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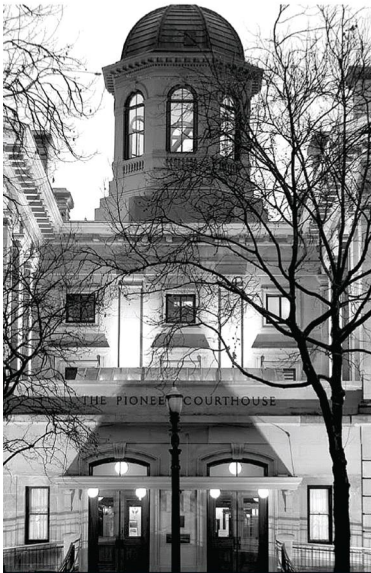
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**STATE OF HAWAII**  
**LAND USE COMMISSION**

Meeting held on December 7, 2022

Commencing at 9:04 a.m.

Held at

Homer A. Maxey Center Conference Room

Foreign-Trade Zone No. 9

521 Ala Moana Boulevard

Honolulu, Hawaii 96813

**I. CALL TO ORDER**

**II. ADOPTION OF MINUTES**

November 16, 2022

**III. TENTATIVE MEETING SCHEDULE**

**IV. BRIEFING BY DEPUTY ATTORNEY GENERAL**

Briefing and update on cases on appeal:

(1) Spirit of Aloha Temple v. County of Maui, 49 F4th 1180 (9th Cir. 2022); and (2)

Ho'omoana Foundation v. Land Use Commission, No. SCWC-17-0000181 (Haw.).

During the scheduled meeting, the Commission may elect to consult with its legal counsel in executive session pursuant to HRS 92-5.

**V. HEARING AND ACTION - A89-651 HASEKO (EWA), INC. (OAHU)**

To consider petitioner Haseko (Ewa), Inc.'s Motion for Approval of Job Credits filed on September 20, 2022 as required by the Decision and Order Approving the Petition to Convert the Agricultural Land Use District Boundary into the Urban Land Use District for Approximately 403.008 acres at Honouliuli, Ewa, Oahu, Hawaii, Tax Map Key No.: 9-1-12:5(por.), 6(por.), and 23(por.).

**VI. ADJOURNMENT**

**BEFORE:**

1 **APPEARANCES**

2

3 **COMMISSIONERS PRESENT:**

4 Dan Giovanni, Chair

5 Dawn Chang

6 Gary Okuda

7 George Atta

8 Kuikeokalani Kamakea-Ohelo

9 Lee Ohigashi

10 Mel Kahele

11 Michael Yamane

12 Nancy Cabral

13

14

15 **STAFF PRESENT:**

16 Daniel Orodener, Executive Officer

17 Scott Derrickson, Chief Planner

18 Riley Hakoda, Staff Planner

19 Martina Segura, Staff Planner

20 Ariana Kwan, Chief Clerk

21 Julie China, Esq., Deputy Attorney General

22 Robert Nakatsuji, Esq., Deputy Attorney General

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**APPEARANCES (CONTINUED)**

**OFFICE OF PLANNING AND SUSTAINABLE DEVELOPMENT:**

Alison Kato, Esq., Deputy Attorney General  
Lorene Maki, Planner  
Katia Balassiano, Land Use Administrator

**CITY AND COUNTY OF HONOLULU:**

John Dubiel, Esq., Corporation Counsel  
Dept. of Planning and Permitting  
Dina Wong, Chief Planner  
Dept. of Planning & Permitting

**PETITIONER'S COUNSEL:**

Curtis Tabata

**PETITIONER'S WITNESSES:**

Daniel Lum  
Lisa Enanoria  
Raymond Kanna

1           **CHAIR GIOVANNI:** We're on the record.

2 Aloha mai kakou. Good morning. This is the December  
3 7th, 2022, Land Use Commission meeting. It's also  
4 the day that we recognize Pearl Harbor from many  
5 years ago.

6           This is an in-person meeting which is  
7 being held at the Homer A. Maxey Center Conference  
8 Room, Foreign Trade Zone No. 9, at 521 Ala Moana  
9 Boulevard, and this meeting is open to the public.

10           Court reporting transcripts are being done  
11 from this Zoom recording. For all meeting  
12 participants, I would like to stress the importance  
13 of speaking slowly, clearly and directly into your  
14 microphone. Before speaking, please state your name  
15 and identify yourself for the record.

16           Even though this is an in-person meeting,  
17 please be aware that all meeting participants are  
18 being recorded on the digital record of this Zoom  
19 meeting, and this is being done for court reporting  
20 purposes. Your continued participation is your  
21 implied consent to be part of the public record of  
22 this event. If you do not wish to be part of the  
23 public record, you should exit the meeting now.

24           I will also share with all participants  
25 that we'll be taking breaks from time to time.

1 Typically, about every hour we'll take a break of  
2 five to ten minutes, and depending on how long we go  
3 today, we'll also take a lunch break.

4 My name is Dan Giovanni, and I have the  
5 pleasure to serve as the LUC chair. We currently  
6 have nine seated commissioners, and all nine are  
7 seated in the room today for the first time ever, so  
8 I'm very happy about that.

9 So along with me to my immediate right is  
10 Nancy Cabral. She's from the island of Hawai'i. Lee  
11 Ohigashi is from the island of Maui. Dawn Chang,  
12 Gary Okuda, Kamakea-'Ohelo, George Atta are all here  
13 from O'ahu. And Michael -- Commissioner Yamane is  
14 here from the island of Kaua'i, which is where I'm  
15 from. And also Commissioner Kahele is here.

16 Also in attendance are the LUC Executive  
17 Director Daniel Orodener, LUC Chief Planner Scott  
18 Derrickson, LUC Staff Planner Riley Hakoda, LUC  
19 Staff Planner Martina Segura, LUC Chief Clerk Ariana  
20 Kwan, and with us today is LUC Attorney General  
21 Julie China.

22 Again, reporting transcripts are being  
23 done from this Zoom meeting.

24 Our first order of business is the  
25 adoption of the November 16th, 2022, minutes.

1 Ms. Kwan, has there been any written  
2 testimony submitted on the November 16th, 2022,  
3 minutes?

4 **MS. KWAN:** No, Mr. Chair.

5 **CHAIR GIOVANNI:** Thank you.

6 Believe it or not, she does not have a  
7 microphone.

8 Are there any members of the public who  
9 have signed up to testify on the adoption of the  
10 November 16th minutes, Ms. Kwan?

11 **MS. KWAN:** No, Mr. Chair.

12 **CHAIR GIOVANNI:** Love it.

13 Commissioners, are there any corrections  
14 or comments on the minutes? If not, is there a  
15 motion to adopt the minutes for the November 16th,  
16 2022, meeting?

17 Moved by Commissioner Ohigashi. Do I have  
18 a second? Commissioner Atta is the second. All in  
19 favor of adoption of the minutes, please say aye.

20 **(A chorus of ayes.)**

21 **CHAIR GIOVANNI:** Are there any opposed?

22 **COMMISSIONER CABRAL:** I'd like to abstain,  
23 as I was not present.

24 **CHAIR GIOVANNI:** Very well. Thank you.

25 That was Commissioner Cabral. Just a friendly

1 reminder to state your name before you speak on the

2 --

3 **COMMISSIONER CABRAL:** Yes.

4 **CHAIR GIOVANNI:** The next agenda item is  
5 the tentative meeting schedule.

6 Mr. Orodenger, please share with us the  
7 tentative meeting schedule.

8 **MR. ORODENKER:** Thank you, Mr. Chair.

9 Thank you, Mr. Chair.

10 We do not have any meetings scheduled for  
11 the end of December or January currently; however,  
12 we are anticipating some motions to be filed, so we  
13 would request the commissioners keep the January  
14 dates open for now.

15 In February we will be on Maui for the  
16 Pulama Lana'i Miki Basin adoption of order, February  
17 8th. On February 22nd, we will be in Kona for the Y-  
18 O Partnership matter.

19 And once again, that is all we currently  
20 have on the calendar for the next calendar year, but  
21 we will request that the commissioners keep the  
22 dates open, other dates open until we have confirmed  
23 that we will not be holding hearings.

24 **CHAIR GIOVANNI:** Let me remind  
25 commissioners that Ms. Kwan has contacted each of us

1 by email with some tentative dates, so please  
2 respond to her, if you've not already done so, with  
3 an indication of your availability for the dates. I  
4 think that's through March of 2023.

5           Commissioners, do you have any further  
6 questions on the schedule? Hearing none, we'll move  
7 forward to our fourth order of business, and it's a  
8 briefing by our deputy attorney general. The  
9 briefing and update is on the following cases which  
10 are on appeal.

11           First is the Spirit of Aloha Temple versus  
12 County of Maui 49th F 4th 1180 Ninth Circuit 2022.  
13 And the second is the Ho'omoana Foundation versus  
14 Land Use Commission No. SCWC-17-0000181.

15           So, Ms. China, will you be leading the  
16 presentations?

17           **MS. CHINA:** No. It will be led by Deputy  
18 Attorney General Robert Nakatsuji, who is on by  
19 Zoom.

20           **CHAIR GIOVANNI:** Very well. So that's  
21 Robert Nakatsuji, and he's on by Zoom, and he will  
22 be making the presentation on both matters?

23           **MS. CHINA:** Correct.

24           **CHAIR GIOVANNI:** Thank you.

25           Has there been any public testimony on



1 this matter, Ms. Kwan?

2 **MS. KWAN:** No, Mr. Chair.

3 **CHAIR GIOVANNI:** Thank you.

4 Are there any members of the public who  
5 wish to testify on this matter? Seeing none, since  
6 this agenda item pertains to board powers, duties,  
7 privileges, immunities and liabilities in regards to  
8 litigation and appellant proceedings, I will  
9 entertain a motion to go into executive session to  
10 consult with the attorney general concerning Spirit  
11 of Aloha Temple versus County of Maui and the  
12 Ho'omoana Foundation versus Land Use.

13 Commissioners, what's your pleasure?

14 Mr. Ohigashi?

15 **COMMISSIONER OHIGASHI:** Move to go into  
16 executive session (audio disruption) with our legal  
17 counsel in regard to (audio disruption).

18 **CHAIR GIOVANNI:** So I've had a motion to  
19 go into executive session by Commissioner Ohigashi  
20 (audio disruption) Are there any (audio  
21 disruption)?

22 **COMMISSIONER OKUDA:** Chair? Gary Okuda.

23 Chair, would it make sense maybe to defer this  
24 matter to the end of the calendar or agenda so that  
25 maybe the Haseko matter can be taken up before that,

1 if everyone's schedule so allows?

2 **CHAIR GIOVANNI:** (Audio disruption) motion  
3 on that? He's recommended a reordering (audio  
4 disruption).

5 Mr. Okuda, I understand that we have  
6 limited availability of Mr. Nakatsuji.

7 **COMMISSIONER OKUDA:** Okay, then. I  
8 withdraw my request, since his availability is  
9 limited.

10 **CHAIR GIOVANNI:** Yes. That's where I'm at.  
11 So we'll proceed as originally planned.

12 **COMMISSIONER OKUDA:** Okay. I withdraw my  
13 request, then.

14 **CHAIR GIOVANNI:** Okay. Is there any  
15 discussion on the motion to go into executive  
16 session?

17 Hearing none, I need a vote on this or --  
18 So could I have an all in favor of going  
19 into executive session stipulate by saying aye?

20 **(A chorus of ayes.)**

21 **CHAIR GIOVANNI:** Any opposed?

22 No. So we will go into executive session.  
23 We ask all of our visitors and participants except  
24 for the commission to adjourn from the room for the  
25 time being. I don't anticipate that this will be a

1 very long executive session.

2 And, Ms. China, who will be accompanying  
3 us from your office?

4 **MS. CHINA:** I will be here, and Mr.  
5 Nakatsuji will be here.

6 **CHAIR GIOVANNI:** He'll be on by Zoom, I  
7 presume.

8 **MS. CHINA:** Yes.

9 **CHAIR GIOVANNI:** Thank you.

10 **(Recess taken from 9:25 - 10:30 a.m.)**

11 **CHAIR GIOVANNI:** Back on the record.

12 Our fifth order of business is to consider  
13 the petitioner's Motion for Approval of Job Credits  
14 for A89-651 Haseko (Ewa) O'ahu. This was filed on  
15 September 20th, 2022, as required by the Decision &  
16 Order approving the petition to convert the  
17 agricultural land use district boundary into urban  
18 land use district for approximately 403.008 acres,  
19 Honouliuli, Ewa, O'ahu, Hawai'i Tax Map Key 9-1-  
20 12:5, 5 Portion, 6 Portion, and 23 Portion.

21 Let me briefly explain our procedure as we  
22 go forward. First, I will ask if there are any  
23 disclosures from the commissioners. Then I will ask  
24 the parties to identify themselves, and I will  
25 update the record.

1 Next, I will give an opportunity for the  
2 petitioner to comment on the commission's policy  
3 governing reimbursement of hearing expenses.

4 Thirdly, I will recognize the written  
5 public testimony that has been submitted in this  
6 matter, identifying the person or organizations who  
7 have submitted that testimony.

8 Fourth, we'll call on members of the  
9 public who wish to testify on A89-651 Haseko (Ewa)  
10 2022 Motion for Approval of Job Credits. Members of  
11 the public will have two minutes to provide their  
12 testimony and should stand by after their testimony  
13 to respond to any questions the parties or  
14 commissioners may have. When all questions have been  
15 completed, the chair will excuse the witness and  
16 call for the next witness to enter the witness box.

17 After completion of the public testimony  
18 portion of the proceedings, I will give an  
19 opportunity for the parties to admit their  
20 additional exhibits and witness list into the  
21 record. Then the petitioner will provide its case in  
22 support of the petition and receive any questions  
23 and comments from the commission.

24 The chair will then call on the City &  
25 County of Honolulu Department of Planning to make

1 their case and receive questions and comments from  
2 the commissioners.

3 The chair will then call on the Office of  
4 Planning and Sustainable Development to make their  
5 case and receive questions and comments from the  
6 commissioners.

7 The petitioner will then be allowed to  
8 make any arguments in rebuttal. In conclusion --

9 I think at that point I also have to give  
10 a second opportunity for public testimony, which I  
11 will call in at that point. At the conclusion of the  
12 parties' presentation and the commissioners'  
13 questions, the public will again be granted the  
14 opportunity to provide public testimony in the same  
15 manner as set forth previously. That's it.

16 Finally, when all parties have presented  
17 their case, the commission will conduct formal  
18 deliberations and issue a decision on the motion.

