

Cain, Michael

From: mehana kihoi <uhiwai@live.com>
Sent: Friday, August 12, 2016 10:00 AM
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Subject: Case No. BLNR-CC-16-002
Attachments: mehana recon motion.pdf; ATT00001.txt

Aloha no kakou,

Attached is my Motion For Reconsideration to Deny the Intervention of P.U.E.O. as Party in the Contested Case, Exhibits in Support of My Motion, and Certificate of Service.

Nui ke aloha,
Mehana Kihoi

IN THE MATTER OF

Case No.: BLNR-CC-16-002

A Contested Case Hearing Re Conservation
District Use Permit (CDUP) HA-3568 for the
Thirty Meter Telescope at Mauna Kea Science
Reserve, Kaohe Mauka, Hamakua District, Island
of Hawaii, TMK (3) 4-4-015:009

**MOTION FOR
RECONSIDERATION TO DENY
THE INTERVENTION OF
PERPETUATING UNIQUE
EDUCATIONAL OPPORTUNITIES
AS A PARTY IN THE
CONTESTED CASE HEARING;
MEMORANDUM IN OPPOSITION
OF MOTION; CERTIFICATE OF
SERVICE**

Mehana Kihoi, Pro Se
PO Box 393
Honaunau, HI 96726

**BOARD OF LAND AND NATURAL RESOURCES
FOR THE STATE OF HAWAI'I**

**MOTION FOR RECONSIDERATION TO DENY THE INTERVENTION OF
PERPETUATING UNIQUE EDUCATIONAL OPPORTUNITIES
AS A PARTY TO THE CONTESTED CASE HEARING**

Comes NOW, I, Mehana Kihoi, a citizen of Hawai'i, a Native Hawaiian beneficiary, as defined by the Hawaiian Homes Commission Act of 1921, and a cultural practitioner, representing myself, hereby respectfully move the Board of Land and Natural Resources ("BLNR") or the Hearing Officer to reconsider my motion to deny Perpetuating Unique Educational Opportunities' ("PUEO") motion to intervene as a party to the contested case pursuant to Hawaii Administrative Rules ("HAR") § 13-1-39(a)(1)-(2). This motion is made

pursuant to HAR § 13-1-31 and all other applicable rules of practice and procedure and is based on the attached Memorandum in Opposition.

I. DISCUSSION

Under HAR § 13-1-39(a)(1)-(2) §13-1-39 “upon a motion of a party, the board may reconsider a decision it has made on the merits only if the party can show that:(1) New information not previously available would affect the result;” or, in the alternative, “(2) A substantial injustice would occur.” HAR 13-1-39 (West) (Westlaw through 2016).

- 1) PUEO should be denied intervention as a party to the contested case because the President of PUEO, Shadd Keahi Warfield, has a direct and material conflict of interest to BLNR member Stanley Roehrig.

Under Hawaii Revised Statutes (“HRS”) § 171-4(d):

“Each member shall disclose and file with the board a list of all transactions with the department of land and natural resources in which the member has a direct interest. The member shall also disclose all transactions with the department involving any corporation, association, partnership, or joint venture in which the member is an officer, partner, or employee. Any member having any interest, direct or indirect, in any matter before the board shall disqualify oneself from voting on or participating in the discussion of the matter.”

HRS § 171-4(d) (West, Westlaw through 2016).

To date, Stanley Roehrig (“Roehrig”) has not provided any required disclosures under HRS § 171-4(d) to his business interest in Keaukaha One Youth Development (“KOYD”). Shadd Keahi Warfield (“Warfield”) is the President of KOYD (See Exhibit 1) and the President of PUEO.¹ The registered business address for KOYD is 101 Aupuni Street, Suite 124, Hilo, Hawaii 96720. (See Exhibit 1.) Stanley Roehrig is a member of the Board of Land and Natural

¹ About Us - PUEO - Perpetuating Unique Educational Opportunities, PUEO - Perpetuating Unique Educational Opportunities (2016), <http://alohapueo.org/about-us/> (last visited Aug 12, 2016).

Resources (“BLNR”). DEPARTMENT OF LAND AND NATURAL RESOURCES, Member Stanley H Roehrig, <http://dlnr.hawaii.gov/boards-commissions/blnr/member-stanley-h-roehrig/> (last visited on August 11, 2016). He represents the island of Hawai‘i for the term of July 1, 2014 to June 30, 2018. Id. Roehrig is also a licensed attorney. (See Exhibit 2). He owns and operates the Stanley H. Roehrig, Attorney At Law, Law Corporation. Id. Roehrig’s law practice is located at 101 Aupuni Street, Suite 124, Hilo, Hawai‘i, 96720. Id. KOYD and Roehrig share the same business address. Id. (See Exhibits 1 and 2, Legal registered business addresses under the Department of Commerce and Consumer Affairs show that KOYD and Roehrig’s law office are located at 101 Aupuni St., Ste. 124, Hilo, Hawai‘i).

