THE WITNESS: If it is not necessary, I
6 prefer not to. They didn't give me the authority to
7 do that.

8 I think the testimony I have is in a
9 letter -- I'm not sure why it didn't show up in your
10 list of written testimony, but I did submit a letter
11 on the 23rd.

12 CHAIRPERSON SCHEUER: I've seen and read
13 the letter. I'll follow up with staff as to why it
14 was not posted.

15 THE WITNESS: In any case, it's very short
16 what I have to say and it is procedural, but it
17 doesn't relate to City's procedures, but it does
18 relate to matters related to the Commission's agenda
19 that was posted to today's meeting.

20 Agenda Roman numeral V indicates that the
21 lands recommended for designation are listed in the
22 Appendix H of the City and County IAL Petition.

23 And with all due respect to the Commission
24 staff, and all the hard work they put in to prepare
25 for these meetings, I believe, as I indicated in the

1 letter I submitted, references to Appendix H was in
2 error and that the land that the City actually
3 recommended for IAL designation are the lands listed
4 in the City Council Resolution 18-233, CD1, FD1.

5 The short history behind this is -- I'm
6 sure the City will explain it in their
7 presentation -- Appendix H was the initial list of
8 properties being recommended by the DPP to the City
9 Council. I think it was back in 2018.

10 In contrast, a list of properties that the
11 City Council ultimately approved for being
12 recommended for IAL designation was the one attached
13 to Resolution 18-233, CD1, FD1.

14 So there is a difference between those two
15 lists, and I raise this as a matter of the Sunshine
16 law. I don't need to tell the Commissioners this,
17 you're painfully aware, the agenda has to be detailed
18 to provided public with adequate notice that the
19 Commission is going to consider, so the public can,
20 you know, decide whether they want to participate in
21 these meetings or not.

22 And, you know, if you do participate or if
23 you do proceed, and the agenda doesn't provide --
24 doesn't meet the description requirement, actions
25 taken by the Commission could be voidable.

1 So in the interest of efficiency, due
2 process and to try to, you know, not have to redo the
3 process, my thought is the appropriate course of
4 action is to continue this matter, publish the
5 correct agenda, which actually refers to the
6 property's listed in Resolution 18-233, CD1, FD1.

7 And that's all I have to say.

8 CHAIRPERSON SCHEUER: Thank you, Mr.
9 Sakumoto. City and County?

10 MS. APUNA: No questions. Thank you.

11 CHAIRPERSON SCHEUER: OP?

12 MS. KATO: No questions. Thank you.

13 CHAIRPERSON SCHEUER: Commissioners?

14 As an initial matter, Mr. Sakumoto, while I
15 appreciate very much your keeping an eye out for our
16 procedural integrity, the notices that we sent out
17 were from the broadest possible list of people
18 affected by this property.

19 So if we toss the net maybe wider, who is
20 harmed?

21 THE WITNESS: Well, I think if you read the
22 agenda and it said that the properties being
23 considered are the ones in Appendix H, and if I'm an
24 owner and not on Appendix H, I'm thinking I'm in the
25 clear. So I'm not attending the meeting.

1 CHAIRPERSON SCHEUER: So you're suggesting
2 that there are properties that were included after,
3 not just excluded?

4 THE WITNESS: I don't know. All I'm saying
5 is that there was a process that the City went
6 through for one year, such that that list has
7 evolved. Because as you heard earlier, people did
8 object and try to take their names and properties off
9 the list.

10 CHAIRPERSON SCHEUER: Understood. But my
11 questions is, if the list that we gave included
12 everybody who was on the final list, and in addition,
13 some people who perhaps have been removed, but we
14 want to err on the side of giving full notice, how is
15 anybody harmed?

16 THE WITNESS: I can't say how that would
17 happen. In my view, as long as the Commission does
18 consider the correct list, which is the one attached
19 to the resolution, I think that from my standpoint,
20 I'm good.

21 I just wanted to be sure that that's what's
22 being considered, and the fact that the agenda was
23 written the way it was doesn't cause some type of
24 basis to challenge the action later on.

25 CHAIRPERSON SCHEUER: Thank you for your

1 comments.

2 Any comments or questions from the
3 Commissioners?

4 Thank you, very much, Mr. Sakumoto. We
5 appreciate it, and we will make sure your letter is
6 posted. And as to the error of not calling on you
7 could be entirely my blurry eyes.

8 THE WITNESS: No problem, no problem.
9 Thank you.

10 CHAIRPERSON SCHEUER: I'm going to move you
11 to be attendee.

12 Okay, it is 2:38. Let's see how many
13 people we can get through before we need another
14 break.

15 Who did not sign up for written testimony
16 but orally? The list of people who have raised their
17 hands has maintained itself.

18 I'll first call on Anna Murray and admit
19 you to be an attendee. I'm promoting you to be a
20 panelist. When you come in please --

21 THE WITNESS: I don't know why it's a green
22 screen.

23 CHAIRPERSON SCHEUER: And I do not either.

24 THE WITNESS: I know why, I think I have a
25 thing over my camera.

1 CHAIRPERSON SCHEUER: Technical
2 difficulties resolved.

3 I'm going to swear in and ask you to give
4 you testimony.

5 Do you swear or affirm that the testimony
6 you're about to give is the truth?

7 THE WITNESS: Yes.

8 CHAIRPERSON SCHEUER: Please proceed.

9 ANNA MURRAY

10 Was called as a witness by and on behalf of the
11 Public, was sworn to tell the truth, was examined and
12 testified as follows:

13 DIRECT EXAMINATION

14 THE WITNESS: My only real comments are
15 echoing other people, and I ended up sending a little
16 note about this. Is that I too -- we too did not
17 receive notice until your letter and then the letter
18 from the attorney. And we do pay our property taxes
19 and we did receive that.

20 My only other comment, which has been made
21 before, is we purchased the property in 2016 and have
22 heard nothing about this, and we're really caught off
23 guard.

24 One of the earlier testimony people is our
25 neighbor, and she was quite upset when she came to

1 talk to us about it the other day. And then I was
2 like wait, wait, what? So we discussed it with her.

3 But no one has come out to our property to
4 talk to us or give us any indication or check on our
5 property to see if it would be appropriate for this
6 besides the no notice.

7 CHAIRPERSON SCHEUER: Thank you for your
8 testimony. Are there questions.

9 City and County?

10 CROSS-EXAMINATION

11 BY MS. APUNA:

12 Q Thank you, Ms. Murray, for your testimony.
13 If you're willing, can you provide your TMK number or
14 address?

15 A Four -- I don't know the TMK, have to look
16 it up. Probably should have been prepared.

17 41-625 Kaulukanu in Waimanalo.

18 Q Thank you, Ms. Murray. No further
19 questions.

20 CHAIRPERSON SCHEUER: Office of Planning?

21 MS. KATO: No questions. Thank you.

22 CHAIRPERSON SCHEUER: Commissioners?

23 Commissioner Chang.

24 COMMISSIONER CHANG: Aloha, Ms. Murray. I
25 live in Kaneohe and it is pouring rain right now.

1 THE WITNESS: Yeah, just got here.

2 COMMISSIONER CHANG: I hope you can hear
3 me.

4 I just wanted to clarify.

5 It was your testimony that you have never
6 received notice from the City in regards to any
7 public meetings or the ability to opt out or
8 information about IAL; is that correct?

9 THE WITNESS: Yeah, we didn't know about it
10 until we received the notice at this, then I
11 looked -- you know, from you folks. Then I looked
12 into it there. Then I received a letter from an
13 attorney who I didn't follow up with, I just spoke to
14 our neighbor.

15 COMMISSIONER CHANG: And I may have
16 misheard you, but you said in 2016 you heard about
17 it. Did I --

18 THE WITNESS: No, no, we purchased the
19 property then, and I would have thought if the
20 previous owners had known, they would have mentioned
21 it to us.

22 The brother owns the property next door to
23 us, and so we have a relationship with the family,
24 and no one has ever mentioned this to us; no one said
25 anything. They didn't tell us, hey, we've gotten

1 these notices in the past, you should be aware.

2 COMMISSIONER CHANG: Thank you so much. I
3 appreciate your testimony. Take care.

4 CHAIRPERSON SCHEUER: Are there further
5 questions? Your hand was virtually up so long your
6 arm must be sore.

7 THE WITNESS: Thank you all for today. And
8 I realize this is going to take you a long time.

9 CHAIRPERSON SCHEUER: Thank you very much,
10 we really appreciate it.

11 I'm going to admit Gene Dumarán as a
12 panelist, followed by Racquel Achiu.

13 Gene Dumarán, when you come in, can you
14 enable your audio and video, assuming you are still
15 at your computer after this long time. I can see
16 you.

17 Do you swear or affirm that the testimony
18 that you're about to give is the truth?

19 THE WITNESS: Yes.

20 CHAIRPERSON SCHEUER: Okay, please proceed.

21 GENE DUMARAN

22 Was called as a witness by and on behalf of the
23 Public, was sworn to tell the truth, was examined and
24 testified as follows:

25 DIRECT EXAMINATION

1 THE WITNESS: I just have a question. My
2 wife's dad is 92 years old. He retired in Waianae as
3 a farmer, and he's no longer farming, and his son
4 isn't farming either who lives in the house.

5 Now, with this IAL designation, what's
6 going to happen to him? He's not farming. Is he
7 going to be kicked out or what?

8 That's my only question.

9 CHAIRPERSON SCHEUER: Thank you. So,
10 again, in response to your question, the City and
11 County has come to us with their proposal for
12 designation, and right now we're just considering
13 procedurally whether or not they followed the
14 process.

15 We certainly will hope the City, when we
16 are done with public testimony and they present to
17 us, they will directly answer that question as the
18 proposer of the action.

19 THE WITNESS: Okay, thank you.

20 CHAIRPERSON SCHEUER: Are there questions
21 for this witness from the City?

22 CROSS-EXAMINATION

23 BY MS. APUNA:

24 Q If you are willing, can you provided your
25 address or TMK of your father's home?

1 A The TMK is 8-7-01:005.

2 Q Thank you very much.

3 CHAIRPERSON SCHEUER: Office of Planning?

4 MS. KATO: No questions. Thank you.

5 CHAIRPERSON SCHEUER: Commissioners? If
6 not, thank you for your great patience in waiting to
7 testify and ask your question today. We really
8 appreciate it.