19 The chair will also note for the parties  
20 and the public that from time to time I will be  
21 calling for short breaks as well as a longer one for  
22 lunch as necessary. Is there any comments or  
23 objections to these procedures as I've described  
24 them?

25 Petitioner attorney?

1 **MR. TABATA:** None, chair. Thank you.

2 **CHAIR GIOVANNI:** Thank you, Mr. Tabata.

3 Let me just remind everybody, since  
4 there's so many of us in the room today, just state  
5 your name prior to whenever you speak.

6 Okay. Do any of the commissioners have any  
7 disclosures to make on this matter at this time?  
8 Seeing none, I'll now ask the parties to identify  
9 themselves.

10 Petitioner?

11 **MR. TABATA:** Thank you, chair. Good  
12 morning, chair, members of the commission. Curtis  
13 Tabata for the petitioner, Haseko (Ewa) Inc. With me  
14 today is Raymond Kanna, the executive vice president  
15 of Haseko (Ewa) Inc.

16 **CHAIR GIOVANNI:** Thank you. OPSD?

17 **MS. KATO:** Good morning, chair. Oh, it's  
18 not on? Alison Kato, deputy attorney general for the  
19 Office of Planning and Sustainable Development. Also  
20 here with me today is Katia Balassiano and Lorene  
21 Maki from the Office of Planning and Sustainable  
22 Development. Thank you.

23 **CHAIR GIOVANNI:** Thank you.

24 City & County of Honolulu?

25 **MR. DUBIEL:** Good morning, chair,

1 commissioners. John Dubiel for the City & County of  
2 Honolulu Department of Planning and Permitting. And  
3 with me today is Dina Wong, chief planner at DPP.

4 **CHAIR GIOVANNI:** Thank you.

5 Let me update the record. On September  
6 20th, 2022, the commission received petitioner's  
7 Motion for Approval of \$572.75 Job Credits. On  
8 September 21st, 2022, the commission received the  
9 petitioner's filing for Motion for Approval of Job  
10 Credits and Exhibits 1 through 7.

11 On October 27th, 2022, the petitioner  
12 submitted an Amended Certificate of Service.

13 And on November 18th, 2022, the commission  
14 received the Office of Planning and Sustainable  
15 Development's response to Haseko Job Credit Motion  
16 and email from the City & County of Honolulu stating  
17 there are no comments regarding this petition.

18 Reimbursement policy. Good morning, Mr.  
19 Tabata. Have you received HAR 15-15-45.1 regarding  
20 the reimbursement of hearing expenses?

21 **MR. TABATA:** Curtis Tabata for petitioner.

22 Yes, chair. And we will comply.

23 **CHAIR GIOVANNI:** Thank you very much. So  
24 noted.

25 Public testimony. I'll now recognize

1 written public testimony submitted in this matter,  
 2 identifying the person and organization submitting  
 3 the testimony.

4 Ms. Kwan, has there been any written  
 5 testimony submitted on this matter?

6 **MS. KWAN:** No, Mr. Chair.

7 **CHAIR GIOVANNI:** Thank you, Ms. Kwan.

8 Now I will call for any members of the  
 9 public to provide testimony on this agenda item. I  
 10 see that we have three members of the public in  
 11 attendance that wish to provide public testimony at  
 12 this time. I will call you to come forward.

13 Riley, could you raise your hand to show  
 14 them where to come?

15 Come to the chair next to the gentleman  
 16 who just raised his hand. First, I'd like to call  
 17 Mr. Mark Bowman to testify.

18 Mr. Bowman, when you get there, please  
 19 state your full name, address, affiliation, and then  
 20 I'll swear you in.

21 **MR. BOWMAN:** Thank you, Mr. Chairman. My  
 22 name is Mark Bowman. I live at 91-1120 Aeolia Street,  
 23 Ewa Beach 96706.

24 **CHAIR GIOVANNI:** Mr. Bowman, do you swear  
 25 the testimony you're about to give today will be the



1 truth?

2 **MR. BOWMAN:** Yes, sir.

3 **CHAIR GIOVANNI:** Please proceed. You have  
4 two minutes.

5 **MR. BOWMAN:** Okay. I just -- I come before  
6 this committee as both a homeowner in the Haseko  
7 property, specifically Kuapapa, and also as a person  
8 that has an organization that spends a lot of time  
9 helping middle school to high school kids  
10 academically as well as athletically.

11 So as a homeowner, I do speak in favor of  
12 the -- in support of the plan that Haseko has for  
13 our community, just based on what I know about what  
14 the plan is and the access for the general public.

15 As the assistant coach of the 76 South  
16 Athletic Club, my wife, who is the president and  
17 couldn't be here today because of a prior  
18 engagement, we spend about 2,000 hours annually  
19 giving advice, giving coaching help to athletes in  
20 the local area, mostly from Kapolei High School as  
21 well as Campbell High School.

22 But we actually right now with our 20 to  
23 30 athletes that we help out, they come from as far  
24 away as Kalani, Punahou, Mililani and other schools.  
25 And it basically just goes by word of mouth.

1 Our basic mission is dedicated to  
2 maximizing the educational success rate of post-high  
3 school students by providing technical, financial  
4 and personal support to exceptional high school  
5 students motivated to continue their education. The  
6 only requirement that we have for them to meet the  
7 category of exceptional is if they want to join our  
8 group, there has to be two-way communication whether  
9 they're going to be there, they're not going to be  
10 there, and they're focused on trying to make  
11 themselves better tomorrow than they were today.

12 The common thread is athleticism, because  
13 that's what my wife and I have done for most of our  
14 lives, me as an athlete and then helping my wife,  
15 who's coached at University of Florida, William and  
16 Mary, and University of Hawai'i, and has an  
17 international reputation with the International  
18 Athletic Association Federation, which is the  
19 governing body of Olympic track and field.

20 So we basically just provide the services.  
21 Is that -- oh, I thought my time was up; sorry.

22 What we do is, like I say, the only price  
23 that is charged is a commitment by the athlete. As  
24 long as we can provide services for them and help  
25 them out, come up with a plan, help them where they

1 want to go both academically as well as  
2 athletically, then we're partners.

3 Through the period with COVID, we've had a  
4 lot of problems finding places that we could meet  
5 and meet the requirements of whoever owned it, be it  
6 Campbell High School track or whatever. And  
7 somewhere during that time and now, Haseko has  
8 stepped forward specifically through Lisa Enanoria  
9 and providing us with space to work, staying under  
10 the umbrella of USA Track and Field requirements in  
11 recognition to all the things that have been going  
12 on specifically related to COVID.

13 And they've given us the resources that we  
14 need, all donated by them, just basically giving us  
15 a place to work as well as the resources like the  
16 Wai Kai Lagoon, to get things done that we feel that  
17 we need to do to meet the requirements of the folks  
18 that we're working with. So --

19 **CHAIR GIOVANNI:** So please summarize.

20 **MR. BOWMAN:** I'm sorry. Summarize? They're  
21 not just an organization that's looking to build a  
22 facility. They reach out to folks like us and make  
23 their resources available to help us help people in  
24 the community that are most in need of that help. So  
25 they're partners in what we do.

1           **CHAIR GIOVANNI:** Thank you.

2           Any questions for this witness by the  
3 petitioner?

4           **MR. TABATA:** No questions.

5           **CHAIR GIOVANNI:** City & County of  
6 Honolulu?

7           **MR. DUBIEL:** No questions.

8           **CHAIR GIOVANNI:** City -- I mean not City &  
9 County, but Office of Planning and Sustainable  
10 Development?

11          **MS. KATO:** No questions. Thank you.

12          **CHAIR GIOVANNI:** Thank you.

13          Fellow commissioners, questions for this  
14 witness?

15          Mr. Bowman, can you state how your  
16 testimony relates to the issue before us  
17 specifically, which is the job credits?

18          **MR. BOWMAN:** Sure. I guess my  
19 summarization is a lot of what you folks are dealing  
20 with I realize is complex and way out of my lane to  
21 make any evaluation on the question at hand.

22          What I'm here to do is to try and convey  
23 what I've seen in the time that I've owned property  
24 in Kuapapa, which is since 2016, that they are  
25 partners in the community, not just another

1 organization that's looking to build facilities,  
2 hotels, wave pools, that type of thing.

3 They're looking to meet the needs in  
4 partnership with what the community wants. And I  
5 understand there's people that could argue both  
6 sides, but from what I've seen, it's been nothing  
7 but positive.

8 **CHAIR GIOVANNI:** Very well. Thank you.

9 Commissioners?

10 Thank you very much.

11 **MR. BOWMAN:** Thank you, Mr. Chair.

12 **CHAIR GIOVANNI:** Next, I want to call Mr.  
13 or Mrs. -- Ms. or Mr. Limani, Fid Limani? Ms.  
14 Limani, please come forward. When you get there to  
15 the magic chair, state your name and affiliation and  
16 address for the record, and then I'll swear you in.

17 **MS. LIMANI:** Okay. Good morning,  
18 everybody. My name is Fid Limani, short for  
19 Fidmekta, so I'm having mercy on everybody, but very  
20 close. Sometimes you can't tell if I'm male or  
21 female just by the name. I am a homeowner in Ewa  
22 Beach, and my address is 91-1007 Kaiko Street in  
23 Ewa. I'm here -- oh, go ahead.

24 **CHAIR GIOVANNI:** Do you swear the  
25 testimony you're about to give will be the truth?

1 MS. LIMANI: Yes. I do.

2 CHAIR GIOVANNI: Please proceed. You have  
3 two minutes.

4 MS. LIMANI: Okay. Thank you so much.

5 Before going into my career, I spend a lot of time  
6 in my community in Ewa Beach. I also sat on the Ewa  
7 Beach Neighborhood Board. I'm very active -- I was  
8 active when I did have more time with my community.  
9 I was on the Pulse Committee.

10 And as a resident I was waiting a very  
11 long time for this marina to come in. I bought my  
12 home in 2011, so we were promised, okay, there'll be  
13 a marina. Then the plans changed. Then the plans  
14 changed again.

15 So once I saw that they broke ground and  
16 started getting -- going with the new plans, I was  
17 very excited. I was fortunate enough to make time to  
18 do the tour in person, and I was really, really  
19 impressed. I'm in full support of the plans. I'm in  
20 support of what it's going to bring to Ewa Beach.  
21 It's going to bring jobs.

22 And I have a young kid raring to go by  
23 next year. Get these kids out and get working. I'm  
24 so excited that something like this is so close to  
25 home, and jobs will be available for the kids and

1 every age group in this area.

2 For the size of the community, I see  
3 there's a lot of plans. I see that there's a lot of  
4 opportunity. The facilities, the areas that we could  
5 be rented for the community is just phenomenal.

6 My family, we're all coaches for soccer,  
7 and it's something that we could always bring in  
8 there. I'm really excited about all of the tourists  
9 that are going to come and just bring more money in  
10 Ewa Beach.

11 And because the way that Ewa Beach is  
12 developed, I really think that this is going to be a  
13 center point for a lot of the residents here and a  
14 lot of -- all of the homes that we have, a few  
15 thousand in Ewa Beach, that this could be our center  
16 for our community. But I'm really excited.

17 **CHAIR GIOVANNI:** Thank you very much.

18 Questions for the testifier, Mr. Tabata,  
19 from petitioner?

20 **MR. TABATA:** Thank you. No questions.

21 **CHAIR GIOVANNI:** City & County of  
22 Honolulu?

23 **MR. DUBIEL:** No questions.

24 **CHAIR GIOVANNI:** Office of Planning and  
25 Sustainable Development?

1 **MS. KATO:** No questions. Thank you.

2 **CHAIR GIOVANNI:** Thank you.

3 Commissioners, any questions for this  
4 witness?

5 Thank you very much, Ms. Limani.

6 The next person is Ms. Mary Freeman. Ms.  
7 Freeman, when you get to the chair, please state  
8 your name, affiliation, and address, and then I'll  
9 swear you in.

10 **MS. FREEMAN:** My name is Mary Freeman. I  
11 live at 91-6580 Kapolei Parkway, Ewa Beach, Hawai'i  
12 96706. I am the president of my HOA, Ke Aina Kai  
13 Townhomes, in Ewa Beach.

14 **CHAIR GIOVANNI:** Great. Do you swear that  
15 the testimony you're about to give is the truth?

16 **MS. FREEMAN:** It is.

17 **CHAIR GIOVANNI:** You have two minutes.  
18 Please proceed.

19 **MS. FREEMAN:** Thank you for having me. I'm  
20 a resident of Ke Aina Kai Townhomes. I moved in in  
21 2013. I am very happy with the way Haseko has  
22 treated us. I've gone to their various coffee hours  
23 where they explained what was coming.

24 I have also testified in front of the city  
25 county as to the pleasures of having this marina. It



1 is going to not only bring jobs, but there are small  
2 businesses that will be opening that are local  
3 businesses. It gives the local residents a place to  
4 go. We don't have to go to Waikiki or Ko'olina for  
5 fine dining when you have family coming from the  
6 mainland.

7           Again, it's well maintained. It's  
8 convenient. And I do not understand any opposition  
9 to it. I think it will be a definite plus for Ewa  
10 Beach. That's my testimony.

11           **CHAIR GIOVANNI:** Thank you very much.

12           Petitioner, any questions?

13           **MR. TABATA:** No questions?

14           **CHAIR GIOVANNI:** City & County?

15           **MR. DUBIEL:** No questions.

16           **CHAIR GIOVANNI:** OPSD?

17           **MS. KATO:** No questions. Thank you.

18           **CHAIR GIOVANNI:** Thank you.

19           Fellow commissioners, any questions?

20           **COMMISSIONER CHANG:** Yes, Mr. Chair. I  
21 just have one.

22           **CHAIR GIOVANNI:** Commissioner Chang?

23           **COMMISSIONER CHANG:** I'm sorry. This is  
24 Commissioner Chang.

25           Thank you, Ms. Freeman, for being here

1 this morning. I should have asked the other  
2 testifiers as well. What is your opinion -- as a  
3 result of these credits, Haseko will be able to  
4 proceed forward on their hotel. In your opinion --  
5 and you seem to be very active in the community --  
6 does the community support the construction and the  
7 building of the hotel?

8 **MS. FREEMAN:** The little non-support that  
9 I've heard are from people that seem to have another  
10 agenda. They never clearly state -- I'm a graduate  
11 of the University of Hawai'i. I studied Hawaiian  
12 history before it was chic and trendy, so I hear  
13 things thrown out that, number one, no, that's not  
14 what happened; number two, you're defying the laws  
15 of chemistry. And I'm dead serious.