It’s absurd that counsel, Mr. Douglas Ing, for the Thirty Meter Telescope International Observatory (“TIO”) would minimize such a direct and material conflict of interest between PUEO’s President, KOYD and Roehrig. Warfield and Roehrig share the exact same room to operate their respective businesses in violation of HRS § 171-4(d). (See Exhibits 1 and 2, State records show KOYD and Roehrig are located in Ste. 124).

Under this arrangement, Warfield has direct access to Roehrig, who has been a supporter of the Thirty Meter Telescope (“TMT”). (See Exhibit 3 for the July 25, 2014 BLNR Minutes at page 13). Roehrig stated on July 25, 2014, he considered the application for a sublease by TIO to the University of Hawai‘i (“UH”) a “very sensitive matter to him and his family.” Id. Following this comment, Roehrig made the recommendation to grant the sublease and deny a contested case hearing for those who challenged the sublease. Id.

Further, Roehrig is likely in violation of the Hawai‘i Rules of Professional Conduct (“Ethical Rules”). Under formal opinion 18 and 22 by the Office of Disciplinary Counsel of the

Supreme Court of Hawai‘i, a shared space and the respective costs associated with that space between a lawyer and a non-lawyer business are permissible. (See Exhibit 4 Formal Opinion). However, the two businesses must have an agreement in place for their respective halves of the shared space to ensure they memorialize the costs associated with that space and to ensure the businesses maintain their separate and distinct identities. Id.

In other words, there must be an agreement in place between Roehrig and Warfield to guarantee Roehrig is in compliance with the Ethical Rules. Thus, Roehrig has a direct and material business interest to KOYD. Otherwise, if an agreement was not in place, Roehrig could face possible ethical violations for misconduct and the potential loss of his law license. This agreement to share the same space, whether informal or formal, links Warfield to Roehrig and should be sufficient to demonstrate a conflict of interest and deny PUEO intervention as a party to the present contested case.

The Supreme Court of the United States held that a “federal conflict-of-interest statute forbids government agents from engaging in business transactions on behalf of the government if, by virtue of his private interests, he may benefit financially from [the] outcome.” United States v. Mississippi Valley Generating Co. [“United States”], 364 U.S. 520, 81 S. Ct. 294, 5 L. Ed. 2d 268 (1961). The Court set a three prong test to determine if there was a conflict of interest: 1) whether the individual was an officer or agent of the government; 2) whether the agent was directly or indirectly interested in the pecuniary profits or contracts of the sponsors and; 3) whether the agent likely benefitted from that contract. Id. at 555, 560-562. The intent of this statute is “directed at an evil which endangers the very fabric of a democratic society, for a democracy is effective only if the people have faith in those who govern, and that faith is bound

to be shattered when high officials and their appointees engage in activities which arouse suspicions of malfeasance and corruption. Id. at 562

Here, Roehrig is a member of BLNR. As primary guardian of public lands, BLNR has an “affirmative duty” to protect and conserve these lands for “the benefit of present and future generations.” HAW. CONST. ART. XI, § 1. Roehrig has a fiduciary duty to protect the interests of beneficiaries of the public lands trust and to protect customary and traditional rights secured by Article XI, §§ 1 and 7, and Article 12, § 7, of the Hawai‘i State Constitution and § 5(f) of the Admissions Act. As a member, Roehrig and the board have the authority to dispose of public land by lease. HRS § 171-13(1) (West, Westlaw through 2016). At issue in the present contested case is an application for a Conservation District Use Permit (“CDUP”). As a BLNR member, he has the authority to vote in favor or reject the CDUP. Thus, Roehrig is an agent of the State of Hawai‘i because he transacts business on behalf of the state. Therefore, Roehrig meets the first prong of the United States.

The second prong under United States requires us to determine whether Roehrig was directly or indirectly interested in the pecuniary profits or contracts of the sponsors to establish if there is a conflict of interest. United States 364 U.S. at 560.

Here, TIO and PUEO failed to disclose important facts about ties Warfield and Roehrig have to KOYD and BLNR. Roehrig has a significant and close relationship to KOYD. KOYD was founded in 2006 by his wife Jan Roehrig. (See Exhibit 1, KOYD established on July 7, 2006, Exhibit 5-State Land records show mortgage held by Stanley and Jan Roehrig as husband

and wife, See Exhibit 6- KOYD's 2008 990 IRS Form with Jan Roehrig as a board member.). KOYD has held the Aupuni address since its inception. (See Exhibit 1). Roehrig was a board member of KOYD up until March 16, 2015.² On January 30, 2015, Warfield submitted a grant application for \$15,000 on behalf of KOYD, a grant funded by UH and TIO. Id. This grant was subsequently funded. Id.

To be clear, that means Roehrig was a member of BLNR, a board member of KOYD and operated his law practice at the same time. He was a direct beneficiary from this grant sufficient to meet the second prong of United States because the organization he was a part of received funding from UH and TIO, who were concurrently seeking approval for their CDUP through BLNR. (See Exhibit 3 for BLNR July 2014 meeting minutes). What is even more absurd is TIO argues that Roehrig and KOYD did not have a conflict of interest based on a date technicality. TIO argues that Roehrig resigned from KOYD on March 16, 2015, eleven days before KOYD received word that they received the THINK grant when in actuality Roehrig has had intimate ties to KOYD since its inception in 2006. (See Exhibit 1).