9 THE WITNESS: Thank you.

10 CHAIRPERSON SCHEUER: I'm going to move you
11 to be an attendee.

12 I'm going to bring in Racquel Achiu
13 followed by Ron Tubbs.

14 Aloha.

15 THE WITNESS: Aloha, everybody. Thank you
16 for hanging in here all day.

17 CHAIRPERSON SCHEUER: Thank you. I'm going
18 to swear you in.

19 Do you swear or affirm that the testimony
20 you're about to give is the truth?

21 THE WITNESS: I do.

22 CHAIRPERSON SCHEUER: Please proceed.

23 Racquel Achiu

24 Was called as a witness by and on behalf of the
25 Public, was sworn to tell the truth, was examined and

1 testified as follows:

2 DIRECT EXAMINATION

3 THE WITNESS: Thank you for everyone's
4 time. I know it's been a long day, and I suspect
5 you'll have several more.

6 Right off the bat, I never -- I did not
7 receive any type of notice. I was aware of the
8 discussions with IAL. We had a community meeting out
9 in Haleiwa Elementary School several years ago. It
10 was hugely informational.

11 I don't recall there being an opportunity
12 to opt out. I don't believe anybody would have at
13 that time, because there was so little knowledge
14 about it. I wasn't aware that it had advanced so
15 much.

16 You know, I would say that most people --
17 but really speaking for myself -- all ag land is
18 important. I don't think there's a designation.
19 Everything is important and usable.

20 There's agriculture. I don't need to tell
21 you guys, not just in crops, but a variety of ways
22 that can used.

23 But I think there are several ways, and I'm
24 all for whatever we can do to protect those lands,
25 but the protection of the farmers and ranchers is

1 just as important, and I think a process that puts
2 faith in those people is critical because that allows
3 your process to be more successful.

4 We have a small ranch out here, and we also
5 have a larger ranch up on Mount Ka'ala. Obviously we
6 want to ensure the protection is there for it.

7 I'm fortunate enough to be able to live on
8 my property. I think most people doing agriculture
9 in any sense, it's critical, and almost necessary for
10 them to be on their property today.

11 And I think we just -- we really do lose so
12 much critical land due to loopholes in processes, and
13 so forth, to a large amount of real estate
14 developers, and the loopholes that they're able to
15 get around to misuse ag land.

16 So I believe there is a good protection. I
17 think the criteria needs definite review. Someone
18 mentioned about the retiring aspect of it. I'm not
19 sure if you guys have seen --

20 CHAIRPERSON SCHEUER: Can I ask you to
21 summarize?

22 THE WITNESS: Yes.

23 This letter that everyone -- I'm assuming
24 it's the same from the lawyer. I don't know who
25 these people are, but they sent us a letter. So

1 there is questions to a lot of the criteria that's
2 been shared, and I'm hoping that -- I'm grateful for
3 your letter dated April 12, but I was a little
4 disturbed that there was a meeting in March that I
5 didn't know anything about.

6 So definitely communication is critical for
7 us to be able to make sure the land is protected
8 properly. Thank you.

9 CHAIRPERSON SCHEUER: Mahalo. Are there
10 questions, Ms. Apuna?

11 CROSS-EXAMINATION

12 BY MS. APUNA:

13 Q Thank you for your testimony. If you're
14 willing, can you provide us your TMK?

15 A TMK 6-6-029:011.

16 Q Thank you.

17 CHAIRPERSON SCHEUER: OP?

18 MS. KATO: No questions. Thank you.

19 CHAIRPERSON SCHEUER: Commissioners?

20 Commissioner Chang.

21 COMMISSIONER CHANG: Aloha. Thank you for
22 hanging in there with us. You've been here as long
23 as we have.

24 What I heard you say, you've never received
25 a notice from the County regarding the IAL

1 designation; is that correct?

2 THE WITNESS: Yes.

3 COMMISSIONER CHANG: But you recall
4 attending a community meeting in Haleiwa?

5 THE WITNESS: Yes.

6 COMMISSIONER CHANG: How did you hear about
7 that meeting?

8 THE WITNESS: You know, North Shore,
9 everything is coconut wireless.

10 COMMISSIONER CHANG: I get it; I get it.

11 THE WITNESS: We're heavily involved in the
12 community and neighborhood. When word got out,
13 obviously it was shared with all the right people.

14 COMMISSIONER CHANG: Can I ask you,
15 obviously you're here today, and you have some
16 concerns and issues.

17 Do you know whether other similarly
18 situated farmers like yourself in the community share
19 similar concerns about notification of the IAL
20 process?

21 THE WITNESS: Yes. I would say the vast
22 majority of farmers or ranchers aren't real familiar,
23 if at all, about the process. They've heard maybe,
24 you know, whimsical things in the past, but nothing
25 that would lead them to be able to really understand,

1 because a lot of the farmers are generational. So
2 there's older people that require little extra
3 guidance and, you know, that kind of situation.

4 It's not a really well-known topic.

5 COMMISSIONER CHANG: What I'm hearing you
6 say is that many people that you personally know are
7 not aware of this process.

8 THE WITNESS: Yes.

9 COMMISSIONER CHANG: And that the City has
10 not effectively communicated in ways that, like you
11 said, these local farmers or ranchers can understand?

12 THE WITNESS: Yes.

13 COMMISSIONER CHANG: Maybe this is a good
14 thing, but they don't understand enough to make a
15 good decision, is that what you're saying?

16 THE WITNESS: Yes. You know, too, when
17 you're out here, when we bought our property -- there
18 is a lot that is not disclosed when you buy
19 agricultural land. I had to really kind of dig my
20 feet in the ground and kind of learn on my own.
21 Fortunately I'm heavily involved in the community and
22 things that go on, so I have access to be able to
23 research.

24 But there is quite a bit of information,
25 when you purchase ag land, I wasn't even aware that I

1 had to dedicate my land, which was already in
2 dedication when I purchased it.

3 So those kinds of things kind of hurt when
4 you don't know it, and when it comes to bite you
5 later and your property goes up.

6 COMMISSIONER CHANG: Thank you. I get it.
7 I appreciate you taking the time and your testimony.

8 THE WITNESS: Thank you so much.

9 CHAIRPERSON SCHEUER: Anything further? If
10 not, mahalo nui for your testimony.

11 THE WITNESS: Mahalo.

12 CHAIRPERSON SCHEUER: Aloha. It is 2:54,
13 we have gone another full hour. We have 12 more
14 people, I believe, who have their hands raised to
15 give testimony. I believe we're going to lose one
16 more Commissioner at 3:30.

17 I just want to do quorum check with Mr.
18 Orodanker or Ms. China.

19 To continue to accept testimony, how many
20 do we need? Five. So we would have just have five.
21 Okay.

22 It is 2:54. We need to take a break.
23 There are biological and other needs. We will go
24 into recess until 3:00 -- it's 2:55, go into recess
25 until 3:05.

1 (Recess taken.)

2 CHAIRPERSON SCHEUER: Our next witness --
3 I'm going to start. Commissioner Cabral might have
4 to review a small portion of the transcript, but we
5 have quorum.

6 I'm going to bring in Ron Tubs followed by
7 Kelly Colbin. I realize everyone who has been
8 waiting has been super patient. I'm going to ask
9 people to try to summarize testimony as much as
10 possible, because I would like to get everybody whose
11 hand is raised to testify, so we have -- before we
12 have to end, certainly no later than 4:30.

13 Ron Tubbs, if you can enable your audio and
14 video. I can see you. There should be a little
15 microphone icon, click on that and that will enable
16 your audio.

17 THE WITNESS: Hello.

18 Thank you Commissioners --

19 CHAIRPERSON SCHEUER: I'm going to swear
20 you in.

21 Do you swear or affirm that the testimony
22 you're about to give is the truth?

23 THE WITNESS: I do.

24 CHAIRPERSON SCHEUER: Please proceed.

25 -o0o-

1 MARY TUBBS

2 Was called as a witness by and on behalf of the
3 Public, was sworn to tell the truth, was examined and
4 testified as follows:

5 DIRECT EXAMINATION

6 THE WITNESS: Thank you for your most
7 valuable time today, and this opportunity to testify.

8 I'm Mary Tubbs, I live on this, our
9 property parcel of land in Waimanalo designated as
10 Country Zoning for 20 years. And I have received --
11 we did receive proper notice -- well, of the
12 meetings, et cetera. And at the time in late 2016.

13 We did subsequently follow directions and
14 submit a request for exemption which was denied.
15 Today's focus on the criteria or -- excuse me, on
16 whether the procedures were followed or not.

17 So technically on the surface it looks like
18 it was, but for those of us in Country Zoning I still
19 think that the procedures were not that good.

20 The City and County did explain in their
21 letter that IAL lands for City and County were three
22 criteria, availability of water, good soil quality,
23 and in agricultural use.

24 Now, as I said before, we're Country zoned.
25 We are not AG-1, AG-2. In fact, it wasn't until a

1 few minutes ago I was saying how can you speak, and I
2 guess I'm in an Agricultural District.

3 Nevertheless, we did go to the meeting and
4 submit request for exemption. I pay taxes on this
5 higher rate. My parcel is relatively small
6 .735 acres, tax rate is nearly doubled what my
7 neighbors pay. And so I assume that we're in a
8 different area, because we're located along the
9 stream which looks like the only criteria that they
10 paid any attention to, even though the availability
11 of water is there, there is an -- City and County has
12 an easement to use that water whenever they want.

13 CHAIRPERSON SCHEUER: Can I ask you to
14 summarize?

15 THE WITNESS: Yes. They did not come out
16 and look at the soil. A lot of it is clay. We are
17 on a very steep side valley of the stream, and with
18 very little land to farm anything on.

19 As far as being in agricultural use, when I
20 pay my taxes, it does not say I'm ag. It says I'm
21 residential. I pay a higher rate than my neighbors.
22 I know across the street is ag and up and down across
23 the stream are houses.