16 I am retired. The arguments that I've seen  
17 against it, they are not sound.

18 **COMMISSIONER CHANG:** Okay. But you support  
19 -- you support --

20 **MS. FREEMAN:** Very much. I am looking  
21 forward -- and this is just personal -- to a place I  
22 can actually walk to, have a Blue Hawai'i, and walk  
23 home so I'm not driving.

24 **COMMISSIONER CHANG:** Okay. Very good.  
25 Thank you so much for your answer.

1 **MS. FREEMAN:** Thank you for your time.

2 **CHAIR GIOVANNI:** Commissioner Cabral?

3 **COMMISSIONER CABRAL:** Yes. I also want to  
4 thank you and the other testifiers. It is incredibly  
5 important to us as commissioners, because we don't  
6 live in your community. We live all over the state.  
7 So making any kind of decision to have people that  
8 are willing to take off from work or from -- and  
9 drive here from Ewa -- it's not a short drive. My  
10 stepson and family live in Kapolei, so I made that  
11 drive a few times.

12 So anyway, thank you, all of you, all  
13 three of you, for making that effort, because it's  
14 very important for us to know what people in the  
15 community are thinking. So thank you.

16 **MS. FREEMAN:** Thank you. And it's  
17 important to us that you know how we feel. Thank  
18 you.

19 **CHAIR GIOVANNI:** Thank you, Ms. Freeman.

20 Are there any other members of the public  
21 here today who wish to testify? Raise your hand.  
22 Seeing none, we'll proceed with the admission of  
23 exhibits.

24 Mr. Tabata, please describe any exhibits  
25 you wish to have admitted to the record.

1           **MR. TABATA:** Thank you, chair. Petitioner  
2 moves to admit to evidence our Exhibits 1 through 7,  
3 which is attached to our motion, along with our  
4 motion, our amended certificate of service, the  
5 responses filed by OPSD and DPP, and the LUC staff  
6 report. We ask that those documents be admitted into  
7 evidence, please.

8           **CHAIR GIOVANNI:** Any objection by the  
9 parties? City & County of Honolulu?

10          **MR. DUBIEL:** No objection from the City &  
11 County.

12          **CHAIR GIOVANNI:** OPSD?

13          **MS. KATO:** No objection. Thank you.

14          **CHAIR GIOVANNI:** Fellow commissioners?  
15 We will agree. I will agree to admit those  
16 exhibits.

17          **MR. TABATA:** Thank you, chair.

18          **CHAIR GIOVANNI:** City & County, do you  
19 have any exhibits you wish to admit to the record at  
20 this time?

21          **MR. DUBIEL:** Chair, just for clarity's  
22 sake, we submitted testimony on November 30th, which  
23 was received. You noted the email, but I just want  
24 to make sure that the commission got a copy of our  
25 testimony from November 3th.

1 All right. Thank you. That's it. That  
2 sounds like it's already been approved. Thank you.

3 **CHAIR GIOVANNI:** Mr. Orodenger, could you  
4 confirm out loud?

5 **MR. ORODENKER:** Yes, Mr. Chair. The  
6 county's testimony is not only noted to the  
7 commissioners, but is also available on our website  
8 for the public.

9 **MR. DUBIEL:** Nothing else. Thank you,  
10 chair.

11 **CHAIR GIOVANNI:** Thank you.

12 Hearing none, we'll proceed to OPSD. Do  
13 you have any additional evidence you'd like to put  
14 on the record?

15 **MS. KATO:** OPSD does not have anything  
16 additional. Thank you.

17 **CHAIR GIOVANNI:** Okay. Thank you.

18 So we'll now proceed with the  
19 presentations.

20 Mr. Tabata, for planning purposes, can you  
21 describe in general how you will be presenting your  
22 case today and approximately how long it will take  
23 you?

24 **MR. TABATA:** Thank you, chair. I have some  
25 opening remarks, which will take maybe a minute or

1 two. And then we have two witnesses. We have Daniel  
2 Lum and Lisa Enanoria. I expect that our  
3 presentation should take no more than half an hour  
4 to an hour.

5 **CHAIR GIOVANNI:** Thank you. Please  
6 proceed.

7 **MR. TABATA:** Thank you.

8 Petitioner is here today to ask for  
9 approval of job credits to allow petitioner to build  
10 one hotel unit for each approved job credit. The  
11 organization -- I'm sorry, the origination of this  
12 job credit requirement is found in Condition No. 1  
13 in petitioner's 1990 LUC D&O.

14 The purpose of this condition was to  
15 create non- tourism jobs. In order to achieve this  
16 goal, Condition 1 created three categories in which  
17 job credits can be earned. We call these three  
18 categories construction job credits, facilities job  
19 credits, and training job credits.

20 The construction job credits are  
21 calculated based on construction person hours.  
22 Facilities job credits are calculated on the square  
23 footage of facilities built. And training job  
24 credits are calculated based on contributions made  
25 for job training.

1           These earned job credits have been  
2 reported to the LUC in our annual reports for about  
3 the past 30 years, as is required by Condition 1.

4           We will call our project manager, Daniel  
5 Lum, to help explain how we calculated our request  
6 for approval of job credits. Mr. Lum will also give  
7 a brief description of the master plan project that  
8 has been billed in this docket, which is called the  
9 Ocean Pointe Hoakalei Project.

10           Our second and final witness is Senior  
11 Project Manager Lisa Enanoria. Ms. Enanoria will  
12 give us more context of our request by describing  
13 the area community and Haseko's outreach and  
14 participation in that community.

15           If we may, chair, we would like to call  
16 Daniel Lum as our first witness.

17           **CHAIR GIOVANNI:** Please proceed.

18           Mr. Wong, could I swear you in? Mr. Wong,  
19 state your name and your affiliation.

20           **MR. LUM:** Good morning, commissioner. My  
21 name is Daniel Lum. I'm with Haseko Development. I'm  
22 a project manager at Haseko.

23           **CHAIR GIOVANNI:** Mr. Lum, I might have  
24 misspoken your name. First, it's Lum, L-u-m?

25           **MR. LUM:** Oh, yes.

1           **CHAIR GIOVANNI:** Do you swear the  
2 testimony you're about to give is the truth?

3           **MR. LUM:** Yes.

4           **CHAIR GIOVANNI:** Please proceed.

5           **MR. LUM:** Okay. So Hoakalei Ocean Pointe  
6 is an 1100-acre project located on O'ahu in Ewa  
7 Beach. It's situated between Fort Weaver and  
8 Kalaeloa. Our project is a master plan community  
9 consisting of 4,800 residential homes, light  
10 industrial, commercial resort, and a planned outdoor  
11 recreational facility.

12                   Since construction in 1998, we have  
13 completed roughly about 4,000 homes. We're about 80  
14 percent complete with our project.

15                   And for job credits, we have three methods  
16 in our 1990 D&O to complete the job credits. There's  
17 Condition 1a, which is what Curtis has mentioned, is  
18 the facility -- I mean construction credit. This is  
19 based on the number of hours our project can create  
20 to help with -- for every job we have man-hours,  
21 there are 25 man-years to equal one job credit.

22                   And then our second option to satisfy this  
23 credit is to provide jobs from building facilities  
24 where jobs are created. And this job credit is  
25 determined from the floorspace multiplied by a



1 multiplier factor.

2 As for our training job credit, this is  
 3 based on either investment or contribution to job-  
 4 creating startup programs or nonprofits to help  
 5 encourage job training. And this is based on either  
 6 50,000 to 25,000 in contribution to equal one job  
 7 credit.

8 **MR. TABATA:** Thank you, Daniel. And how  
 9 many job credits are we requesting?

10 **MR. LUM:** In total, we are requesting for  
 11 572.75 under Condition 1a. We have since 1990  
 12 provided 378.45 -- reported 378.45 job credits.  
 13 However, because of Condition 1a, there is a  
 14 limitation that only 25 percent of the job credit  
 15 can be counted towards this condition. Therefore, in  
 16 total we are requesting for 236.13 job credits under  
 17 Condition 1a for construction job credit.

18 As for Condition 1b, facility job credits,  
 19 we are requesting for 229.06 job credits, which  
 20 consists of facilities that we provided that  
 21 contributes to jobs, including Seagull Schools, Ewa  
 22 Point Marketplace, Hoakalei Country Club, and the  
 23 golf course.

24 As for Condition 1c, we are requesting for  
 25 136.76 job credits. This is for the job training. We

1 have a minimum of 10 percent of our job credits to  
2 be satisfied under this condition.

3 **CHAIR GIOVANNI:** So do you have the total  
4 of those three components?

5 **MR. LUM:** In total it is 572.75.

6 **CHAIR GIOVANNI:** Let me -- let me just  
7 take a second to correct the record. In my opening  
8 remarks, I actually said \$572. It's actually 572.75  
9 credits.

10 **MR. LUM:** Yes.

11 **CHAIR GIOVANNI:** But just a correction of  
12 the record on my part.

13 Mr. Tabata, you may proceed.

14 **MR. TABATA:** Thank you, Daniel.

15 Mr. Lum is available for questioning.

16 **CHAIR GIOVANNI:** City & County, do you  
17 have any questions for this witness?

18 **MR. DUBIEL:** We have no questions for this  
19 witness.

20 **CHAIR GIOVANNI:** OPSD, any questions for  
21 this witness?

22 **MS. KATO:** No questions. Thank you.

23 **CHAIR GIOVANNI:** Commissioners?

24 Commissioner Cabral?

25 **COMMISSIONER CABRAL:** Thank you for the

1 information. In review of this and to housing,  
 2 you're somewhere about -- you said 4,850 houses are  
 3 going to be built, of which 4,000 have been built  
 4 already.

5 **MR. LUM:** Correct, commissioner.

6 **COMMISSIONER CABRAL:** Okay. So another  
 7 850, and that's why you're saying about 82 percent  
 8 or so are completed.

9 Of those homes, are those homes  
 10 freestanding homes on lots, or are those  
 11 condominiums and high-rises, or are those homes  
 12 potentially transient for vacation rentals? Are they  
 13 potentially rentals in general? I mean, what is the  
 14 status of those homes? What type of homes are those,  
 15 if you can tell me?

16 **MR. LUM:** The 4,000 homes that are  
 17 completed are comprised of single-family detached  
 18 and attached multi-family homes.

19 **COMMISSIONER CABRAL:** Okay.

20 **MR. LUM:** Two stories.

21 **COMMISSIONER CABRAL:** Long-term residents  
 22 are residing in those homes.

23 **MR. LUM:** Yes.

24 **COMMISSIONER CABRAL:** Okay. Well, I thank  
 25 you for that, because clearly the community needs

1 homes. Thank you. Okay.

2 **COMMISSIONER KAHELE:** Chair, I got a  
3 question.

4 **CHAIR GIOVANNI:** Commissioner Kahele?

5 **COMMISSIONER KAHELE:** You know, I'm kind  
6 of new at this, so --

7 **CHAIR GIOVANNI:** Use the microphone,  
8 please.

9 **COMMISSIONER KAHELE:** Yeah, it's on. It's  
10 not working, maybe. Is it on?

11 **CHAIR GIOVANNI:** You just need to put it  
12 close.

13 **COMMISSIONER KAHELE:** How do you make a  
14 determination as far as one construction job credit  
15 is awarded for every 25 years of labor?

16 Is it on? Yeah, I'm on. Okay.

17 **CHAIR GIOVANNI:** Did you hear the  
18 question? Did you hear the question?

19 **COMMISSIONER KAHELE:** Did you hear the  
20 question?

21 **MR. LUM:** Sorry. Could you please repeat  
22 the question again?

23 **COMMISSIONER KAHELE:** Yeah. I'm kind of  
24 new at this, so how do you come with a determination  
25 and decide whether -- or one job credit is based on

1 25 man-years of labor?

2 **MR. LUM:** So on an annual basis, we'll  
3 review our accounting reports, spending reports, to  
4 determine, you know, which vendors we're paying out,  
5 and we'll sum up the total cost per hour of these  
6 vendors, including architects, laborers, attorneys,  
7 engineers.

8 And we'll sum up into a massive exhibit  
9 that's submitted annually to LUC where we determine  
10 how many man-hours that we expended per year. And  
11 that's how we report it.

12 **MR. TABATA:** Excuse me, commissioner, if I  
13 may clear this up for the petitioner. If I  
14 understand your question, the 25 years equaling one  
15 job credit is provided in Condition No. 1.

16 **COMMISSIONER KAHELE:** Yes.

17 **MR. TABATA:** So the commission has  
18 established that as the standard for determining one  
19 job credit. And the 25 years is calculated by the  
20 1,900 man-hours equals one year. So they tally up  
21 all the construction hours. They divide it by 1,920,  
22 and that gives us our total man years, construction  
23 years.

24 **COMMISSIONER KAHELE:** So it's not based on  
25 just one job. It's based on amount of work that's

1 provided that totals up to 1,920 hours a year.

2 **MR. TABATA:** That's correct. There's  
 3 various -- it's construction projects built by  
 4 Haseko on the petition area or outside, all the  
 5 different projects. So we tally up all the hours,  
 6 construction hours, and all those hours are added up  
 7 together, and when divided by 1,920, it gives us a  
 8 total man-years.

9 And it takes 25 man-years to make one job  
 10 credit. And the 1,920 and the 25 are -- it's a  
 11 standard established by the Land Use Commission.

12 **COMMISSIONER KAHELE:** You know, and what -  
 13 - like I said earlier, I'm kind of new at this. So  
 14 1,920 hours times 25 years. Is that what you're  
 15 saying equals one credit?

16 **MR. TABATA:** No. It's total man-hours  
 17 divided by 1,290. And that gives us a total number  
 18 of man-years. That gives the man-years total based  
 19 upon the hours worked. But -- not but -- and it  
 20 takes 25 years to make one job credit.

21 **COMMISSIONER KAHELE:** Okay.

22 **MR. TABATA:** So we have to divide the  
 23 total man-years by 25 to give us the number of job  
 24 credits that we have earned.

25 **COMMISSIONER KAHELE:** Okay. I wasn't sure.

1 Thank you.

2 **MR. TABATA:** Thank you, commissioner.

3 **COMMISSIONER CHANG:** Mr. Chair?

4 **CHAIR GIOVANNI:** Commissioner Chang?

5 **COMMISSIONER CHANG:** Thank you. This is  
6 Commissioner Chang.

7 So, Mr. Tabata, I would tell you it feels  
8 like it flew right over my head. My understanding is  
9 that this methodology was established in the  
10 Decision & Order, the methodology to calculate the  
11 credits; is that correct?

12 **MR. TABATA:** That is my understanding.  
13 Yes.

