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To: [DBEDT LUC](#)
Subject: Aha Moku Testimony - A81-525 Y-O Limited Partnership (Hawaii)
Date: Wednesday, November 15, 2023 3:17:39 PM
Attachments: [Aha Moku Tst-Agenda Item II LUC 11.16.23.pdf](#)



Aloha,

Attached please find our testimony in opposition to the A81-525 Y-O Limited Partnership that will be heard tomorrow. Our apologies for the late testimony but we were just notified of the LUC meeting this afternoon. I would also like to attend this meeting via zoom if you could send me the link, please.

Mahalo nui loa,
Leimana

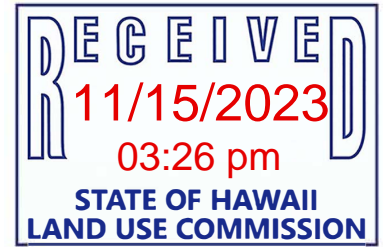
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**Department of Land and Natural Resources
Aha Moku Advisory Committee
State of Hawaii
Post Office Box 621
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Hawaii State Aha Moku Testimony
To the Land Use Commission

November 16, 2023
Kailua-Kona, Hawaii



Agenda Item II: A81-525 Y-O LIMITED PARTNERSHIP (Hawai'i)

To Consider Petitioner's Motion for Reconsideration of Decision and Order Denying Motion for Extension of Time to Apply for Redistricting of Phase II. Approximately 408.719 Acres of Land at Kaloko and Kohanaiki, North Kona, Hawai'i, TMK nos.: (2)7-3-09:19, 20, and 57 to 62.

Aloha Chairperson Giovanni and Honorable Members of the Land Use Commission,

We speak on behalf of the Aha Moku participants and members of Native Hawaiian generational families of Ahupua'a of Kaloko and the neighboring Ahupua'a of O'oma, Kalaoa, Honokohauiki and Puapua'a.

We strongly oppose this request as we believe the petitioner RCFC Kaloko Heights, LLC, a Delaware limited liability company has had ample time to redistrict Phase II of lands at Kaloko and Kohanaiki. In their own Docket No. A81-525, the Procedural History states this project began in 1983. In the ensuing 40 years, no significant progress has been made despite numerous extensions granted. Further, this includes any real progress after 2000 when the Hawaii Supreme Court mandated the Kapa'akai Analysis be followed by the Land Use Commission in its deliberations.

Kapa'akai O Ka Aina¹ Analysis

Findings of Fact and Conclusions of Law of the Kapa'akai Case

- Identification and scope of "valued cultural, historical, or natural resources" in petition or impacted area, including the extent to which traditional and customary native Hawaiian rights are exercised in the petition area.
- The extent to which those resources, including traditional and customary native Hawaiian rights, will be affected or impaired by the proposed actions.
- The feasible action, if any, to be taken to reasonably protect native Hawaiian rights if they are found to exist.

The Kapa'akai Analysis can be used in determining whether traditional and customary practices would be impacted by the proposed project. However, it is clear from its docket the Petitioner has not consulted with, or researched any significant cultural areas that are used for traditional practices. The traditional practices have not been identified – either on land, or how this development may or shall adversely impact traditional practices mauka or makai of the project. It is well known that native Hawaiian cultural and traditional practices intersect with the neighboring ahupua'a, especially when it comes to lawaia practices in the ocean. And, even though

¹ Ka Pa'akai O Ka'Aina v. Land Use Commission, State of Hawai'i, 2000, Supreme Court of Hawai'i

this project is not on the ocean, has it been determined that its development will not impact traditional fishing practices either in the coastal waters or in the deeper marine waters.

We oppose the Petitioner's Motion for Reconsideration of Decision and Order Denying Motion for Extension of Time to Apply for Redistricting of Phase II because we also believe that traditional and customary rights of Native Hawaiians are not ascertained on the property, that there is a distinct lack of the Kapa'akai Analysis, inadequate archaeological review, and there has not been a good faith effort to work with community, including native Hawaiian generational and traditional practices on the property, and mauka and makai of the site.

Mahalo nui loa, for the opportunity to testify on this important issue that is dear to the people of Kaloko, O'oma, Kalaoa, Honokohauiki and Puapua'a.

Respectfully and humbly yours,

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