24 In my view, I do not think that they
25 followed in agricultural use. That was not clear to

1 me in Country Zone that I'm in. It's a muddled
2 process at best.

3 CHAIRPERSON SCHEUER: Thank you very much.
4 Questions for the witness?

5 CROSS-EXAMINATION

6 BY MS. APUNA:

7 Q Can you provide your address or TMK number?

8 A TMK is 4-1-010-018:000.

9 MS. APUNA: Thank you.

10 CHAIRPERSON SCHEUER: Office of Planning?

11 MS. KATO: No questions. Thank you.

12 CHAIRPERSON SCHEUER: Commissioners?

13 Commissioner Cabral.

14 VICE CHAIR CABRAL: Thank you very much for
15 coming forth.

16 You indicated that you did receive notice,
17 but you also indicated that you asked to be exempt,
18 and that you were denied that ability to be exempt
19 from this classification.

20 THE WITNESS: Yes, we were -- we were told
21 we were IAL lands, but no explanation of why or how
22 this decision -- on what basis.

23 VICE CHAIR CABRAL: And you're less than
24 one acre and you pay residential in terms of your tax
25 base?

1 THE WITNESS: I believe so. It says
2 residential on it. I notice other properties you can
3 have a residential and ag with it. There's just the
4 next parcel down was vacant, then right after that I
5 know they had residential and ag, they had both.

6 VICE CHAIR CABRAL: Thank you very much for
7 the information. It's another piece to the puzzle,
8 thank you.

9 CHAIRPERSON SCHEUER: Are there further
10 questions for this witness? Thank you for your
11 detailed testimony and your patience. We really
12 appreciate it.

13 I'm going to move you to being an attendee.
14 I'm going to promote Tameria Kelley Colbin, followed
15 by Sharlette Poe.

16 Tameria Kelley Colbin, if you can enable
17 your audio and video.

18 We can hear you, so that's fine. Let me
19 swear you in sworn.

20 Do you swear that the testimony you're
21 about to give is the truth?

22 THE WITNESS: Yes, it is.

23 CHAIRPERSON SCHEUER: Please proceed.

24

25

1 TAMERIA KELLEY COLBIN

2 Was called as a witness by and on behalf of the
3 Public, was sworn to tell the truth, was examined and
4 testified as follows:

5 DIRECT EXAMINATION

6 THE WITNESS: So my TMK number is
7 8-5-005:010.

8 My husband and I bought this land back in
9 2013. We did receive, I guess it was the 2016
10 community letter to come at the Kapolei High School,
11 which was a whole big mess. We didn't understand,
12 because they were still fighting over the land
13 between Kapolei and Ewa Beach, so they kept
14 interrupting.

15 I do not agree with this. That is the only
16 letter that I received until last week when we came
17 home from vacation and got the April 12th letter.

18 They only want to do a portion of my land,
19 but then they want to do -- because my land is in
20 between State land and Camp Waianae land, so they
21 want to do a portion of my land, and then a portion
22 of Camp Waianae's land.

23 I don't know how that is going to work. So
24 basically I think that the City and County
25 procedurally-wise should have notified all the

1 landowners of every meeting and not just the ones
2 that they want us to be a part of.

3 The other thing is the land, the State land
4 next to me is for the orchid farm, so they rent that
5 from from the State, and that's fine, but the land
6 coming down my driveway I don't know who's
7 representing the land or State. They allow big
8 trucks to park over there, and those trucks leak oil
9 and gas and everything else on that land.

10 So that land can't be used, but yet they
11 want to make it IAL land. So my thing --

12 CHAIRPERSON SCHEUER: Can I ask you to
13 summarize, please?

14 THE WITNESS: Yes. I do not agree. I was
15 not given the opportunity to opt out. Given the
16 opportunity to opt out, I definitely will. Thank
17 you.

18 CHAIRPERSON SCHEUER: Thank you so much for
19 your testimony.

20 Let me see if there's questions for you.
21 City and County?

22 MS. APUNA: No. Thank you for your
23 testimony, and thank you for providing the TMK.

24 CHAIRPERSON SCHEUER: Office of Planning?

25 MS. KATO: No questions, thank you.

1 CHAIRPERSON SCHEUER: Commissioners. Sorry
2 we missed seeing you.

3 THE WITNESS: I've never stopped hitting
4 the video play. It still's not coming on.

5 CHAIRPERSON SCHEUER: We got your
6 testimony. Thank you so much. We appreciate your
7 testimony. I'm going to move you back to being
8 attendee.

9 And Sharlette Poe followed by Mahelani
10 Cypher.

11 THE WITNESS: Aloha, can you hear me good?

12 CHAIRPERSON SCHEUER: Yes, we can. I need
13 to swear you in.

14 Do you swear or affirm that the testimony
15 you're about to give is the truth?

16 THE WITNESS: Yes.

17 CHAIRPERSON SCHEUER: Please proceed.

18 SHARLETTE POE

19 Was called as a witness by and on behalf of the
20 Public, was sworn to tell the truth, was examined and
21 testified as follows:

22 DIRECT EXAMINATION

23 THE WITNESS: Aloha, Sharlette Poe. I'm
24 from Waianae. I also Chair Waianae Coast
25 Neighborhood Board, and the community for the housing

1 and development.

2 So I do not own property that is being
3 identified or designated for IAL. Potentially,
4 however, I was contacted by a number of community
5 members that are concerned because of your infamous
6 April 12th letter, as well as being contacted by a
7 law firm. So community members have been upset,
8 scared and confused.

9 And I do want to speak to the City DPP
10 process, the process they used to inform, involve and
11 engage community and public. I believe it was
12 lacking, so I heard 2016 mentioned about an initial
13 letter, invite to attend a meeting.

14 For our community out here in the Waianae
15 Coast, sometimes getting to community outside of our
16 community are problematic. So it would have been
17 appreciated if, in the different areas where IAL
18 potential lands were designated or identified, they
19 held meetings in those areas.

20 I heard about Haleiwa. As I spoke to the
21 former Chair of the Nanakuli-Maili Neighborhood
22 Board, we've never gotten an ask or a request to
23 present at the neighborhood boards. That would have
24 been one way to engage our communities in our grass
25 root levels, and we could have helped to get the word

1 out and create a space for outreach and education on
2 this.

3 We are not scaring our farmers. We're not
4 trying to mislead and misinform, but education and
5 inform them so they would make informed decisions.
6 There are pros and cons depending on situations,
7 especially if you have generational families that
8 have farmed before but may not be farming now, but
9 the family has gone from parent with three or four
10 children to multiple families and generations on the
11 lands.

12 So there is various considerations that we
13 would have appreciated DPP coming back out. And I
14 did go back to agenda and minutes to see if all the
15 way through December 2014 there might have been
16 presentation. There was none.

17 So the request and the ask is that you
18 consider extending this process and have DPP come
19 back out to share better education and information
20 identification on the pros, the cons, the process how
21 this designation process came into being, because I
22 believe it was initiated at State level.

23 So some of this information would have
24 helped to ease the way for community to not be so
25 confrontational and confused, but to come before you

1 folks with good testimony on the pros and cons and
2 for them to decide whether or not it's beneficial to
3 them or not. Mahalo.

4 CHAIRPERSON SCHEUER: Mahalo. Questions,
5 City and County, Ms. Apuna?

6 MS. APUNA: Aloha, thank you for your
7 testimony.

8 CHAIRPERSON SCHEUER: Office of Planning?

9 MS. KATO: No questions. Thank you.

10 CHAIRPERSON SCHEUER: Commissioners?
11 Commissioner Chang.

12 COMMISSIONER CHANG: Aloha, Shar, nice to
13 see you. And, you know, mine is more a comment than
14 a question for you.

15 I have greatly appreciated your
16 constructive testimony today, that the neighborhood
17 boards provide a forum and platform to reach
18 community members. And you confirmed.

19 Mahalo for going back to all your previous
20 minutes, but that there has not been a request to the
21 Waianae Neighborhood Board, at least that you are
22 aware of, because there is both the Waianae
23 Neighborhood Board, the Nanakuli-Maili Neighborhood
24 Board, and then the North Shore Neighborhood Board as
25 well as Koolauloa, so thank you again for your

1 testimony, as it is constructive, and and mahalo for
2 being an advocate for your community, because I
3 appreciated you coming forward, taking the time to
4 express your community's concerns, but also to
5 provide the City a constructive way to use the
6 neighborhood boards to get information out.

7 So mahalo to you and all your good work.

8 THE WITNESS: Aloha.

9 CHAIRPERSON SCHEUER: Further questions,
10 Commissioners?

11 I just echo Commissioner Chang's mahalo
12 for. Your work in the neighborhood board, it's so
13 important. Really appreciate it. Mahalo nui.

14 THE WITNESS: Mahalo. Have a good day.

15 CHAIRPERSON SCHEUER: Aloha.

16 I'm going to admit -- we have 13 people
17 with their hands raised now. We have Mahelani
18 Cypher, followed by John Costland.

19 If you can enable your audio and video.
20 There you go.

21 THE WITNESS: I want to thank all of you --

22 CHAIRPERSON SCHEUER: Do you swear or
23 affirm the testimony you're about to give is the
24 truth?

25 THE WITNESS: Yes.

1 CHAIRPERSON SCHEUER: Please proceed.

2 MAHELANI CYPHER

3 Was called as a witness by and on behalf of the
4 Public, was sworn to tell the truth, was examined and
5 testified as follows:

6 DIRECT EXAMINATION

7 THE WITNESS: Thank you all for waiting so
8 long to hear some of our redundant testimony, but I
9 want to start off by saying I am very concerned that
10 you have so many people testifying against the IAL
11 program, because the IAL program, which I think the
12 idea first came up in '70s and '80s when a lot of
13 communities came out in support of preserving
14 Important Ag Lands throughout the State, and this was
15 to provide food security for our islands to make sure
16 that the best lands that were actively farming or
17 potentially used for active farming or any kind of
18 farming that involved food production, that also
19 includes pasture lands, poultry, piggeries.