14 **COMMISSIONER CHANG:** Yes. Because I, too,  
15 I was -- like, you can be old, you can be new; I was  
16 still confused. But it wasn't a formula that you,  
17 that Haseko, created. It was pre-established in the  
18 Order how you would calculate to determine the  
19 credits; is that correct?

20 **MR. TABATA:** Yes, commissioner. That's  
21 correct.

22 **COMMISSIONER CHANG:** Okay. And all you're  
23 doing now is applying the numbers based upon the  
24 formula previously established.

25 **MR. TABATA:** Yes.

1           **COMMISSIONER CHANG:** Okay. Okay. I just  
2 wanted that confirmation because I, too, I was like  
3 Commissioner Kahele. What? It was just too many  
4 numbers.

5           But this isn't something that you made up.  
6 You -- because I wanted to ensure that the formula  
7 or the methodology was not biased towards Haseko,  
8 but that it had been -- this formula and methodology  
9 had been previously established, and all you're  
10 doing is applying the formula to the facts based  
11 upon what you've done to date.

12           **MR. TABATA:** Yes, commissioner. That's --  
13 that is correct.

14           **COMMISSIONER CHANG:** Thank you very much,  
15 Mr. Chair.

16           **COMMISSIONER OHIGASHI:** I have a question.

17           **CHAIR GIOVANNI:** Just to clarify the  
18 numbers, I'm going to give everybody an example.

19           And, Mr. Tabata, you tell me if this  
20 example is correct.

21           So if, hypothetically, there were -- you  
22 did your accounting, and there were 19,200 hours of  
23 work. That would translate into 10 man-years' worth  
24 of work.

25           **MR. TABATA:** Nineteen thousand or --?



1           **CHAIR GIOVANNI:** Yeah. If you added it all  
2 up and you had 19,200, that would translate to 10  
3 man-years' worth of work.

4           **MR. TABATA:** That sounds correct.

5           **CHAIR GIOVANNI:** And the 10 man-years'  
6 worth of work would translate into 0.4 job credits.

7           **MR. TABATA:** That sounds correct.

8           **CHAIR GIOVANNI:** That's correct; right?

9           **MR. TABATA:** Yes.

10          **CHAIR GIOVANNI:** Okay.

11          **COMMISSIONER OHIGASHI:** Mr. Chair?

12          **CHAIR GIOVANNI:** Commissioner Ohigashi?

13          **COMMISSIONER OHIGASHI:** I'm looking on  
14 page 70 of the D&O, and it talks about at the time  
15 the petitioner gets a building permit, they can  
16 satisfy this condition, I guess, forward by placing  
17 a \$25,000 deposit for each multiplied by the number  
18 of units that you apply for. Was this ever done,  
19 that part?

20          **MR. TABATA:** No. We have been reporting  
21 our job credits, and our plan was to satisfy the job  
22 credits requirement by earning and seeking approval  
23 for job credits versus the deposit of \$25,000.

24          **COMMISSIONER OHIGASHI:** And is it -- this  
25 would only apply to a hotel or condominium, the one

1 that you plan to build, so you are not -- I'm going  
2 to assume one job credit is equivalent to one unit?  
3 Is that correct?

4 **MR. TABATA:** Yes. It's equal to one hotel  
5 unit.

6 **COMMISSIONER OHIGASHI:** So absent these  
7 job credits, you would have to put up \$25,000 per  
8 unit in order to be built.

9 **MR. TABATA:** That is correct.

10 **COMMISSIONER OHIGASHI:** And then, as it's  
11 being built or as you prove job credits were  
12 applying, you could -- you would get it reimbursed  
13 by OSB. That's why I look at the --

14 **MR. TABATA:** That is what is provided in  
15 Condition No. 1, yes.

16 **COMMISSIONER OHIGASHI:** And so rather than  
17 that, you waited till now to build a hotel so you  
18 had the job credits to satisfy that; is that  
19 correct?

20 **MR. TABATA:** Yes. Believe so.

21 **COMMISSIONER OHIGASHI:** I just was trying  
22 to understand this whole motion. Now that I  
23 understand it --

24 **MR. TABATA:** That is correct. That's how  
25 it has worked out so, yes, we -- at this point we're

1 accumulating our job credits, and the next step  
2 would then be to hopefully --

3 **CHAIR GIOVANNI:** I need to swear this  
4 witness in.

5 **MR. KANNA:** Yeah. I'm Raymond Kanna.

6 **CHAIR GIOVANNI:** State your name.

7 **MR. KANNA:** I am Raymond Kanna, executive  
8 vice president of Haseko (Ewa).

9 **CHAIR GIOVANNI:** Mr. Kanna, do you swear  
10 the testimony you're about to give is the truth?

11 **MR. KANNA:** Yes. I do.

12 **CHAIR GIOVANNI:** Please proceed.

13 **MR. KANNA:** I just want to clarify is we  
14 did not hold off on building the hotels until we got  
15 the job credits. It's the other way around. We knew  
16 that the hotel development, okay, was going to be at  
17 the tail-end of the project just from physical  
18 location, if you look at our map; okay?

19 We were slowly moving from east to west on  
20 the property, making sure we completed all our  
21 infrastructure and the housing, and eventually we  
22 would end up at formerly the marina, now the lagoon,  
23 and at that point, because the hotels were meant to  
24 be a supplemental to support both the retail and the  
25 marina/lagoon at this point.

1 So it was just the logical conclusion that  
2 it would be at the end of the project, because it  
3 makes more sense because, obviously, you need to  
4 populate the project in order to make all this  
5 successful. So I just want to make sure you  
6 understand. The job credits were simply the by-  
7 product of the normal plan that we have. Thank you.

8 **CHAIR GIOVANNI:** Commissioners, any  
9 further questions on the testimony so far?

10 **COMMISSIONER KAHELE:** Chair, I have  
11 another question.

12 **CHAIR GIOVANNI:** Go ahead, Commissioner  
13 Kahele.

14 **COMMISSIONER KAHELE:** You know, I'm not  
15 sure if I'm looking at the right map, but I'm  
16 looking at a map here. Is the hotel's going to be  
17 built alongside the golf course? Is that the right  
18 map I'm looking at?

19 **MR. TABATA:** Yes.

20 **COMMISSIONER KAHELE:** So currently, the  
21 golf course, is it a private course or is it a  
22 public course?

23 **MR. TABATA:** It's a private country club.

24 **COMMISSIONER KAHELE:** It's a country club.  
25 Is this still owned by Haseko or --

1           **MR. TABATA:** No. I believe in 2019, we  
2 have sold the golf course to Hoakalei Country Club  
3 Godo Kaisha.

4           **COMMISSIONER KAHELE:** Is that new company  
5 required to comply with whatever they need to be  
6 required to meet to receive any of these credits?  
7 I'm sorry. Providing jobs, the job credit?

8           **MR. TABATA:** Do they have any --?

9           **COMMISSIONER KAHELE:** Are they still under  
10 the conditions that we provided Haseko as far as  
11 being able to receive any of the credits by hiring  
12 jobs that they're required to hire under these 1920  
13 hours per year?

14           **MR. TABATA:** If I may, commissioner?

15           **COMMISSIONER KAHELE:** Yeah. I'm not sure.

16           **MR. TABATA:** Right. Haseko (Ewa) Inc. is  
17 seeking these job credits in order to build hotel  
18 units. The golf course's relationship to this motion  
19 is that we've earned job credits based on the actual  
20 jobs created at the golf course. So we're asking for  
21 30 job credits, facility job credits, based on the  
22 golf course, plus there's job credits associated  
23 with the clubhouse at the golf course.

24           So we are claiming credits based on the  
25 golf course, but the golf course entity that owns

1 the golf course is not -- they're not the ones  
2 earning the credits to build hotels. We're the hotel  
3 builder.

4 **COMMISSIONER KAHELE:** All right. Thank  
5 you.

6 **CHAIR GIOVANNI:** Commissioner Okuda?

7 **COMMISSIONER OKUDA:** Thank you, Mr. Chair.  
8 This is Gary Okuda.

9 Mr. Tabata, anyone can answer this  
10 question, including you. Let me frame my question.  
11 My question is to determine whether or not the  
12 burden of proof and burden of moving forward has  
13 been met by -- and whether or not the evidence being  
14 presented is sufficient to meet that burden; okay?

15 Your request or motion has asked for  
16 approval of certain -- or a number of job credits;  
17 correct?

18 **MR. TABATA:** Yes.

19 **COMMISSIONER OKUDA:** And the job credits  
20 being requested are basically being totaled from  
21 other documents that have been presented as part of  
22 your motion; correct?

23 **MR. TABATA:** Correct.

24 **COMMISSIONER OKUDA:** And, for example, the  
25 documents -- and it's in our website identified as

1 various exhibits; I think it was part of Exhibit 4,  
2 and it's broken down on the website because of the  
3 length of Exhibit 4, different parts of Exhibit 4;  
4 correct?

5 **MR. TABATA:** Yes.

6 **COMMISSIONER OKUDA:** And some of these  
7 exhibits include the annual reports, which include,  
8 like, spreadsheets; correct?

9 **MR. TABATA:** Yes.

10 **COMMISSIONER OKUDA:** Okay. And these  
11 spreadsheets would have a list of where the job  
12 credits are being attributed to and the number of  
13 job credits; correct?

14 **MR. TABATA:** Yes.

15 **COMMISSIONER OKUDA:** Okay. Let me ask you  
16 this. Who prepared these summary spreadsheets which  
17 were attached to the annual reports?

18 **MR. TABATA:** It was the employees of  
19 Haseko.

20 **COMMISSIONER OKUDA:** Can these -- can you  
21 identify who the specific employees were who  
22 prepared these summaries?

23 **MR. TABATA:** That would be a question for  
24 our witness.

25 **MR. KANNA:** The summaries have been

1 prepared by Derby Linden, who is a former Haseko  
2 employee. She has recently retired in 2020. And  
3 since then, I have taken over her position in  
4 compiling these reports.

5 **COMMISSIONER OKUDA:** Okay. My question is  
6 designed to obtain evidence or determine whether or  
7 not these summaries were prepared, you know, in the  
8 normal course of business. Can you explain to us  
9 what was the process of procedure which was normally  
10 done to prepare, for example, the summaries that  
11 attribute certain number of job credits to, for  
12 example, like the attorneys Faun Meagle (phonetic)  
13 and things like that?

14 I mean, as an example, what would be the  
15 process that would be used to prepare this chart?

16 **MR. LUM:** Okay. Commissioner, so on an  
17 annual basis, we'll request from our accounting a  
18 vendor report. This vendor report then breaks apart  
19 all of our payments to the various vendors, and it  
20 will sort the payment by vendor.

21 From the vendor report, we would manually  
22 go through, determining which vendors qualify for  
23 this job credit. Such vendors would include  
24 attorneys, engineers, architects, construction  
25 laborers. And then we would then look at -- we'll



1 pull those invoices and determine, you know, how  
2 many hours are attributable per invoice.

3           So for the attorneys, you know, we can see  
4 clearly how much hours are spent, and that's how  
5 it's inputted in. And then depending on if it's a  
6 laborer, contractor, we will use the -- like, a  
7 market hourly rate to determine how much of this  
8 invoice is their labor hours, and we'll deduct maybe  
9 a portion of the invoice, assuming it's supplies or  
10 materials. So that way, we can kind of deduct  
11 roughly how much hours of this invoice is  
12 attributable to actual labor.

13           **COMMISSIONER OKUDA:** Okay. And maybe Mr.  
14 Tabata can answer this question, if he would like.

15           Do you believe that because these credits  
16 trigger, you know, an important result, which is the  
17 ability to build a hotel or these additional  
18 developments, that the Land Use Commission, before  
19 it makes a decision, should have that basic evidence  
20 in front of us so we can form a conclusion that the  
21 summaries that are being presented here are accurate  
22 or not accurate? Is that something that we are duty  
23 bound to inquire into to make sure that these  
24 summaries are accurate?

25           **MR. TABATA:** Yes. That is part of your

1 duties.

2           **COMMISSIONER OKUDA:** Okay. How do we  
3 determine whether or not these summaries are  
4 accurate if the underlying documents aren't  
5 presented? And maybe it's unreasonable to say that  
6 we should have, you know, tens of thousands of pages  
7 presented to us, but is there anything in the record  
8 that even shows an example of how any of these  
9 entries would be prepared?

10           In other words, examples of what the  
11 underlying invoices look like, the worksheets that  
12 were used by Haseko to prepare these summaries. In  
13 other words, something that we could make a finding  
14 that the summaries accurately reflect the underlying  
15 facts.

16           Is there anything in the record that you  
17 can point to which can give us that type of evidence  
18 that the summary is accurate?

19           **MR. TABATA:** Yes. What was provided to the  
20 commission is the parts of the annual reports that  
21 we've been submitting over the past 30 years. And  
22 there are included in those annual reports receipts  
23 or checks that were made for contributions. There  
24 were descriptions of the facilities that were built,  
25 and there were reports of hours worked for various

1 projects.

2 Now, we didn't submit all of the contract  
3 documents for every single project and for every  
4 single invoice that was submitted by a contractor or  
5 a consultant. That was not done. But we did provide  
6 -- I believe on their own -- information throughout  
7 the 30 years, you know, annual reports detailing the  
8 number of hours that we were reporting and  
9 worksheets identifying the hours and the persons and  
10 the projects; okay?

11 We didn't -- we did not submit all, every  
12 single invoice that we received. That would have  
13 been -- my belief is that would have been too  
14 burdensome on the commission to submit to the  
15 commission tens of thousands of pages of documents  
16 along with our annual report.

17 I believe it was reasonable for us to  
18 submit a tabulation identifying the people and the  
19 companies and the hours worked on which projects.  
20 Those were all identified, and that was our good  
21 faith effort to provide proof to this commission of  
22 the hours that we worked and the source of those  
23 hours. So that's what we did.

24 **COMMISSIONER OKUDA:** Yeah. Well, for  
25 example, I look at Exhibit A to your October 3rd,

1 2007, annual report. Is it your testimony that the  
2 information contained in Exhibit A, which is just a  
3 summary of credits being requested, that in fact  
4 that annual report contained the type of information  
5 that you just described?

6 **MR. TABATA:** Whether or not that  
7 particular page contains that information I cannot  
8 say right now, but I do know that there were  
9 summaries, there were tabulations showing who, the  
10 name of the person working, the project they worked  
11 on, and the number of hours they worked. And it was  
12 those hours that were then accumulated to determine  
13 and calculate our job credit request for  
14 construction job credits.

15 These were all made in the normal course  
16 of business throughout the years, throughout the  
17 decades, to provide the commission with what we hope  
18 to be adequate proof of those hours and job credits  
19 being requested.

20 **COMMISSIONER OKUDA:** Was there a clear  
21 statement made in any of these annual reports that  
22 the reports were prepared based on normal business  
23 practices or that the summaries actually reflect  
24 underlying documentation in the matter that you've  
25 described?

1           **MR. TABATA:** I believe all of our  
2 representations to the commissions are made under  
3 oath, commissioner. Every one of them. I mean, we  
4 have an obligation to make representations to this  
5 commission, and we're held by condition to live up  
6 to those representations. So, yes, to the best of  
7 our ability, we are providing accurate information.

8           **COMMISSIONER OKUDA:** On page 69 of the D&O  
9 -- this is in subparagraph d -- there's a  
10 requirement which says, and I quote, Petitioner  
11 shall provide OSP with information concerning the  
12 manner in which petitioner's claim for job credits  
13 is calculated as well as written certification by  
14 the developer that all information provided is  
15 correct.

16           Was such written certification provided by  
17 the developer that all information provided is  
18 correct? Was that provided each time when the  
19 required documents or reports were submitted to the  
20 Office of Planning?

21           **MR. TABATA:** Yes. For every annual report  
22 we file, they contain our representations, and our  
23 representations are all -- like I said, they are  
24 under oath. We are bound by our representations, and  
25 we take them very seriously.

1           **COMMISSIONER OKUDA:** Can you just -- and I  
2 probably overlooked it -- can you just point to an  
3 exhibit and maybe read the certification that was  
4 given to Office of State Planning?

5           **MR. TABATA:** It's an implied  
6 certification.

7           **COMMISSIONER OKUDA:** I'm sorry?

8           **MR. TABATA:** It's an implied  
9 certification. We don't have a statement, you know,  
10 in our annual report certifying that everything is  
11 accurate and true. It's implied. Everything we say,  
12 we're held to.

13           **COMMISSIONER OKUDA:** Okay. But --

14           **MR. TABATA:** And that's -- that was the  
15 intent, and that was what was done.

16           **COMMISSIONER OKUDA:** Okay. But the  
17 condition requires a written certification. It  
18 doesn't say anything about implied certification  
19 that the information is correct.

20           **MR. TABATA:** That written certification  
21 was made within the annual reports. The fact that it  
22 was made in writing is our written certification.

23           **COMMISSIONER OKUDA:** Okay. Thank you, Mr.  
24 Chair. I have no further questions.

25           **CHAIR GIOVANNI:** Commissioner Cabral?

1           **COMMISSIONER CABRAL:** Yeah, thank you. I  
2 have several questions.

3           So it's my understanding that you annually  
4 make reports. I know you have to make annual reports  
5 to the Land Use Commission. Do those annual reports  
6 also go to the Office of Planning, which is now the  
7 Office of Planning and Sustainability?

8           **MR. TABATA:** Yes.

9           **COMMISSIONER CABRAL:** Okay. So I'm going  
10 to ask, if I can. Can I ask a question of our Land  
11 Use Commission staff?

12           Okay. When you get these annual reports,  
13 you have the ability to review them, question them,  
14 and if you were to feel that there was something  
15 inappropriate, you could ask for more information or  
16 more details. Is that within your rights as a Land  
17 Use Commission staff?

18           **MR. ORODENKER:** Yes, it is, commissioner.

19           **COMMISSIONER CABRAL:** Okay. Okay. Well,  
20 because I'm in private business, and I have to deal  
21 with state regulations a lot, and I find it -- you  
22 know, if for 30 years you've been sending the  
23 information out and everybody said okay, okay, okay,  
24 I'm just going to stand here and I'm going to accept  
25 that two different state agencies have accepted

1 this, haven't questioned it, and are sitting here.

2 And I understand Office of Planning and  
 3 Sustainability is not objecting to it and stuff, so  
 4 I'm going to -- I think that I'm going to take on  
 5 face value the fact that your reports were  
 6 acceptable at that time and not questioned whether  
 7 you should have done more or could have done more,  
 8 could have buried us with paperwork, filled the room  
 9 here with documents.

10 So, okay, thank you very much for the  
 11 information. I have my clarification. Thank you.

12 **CHAIR GIOVANNI:** Thank you, Commissioner  
 13 Cabral.

14 Commissioners, anything further?  
 15 Commissioner Chang?

16 **COMMISSIONER CHANG:** Yes. Thank you, Mr.  
 17 Chair.

18 Mr. Tabata, I, too, I don't question the  
 19 genuineness of your representation. And I'm not  
 20 interested in going through 10,000 pages of files.

21 If there was an audit to confirm the  
 22 accuracy of the representations, the underlying  
 23 documentation, a lot of what Commissioner Okuda  
 24 talked about, I am assuming you would not have any  
 25 objection if there was an audit that was done.



1 **MR. TABATA:** No. No objection.

2 **COMMISSIONER CHANG:** Okay.

3 Commissioner Yamane?

4 **COMMISSIONER YAMANE:** Thank you, Mr.

5 Chair.

6 I just have a question regarding the 25  
7 percent requirement of the petitioner's total job  
8 generation requirement. I think this relates to the  
9 construction credit requirement that was reduced to  
10 a maximum of 237, which you presented 236.

11 And I was looking at Exhibit 4. It was 25  
12 percent of 950. I think that was the number. Where  
13 did the 950 come from?

14 **MR. TABATA:** The 950 is our maximum number  
15 of hotel units that we are allowed to build. And  
16 that was established by the city in its unilateral  
17 agreement.

18 **COMMISSIONER YAMANE:** Okay. Thank you.  
19 Thanks for the clarification.

20 **MR. TABATA:** Thank you.

21 **COMMISSIONER YAMANE:** No further  
22 questions. Thank you, Mr. Chair.

23 **CHAIR GIOVANNI:** Thank you.

24 Commissioners?

25 Mr. Tabata, do you want to continue?

1 **MR. TABATA:** Thank you, chair.

2 Our next witness is Lisa Enanoria.

3 **CHAIR GIOVANNI:** When you arrive, please  
4 state your name and job affiliation, and then I'll  
5 swear you in.

6 **MS. ENANORIA:** Hi. My name is Lisa  
7 Enanoria. I'm a senior project manager for Haseko.

8 **CHAIR GIOVANNI:** Ms. Enanoria, do you  
9 swear that the testimony you're about to give will  
10 be the truth?

11 **MS. ENANORIA:** Yes. I do.

12 **CHAIR GIOVANNI:** Mr. Tabata, you and your  
13 witness may proceed.

14 **MR. TABATA:** Thank you, chair.

15 Lisa, could you please state your position  
16 at Haseko?

17 **MS. ENANORIA:** So I'm a senior project  
18 manager with Haseko.

19 **MR. TABATA:** And what are your job duties?

20 **MS. ENANORIA:** Okay. So I actually do a  
21 few different things. I do the community outreach  
22 for the company along with public relations,  
23 government relations. I also represent the company  
24 at a lot of the various neighborhood boards, also on  
25 some of the few nonprofit organization boards for

1 the company. I'm on Hoakalei Cultural Foundation's  
2 board also, which is an organization that we helped  
3 form for our two kupuna in the area. I think that's  
4 it.

5 **MR. TABATA:** And could you describe for us  
6 your -- well, describe for us the community outreach  
7 that Haseko has done for this project.

8 **MS. ENANORIA:** So we have actually done  
9 extensive community outreach. We've always believed  
10 that we are part of the community. I live in Ewa, so  
11 we've always tried to be a good neighbor also.

12 We sit on some of the school SCC boards,  
13 Boys & Girls clubhouse board, the Weed and Seed  
14 steering committee. We also have held many community  
15 meetings, as some of the other homeowners have  
16 stated.

17 We've done regular coffee hours. That has  
18 actually slowed down because of COVID, not a good  
19 together, so our last coffee hour was a virtual one,  
20 which was in 2020.

21 But I do attend the neighborhood boards  
22 regularly, and anytime there is a question, they  
23 know where I'm sitting. And I've always told them  
24 when I have new information is when I'll actually  
25 give a report. So whenever we have some exciting

1 information, I stand up to let them know.

2 **MR. TABATA:** Thank you, Lisa.

3 Ms. Enanoria is available for questions.

4 **CHAIR GIOVANNI:** Thank you.

5 City & County, any questions?

6 **MR. DUBIEL:** No questions.

7 **CHAIR GIOVANNI:** OPSD, any questions?

8 **MS. KATO:** No questions. Thank you.

9 **CHAIR GIOVANNI:** Thank you.

10 Commissioners, questions for this witness?

11 Commissioner Cabral?

12 **COMMISSIONER CABRAL:** I'm really hot

13 today. Yes. In your visits throughout the community,

14 can you let us know now what's coming up? You've

15 done housing. You've done the golf course. You've

16 done a lot of commercial properties. You've done a

17 lot of things. So now this is the first time you're

18 entering into building a hotel on any of this

19 initial thousand-plus acres.

20 **MS. ENANORIA:** Yes. So the last area of

21 the project is everything that's around the lagoon;

22 right?

23 **COMMISSIONER CABRAL:** Okay.

24 **MS. ENANORIA:** Because now we're moving

25 more towards the west side. So we have the

1 waterfront recreation. And then our residents have  
 2 been waiting a long time for the resort to come, and  
 3 they keeping asking me when is it coming, and I  
 4 don't have a date for them. But I would like to have  
 5 a date for them so I can announce it at a coffee  
 6 hour or a neighborhood board, so.

7 **COMMISSIONER CABRAL:** Okay. Time for a new  
 8 coffee hour.

9 **MS. ENANORIA:** Yes.

10 **COMMISSIONER CABRAL:** So there was a  
 11 reference earlier from one of the community people  
 12 that made statements that apparently there are some  
 13 people that object. Can you let us know? They're not  
 14 here, so I'm not going to give them a lot of weight,  
 15 but has there been just moderate objection, strong  
 16 objection? What is your feeling about the situation  
 17 in the community?

18 **MS. ENANORIA:** The majority of the  
 19 community has been supportive of the project.  
 20 They're asking us when. When are the jobs coming?

21 Of course, there's always a handful that  
 22 have misinformation, and that's the whole point of  
 23 our community outreach, is try to get to them and  
 24 get that information corrected and try to sit down  
 25 with them. So I've always been available to anybody

1 out there. If they have any questions, I'll sit  
2 down, take them out to coffee and go over a lot of  
3 their issues or concerns.

4 But, of course, there are always a handful  
5 of people that I can't make happy no matter what.  
6 But I want to say the majority of the area is in  
7 support.

8 **COMMISSIONER CABRAL:** Okay. And in terms  
9 of -- back to job creation is -- the reference was  
10 people are looking forward to the construction jobs  
11 which, of course, will be so long and then they'll  
12 end.

13 Are people also looking forward to  
14 visitor-supported industry jobs such as waitress and  
15 hotel, you know, staff and groundskeepers and all of  
16 that? I mean, is it -- because again, I think the  
17 reference was you can go to work right there in Ewa  
18 instead of driving into Waikiki for an hour to go to  
19 the same job. Is that what the community's feeling?

20 **MS. ENANORIA:** Correct. So I know in a  
21 recent meeting with one of our area lawmakers, he  
22 had some of the older Ewa Beach neighbors, residents  
23 who have been there for a while, and they explained  
24 to me why they supported the project. And one of the  
25 reasons that they supported the resort was because

1 there's a lot of people that live in Ewa and Ewa  
2 Beach that actually commute on the bus or drive. As  
3 you know, from even Kapolei it is a very far drive.

4 **COMMISSIONER CABRAL:** Yes.

5 **MS. ENANORIA:** So having the resort jobs  
6 here, where they don't have to commute, is actually  
7 a benefit to the residents.

8 **COMMISSIONER CABRAL:** Okay. Great. Thank  
9 you very much for the information.

10 **CHAIR GIOVANNI:** Commissioners?

11 Mr. Tabata?

12 **MR. TABATA:** Thank you, chair. That's it  
13 for our witnesses, so we're done.

14 **CHAIR GIOVANNI:** I just had one question.  
15 Can you -- or any of your witnesses can answer --  
16 but regarding the infrastructure support of the  
17 overall project and of the expansion into the resort  
18 areas, can you give this commission a sense of how  
19 much of that is completed and how much is yet to do?

20 **MR. TABATA:** I think Raymond Kanna can  
21 answer that question.

22 **MR. KANNA:** Hi. Again, Ray Kanna from  
23 Haseko (Ewa).

24 First of all, you have to understand this  
25 is something that has occurred over a period of 31

1 years. I started with this project in 1991. One of  
 2 the first things we tackled was the Ewa Plains Water  
 3 Development Corporation, which allowed the full  
 4 buildout of wells and water facilities for the  
 5 entire buildout of the project. That is fully  
 6 complete; okay?

7 We, jointly with other developers,  
 8 invested over \$30 million into that thing to make  
 9 sure it was fully completed.

10 Secondly, we went ahead and since the City  
 11 & County had problems with the wastewater system,  
 12 Haseko stepped up, and we enhanced the existing  
 13 wastewater treatment plant adjacent to our property.

14 **CHAIR GIOVANNI:** One second. We have a  
 15 little interference here. Okay. Back up half a step  
 16 and continue.

17 **MR. KANNA:** Again we went ahead and we  
 18 enhanced and basically rebuilt the sewage treatment  
 19 plant adjacent to us to basically accommodate again  
 20 the full buildout of the project.

21 Our master transportation plan basically  
 22 accommodated the full buildout of both the retail,  
 23 the resort, the housing, and all of our streets and  
 24 roadways are sized based on the full buildout; okay?  
 25 So water, sewer, transportation.



1 Electrical we work hand-in-hand with  
2 Hawaiian Electric to make sure that we have  
3 sufficient power to accommodate the full buildout of  
4 the project.

5 And finally, we have a master drainage  
6 plan that fully accommodates not only our project,  
7 but the entire Ewa plains, because we are the  
8 terminus of the drainage system that goes from the  
9 mountains to the ocean. We work closely with the  
10 City & County, and we have designed every facility,  
11 and they are all fully developed, okay, to  
12 accommodate the full 100-year storm of the entire  
13 Ewa plains.

14 The only thing we are waiting for is that  
15 we are still in a contested case issue to resolve  
16 that drainage, and until then, certain berms are  
17 still in place to prevent the full drainage that  
18 goes from the mauka to the makai to the ocean.

19 So the answer to your question is we are  
20 100 percent complete with all of our infrastructure  
21 requirements; okay? Matter of fact, that's one of  
22 the things we really, really focused on.