20 I also advocate for traditional Hawaiian
21 lands. Somebody early testified about Koolaupoko
22 organization, there is agricultural work going on in
23 every single ahupua'a. And in the City's maps
24 there's only like one or two that show very much
25 activity. That's very disturbing and troubling to

1 us, but we think the City's process was incomplete.
2 We think you should send this back to the City and
3 work on it some more. Even the criteria needs to be
4 updated because there's a lot of activity going on
5 right now, a lot of farming all to support food
6 sustainability for our island.

7 When you allow people to take themselves
8 out of this Important Agricultural Lands, the
9 category, if they upzone their lands, that means that
10 much less lands can be used for farming, and that
11 troubles me.

12 I also want them to also consider
13 fishponds. The fishponds can provide a lot of food
14 too, and that doesn't seem to be addressed.

15 The two criteria that apply, other
16 Important Ag Lands and unique ag land cover
17 traditional food production activities by native
18 Hawaiians.

19 So I'm going to urge you guys to consider
20 sending the matter back to the City and ask the City
21 to revisit the program, because IAL is an important
22 program.

23 It started in '70s and '80s, and I would
24 hate to see it diminished by so many people opting
25 out. A lot of people opt out because they want to

1 sell their lands and sell it for more money than they
2 bought it. So I just kind of worry about that
3 because we need the ag land.

4 CHAIRPERSON SCHEUER: Mahalo, Mahelani.

5 Questions for the witness, Ms. Apuna?

6 MS. APUNA: No questions, thank you.

7 CHAIRPERSON SCHEUER: Ms. Kato?

8 MS. KATO: No questions. Thank you.

9 CHAIRPERSON SCHEUER: Commissioners?

10 Thank you for your extreme patience and
11 thank you for also bringing the conversation
12 partially back to the constitutional amendment that
13 is the generator of this effort to actually protect
14 lands that feed us.

15 Anything further for this witness? If not,
16 mahalo nui, Mahelani. We greatly appreciate it.

17 I'm going to promote Jeff Bloom, followed
18 by Samuel Campbell.

19 THE WITNESS: I'm here seeing if I can get
20 my video --

21 CHAIRPERSON SCHEUER: You should be able to
22 click the video icon at the bottom of the screen next
23 to where you enabled audio. There you are.

24 I'm going to swear you in.

25 Do you swear or affirm that the testimony

1 you're about to give is the truth?

2 THE WITNESS: Yes, I do.

3 CHAIRPERSON SCHEUER: Please proceed.

4 JEFF BLOOM

5 Was called as a witness by and on behalf of the
6 Public, was sworn to tell the truth, was examined and
7 testified as follows:

8 DIRECT EXAMINATION

9 THE WITNESS: First of all, I have never
10 received the notice that most people have said as
11 well. It's possible I could have two or three years
12 ago, but in my recollection I don't.

13 The only neighborhood I belong, other than
14 Waimanalo, I belong to the Waimanalo Agricultural
15 Association. A lot of small farmers.

16 I'm not speaking on behalf of the
17 association or any other farmer, just myself.

18 I have asked them if they were giving
19 testimony, but obviously it doesn't seem like they
20 are. Maybe they're not even aware of it.

21 I just want to say, again, I think the
22 process is flawed. Not sure I agree or disagree.
23 Don't know enough about it.

24 As other people have said, I received a
25 letter from the Commission and a law firm on the same

1 day. When I got the letter from the Commission, I
2 appreciated all your efforts and everybody being a
3 volunteer, but it was a little frustrating to see
4 that I missed a meeting in March when the letter was
5 dated April 12th and I received it on April 15th.
6 Maybe that was just a typo.

7 But again, I've lived here in Waimanalo for
8 over 30 years. I have children and grandchildren who
9 have been born and raised here. I would love to give
10 my property to my children. Everybody is worried
11 about their property values going up or down. I'm
12 worried about taxes when I have to give it to my
13 children when I die and they have to pay inheritance
14 taxes and no one has talked to that.

15 So there are other issues to be discussed,
16 a number of discussions in the last week or two with
17 other people in the community. A lot of local
18 Hawaiians, a lot of varying opinions on it, a lot of
19 other things.

20 Most people in Waimanalo, at least in my
21 group, farmers do not grow food, they grow plants for
22 the agricultural industry that they sell to stores.
23 They sell to landscapers, other things.

24 So, again, I really question what the City
25 and County's motive is for this.

1 I do raise crops, mostly fruit trees as
2 well as flowers. Most people belong to the ag
3 association here do not. So I think it's time to go
4 back. I would have loved to hear from DPP at the
5 beginning instead of the end. Been here since
6 8:00 o'clock this morning, my wife and I.

7 I would love to participate in any
8 discussion that comes forward, and I certainly will
9 bring it up at the meeting next week with Waimanalo
10 Ag Association to make sure those farmers area aware
11 of it. That's all I have to say.

12 CHAIRPERSON SCHEUER: Mahalo for your
13 testimony.

14 Ms. Apuna?

15 CROSS-EXAMINATION

16 BY MS. APUNA:

17 Q If you are willing, can you provide your
18 TMK or address?

19 A 4-1-0-24:086. I live on 2.01 acres in
20 Waimanalo, AG-2.

21 MS. APUNA: Thank you.

22 MS. KATO: No questions.

23 CHAIRPERSON SCHEUER: Commissioners?
24 Commissioner Chang.

25 COMMISSIONER CHANG: Aloha, Mr. Bloom,

1 greatly appreciate your patience in hanging in there
2 with us and providing us your testimony.

3 My understanding is, besides being a farmer
4 in Waimanalo, you belong to the Waimanalo Ag
5 Association?

6 THE WITNESS: Yes, but I'm not speaking on
7 their behalf.

8 COMMISSIONER CHANG: No. But I would like
9 to know, since you have a reach of similar voices, or
10 people who are doing similar things in Waimanalo,
11 farming or growing nursery plants, have these
12 members, your neighbors or other farmers, expressed
13 similar concerns that you have?

14 THE WITNESS: Only the ones I've talked to,
15 again, various concerns, I guess, not just one.

16 COMMISSIONER CHANG: Has anyone that you've
17 spoken to expressed that they have been informed of
18 the IAL and that they, you know, they have -- they
19 understand the process? Anyone that you've spoken
20 to?

21 THE WITNESS: I'm not sure they understand
22 the process. I talked to a couple people last night.
23 I called a few people I knew who are very local in
24 the community, been here the entire third, fourth
25 generations. They were aware, they told me -- one of

1 my friends he went three years ago or something and
2 never heard anything. He's on ag land, all legal.
3 He had a lot of other concerns. He's gave me an
4 earful for about an hour last night.

5 He has a business to run. I can understand
6 that he has a farm. People can't just sit there for
7 a day, but hopefully if it's at night or on weekends
8 people can spend time.

9 I think the process needs to be reach out
10 to the real farmers whose land is affected, not
11 people that have property just trying to --
12 (indecipherable).

13 COMMISSIONER CHANG: Did you indicate that
14 you did participate or you attended a meeting several
15 years ago?

16 THE WITNESS: No. I had no notice
17 whatsoever, but I had heard about it. I'm not sure
18 whether, again, coconut wireless. Participating in
19 the community in a lot of things, so I heard, but
20 that's all I heard.

21 I figured I would receive an official
22 notice or something. When I got these two letters
23 last week, obviously, I made some phone calls and
24 started digging into it, that's the first time.

25 COMMISSIONER CHANG: When you heard about

1 it, was the meeting in the evening, the afternoon, or
2 the middle of the day?

3 THE WITNESS: I don't know. My friend told
4 me. I only got these two letters. Both believe it
5 or not, both dated April 12, same day, and one from a
6 law firm and one from the Land Use Commission.

7 COMMISSIONER CHANG: Thank you again for
8 your testimony, appreciate it.

9 THE WITNESS: Mahalo.

10 CHAIRPERSON SCHEUER: Anything further?

11 I know you said you mostly farm fruit, but
12 I do appreciate that Mr. Bloom also farms flowers.

13 THE WITNESS: Yes, Waimanalo Bloom.

14 CHAIRPERSON SCHEUER: And I appreciate
15 greatly your patience in attending our meeting today
16 and waiting to give testimony. Thank you so much.

17 THE WITNESS: Thank you.

18 CHAIRPERSON SCHEUER: I'm going to move Mr.
19 Bloom to be an attendee and admit Samuel Campbell
20 followed by Michael Pietsch. Aloha.

21 THE WITNESS: Aloha.

22 CHAIRPERSON SCHEUER: Do you swear or
23 affirm that the testimony you're about to give is the
24 truth?

25 THE WITNESS: Yes, I do.

1 CHAIRPERSON SCHEUER: Please proceed.

2 SAMUEL CAMPBELL

3 Was called as a witness by and on behalf of the
4 Public, was sworn to tell the truth, was examined and
5 testified as follows:

6 DIRECT EXAMINATION

7 THE WITNESS: Samuel Campbell and my parcel
8 of land is TMK 8-5-0-19:036.

9 My wife and I are former school teachers.
10 We are retired. She has recently passed away just
11 one year ago, and we bought this land. And like I
12 believe it was somebody else, Ms. Cypher, who was
13 talking about how important it is to preserve ag
14 land.

15 That was our desire as school teachers here
16 on the west side. We believe in that as well.

17 The land, originally we bought it from the
18 bank, but the owner before that turned this into like
19 an industrial park. So that there was contractors'
20 trucks that were parked here on the land. He put in
21 a lot of fill dirt and rocks in order to make a
22 parking lot for the semi-trucks and heavy equipment
23 things for construction.

24 So the land is totally unusable. We bought
25 it to preserve the land and to hopefully develop

1 self-sustaining farmer and be a model for our
2 community. That is our goal as educators. We would
3 love to do that.

4 I'm fulfilling my wife's and my dream. I
5 love this land. I love Hawaii. I really want to
6 work this but, you know, it's self-sustaining
7 farming, it's not an agricultural business. The
8 land, I had to bring in soil in order to have my
9 garden. And get a backhoe in order to dig the holes
10 so I can plant fruit trees and get good soil in
11 there.

12 It's very, very difficult. I'm doing the
13 best that I can, but it's not an agricultural
14 business. And I'm retired. I don't want to lose my
15 home. And I was never ever contacted until the April
16 12th letter and the law firm, like everybody else.
17 Thank you everyone.