23 The only thing that has to be done at this  
24 point, okay, obviously, are additional traffic  
25 lights, okay, which can only be done after it meets

1 certain warrant studies with the city; okay?

2 And obviously, there are other plans that  
3 we are not part of but, you know, obviously people  
4 have talked about the extension of Keoneula  
5 Boulevard going into Kalaeloa. These are all  
6 connection issues that we are dealing with at this  
7 point. And it's probably going to be dealt with the  
8 next generation after I'm probably gone and buried.

9 **CHAIR GIOVANNI:** I'll be gone as well. So  
10 can you comment, Mr. Tabata or whatever witness,  
11 just a brief description of the hotel that's going  
12 to be built?

13 **MR. TABATA:** We haven't gotten that far  
14 yet. We first wanted to hopefully get the approval  
15 of these job credits and then be able to then go out  
16 and seek partners.

17 **CHAIR GIOVANNI:** So basically, one unit  
18 allowed for every job credit. So does that mean  
19 you're going to build a hotel with 572 units?

20 **MR. TABATA:** That we don't -- we haven't  
21 gotten that far yet. We don't know. I mean, there's  
22 950 total units that we can build. And, you know, if  
23 we get approval for this motion, there may be a  
24 future request for job credits.

25 **MR. KANNA:** Again responding to that one,

1 the number of hotels and how we allocate the 950  
2 rooms is wholly subject to the marketplace; okay?  
3 Obviously, the hospitality business has been  
4 transforming over the past years; okay? Before,  
5 everything was a big luxury five-star hotel. Then it  
6 shifted over to more the self-service, you know, the  
7 high places and the --

8           So the industry is changing now; okay? We  
9 have a bevy of hotel developers that have come to  
10 look at our project and have tried to implement it  
11 into their vision of what they want; okay? So we  
12 cannot predict today as to what it is, but I'm  
13 encouraged by things like our golf course just  
14 hosted the LOTTE tournament. So it's given us  
15 international exposure; okay?

16           We're moving forward on this wave  
17 structure and lagoon, which also will give us some  
18 national and possibly international exposure. So it  
19 will bring other hotel developers into play, and  
20 they will impose their vision on what they would  
21 like to do.

22           And Haseko does not profess to be a hotel  
23 developer; okay? We are simply preparing the ground  
24 for all this to occur. But the one thing we are  
25 focused on is, you know, we're not as focused on the

1 resort because, I mean in the sense it's going to be  
2 a third party that actually does the resort.

3 But we are focused on creating the retail  
4 backbone, okay, which will give, as Lisa mentioned,  
5 the opportunity for local entrepreneurs to be able  
6 to insert themselves and to create -- to make money  
7 off of the resort; okay?

8 Obviously, most of the local people can't  
9 afford to buy or build a resort. That's not the  
10 point. But it becomes a symbiotic relationship,  
11 because once the resort is there, who's going to  
12 provide, you know, the surf lessons or provide the  
13 supplies and materials or --? There are going to be  
14 a lot of, you know, opportunities for local  
15 entrepreneurs to be able to provide services, okay,  
16 to these places; okay?

17 And, you know, our focus is the lagoon,  
18 okay, and the ocean, which is nearby. All these  
19 things, you know, and the nature of the resort  
20 business is it's focused on trying to fit into the  
21 local environment. So that's the nature of where  
22 tourism is going to go. It isn't going to be the  
23 Waikikis like we've seen before. It has to be  
24 tourists who are interested in assimilating into the  
25 local environment and enjoying the things as locals

1 do.

2 So we need to focus as much as possible,  
3 trying to create a tourism model that focuses on the  
4 local industry and our culture. And that's what  
5 we're trying to focus on right now, okay, is to  
6 making sure that whoever does come in, okay, works  
7 with our cultural foundation, works with our kupunas  
8 to create something that is sensitive to the current  
9 environment that we have.

10 Now, one of the things very clear to me is  
11 that Hawai'i is uncomfortable with the, you know,  
12 the glitz of just regular tourism. We have to come  
13 up with a different model that works. And we're  
14 small enough where we can do that, because we're  
15 only 950 hotel rooms. We're not, like, thousands of  
16 rooms like Waikiki.

17 We can go into that niche market and give  
18 them the opportunity to do something very creative;  
19 okay? And I'm the first to admit one of the things  
20 that Ewa has a problem with is Ewa has never really  
21 had a connection to tourism; okay? It's been a local  
22 community. So we need as much as possible to try to  
23 fit into that local community. We can't be Waikiki.  
24 We have to be something else. Thank you.

25 **CHAIR GIOVANNI:** So can you predict or

1 speculate for the benefit of our witnesses and  
 2 others who live in Ewa and have been waiting many  
 3 years for this aspect of your project to come to  
 4 fruition, when the hotel might be open?

5 **MR. KANNA:** Obviously, I can't predict  
 6 what the marketplace is going to say, but it is our  
 7 goal -- our best wishes is that we can have a hotel  
 8 in place in maybe five to six years.

9 And that's just my personal speculation,  
 10 because if you look at the timeframe, okay, I'm  
 11 figuring they're going to be going out to market to  
 12 talk to a lot of hotel developers soon; okay? It's  
 13 going to be a year and a half to two years to  
 14 design.

15 **CHAIR GIOVANNI:** Five or six years is all  
 16 I was looking for. Thank you.

17 **MR. KANNA:** Okay.

18 **CHAIR GIOVANNI:** Okay. Commissioners, any  
 19 additional questions?

20 Commissioner Kamakea-'Ohelo?

21 **COMMISSIONER KAMAKEA-'OHELO:** You go  
 22 first.

23 **COMMISSIONER CHANG:** Okay. Thank you.

24 **CHAIR GIOVANNI:** Take your time.

25 **COMMISSIONER CHANG:** Thank you. This is

1 Commissioner Chang.

2 Mr. Kanna, I greatly appreciate your  
3 comments. I think you -- a lot of the things you  
4 said I think reflects sort of this changing  
5 environment of visitor industry, and I appreciated  
6 the sensitivity in particular to the Ewa community.  
7 Rather than trying to put something outside, how do  
8 we enhance what's already there?

9 And I appreciated also your comment about  
10 the foundation, because you have a very active  
11 community out in Ewa -- Uncle Shad, a lot of -- who  
12 bring great wealth. So I am hoping that your vision  
13 and the words that you've spoken and representations  
14 you've made to us today are reflected in the  
15 ultimate product of the hotel.

16 And not too often -- I mean, I've sat on  
17 the commission. I think this would be -- this is my  
18 seventh closing out to eight years --. We usually  
19 have developers who come in and try to do the  
20 revenue. It's like the hotel is first. And then we  
21 come back, and we have to worry about  
22 infrastructure.

23 So it is very reassuring to see that you  
24 have fully built out the infrastructure first, and  
25 you responded to the community needs there. So mine

1 is more of a comment than it is any kind of a  
2 question, but I am curious.

3 Right now your credit is for 572, but you  
4 have capacity up to 950. Will you be looking at --  
5 is that gap of 400 -- will you wait for additional  
6 credits, or will you look at designing something up  
7 to your maximum and potentially paying cash for the  
8 balance?

9 **MR. KANNA:** At this point we're entering  
10 into my personal, okay, opinion and has little to do  
11 with Haseko. I would prefer we not build 950 rooms,  
12 because I think the mass is inappropriate for our  
13 community. I would rather see multiple properties  
14 instead that allow it to be less mass and more  
15 focused on a boutique environment. That is my  
16 personal preference.

17 Now, obviously, it's all about money;  
18 okay? And if the money justifies paying the 25,000  
19 for the remaining credits, that will happen; okay?  
20 Or if our retail facility gets built, we can  
21 generate possibly a great deal of those credits by  
22 that physical structure.

23 But it's a question of what comes first.  
24 And, you know, I've worked in this business now for  
25 over 40 years, and I've seen the problem that mass



1 can create; okay? It's just -- it really is  
 2 difficult for Hawai'i to absorb that, because it's  
 3 just --

4 You know, a good example is you look at  
 5 Waikoloa. I mean, that huge monster -- and I know, I  
 6 was part of the team -- I never could figure out how  
 7 that really fits in with what we were trying to  
 8 create, because it now becomes a Disneyland; okay?  
 9 And I don't think Disneyland fits in Ewa; okay?

10 **COMMISSIONER CHANG:** Right.

11 **MR. KANNA:** But I hope that the people who  
 12 follow me will have the same sensitivity and try to  
 13 focus on trying to create the right size for all  
 14 this stuff.

15 **COMMISSIONER CHANG:** Right. I hope so,  
 16 too, because I don't think it's all about money. I  
 17 don't think the community will tolerate just to be  
 18 about money. It is about enhancing the qualities of  
 19 Ewa. I hope you bring back ogo. I think a lot of us  
 20 miss the limu gathering that Ewa was well-known for.

21 And just climate change. I mean, at the  
 22 time that this approval was made, climate change was  
 23 not an issue. Building too close to the ocean may  
 24 not be the best thing.

25 So I am certain your team is taking into

1 consideration the changing both economic  
2 environment, ecological environment and cultural  
3 environment as you plan forward. But I like your  
4 vision. I appreciate your candor with us. So I hope  
5 you are passing that on. Thank you.

6 **MR. KANNA:** One thing I do want to point  
7 out to you is one of the big steps we made is, okay,  
8 if you look at from the edge of the makai edge of  
9 our lagoon to the ocean, okay, we took that out  
10 completely and made it into preservation, so that it  
11 was an open area with a small strip of business on  
12 it to make sure that the access to the ocean was  
13 open.

14 Previously, it was supposed to be parking  
15 lots, and we axed that because it was inappropriate;  
16 okay? So we created an opportunity where, you know,  
17 it's more now paths, jogging paths, okay, bicycle  
18 paths; okay?

19 But we face challenges of that one, too,  
20 because by leaving it open like that, you know, how  
21 do we maintain it and keep it clean; okay?

22 We're in the process right now with the  
23 Department of Land and Natural Resources to restrict  
24 vehicular access along the beach, which is not  
25 allowed. But we want to put in walls or something to

1 prevent people from desecrating that area.

2 I'd like to point out to you is that when  
3 we cleaned that area up, okay, I forget --

4 Lisa, how many tons of garbage did we  
5 remove along that area?

6 **MS. ENANORIA:** It was a lot of tons.

7 **MR. KANNA:** It was, like, 30 tons of  
8 garbage, you know. I'm appalled by the fact that we  
9 actually don't, you know, treat our aina properly.  
10 And if we have to do it in a way to prevent people  
11 from doing it, we'll do so.

12 But, you know, like I said, I've been  
13 working with the Department of Land and Natural  
14 Resources for five years to get that permitted. So,  
15 you know, it's an uphill battle sometimes, because  
16 they're concerned about any structures on the beach.

17 So, you know, there are many, many  
18 problems that we face when we -- we try to do this,  
19 but it is difficult. It's not that easy; okay? And  
20 you're right. One of the biggest problems I face is  
21 I got to deal with a board of directors that says  
22 you got to get a return on your money.

23 Well, I'm less concerned about the money,  
24 because I'm from here. I'm here to try to do a good  
25 job; okay? But I also have to satisfy our board,

1 which means they're going to watch how we spend the  
2 money and how would you try and generate it. But you  
3 can tweak it to try to make it as positive as we  
4 possibly can. And I think that's what we're trying.

5 And that's what I've been passing on to my  
6 next generation of managers to be -- they have to be  
7 smart, okay, but at the same time sensitive.

8 Because, you know, it comes back to bite you. I've  
9 worked for bad developers, as I said, and I know it  
10 comes back to bite you because it affects, you know,  
11 the reputation. It affects how the community will  
12 accept you in the long term; okay.

13 Lisa and her predecessor have done a great  
14 job of connecting with the community; okay? And I  
15 think we need to continue to do that, because if you  
16 have community support, you can overcome anything.  
17 Because, you know, a lot of times the activists come  
18 from the outside, who don't understand the  
19 community; okay? And there's nothing quite like  
20 having your local kupuna support you, okay, to have  
21 your local people support you.

22 **CHAIR GIOVANNI:** Okay. Let's --  
23 Commissioner Kamakea-'Ohelo?

24 **COMMISSIONER KAMAKEA-'OHELO:** Yes. Mahalo,  
25 chair, for the opportunity to question Mr. Kanna --

1 or anybody, for that fact. I really just have an  
2 infrastructure question, you know, with your  
3 statement being sensitive to the current environment  
4 we have.

5           What is the daily sustainable draw from  
6 your wells and what is the daily usage with the  
7 inclusion of the 4,000 homes, the new buildout of  
8 the water pool and lagoon, and possibly in the next  
9 five to six years this resort?

10           **MR. KANNA:** I can't answer that question  
11 for you right now, but when we originally designed  
12 the wells, the mauka wells that we -- a series or  
13 bank of wells that the Ewa Plains Water Development  
14 Corporation built, part of it we presented a report  
15 to the Board of Water Supply on the full buildout of  
16 each of our projects.

17           So we built based on that one, plus we  
18 also gave the board a surplus reserve for other  
19 projects who were not part of the group that was  
20 basically doing that. So I can go back and find that  
21 for you, but the bottom line comes down to is it was  
22 designed based on our full draw.

23           Now, in discussions with the Board of  
24 Water Supply, one of the things is we based our  
25 water demand based on, you know, a higher number,

1 actually, than what is currently in place. This was  
2 -- we're talking about this thing was built back in,  
3 you know, we started designing this in 1986; okay?

4           Since that time, okay, what's happened is  
5 the board has mandated using water saving type of  
6 devices, which actually has reduced the demand for  
7 each individual household. My last discussion with  
8 the board is that they're willing to -- right now  
9 for a single-family home, the reserve is 500 gallons  
10 per day. Now they're willing to consider 450 or 400  
11 simply because the actual data has proven that the  
12 use of water has come down due to the fact of these  
13 various facilities.

14           So in a sense, we have -- we should have  
15 far more surplus water availability based on that.  
16 But bear in mind this was done by five major  
17 developers. Other people -- homesteaders, whoever --  
18 they draw from that system also. But they basically  
19 piggyback on the fact that we built surplus, you  
20 know, capacity for them, so.

21           **COMMISSIONER KAMAKEA-'OHELO:** Okay. Mahalo  
22 for your answer. And I have a following question --  
23 follow-up question.

24           So you said that this plan was being  
25 created in 1986; correct?

1 **MR. KANNA:** Roughly around there.

2 **COMMISSIONER KAMAKEA-'OHELO:** Roughly

3 around 1986, so that's about 35, 36 years ago?

4 Currently, you know, we are charged with looking at

5 projects with sea level rise and climate change in

6 mind. So I guess my next question to you, Mr. Kanna,

7 is at what elevation about the sea level, yeah, are

8 these wells when you describe mauka wells?

9 **MR. KANNA:** I cannot tell you off the top

10 of my head, but they're at the minimum level. Most

11 of the water tanks are at the 450 to the 680 level,

12 so they're way in the mountains. It's above the

13 freeway; okay? So probably the more important

14 question is as sea level rise, how is it going to

15 infiltrate into the transmission lines that come

16 further makai?

17 **COMMISSIONER KAMAKEA-'OHELO:** That was

18 going to be my next question.

19 **MR. KANNA:** Okay. And that's something I

20 can't do anything about, okay, because, you know,

21 most of the transmission lines are located in major

22 roadways, which are to my knowledge at this point

23 located at least at 20+ above sea level. So they

24 should be okay; okay? And I think, you know, I'm

25 sure a lot of smarter people than me will figure out

1 a way to solve that problem. Yeah.

2 **COMMISSIONER KAMAKEA-'OHELO:** That's all  
3 the questioning I have right now. Mahalo, chair.

4 **CHAIR GIOVANNI:** Thank you.

5 Commissioners?

6 Mr. Tabata, anything further?

7 **MR. TABATA:** No, chair. I think we're  
8 done. Thank you.

9 **CHAIR GIOVANNI:** Thank you.

10 We're going to power through, assuming  
11 that --

12 City & County, do you -- about how much  
13 time do you need?

14 **MR. DUBIEL:** About a minute or two, chair.

15 **CHAIR GIOVANNI:** OPSD, how much time do  
16 you need?

17 **MS. KATO:** Short, few minutes.

18 **CHAIR GIOVANNI:** We're going to power  
19 through.

20 So, City & County, would you like to  
21 present?

22 **MR. DUBIEL:** Just real quick. We just want  
23 to reiterate what we said in our November 29, 2022,  
24 submission, that we support the approval of 572.75  
25 job credits for the reports based upon 1991 through



1 2020.

2 The only thing that the city wants to  
3 ensure, and that's more to ensure that there's not a  
4 question later, is that this is -- in whatever order  
5 comes out of this, that this is the limit for that  
6 time period. So they can't revise and say we want an  
7 extra 20, we looked a little further, we found an  
8 extra 30 here. Just to resolve any ambiguity so  
9 there's not a potential that we're back here again  
10 in a year for another 10 credits or whatever for  
11 that time period.

12 And if that's not, you know, if there's a  
13 strong objection to that, the city's not going to  
14 fight this point too hard, but that we do want noted  
15 in the order that revisions make habit. Mainly just  
16 want to make sure that whatever order comes out of  
17 this is not ambiguous, that it's clear, and there's  
18 no questions about it later. That's all we have.  
19 Thank you.

20 **CHAIR GIOVANNI:** Thank you.

21 Commissioners?

22 **COMMISSIONER KAHELE:** I've got a question,  
23 chair.

24 **CHAIR GIOVANNI:** Commissioner Kahele?

25 **COMMISSIONER KAHELE:** Thank you. You know,

1 if you convert the amount of credits based on the  
2 amount of units, are we looking at maybe \$14-15  
3 million?

4 **MR. DUBIEL:** Are you -- \$14-15 million for  
5 what?

6 **COMMISSIONER KAHELE:** For \$25,000 per  
7 credit.

8 **MR. DUBIEL:** Yes.

9 **COMMISSIONER KAHELE:** We're looking at,  
10 what, 500+ credits?

11 **MR. DUBIEL:** Yes. You're saying 572 times  
12 25,000?

13 **COMMISSIONER KAHELE:** Yes. Yes. Yes.

14 **MR. DUBIEL:** I mean, I could calculate  
15 that if you'd like.

16 **COMMISSIONER KAHELE:** No, no. You know,  
17 it's kind of like --

18 **MR. DUBIEL:** Well, yeah, it's about 13  
19 million we're looking at.

20 **COMMISSIONER KAHELE:** Okay.

21 **MR. DUBIEL:** Yeah. It would be a \$13  
22 million deposit instead, instead of these credits.

23 **CHAIR GIOVANNI:** In the alternative.

24 **MR. DUBIEL:** In the alternative.

25 **COMMISSIONER KAHELE:** It's about there.

1 Okay. Very good. Thank you.

2 **CHAIR GIOVANNI:** I just have a question on  
3 your clarification that you're looking for. Are you  
4 saying that for the credits that they have on the  
5 record now, you want to basically freeze it at that  
6 number?

7 **MR. DUBIEL:** I would like --

8 **CHAIR GIOVANNI:** That doesn't foreclose  
9 their ability to do more work and generate more  
10 credits.

11 **MR. DUBIEL:** Of course not. Of course not.  
12 No. And even if they submit reports for 2021, which  
13 has already happened, and they seek approval, that  
14 would be additional credits. I'm saying this time  
15 period, from 1991 to 2020, which is the credits  
16 they're seeking approval, we're freezing that.

17 **CHAIR GIOVANNI:** Understood. Thank you.  
18 Commissioners, any further questions for  
19 the City & County?

20 Okay. We'll move to OPSD.

21 Oh, George. I'm sorry, I didn't see you.

22 **COMMISSIONER ATTA:** I haven't said much  
23 during this thing because -- you know, I've been --  
24 since I was a kid, I used to go One'ula Beach Park  
25 and just kind of hang around there. And on the mauka

1 side was chicken farms and everything. There wasn't  
2 much there, and it was a local place. And it seems  
3 this Ewa Beach area grows slowly, but isn't a very  
4 fast growth. Just everything has been slowly, but  
5 the same.

6           You know, I think that Haseko has come in  
7 and has been a good developer, because they fit --  
8 they have an idea, and when they fit, like, the  
9 lagoon and stuff like that, they change from some  
10 lagoon to a park and to a lagoon -- and anyway, they  
11 change fit from harbor to a lagoon, stuff like that.

12           And so I notice that Haseko has shifted,  
13 too, with the resort, and I think you folks would do  
14 a good job from here on, and I just watched it grow,  
15 and you have done what the community wants in the  
16 long run. So I think it's a good idea, and so I will  
17 trust that you folks will continue to do that out  
18 there. I just wanted to say that before -- okay.

19           **CHAIR GIOVANNI:** Okay. Thank you. OPSD?

20           **MS. KATO:** Alison Kato, attorney for OPSD.  
21 OPSD supports approval of the petitioner's motion  
22 for proof of job credits. We find that petitioner's  
23 calculations are conservative, well documented, and  
24 comply with all the requirements and restrictions in  
25 the commission's D&O.

1 And when I say conservative, it appears  
 2 that, you know, petitioner's calculations are lower  
 3 than what they potentially could have requested  
 4 approval for.

5 If the motion is approved, petitioner will  
 6 have a total of 575.22 approved job credits, which  
 7 are the credits being requested today plus the  
 8 credits that were previously approved.

9 As mentioned earlier by others, petitioner  
 10 may eventually build up to 950 units. So in the  
 11 future petitioner may come back to the commission  
 12 for approval of an additional 374.78 job credits.

13 OPSD appreciates petitioner's efforts to  
 14 complete the project while taking care to comply  
 15 with LUC's requirements and also keeping the  
 16 community well informed, and we also appreciate the  
 17 thoroughness of the submitted motions and exhibits,  
 18 and we are satisfied with petitioner's  
 19 representations on the accuracy of the reports.

20 That's all. I'm available for any  
 21 questions. Thank you.

22 **CHAIR GIOVANNI:** Thank you.

23 Commissioners, questions for OPSD?

24 Commissioner Ohigashi?

25 **COMMISSIONER OHIGASHI:** Does the state

1 agree with the City & County's proposition that we  
 2 freeze -- if we do decide to give these credits, we  
 3 freeze the amount for that period of time and that  
 4 no additional credits for this period of time would  
 5 be sought or approved?

6 **MS. KATO:** Yes. The state agrees.

7 **CHAIR GIOVANNI:** Anything further?

8 Commissioner Kamakea-'Ohelo?

9 Oh, I'm sorry. I thought you were waving  
 10 your hand.

11 **COMMISSIONER OKUDA:** Yeah. Gary Okuda.

12 Thank you, Mr. Chair.

13 Questions for the Office of State Planning  
 14 and Sustainable Development. Was in fact a written  
 15 certification provided by the applicant or  
 16 petitioner with each of their annual reports, as  
 17 such written certification is spelled out in plain  
 18 language in the D&O, which I quoted earlier? Was  
 19 that provided?

20 **MS. KATO:** I'm not sure that anything  
 21 exactly specifically saying that formally, like we  
 22 certify these things. That maybe is what you're  
 23 searching for. But we accept petitioner's reasoning  
 24 that what they submitted and their representations,  
 25 that is accurate. We would accept that as

1 certification.

2 **COMMISSIONER OKUDA:** What evidence does  
3 the Office of State Planning have that the summaries  
4 that were submitted to the Office of State Planning  
5 in fact accurately summarize the underlying facts  
6 for which the summary purports to summarize?

7 **MS. KATO:** I believe we're relying on the  
8 petitioner's representations that they've made to  
9 the LUC Commission. I understand that if you want  
10 all of the underlying documents and things, that  
11 would be too unwieldy and difficult for us to really  
12 go through.

13 **COMMISSIONER OKUDA:** Well, my only  
14 question is what, if anything, has the State Office  
15 of Planning done to verify that the representations  
16 were correct or accurate?

17 **MS. KATO:** The Office of Planning was  
18 relying on the various documents and things that the  
19 petitioner has submitted with their annual reports.  
20 So it's not just a summary; it's also copies of  
21 checks and other documents that they've submitted.

22 **COMMISSIONER OKUDA:** But, for example, the  
23 summary that I pointed out just has summaries of  
24 credits attributable to certain vendors such as  
25 lawyers, things like that. What, if anything, or can

1 you point to anything in the record which indicates  
2 the Office of Planning has done anything to verify  
3 that what's stated in the summary is accurate?  
4 Specifically, the example I was giving. If there's  
5 nothing, then there's nothing.

6 **MS. KATO:** I'm not sure exactly. I haven't  
7 looked at that example that you pointed out, but I  
8 believe the -- I'm not sure what has been done in  
9 the past, what the Office of State Planning has  
10 done, but I believe they're relying on what the  
11 petitioner has provided rather than going outside of  
12 that.

13 **COMMISSIONER OKUDA:** Okay. Thank you. No  
14 further questions.

15 **CHAIR GIOVANNI:** Thank you, Commissioner  
16 Okuda.

17 Anything further?

18 Commissioner Yamane?

19 **COMMISSIONER YAMANE:** Thanks. Just a  
20 question for the state, and maybe the county. How  
21 many man-hours was spent just checking the data and  
22 the map and the totals that were correct?

23 **MS. KATO:** My client has said lots, but we  
24 don't keep track of that.

25 **COMMISSIONER YAMANE:** I'm just curious.



1 Like, was it one hour, one person, or was it, like,  
2 a couple of weeks for a couple of people? Just  
3 curious how much time and effort was spent just  
4 looking at the data. There's a lot of data after --  
5 you heard other commissioners to go through and  
6 submitted by the petitioner, so I'm just curious.

7 **MS. KATO:** Are you talking -- just to  
8 clarify, are you talking about the current motion  
9 and documents?

10 **COMMISSIONER YAMANE:** Yes.

11 **MS. KATO:** Or are you talking about --  
12 okay, sorry. I thought you were referring to all the  
13 annual reports in the past.

14 **COMMISSIONER YAMANE:** No, no. Just the  
15 current documents, and to verify the credits, I'd  
16 like just --

17 **MS. KATO:** Well, there were various  
18 meetings with the petitioner, and my client did  
19 spend a lot of time reviewing all of the documents,  
20 but she's not sure how to estimate that.

21 **COMMISSIONER YAMANE:** Okay.

22 **MR. DUBIEL:** I'll take that. So Ms. Wong,  
23 who is here with me, reviewed all the exhibits, and  
24 she spent a few hours working on that. We also have  
25 Mr. Franz Krintz, who's here with us as well. He

1 spent a few hours personally going through  
2 everything well. And then I also spent a few hours  
3 looking through, adding things up again, and making  
4 sure that it's just -- it made sense to me.

5 **COMMISSIONER YAMANE:** Okay.

6 **MR. DUBIEL:** I used to do this kind of  
7 work for, like, other kind of cases where you're  
8 just adding hours up, but I've done it a lot in the  
9 past, and I did it again.

10 **COMMISSIONER YAMANE:** Okay. Thank you.

11 **MR. DUBIEL:** Yup.

12 **COMMISSIONER YAMANE:** No further  
13 questions, Mr. Chair.

14 **CHAIR GIOVANNI:** Thank you, commissioner.  
15 Anything further?

16 Thank you, OPSD. Appreciate it.

17 Petitioner, you have an opportunity for  
18 rebuttal.

19 **MR. TABATA:** Thank you, chair.

20 Real quick, just to reply to the request  
21 made by the county, Condition 1 was to -- oh, it  
22 requires us, sorry, to report job credits within two  
23 years after they accrue. So given where we were at  
24 and for year 2022, we may be asking or seeking or  
25 reporting job credits earned in 2019. So, you know,

1 creating a 2020 cutoff date could be problematic for  
2 us.

3 What we do accept, however, is that it's  
4 our burden to prove, If we come forward in the  
5 future to ask for more job credits to be approved,  
6 we will have the burden to show that we are not  
7 being duplicative and that it's separate and apart  
8 from any prior requests that we've made so that we  
9 can avoid any confusion.

10 **CHAIR GIOVANNI:** Can I ask you to read for  
11 the record an excerpt from that condition that you  
12 just referred to from the D&O? I think that will  
13 help clarify what the limitation is.

14 **MR. DUBIEL:** Thank you. It's the beginning  
15 of Condition 1d, which states in part, Credits for  
16 jobs generated under subparagraphs a through c above  
17 shall not be eligible for satisfaction of this  
18 condition unless within two years after they accrue,  
19 they are reported to the LUC in petitioner's annual  
20 report.

21 **CHAIR GIOVANNI:** Thank you.

22 So, City & County, does that -- would that  
23 condition, which I think is attempted to be  
24 addressed in the original D&O, would that satisfy  
25 your --?

1           **MR. DUBIEL:** That sounds, as far as the  
2 city. And again, I'm not trying to preclude  
3 petitioner from requesting whatever they want. I'm  
4 just trying to make sure that whatever order comes  
5 out of this is clear, that there's not a question  
6 later of what they can request. So if they want to  
7 -- if we just reiterate this within two years in  
8 whatever order, the city's happy with that.