18 CHAIRPERSON SCHEUER: Thank you so much for
19 your testimony. City and County.

20 MS. APUNA: No questions, thank you for
21 your testimony, Mr. Campbell.

22 CHAIRPERSON SCHEUER: OP?

23 MS. KATO: No questions.

24 CHAIRPERSON SCHEUER: Commissioners?

25 Sorry for your loss of your wife. Thank

1 you for your service as a public school teacher as
2 well as your commitment to restoring land and your
3 testimony today and your patience. We appreciate all
4 of them. Anything further?

5 THE WITNESS: No. Just to be on the record
6 that I never did receive any notice, and so the City
7 did not follow their requirements.

8 CHAIRPERSON SCHEUER: Thank you very much.

9 I'll move you back to being an attendee,
10 and I'm going to admit Michael Pietsch, followed by
11 Melissa Ginella.

12 Do you swear or affirm that the testimony
13 you're about to give is the truth?

14 THE WITNESS: I do.

15 CHAIRPERSON SCHEUER: Please proceed.

16 MICHAEL PIETSCH

17 Was called as a witness by and on behalf of the
18 Public, was sworn to tell the truth, was examined and
19 testified as follows:

20 DIRECT EXAMINATION

21 THE WITNESS: Thank you, Commission, for
22 hearing all these testimonies.

23 My wife Malia and I own property in Wailua,
24 TMK 1-6-7-3-5 and TMK 1-6-7-3-3.

25 And we the purchased in 2015. Been

1 following this process a bit. Wrote a letter back in
2 2016 requesting that our lands not be included in IAL
3 due to the topography, soil quality C, rocky, steep
4 gullies, lack of water, and not meeting the criteria.

5 I got a letter back that just said it was
6 denied, and included in IAL with no discussion, no
7 phone call, nothing.

8 And I think that really was my concern, the
9 community really wasn't included, at least the small
10 landowners. Big landowners did understand how to
11 navigate this, but the small landowners didn't. And
12 it's difficult.

13 So there was a petition that was created on
14 April 17th that I want to point out to the Commission
15 that has roughly 500 signatures, all of who report
16 that IAL be voluntary, and I'm in agreement with
17 that request.

18 And if you're looking at the rules and how
19 if the rules were followed or not, I want to point
20 out City and County Honolulu did not contact
21 landowners adequately to conduct agricultural
22 economic feasibility analysis on each property. This
23 requirement is outlined in LUC 15-15 Administrative
24 Rule 10-19-19 under 15-15-125(b)(5)(d), the viability
25 of existing agribusinesses. Just following these

1 rulings to understand that is extremely difficult
2 from a layman's terms.

3 And I also want to point out that the large
4 landowners did dedicate their lands, which I think
5 was a success for IAL, but after contacting multiple
6 law firms, the minimum cost was 50 to 70,000, and
7 that is cost prohibitive of any landowner. That's
8 all I have to say.

9 CHAIRPERSON SCHEUER: Thank you very much
10 for your testimony.

11 Questions for the witness, Ms. Apuna?

12 MS. APUNA: No questions. Thank you for
13 your testimony.

14 CHAIRPERSON SCHEUER: Office of Planning?

15 MS. KATO: No questions. Thank you.

16 CHAIRPERSON SCHEUER: Commissioners?

17 Commissioner Chang.

18 COMMISSIONER CHANG: Thank you, Mr. Chair.

19 Mr. Pietsch, you said there is a Petition
20 that is part of the record. Do you know if anybody
21 submitted that?

22 THE WITNESS: I submitted written
23 testimony, then I included a link to the Petition.
24 And I hope -- I had sent it to the wrong email
25 address, so that's why it wasn't on the list, but

1 since then I got it correct and sent it late last
2 night.

3 COMMISSIONER CHANG: These people, are they
4 primarily from Wailua or any geographic area?

5 THE WITNESS: I think primarily from the
6 North Shore.

7 COMMISSIONER CHANG: Are you currently
8 farming the land right now?

9 THE WITNESS: We have cattle on the land
10 and also farmers on the land.

11 COMMISSIONER CHANG: Thank you so much for
12 your testimony. I really appreciate that.

13 THE WITNESS: Thank you, guys.

14 CHAIRPERSON SCHEUER: Further questions for
15 Mr. Pietsch?

16 Is it possible, Mr. Pietsch, that you
17 might, if you're willing, put the letter of your
18 rejection of your request to be exempted into our
19 record as well? You're not the first person who's
20 referenced this. We are trying to understand exactly
21 how the City did and did not deal with these kind of
22 requests.

23 THE WITNESS: Absolutely I'll submit that
24 letter.

25 CHAIRPERSON SCHEUER: Thank you. We know

1 you're busy. Thank you for your great patience in
2 testifying.

3 THE WITNESS: Thank you all. Appreciate
4 your help.

5 CHAIRPERSON SCHEUER: Yeah, mahalo.

6 We have eight people with their hands up.
7 Melissa Ginella followed by Sean Anderson.

8 Do you swear or affirm that the testimony
9 you're about to give is the truth?

10 THE WITNESS: 'Ae.

11 CHAIRPERSON SCHEUER: Please proceed.

12 MELISSA GINELLA

13 Was called as a witness by and on behalf of the
14 Public, was sworn to tell the truth, was examined and
15 testified as follows:

16 DIRECT EXAMINATION

17 THE WITNESS: Aloha and thank you for your
18 time, you guys, it's a long day. We appreciate you.

19 I did not receive any notification prior to
20 the LUC's April 12th letter. We have never received
21 anything.

22 So there has been no notification, so I do
23 not believe the City and County fulfilled the
24 requirements to communicate with people. Others, no
25 transparency, no notification to landowners.

1 I agree greatly with Michael Pietsch, who
2 just spoke. A lot of that is completely right on
3 track.

4 And nobody came to our land and saw that
5 it's sloped, and it's clay. And we have done a lot
6 to try to get the ulu trees to live. We have ulu
7 trees, we have animals on the property. Nobody has
8 ever come out. We pay our bill, so I know that they
9 know where our address is. We just never received
10 any notification. This almost feels like a land grab
11 to me, which is not right.

12 So that's all I have to say. I do not
13 agree with the City and County, that they did not
14 fulfill the requirement, simple as that.

15 I did send an email, but it wasn't shown,
16 so maybe for tomorrow it will show.

17 CHAIRPERSON SCHEUER: Sorry. We have a
18 very small, awesome, but very small staff, so if
19 somebody comes in right before the hearing, they
20 might be busy getting ready for the actual hearing.

21 Are there questions for our witness, Ms.
22 Apuna?

23 CROSS-EXAMINATION

24 BY MS. APUNA:

25 Q Can you provide your TMK or address?

1 A 57-548 Kamehameha Highway, Kahuku, Hawaii
2 96731.

3 MS. APUNA: Thank you.

4 CHAIRPERSON SCHEUER: Office of Planning.

5 MS. KATO: No questions. Thank you.

6 CHAIRPERSON SCHEUER: Commissioners?

7 Thank you so much for your brief and direct
8 testimony. We appreciate it.

9 THE WITNESS: Mahalo.

10 CHAIRPERSON SCHEUER: Sean Anderson
11 followed by Ken Church.

12 Sean Anderson, if you would enable your
13 audio and video. We can see you, and I think we will
14 be able to hear you.

15 Do you swear or affirm that the testimony
16 you're about to give is the truth?

17 Please proceed.

18 SEAN ANDERSON

19 Was called as a witness by and on behalf of the
20 Public, was sworn to tell the truth, was examined and
21 testified as follows:

22 DIRECT EXAMINATION

23 THE WITNESS: Hello, everybody. Thanks
24 again.

25 Like everyone is getting tired, so I'll try

1 and go as quickly as I can.

2 I have a lot of the same testimony that
3 other people said. I only have a small parcel of
4 land that's being considered for the designation that
5 we are talking about. I've owned it for about a
6 year-and-a-half, and I pay taxes on it.

7 We did an environmental assessment, title
8 search, everything is public. I feel like I should
9 have been easy to get ahold of and contacted.

10 And basically the testimony I'm offering is
11 that I don't believe that the City and County's
12 recommendations for this designation does comply with
13 205-47, specifically Part B, which states that this
14 recommendation was to be made in consultation and
15 with the cooperation of the affected landowners.

16 And I understand that maybe some were, but
17 nobody that I know of was. And I got no notice other
18 than the letter that everyone got from you, even the
19 lawyers ignored me.

20 But I think that I also saw that Petition
21 had over 500 signatures when I saw it, and I think
22 the reaction is largely based on the fact that people
23 aren't getting the proper notification.

24 And you can see the testimony today, people
25 didn't even really know what they were supposed to be

1 testifying about for the most part, so you saw a lot
2 of confusion. And I think we could have avoided a
3 lot of confusion and testimony if that notice was
4 given, and if there was a larger attempt to actually
5 do what that Section 205 says, which is include us in
6 it, and consult with us.

7 And I feel like those 500 people that don't
8 feel like that's what happened. That's one of my big
9 concerns.

10 My other concern is that --

11 CHAIRPERSON SCHEUER: Can I ask you to
12 summarize?

13 THE WITNESS: Yeah. Just going to finish,
14 if I could, which is just that I think that a lot of
15 people might be for it, if they understood it better.

16 I also think that there are some things in
17 there that I read, it causes confusion. It's vague.
18 There's no commas. There's not the proper
19 punctuation that should be in there. And people are
20 feeling like they're going to get kicked off their
21 land.

22 And I think it also fails to take into
23 consideration that agricultural has changed a lot in
24 Hawaii. Like what I'm doing is something that maybe
25 it doesn't help, but it does help to keep agriculture

1 alive. It does help to provide food for the
2 community.

3 I just think that all of that is why people
4 are so negatively charged up about this. That's all
5 I've got. Thank you.

6 CHAIRPERSON SCHEUER: Thank you.

7 Questions, Ms. Apuna?

8 CROSS-EXAMINATION

9 BY MS. APUNA:

10 Q Thank you, Mr. Anderson, for your
11 testimony. Would you be willing to provide your TMK
12 or address?

13 A Sure, it's 1-6-5-001-051:002 and also
14 there's two, and one ends in 001.

15 Q Thank you very much.

16 A You're welcome.

17 CHAIRPERSON SCHEUER: Office of Planning.

18 MS. KATO: No questions. Thank you.

19 CHAIRPERSON SCHEUER: Commissioners?

20 Commissioner Giovanni.

21 COMMISSIONER GIOVANNI: Mr. Anderson, when
22 you purchased your -- going through the purchase
23 process a year-and-a-half ago for your land, was
24 there any disclosure made to you by any entity --

25 THE WITNESS: There was not.

1 COMMISSIONER GIOVANNI: -- subject to IAL
2 consideration? 1

3 THE WITNESS: No, there was not. I
4 literally just found out when I got the letter from
5 the Commission.

6 COMMISSIONER GIOVANNI: Thank you.

7 CHAIRPERSON SCHEUER: Further questions?
8 Would you be willing to briefly describe
9 the nature of the agriculture that you're doing on
10 your property that you alluded to?

11 THE WITNESS: Well, we have started off by
12 growing like fruit trees, avocado and stuff like
13 that, but what we aim to do is more community
14 supported agriculture where especially for people who
15 are low income would be able to come and participate
16 in agriculture and learn how to grow for themselves,
17 and also take home food when they did that.

18 So we're in the early stages of that right
19 now. That's what our hope was. So we're really
20 interested in actually sustainability and Hawaii's
21 ability to feed itself. And that's why this kind of
22 concerns me, because one of the reasons our land sat
23 vacant for decades because it couldn't scale up.

24 We're not able to compete internationally,
25 but we can do the smaller things.

1 For me, I want my grand -- my uncle, who's
2 elderly, to live on the farm, and I want to die and
3 be buried on that piece of land.

4 CHAIRPERSON SCHEUER: Thank you very much,
5 Mr. Anderson. Appreciate it.

6 Moving Mr. Anderson to be an attendee. Ken
7 Church followed by Alisa Keamo.

8 Mr. Church, if you can enable your audio
9 and video at the bottom of your screen, moving the
10 cursor over it.

11 Commissioner Giovanni.

12 COMMISSIONER GIOVANNI: There's a number of
13 interesting attachments that are showing up in the
14 chat. Is there a way that those can be made part of
15 our record?

16 CHAIRPERSON SCHEUER: We will seek the
17 staff to see if those can be added in.

18 COMMISSIONER GIOVANNI: Thank you.

19 CHAIRPERSON SCHEUER: Mr. Church, I can see
20 you. I can hear you now.

21 I'm going to swear you in, but even before
22 that I'm going to ask, is your testimony on the
23 matter before us right now?

24 THE WITNESS: Yes.

25 CHAIRPERSON SCHEUER: Do you swear or

1 affirm that the testimony you're about to give is the
2 truth?

3 THE WITNESS: Yes.

4 CHAIRPERSON SCHEUER: Please proceed.

5 KEN CHURCH

6 Was called as a witness by and on behalf of the
7 Public, was sworn to tell the truth, was examined and
8 testified as follows:

9 DIRECT EXAMINATION

10 THE WITNESS: I believe the Land Use
11 Commission concept has been flawed right from the
12 beginning. I echo what Mr. Bloom said. The Office
13 of Planning website describes it pretty well. Talks
14 about how Commission relies heavily on the Office of
15 Planning rather than County or State.

16 It may rely on individuals, but you're
17 pretty hard pressed. The Office of Planning has
18 legal assistance, they have research available to
19 them, but individuals aren't at the same status level
20 when they come before the Commission, and that weighs
21 heavily on outcome.

22 As you're aware, we have zoning issues.
23 (Indecipherable). And I want to speak to two things.
24 After reclassification happens, which in this case it
25 may, reversal begins to apply to a Petitioner who

1 wants to say this was wrong or whatever, they have to
2 prove it.

3 They have to prove that something was done
4 wrong, and that's very, very expensive, time
5 consuming. It's a huge process. And I sort of
6 harken to what (indecipherable) was said in the
7 recent Barry Trust things, after years of this thing,
8 she said, I think I know more about that property
9 than mine. That speaks to what I'm talking about.
10 Takes hundreds of pages of application, et cetera, to
11 get in front, and still things don't get resolved.

12 And even worse, error builds on error. And
13 I give the example of how the community development
14 plan evolved, and they rely on existing zoning and
15 existing zoning error.

16 CHAIRPERSON SCHEUER: Two minutes. Ask you
17 to summarize, please.

18 THE WITNESS: That's my summary. Error
19 builds on error. Errors are made, and then another
20 thing evolves, and you get looped into something that
21 is very hard to change. And that's my testimony.

22 CHAIRPERSON SCHEUER: Thank you very much
23 for your testimony.

24 Questions for the witness, Ms. Apuna?

25 MS. APUNA: No questions. Thank you.

1 CHAIRPERSON SCHEUER: Office of Planning?

2 MS. KATO: No questions. Thank you.

3 CHAIRPERSON SCHEUER: Commissioners?

4 Seeing none, thank you very much, Mr. Church, for
5 your testimony on this matter.

6 Alisa Keamo followed by Sandra Van. If you
7 can enable your audio and video, Alisa Keamo.

8 THE WITNESS: Hi.

9 CHAIRPERSON SCHEUER: We can see you and
10 hear you, welcome. Thank you for your patience.
11 I'll swear you in and then you can testify.

12 Do you swear or affirm that the testimony
13 you're about to give is the truth?

14 THE WITNESS: Yes, I swear.

15 CHAIRPERSON SCHEUER: Please proceed.

16 ALISA KEAMO

17 Was called as a witness by and on behalf of the
18 Public, was sworn to tell the truth, was examined and
19 testified as follows:

20 DIRECT EXAMINATION

21 THE WITNESS: So I have -- first I just
22 want to say that -- wait. First I'm speaking on
23 behalf of my mom on TMK 8-5-004:070 consisting of
24 2.41 acres of lands up in Waianae Valley.

25 I'm speaking on behalf of my mom. She said

1 we did not receive written notice, City and County
2 did not provide written or verbal notice about
3 designation of our parcel as IAL.

4 Second, strangely more than five years ago
5 an individual from DPP had called my mom and, you
6 know, now that we are educating ourself about this
7 whole process, we're finding out that that individual
8 might have been doing research for the criteria, you
9 know, the water, agricultural use and soil.

10 So when he asked her questions about
11 whether we use the land for agricultural use, and she
12 felt really pressured in answering this individual.
13 She felt if she answered wrongly that we would
14 possibly lose our land.

15 But she does remember stating to this
16 individual that we do use half of our property for
17 agricultural purposes, but there is no education
18 about the designation or that there was even a
19 process of designation going on.

20 Third, since 1959 our family had moved into
21 Waianae Valley and they were self-sustainable and
22 they were farmers, and they grew their own food. But
23 the big problem about that now is that the natural
24 resources, the natural resource that they used to
25 irrigate the crop, which was the stream that borders

1 our property, was cut off in the nineties.

2 So from that time on, it was really
3 difficult to get water for our crops and our plants,
4 and so it's kind of funny that the State wants to use
5 our property for agriculture purposes, but they cut
6 off a huge resource that allowed us to do that.

7 Also next door to us there is a solar farm,
8 so we're confused because we get this notice from you
9 guys, and we're learning about IAL literally from
10 participating in today's meeting, but we understand
11 that in order for a parcel to even do solar farming,
12 they would have to also go through the rezoning
13 process.

14 And that's really a concern for us, because
15 we don't know what the health risks are, and we don't
16 know what the long-term effects for the environment
17 are, and for anyone who surrounds that property.

18 So we wanted to notice here there is a
19 human fear if our property is deemed IAL,
20 unforeseeable regulations as far as the City/State or
21 any entity determining how we utilize the
22 agricultural property.

23 We are definitely opposed, and we did not
24 receive any invitation to participate in this process
25 until now.

1 CHAIRPERSON SCHEUER: Thank you for your
2 testimony.

3 Questions, Ms. Apuna?

4 CROSS-EXAMINATION

5 BY MS. APUNA:

6 Q Thank you. If you could provide your TMK
7 or address if you're willing.

8 A TMK 8-5-004:070.

9 Q Thank you.

10 A And also like to thank Sharlette Poe for
11 participating and providing information. She
12 prefaced some of the things that I had to say today,
13 so mahalo, Sharlette.

14 CHAIRPERSON SCHEUER: Office of Planning,
15 questions?

16 MS. KATO: No questions. Thank you.

17 CHAIRPERSON SCHEUER: Commissioners?
18 Commissioner Chang.

19 COMMISSIONER CHANG: Mahalo, Alisa. I
20 don't have a question other than to say mahalo for
21 your testimony in representing your mother's
22 interest. Thank you so much for being patient and
23 staying with us all day. Mahalo.

24 THE WITNESS: We learned a lot today, thank
25 you.

1 CHAIRPERSON SCHEUER: We have as well.
2 Thanks to your testimony and the testimony of others.
3 Thank you very much. Really appreciate it. Aloha.

4 Okay. We have four more hands raised,
5 Sandra Van followed by Bruce Hart. The last two are
6 or Primrose Leong Followed by Phyllis Dudoit.

7 Aloha, Sandra Van -- I think your audio --

8 MS. VAN: I don't think the video is quite
9 up yet. Would you like me to go ahead without that?

10 CHAIRPERSON SCHEUER: Did you press the
11 video icon?

12 THE WITNESS: Yes, I have.

13 CHAIRPERSON SCHEUER: It might be a band
14 width thing. We can proceed.

15 Do you swear or affirm that the testimony
16 you're about to give is the truth?

17 THE WITNESS: Yes, I do.

18 CHAIRPERSON SCHEUER: Please proceed.
19 Thanks for your patience. Please proceed.

20 SANDRA VAN

21 Was called as a witness by and on behalf of the
22 Pubic, was sworn to tell the truth, was examined and
23 testified as follows:

24 DIRECT EXAMINATION

25 THE WITNESS: First of all, thank you very

1 much, Chair, Commissioners and panelists. It's been
2 a long day and I feel like I have learned a lot
3 today.

4 My name is Sandy Van and I own two small
5 parcels here in Waianae totaling 2.1 acres. The TMKs
6 are 8-6-008:023 and 8-6-008:024.