9           **CHAIR GIOVANNI:** Well, my sense is the D&O  
10 already is on record and is controlling in this  
11 effect.

12           **MR. DUBIEL:** Okay.

13           **CHAIR GIOVANNI:** And at least in my mind,  
14 it might be sufficient. But it does address your  
15 concern.

16           **MR. DUBIEL:** Yes.

17           **CHAIR GIOVANNI:** And looks like it was  
18 addressed 30 years ago, so whatever that date was.

19           **MR. TABATA:** Thank you, chair. We have  
20 nothing more.

21           **CHAIR GIOVANNI:** Nothing more on it.  
22 So, commissioners, any questions for the  
23 petitioner on his rebuttal?

24           **COMMISSIONER OHIGASHI:** I just have a --

25           **CHAIR GIOVANNI:** Commissioner Ohigashi?

1           **COMMISSIONER OHIGASHI:** Just to make it  
2 all clear, then, the information you provided in  
3 this motion as well as the various reports filed  
4 with the state, with the LUC office and OSP, you  
5 would certify that that information is true and  
6 correct; is that right?

7           **MR. TABATA:** Yes.

8           **COMMISSIONER OHIGASHI:** Would the vice  
9 president enter into the record to make sure that  
10 that certification is on the record?

11          **MR. TABATA:** I'll ask him.

12          **COMMISSIONER OHIGASHI:** Okay.

13          **MR. KANNA:** Well, I personally didn't  
14 compile it myself but, yes, I do believe that it was  
15 done in an appropriate manner.

16          **COMMISSIONER OHIGASHI:** Okay. And you've  
17 assured that OSP will have the duty of receiving  
18 that or accepting these reports under the D&O, that  
19 these reports were true and correct; is that right?

20          **MR. KANNA:** Correct.

21          **COMMISSIONER OHIGASHI:** Okay. I have no  
22 further questions.

23          **CHAIR GIOVANNI:** Commissioner Cabral?

24          **COMMISSIONER CABRAL:** Okay. I have a  
25 question on the timeline. So you have submitted with

1 this job credit request everything through December  
 2 31, 2020. You're referring to 2020 as being your  
 3 last year of submittal, or is it 2019?

4 **MR. TABATA:** The job credits we are asking  
 5 for approval have been approved or reported up to  
 6 2020.

7 **COMMISSIONER CABRAL:** Up to, so January --

8 **MR. TABATA:** Right. Now, it's possible we  
 9 may have missed a project. We may not have reported  
 10 it this year or last year, but we have two years to  
 11 report it, to report the credit in our annual  
 12 report. So --

13 **COMMISSIONER CABRAL:** Okay.

14 **MR. KANNA:** Actually, we have only one  
 15 specific project we have not included because we are  
 16 still in the process of doing so.

17 **COMMISSIONER CABRAL:** Okay.

18 **MR. KANNA:** Okay? There was a health  
 19 clinic that was done on our property, okay, that was  
 20 done by, you know, the former president of First  
 21 Hawaiian Bank, Don Horner. I believe it was finished  
 22 in 2020. We are in the process of doing the  
 23 paperwork to make sure we can get the job credits  
 24 for that facility. So we're -- that's the only  
 25 question mark in my mind as to whether it fits into

1 that two-year timeframe.

2 **COMMISSIONER CABRAL:** Okay.

3 **MR. KANNA:** I just asked Mr. Lum, and he  
4 says he believes it was completed in 2020. I don't  
5 know what month, so that's going to be the big  
6 question.

7 **COMMISSIONER CABRAL:** Well, I think you're  
8 talking two years, so we talk years. So right now  
9 you would have the right to go back and report  
10 things in 2020 and in 2021 because we're now --  
11 otherwise, you got 23 days to get that report in;  
12 right?

13 **MR. KANNA:** The specificity is which  
14 month.

15 **COMMISSIONER CABRAL:** Okay. Oh, I see. So  
16 it's actually by the month. Okay. Okay. So if this  
17 job credit report goes up to January 1, 2020, we  
18 really don't have a problem here.

19 **MR. DUBIEL:** We don't.

20 **COMMISSIONER CABRAL:** Okay. Thank you.  
21 Just wanted to keep my numbers straight. Okay. Based  
22 on that, I'd like to --

23 **COMMISSIONER OKUDA:** Wait a minute, I'm  
24 sorry, one question.

25 **CHAIR GIOVANNI:** Commissioner Okuda?

1           **COMMISSIONER OKUDA:** Thank you. Gary  
2 Okuda. No, chair, I was just going to say that if --  
3 when it's appropriate, I'd like to make a motion.

4           **CHAIR GIOVANNI:** I've already had a  
5 request to make a motion as well from Commissioner  
6 Cabral. Would you mind deferring to her?

7           **COMMISSIONER OKUDA:** You can refer to her  
8 first.

9           **CHAIR GIOVANNI:** And then you can second  
10 or offer a friendly amendment, if you don't like  
11 what she does.

12           **COMMISSIONER CABRAL:** Of course.

13           **CHAIR GIOVANNI:** Commissioner Cabral?

14           **COMMISSIONER CABRAL:** Yes.

15           **CHAIR GIOVANNI:** Wait a minute. We're not  
16 there yet.

17           **COMMISSIONER CABRAL:** Okay. All right.

18           **CHAIR GIOVANNI:** Public testimony, last  
19 call. Once again, are there any members of the  
20 public at this point in time who would like to come  
21 forward and provide public testimony? Seeing none,  
22 we'll proceed further into deliberations.

23           Commissioner, the chair will entertain a  
24 motion regarding how the commission should proceed  
25 in this matter. Any commissioner like to make a



1 motion?

2 Commissioner Cabral?

3 **COMMISSIONER CABRAL:** I would like to make  
4 a motion that would be based on the submission by  
5 the petitioner and the receipt and acceptance by the  
6 Land Use Commission and by the State Office of  
7 Planning and Sustainability of the earned job  
8 credits that were submitted in accordance with  
9 Condition 1 of the 1994 Decision & Order. I would  
10 like to move to grant the petitioner's motion to  
11 approve job credits, noting that the motion may not  
12 affect any rights, remedies, or privileges of the  
13 petitioner under the existing laws.

14 And I would like to authorize the Land Use  
15 Commission staff to make non-substantive changes to  
16 the conditions as appropriate regarding formatting,  
17 style, or other modification to ensure consistency  
18 and authorize the chair of the Land Use Commission  
19 to sign the order in this matter on behalf of the  
20 commission. Thank you.

21 **CHAIR GIOVANNI:** Thank you.

22 Do I have a second?

23 **COMMISSIONER OKUDA:** Chair, this is Gary  
24 Okuda. I second the motion.

25 **COMMISSIONER CABRAL:** Without a change?

1           **COMMISSIONER OKUDA:** This is Gary Okuda.  
2 Without a change.

3           **COMMISSIONER CABRAL:** Thank you.

4           **CHAIR GIOVANNI:** Okay. Commissioner, would  
5 you like to speak in support of your motion?

6           **COMMISSIONER CABRAL:** Yes. I appreciate  
7 what we've been through and I really appreciate over  
8 my years that so many times we never come to a  
9 resolution. We just seem to kick the can down, and  
10 so many of the projects that we discussed over the  
11 years have projects that got permission in the 1990s  
12 and are still not built and still don't have any  
13 houses for the public and the citizens or any kind  
14 of services or buildings or anything to accommodate  
15 people.

16           They have instead just gone from one owner  
17 to bankruptcy to another owner to bankruptcy to  
18 something else, and I appreciate the fact that you  
19 as the petitioner, the developers, and the  
20 representatives, all of you present, have continued  
21 to work forward to try and do something.

22           And I particularly appreciate that it  
23 appears that you have done this in respect of the  
24 community that you live in and around your  
25 development. So thank you very much for your efforts

1 to provide for our public.

2 **CHAIR GIOVANNI:** Thank you.

3 Commissioner Okuda?

4 **COMMISSIONER OKUDA:** This is Gary Okuda.

5 Thank you, Mr. Chair.

6 Let me preface my support by saying I  
7 asked these questions so that a couple of things,  
8 you know, would be clear. Number one, that as much  
9 as I trust the representations of Curtis Tabata, who  
10 I think has an outstanding, excellent reputation in  
11 this town as a practicing attorney, I don't want any  
12 indication that he receives any special favors or  
13 anything like that from the commission, that he's  
14 treated the same way as everyone else.

15 And with respect to that, the reason why I  
16 asked these questions about the conditions are not  
17 necessarily with Mr. Tabata's presentations, because  
18 he usually makes sure that conditions and  
19 representations that have been made will be followed  
20 later on. But unfortunately, that's not what happens  
21 with many people who appear in front of the  
22 commission.

23 So it's necessary for us to carry out our  
24 duties to be sure that the law is enforced equally  
25 without fear or favoritism of anyone. I'm satisfied

1 with the testimony of Mr. Lum, who I find credible,  
2 that the summaries were prepared in the normal  
3 course of business. It was prepared by him or  
4 someone else under his supervision, who had personal  
5 knowledge of the underlying documents, so even  
6 though the rules of evidence don't strictly apply in  
7 these type of administrative proceedings, the  
8 testimony they give indicates essentially strict  
9 compliance or compliance with the rules of evidence  
10 if in fact applied.

11 I'm satisfied with the testimony and the  
12 responses to the questions, including those of  
13 Commissioner Ohigashi, that there is a certification  
14 of the accuracy of the information. And so for those  
15 reasons and other good reasons on the record, I ask  
16 that the motion be granted and voted in favor of.  
17 Thank you.

18 **CHAIR GIOVANNI:** Thank you, Commissioner  
19 Okuda.

20 Let me just clarify that the motion is to  
21 approve the motion made by the -- that's what we're  
22 discussing now.

23 **COMMISSIONER CABRAL:** Yes.

24 **CHAIR GIOVANNI:** The motion is to approve  
25 the motion put forth by the petitioner.

1 Commissioners, any further discussion?

2 **COMMISSIONER YAMANE:** Mr. Chair?

3 **CHAIR GIOVANNI:** Where are we? Mr. Yamane?

4 **COMMISSIONER YAMANE:** I will be supporting  
5 this motion also. I just wanted to acknowledge the  
6 petitioner's submission of all the data and the  
7 state and the county, and especially our LUC staff,  
8 for going through the data. That's, like, kind of  
9 entrusting.

10 If you guys spent more than hour, you  
11 spent more than I spent looking at the data, because  
12 there was a lot of data to go through and verifying  
13 percentages. I really appreciate the staff's work,  
14 and that's for sure the LUC staff. So I'll be  
15 supporting this motion.

16 Thank you, Mr. Chair.

17 **CHAIR GIOVANNI:** Thank you, Commissioner  
18 Yamane.

19 Anybody else?

20 So the chair is also going to support this  
21 motion. And I tend to agree with Commissioner Cabral  
22 in that we sit here with -- as the current  
23 commission, and a lot of what we have to do deal  
24 with decisions and orders that were made 10, 15, 20,  
25 25, 30 years ago, and too often we see that things

1 never went as planned.

2           And as far as I can tell, this project has  
3 proceeded pretty close to how it was envisioned at  
4 the outset many years ago. And that's a credit to  
5 Haseko and the organization.

6           I also want to acknowledge that the only  
7 community personnel that I heard from were very  
8 supportive of not only this specific petition, but  
9 the role that you play in their community and what  
10 you've brought forth in their community. And that  
11 speaks volumes to us.

12           I do very much appreciate that you did the  
13 infrastructure first. You'd be amazed how often we  
14 see that it's just not the case, and it becomes  
15 quite problematic.

16           I also want to acknowledge both the City &  
17 County of Honolulu and the state for their role in  
18 this process and for them coming forth with succinct  
19 and supportive positions.

20           And finally, I want to compliment Mr.  
21 Tabata for his case. And I always compliment him  
22 because more than any other attorney, he answers yes  
23 or no questions with a yes or a no.

24           So thank you, Mr. Tabata. I really  
25 appreciate that, because it helps us get to lunch on

1 time.

2 So if there's no further comment, I'm  
3 going to ask Mr. Orodenger to poll the commission on  
4 our motion.

5 **MR. ORODENER:** Thank you, Mr. Chair.

6 The motion is to grant petitioner's motion  
7 to approve job credits, noting that the motion would  
8 not affect the rights, remedies or privileges of the  
9 petitioner under existing law, and to authorize LUC  
10 staff to make non-substantive changes and to  
11 authorize the chair to sign the order on this matter  
12 on behalf of the commission.

13 Commissioner Cabral?

14 **COMMISSIONER CABRAL:** Yes.

15 **MR. ORODENER:** Commissioner Okuda?

16 **COMMISSIONER OKUDA:** Yes.

17 **MR. ORODENER:** Commissioner Atta?

18 **COMMISSIONER ATTA:** Aye.

19 **MR. ORODENER:** Commissioner Chang?

20 **COMMISSIONER CHANG:** Aye.

21 **MR. ORODENER:** Commissioner Kahele?

22 **COMMISSIONER KAHELE:** Aye.

23 **MR. ORODENER:** Commissioner Kamakeo-  
24 'Ohele?

25 **COMMISSIONER KAMAKEA-'OHELO:** Aye.

1 **MR. ORODENKER:** Commissioner Ohigashi?

2 **COMMISSIONER OHIGASHI:** Yes.

3 **MR. ORODENKER:** Commissioner Yamane?

4 **COMMISSIONER YAMANE:** Aye.

5 **MR. ORODENKER:** Chair Giovanni?

6 **CHAIR GIOVANNI:** Aye.

7 **MR. ORODENKER:** Thank you, Mr. Chair. The  
8 motion passes with nine votes unanimously.

9 **CHAIR GIOVANNI:** Thank you.

10 And thanks to all the parties who  
11 participated today and to the public. Thank you to  
12 my fellow commissioners.

13 If there's no further business today. This  
14 meeting is adjourned.

15 **(WHEREUPON, the meeting concluded at 12:26**  
16 **p.m.)**

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1 CERTIFICATE

2  
3 I, Davilyn Payne, do hereby certify that the  
4 proceeding named herein was professionally transcribed on  
5 the date set forth in the certificate herein; that I  
6 transcribed all testimony adduced and other oral  
7 proceedings had in the foregoing matter; and that the  
8 foregoing transcript pages constitute a full, true, and  
9 correct record of such testimony adduced and oral  
10 proceeding had and of the whole thereof.

11  
12 IN WITNESS HEREOF, I have hereunto set my hand this  
13 22nd day of December, 2022.

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19 Davilyn Payne  
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