7 I've lived here for more than 16 years and
8 have received no notice of this planned action prior
9 to the April 12th letter. Nor has anyone ever
10 visited my property to assess the water quality, or
11 suitability for crop production.

12 I don't know exactly what the required
13 procedures were or are, but clearly the process is
14 deeply flawed resulting in a lack of transparency and
15 engagement.

16 If this goes through as presented, there
17 will be unattended consequences, and many stand to
18 lose their homes. Those are the people most impacted
19 by IAL designation and must be a foundational part of
20 the decision-making process.

21 I'm keeping it very short because I know
22 it's been a long day for everyone.

23 CHAIRPERSON SCHEUER: Thank you for your
24 very clear and direct testimony, Ms. Van.

25 Questions for Ms. Van.

1 MS. APUNA: No questions, thank you.

2 CHAIRPERSON SCHEUER: Office of Planning?

3 MS. KATO: No questions, thank you.

4 CHAIRPERSON SCHEUER: Commissioners?

5 Commissioner Cabral.

6 VICE CHAIR CABRAL: Sandy, are you the
7 Sandy that also has horses?

8 THE WITNESS: That's me. Hi, Nancy.

9 VICE CHAIR CABRAL: Hi, good to see you
10 again. Time to have a rodeo.

11 Thank you. Good luck. We will see what
12 happens. Thanks for testifying. We need to know.
13 This is very enlightening, all the information folks
14 have provided us.

15 THE WITNESS: Good to see you again and
16 thanks again for everyone.

17 CHAIRPERSON SCHEUER: Anything further for
18 Ms. Van? Thank you very much for your testimony and
19 for your clarity and brevity. We appreciate it and
20 your patience.

21 THE WITNESS: Thank you.

22 CHAIRPERSON SCHEUER: Moving you to be an
23 attendee.

24 There's now four hands raised. We need to
25 stop at 4:30, and my intention is to close public

1 testimony so we can hear from the City tomorrow and
2 get information on what they think their process has
3 been.

4 So Primrose Leong, Phyllis Dudoit and
5 Charles Kelly.

6 I'm going to admit Bruce Hart followed by
7 Primrose Leong. If you could enable your audio and
8 video. We can see you. If you move your cursor over
9 the icon, can you say --

10 THE WITNESS: Hi.

11 CHAIRPERSON SCHEUER: Great.

12 Do you swear or affirm that the testimony
13 you're about to give is the truth?

14 THE WITNESS: Yes.

15 CHAIRPERSON SCHEUER: Please proceed.

16 BRUCE HART

17 Was called as a witness by and on behalf of the
18 Public, was sworn to tell the truth, was examined and
19 testified as follows:

20 DIRECT EXAMINATION

21 THE WITNESS: So I vaguely remember getting
22 something in the mail years ago about IAL. My wife
23 doesn't remember anything. I spoke to my neighbor
24 and she said that she and her husband did attend a
25 hearing at a school, but they haven't heard anything

1 since then, which was four years ago plus or minus,
2 and haven't heard anything either this whole time.

3 So kind of, you know, I kind of understand
4 the IAL and how they're trying to preserve
5 agricultural lands, but it seems to be some of the
6 rules might be punitive. I know there is a lot of
7 agricultural land that people don't do anything on
8 it. And so they pay a higher property tax.

9 I dedicated my land in 1990, I think, and
10 it's a really small parcel, but why pay the City
11 higher taxes when I can spend a few dollars and grow
12 plants in my yard, you know, fruit trees,
13 ornamentals. It just seemed advantageous. I have to
14 do yard work anyway.

15 At one time I grew landscape plants, and
16 then I kind of got out of that. I got old. I'm
17 69-and-a-half years now, and I think I had to
18 rededicate my land five years ago. Someone came from
19 the City and County. You know, I applied for the
20 designation, and you know I told I was going to plant
21 trees, and I had all the trees in the yard, and we
22 had started planting.

23 She said just make sure you plant them,
24 because there is a lot of people that ask for the
25 dedication, and it's awarded, but they don't do

1 anything. They get a tax break. So I guess --

2 CHAIRPERSON SCHEUER: Two minutes.

3 THE WITNESS: -- any more about the IAL
4 since it's moved along. Nothing in the mail, nothing
5 to tell me what was going on.

6 CHAIRPERSON SCHEUER: Thank you so much.
7 Are there questions, Ms. Apuna?

8 CROSS-EXAMINATION

9 BY MS. APUNA:

10 Q Mr. Hart, can you provide us your TMK or
11 address?

12 A 4-1-10 -- wait, 4-1-010:070.

13 Q Thank you, Mr. Hart.

14 CHAIRPERSON SCHEUER: Office of Planning?

15 MS. KATO: No questions. Thank you.

16 CHAIRPERSON SCHEUER: Commissioners?

17 You know, even though many of the points I
18 think echo what others have said, it really, really
19 helps us to hear from as many people as possible.

20 Thank you so much for your patience and
21 testimony today. We really appreciate it.

22 I'm going to move you to be an attendee.
23 I'm going to admit Primrose Leong followed by Phyllis
24 Dudoit.

25 If you can enable your audio and video.

1 THE WITNESS: Okay.

2 CHAIRPERSON SCHEUER: Aloha.

3 THE WITNESS: Aloha.

4 CHAIRPERSON SCHEUER: Do you swear or
5 affirm that the testimony you're about to give is the
6 truth?

7 THE WITNESS: Yes.

8 CHAIRPERSON SCHEUER: Thank you. Please
9 proceed.

10 PRIMROSE LEONG

11 Was called as a witness by and on behalf of the
12 Public, was sworn to tell the truth, was examined and
13 testified as follows:

14 DIRECT EXAMINATION

15 THE WITNESS: Okay. My name is Primrose
16 Leong Nakamoto. I'm the property manager for AOUO
17 Kemoo Camp, and that camp is consisting of 66 homes,
18 with 132 homeowners on it, and over 300 people living
19 there.

20 We're a little unique. We have 91.687
21 acres zoned at AG-1, restricted Ag District. And we
22 also have a variance on it. I have three TMK's for
23 that. We've been paying for the taxes.

24 We were not notified about this IAL,
25 however, somehow I got wind of a meeting and went to

1 that particular meeting. And when I wanted to get
2 more information, it was told to me that they would
3 follow up and let me know when the time comes.

4 And then all of a sudden -- and that must
5 have been the letter mailed out on April 12 -- the
6 whole entire association got that letter. And I was
7 inundated with all the calls, and this is why I said,
8 nobody called the LUC or DPP or anyone. Let me
9 handle this. And this is why I'm here with my
10 testimony representing the whole association.

11 So earlier you had talked to Ballera,
12 Jennifer Ballera. She was one of them that gave me a
13 call also, so I'm very happy that she put in
14 testimony here. However, I want to correct her TMK.
15 It's 7-1-001-011-0073. I believe that 7-1-001-011
16 and then dash 000, is the property that holds --
17 consists of 33 acres where all the homes sits on.

18 So think about each of those individual
19 homes that sit on there, those 66 homes. They pay
20 their property taxes individually. Therefore, none
21 of them did receive the letter until this letter came
22 in.

23 Secondly --

24 CHAIRPERSON SCHEUER: Kala mai, Ms. Leong,
25 I'm trying to keep people to two minutes. I'm trying

1 to end by 4:30 hard. So I realize you're
2 representing a whole association, but if you can do
3 your best to summarize.

4 THE WITNESS: I just want to say, none of
5 us was aware. We're still trying to understand what
6 this IAL is, and feel at this point, when I got all
7 of the majority of calls, it did not feel that they
8 should be part of this IAL.

9 Although we have 52 acres that we are
10 planning to do Ag for the State, and as long as for
11 the homeowners, but for our State, because majority
12 of the farmers when they grow, they sell their
13 product to the mainland.

14 We're thinking of taking care of home
15 today, and this was our agreement with the
16 association and myself.

17 So I have two more TMK's. Shall I submit
18 that now?

19 CHAIRPERSON SCHEUER: Please.

20 THE WITNESS: Okay, that would be
21 7-1-001-011-0077, that's for 52.141 acre, AG-1
22 property; 7-1-001-011-0078 is 1.616 acre AG-1
23 property. And that's the end of my presenting.

24 I just want to make sure that you are aware
25 that the whole entire camp is shaking right now

1 because this camp, all 66 homes ties into the ag
2 property. That's why I said it's a little bit unique
3 because they own the Ag property, all of them.

4 So they should have gotten the notice, but
5 they never did until this one came.

6 CHAIRPERSON SCHEUER: Questions for the
7 witness from City?

8 MS. APUNA: No questions. Thank you.

9 CHAIRPERSON SCHEUER: Office of Planning?

10 MS. KATO: No questions. Thank you.

11 CHAIRPERSON SCHEUER: Commissioners?

12 Commissioner Cabral.

13 I'm just going to remind everybody, we are
14 running up against a deadline. I want to get
15 everybody with hands up.

16 VICE CHAIR CABRAL: Thank you. I manage
17 homeowners associations, so God bless you for doing
18 the job. Thank you.

19 CHAIRPERSON SCHEUER: Anything further?

20 Thank you very much for your persistence
21 and patience with us and for providing your testimony
22 to us, it's very important. Mahalo nui.

23 Charles Kelley followed by Gordon Aken.
24 I'm moving Charles Kelley to be a panelist. I can
25 hear you and see you.

1 Do you swear or affirm that the testimony
2 you're about to give is the truth?

3 THE WITNESS: Yes, do.

4 CHAIRPERSON SCHEUER: Please proceed.

5 CHARLES KELLEY

6 Was called as a witness by and on behalf of the
7 Public, was sworn to tell the truth, was examined and
8 testified as follows:

9 DIRECT EXAMINATION

10 THE WITNESS: Thank you for your patience
11 today. My name is Charles Kelley. My family owns
12 two TMKs in Wailua 6-7-002:043, and 6-7-002:040.

13 When we purchased the land in 2013 we had
14 Group 70 do an assessment for development potential.
15 In that document there was no notice of the IAL
16 impending designation.

17 We looked at our Title Guarantee title
18 report. There's no designation -- there's no mention
19 of that in that document either.

20 Our land is currently in agricultural use.
21 We plan to keep it that way for as long as possible.
22 When I received the notice in 2017, November, of the
23 IAL impending designation, my first thought was
24 couldn't be us, we are agriculture, but we are not
25 good agriculture. We have 800 feet of elevation

1 between the front and back of our property. It's a
2 mountainside. You need ropes to go up and down it.
3 You might grow goats, but not prime agriculture.

4 So when I got the notice, I thought
5 couldn't be us, and I put it off, and then tried to
6 learn as much as possible, even though I couldn't go
7 to the meetings.

8 By reading all of the testimony provided at
9 the Oahu public meetings, it still didn't answer my
10 questions. I was unclear what the benefits were;
11 unclear what the long-term consequences were. I
12 looked into voluntary designation of our land, and
13 consulted an attorney and found it would cost 75 to
14 \$100,000 to go through the process of doing that.
15 That wasn't exciting.

16 I looked into trying to figure out if we
17 could opt out. Never saw a good way to opt out, but
18 I did notice on the website that my neighbors on both
19 sides of me were very similar properties, had
20 requested to opt out and were denied. So that seemed
21 like no option.

22 CHAIRPERSON SCHEUER: Summarize, please.

23 THE WITNESS: The process has been
24 difficult to understand and confusing. Thank you.

25 CHAIRPERSON SCHEUER: A fair summary.

1 Are there questions for the witness?

2 MS. APUNA: No questions. Thank you.

3 CHAIRPERSON SCHEUER: Office of Planning?

4 MS. KATO: No questions. Thank you.

5 CHAIRPERSON SCHEUER: Commissioners? Thank
6 you so much for your detailed testimony and for your
7 patience and your good humor that you bring to us
8 despite the length of the day.

9 THE WITNESS: Mahalo. Have a good day.

10 CHAIRPERSON SCHEUER: Mahalo.

11 Gordon Aken. This is the last call for
12 testimony on this matter. Aloha.

13 THE WITNESS: Aloha. First of all just --

14 CHAIRPERSON SCHEUER: Do you swear or
15 affirm that the testimony you're about to give is the
16 truth?

17 THE WITNESS: Yes.

18 GORDON AKEN

19 Was called as a witness by and on behalf of the
20 Public, was sworn to tell the truth, was examined and
21 testified as follows:

22 DIRECT EXAMINATION

23 THE WITNESS: I just wanted to say mahalo
24 to everyone. It's been a long day, since 9:00.

25 I just wanted to say that we couldn't get

1 any information, and this is our family property.
2 It's been in our family since 1953. So since then my
3 grandparents have passed, so my mom's kind of taking,
4 you know, does all the paperwork and the taxes and
5 all.

6 And my uncle lives on the property now. He
7 has medical issues right now, so needless to say it's
8 really not ag land that they're saying, but I just
9 wanted to say that there is some properties that,
10 yes, you can consider that IAL, but there is some
11 that we will really can't -- they just need to come
12 out and see it, and evaluate that instead of just
13 trying to say that it is IAL.

14 That's all I wanted to say. Just to note
15 that, and that we got the only information on April
16 12th, 2021.

17 CHAIRPERSON SCHEUER: Thank you very much.
18 Questions, Ms. Apuna?

19 MS. APUNA: No questions. Thank you.

20 CHAIRPERSON SCHEUER: Office of Planning?

21 MS. KATO: No questions.

22 CHAIRPERSON SCHEUER: Commissioners?

23 Thank you so much for sticking with us
24 since 9:00 A.M., not necessarily how you expected to
25 spend your day at 9:00 A.M., but we very much

1 appreciate it.

2 I'm going to move you back to being an
3 attendee.

4 There are two Phyllis Dudoits with a hand
5 raised. I'm going to admit one.

6 Phyllis, if you can enable your audio and
7 video. You can do so by putting your cursor over the
8 bottom of your screen. You should see a little image
9 of a camera and image of a microphone. I will note
10 that you're logged in twice. So I'm going to admit
11 the other. I assume it's not two people with the
12 exact same name wishing to testify. So I'm going to
13 also admit the other Phyllis Dudoit.

14 I can see you. Cannot hear you yet. Can
15 see your lips moving, not picking up your audio
16 unfortunately. You're unmuted, so I think it might
17 be -- do you have an earphone plugged in? Maybe
18 unplug it, replug it in.

19 I'm so sorry, I can see you. I can see you
20 talking. I cannot hear you. You had two devices,
21 correct, logged in?

22 We cannot hear you. I'm so sorry. We're
23 getting video but not audio. I don't know if you
24 still have that other account logged in. If you do,
25 perhaps log out of that.

1 You're going to hangup and try again.
2 We'll wait a moment then. Noting what was previously
3 testified, had your hand raised, I really do not
4 believe we have the band width to take a second round
5 of testimony from people who testified today. We
6 have endeavored to give as many people as possible
7 opportunity to give testimony.

8 You may continue to submit written
9 testimony on this matter. Ms. Dudoit, try speaking
10 now. I think I heard you. Say something.

11 Your audio -- your video is frozen. Do you
12 want to try no video, just audio?

13 Folks, I am very sorry, due to problems
14 which may be entirely outside your control, we're not
15 getting your audio. We will wait one more moment.
16 We can go to 4:30, she's been very persistent.
17 Commissioner Giovanni.

18 COMMISSIONER GIOVANNI: Thank you, Chair.
19 While we are waiting for Ms. Dudoit, earlier this
20 morning I made comment to the Chair about my concern
21 about all the public testimony and about how long it
22 would take.

23 I just want to say that I really do
24 appreciate the public coming forward in the volume
25 and number that they did. And I have found it to be

1 very worthwhile and I appreciate it.

2 And let me also commend you, Chair, for
3 your administrative eloquence in managing the
4 situation. Thank you.

5 CHAIRPERSON SCHEUER: Thank you very much,
6 Commissioner Giovanni.

7 Ms. Dudoit, I can hear -- I think I can
8 hear you.

9 THE WITNESS: I apologize for holding
10 everybody up.

11 CHAIRPERSON SCHEUER: Quickly.

12 Do you swear or affirm that the testimony
13 you're about to give is the truth?

14 THE WITNESS: Yes.

15 CHAIRPERSON SCHEUER: Please proceed. You
16 are our last testifier.

17 PHYLLIS DUDOIT

18 Was called as a witness by and on behalf of the
19 Public, was sworn to tell the truth, was examined and
20 testified as follows:

21 DIRECT EXAMINATION

22 THE WITNESS: Thank you so much. I just
23 wanted to say that the letter we received on April
24 12th is, I guess, the second notice. And I
25 believe -- I don't believe that the City adequately

1 provided notice to all the agriculture owners. I
2 think that I agree with the person Shar that we
3 should have been informed and had the meeting out in
4 Waianae so that a lot of the people could show up.

5 And, you know, we own a small parcel of
6 land, two acres, and we're trying to be
7 self-sustainable for ourselves so that we can, you
8 know, grow fruits and live off the land.

9 And we didn't have an opportunity to opt
10 out, and if we did, we would. And so I just wanted
11 to state that.

12 Thank you to all the people that submitted
13 their testimony, and I hear that a lot of them didn't
14 get adequate notice. I tried to educate myself by
15 going on the website and trying to read everything,
16 but didn't really understand everything.

17 So I just wanted to say that if I had the
18 opportunity to opt out, that I would and just keep
19 ag, but not Important Ag Land. Thank you.

20 CHAIRPERSON SCHEUER: Thank you so much for
21 your extreme persistence, and the gold star patience
22 of being the last testifier.

23 Let me see if there are any questions,
24 County?

25

-o0o-

CROSS-EXAMINATION

1
2 BY MS. APUNA:

3 Q Thank you.

4 Ms. Dudoit, can you provide your TMK or
5 your address?

6 A It's 8-7-2:110.

7 Q Thank you very much.

8 CHAIRPERSON SCHEUER: Questions, Office of
9 Planning?

10 MS. KATO: No questions. Thank you.

11 CHAIRPERSON SCHEUER: Commissioners?

12 It's 4:28. I intend to go into recess at
13 4:30 until tomorrow morning. Seeing none --
14 Commissioner Chang.

15 COMMISSIONER CHANG: No, no. Just
16 congratulations. You did a wonderful job
17 maintaining. Really appreciate it, and you were able
18 to get through everybody's testimony.

19 CHAIRPERSON SCHEUER: I'm very appreciative
20 to all the testifiers. We all are deeply
21 appreciative. I'm going to close public testimony
22 now, but let me be very clear.

23 This is just regarding the procedural
24 motion before us. Should the Commission move on to
25 actually consider the merits of the County's

1 proposal, we would reopen public testimony at that
2 time, and absolutely provide any individual landowner
3 the opportunity to present an argument against their
4 inclusion of their property.

5 Closing testimony is only in regard to this
6 procedural matter that we had. We deeply appreciate
7 it. So to Ms. Dudoit who has closed us out, and for
8 your patience, as well as to everyone else.

9 It is 4:29 P.M. and I'm going to call this
10 meeting into recess until 9:00 A.M. tomorrow morning
11 when we begin with presentation of City and County of
12 Honolulu.

13 Thank you to everyone for your patience and
14 efforts today. Aloha.

15 (The proceedings recessed at 4:29 p.m.)
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CERTIFICATE

1 STATE OF HAWAII)
2) SS.
3 COUNTY OF HONOLULU)

4 I, JEAN MARIE McMANUS, do hereby certify:

5 That on April 28, 2021, at 9:40 a.m., the
6 proceedings contained herein was taken down by me in
7 machine shorthand and was thereafter reduced to
8 typewriting under my supervision; that the foregoing
9 represents, to the best of my ability, a true and
10 correct copy of the proceedings had in the foregoing
11 matter.

12 I further certify that I am not of counsel for
13 any of the parties hereto, nor in any way interested
14 in the outcome of the cause named in this caption.

15 Dated this 28th day of April, 2021, in
16 Honolulu, Hawaii.

17
18
19 /s/ Jean Marie McManus
20 JEAN MARIE McMANUS, CSR #156
21
22
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