To exasperate the circumstance further, while Roehrig served in three roles, he operated his law practice from the same address as KOYD at the time Warfiled applied for the THINK grant. It's impossible to suggest that Roehrig did not have notice of KOYD's grant application when the two businesses were operating from the same room.

This is problematic because Roehrig likely violated the disclosures required under HRS § 171-4(d) and the rules of ethical conduct. (See Exhibit 4, ODC formal opinion). Roerhig is

² *Anita Hofschneider, BLNR Board Member Had No Conflict of Interest in Vote on Mauna Kea Access*, CIVIL BEAT (July 15, 2015), <http://www.civilbeat.org/2015/07/blnr-board-member-had-no-conflict-of-interest-in-vote-on-mauna-kea-access/>. (Article states Roehrig resigned from the board on March 16, 2015 just eleven days before KYOD received word they were granted a \$15,000 THINK grant funded by UH and TIO)

likely in violation of the ethical rules of conduct because he operated his law practice and was a board member of KOYD at the same time from the same address. Here, it would be impossible for the two businesses to maintain separate identities because Roehrig had an interest in both of them.

The third prong of United States requires us to determine whether the agent “likely benefitted” from the transaction to determine if there is a conflict of interest. Here, the organization, KOYD, an organization Roehrig has had close ties to since 2006, directly benefited from the THINK scholarship. Because Roehrig has failed to provide the required disclosures, specifically financial disclosures to KOYD and the shared Aupuni address, we cannot determine if KOYD rents space from the Aupuni address or whether Roehrig receives a tax credit. In either case, Roehrig is tied to KOYD. On the other hand, whether he is occupying Roehrig’s office for free, Warfield has a direct pecuniary interest as the President of KOYD to a board member of BLNR who has the authority to influence the outcome and future of the present contested case.

In the interest of fair and substantial justice, transparency and truth, PUEO should not be granted intervention into the case to prevent the further violation of HRS 171-4(d). Following the submission of this motion, I intend to respectfully request that the Office of Disciplinary Counsel pursue a full investigation into this matter for ethical violations to determine if Roehrig violated the rules and to determine whether he breached his fiduciary duty to uphold the trust obligations of the Hawai‘i State Constitution as a member of BLNR and as an officer of the Court. The link between Warfield and Roehrig is important because it proves a pecuniary interest they have to one another.

In addition to this, Warfield's life partner is Naomi Ahu ("Ahu"). Ahu is an employee of the Department of Land and Natural Resources under the Division of Aquatic Resources.³ As an employee of DLNR, Ahu should have access to agency records and information regarding the management of DLNR lands, which includes the Mauna Kea Reserve.

Therefore, considering the new and relevant information, I respectfully ask that you deny PUEO's request for intervention. There is material conflict of interest between Warfield, the President of PUEO and Roehrig.

2) PUEO is not entitled to intervene because it failed to prove an injury in fact.

It's alarming that TIO would suggest that PUEO is a proper party in this case because PUEO failed to prove standing in order to effectively demonstrate a protected interest in this case. In Pele Def. Fund v. Paty, 73 Haw. 578, 594, 837 P.2d 1247, 1258 (1992), standing is established if one can prove "(1) its members are beneficiaries of the public trust who have been economically and/or aesthetically injured; (2) its injuries are traceable to the alleged breach of trust; and (3) the requested relief would be likely to remedy the injuries." Id. Here, PUEO has not provided any information on an actual, threatened or imminent injury to justify intervention. In response to my motion, PUEO failed to address my point regarding their standing. PUEO made one single argument that my motion was untimely. They did not articulate how they would be injured if intervention was not granted.

On the other hand, TIO defended PUEO, which supports our original argument that PUEO is being adequately represented in the present case.

³ Mapping and Inventory Achialine Pool Habitat and Biota in the Manuka Watershed and Natural Area Reserve October 2008 to March 2009. Available at https://www.researchgate.net/publication/259602201_Mapping_and_Inventory_of_Achialine_Pool_Habitat_and_Biota_in_the_Manuka_Watershed_and_Natural_Area_Reserve. (last visited on August 11, 2016)

To confuse the case further, TIO, in their response motion, attacked my standing. To be clear, I have standing in this case. I am a cultural practitioner as defined under Article 12, § 7, of the Hawai‘i State Constitution. HAW. CONST. ART. XII, § 7. I am a beneficiary of the Hawaiian Homes Commission Act of 1921. I am also a beneficiary of the Public Lands Trust under § 5(f) of the Admissions Act. Admissions Act § 5(f). This is important because Mauna Kea Conservation District is public land held in trust for the general public and Native Hawaiians. HAW. CONST. ART. XII, § 4, Admissions Act § 5(f). These lands are not for private use but for public trust purposes including the “betterment of conditions of native Hawaiians.” Admissions Act § 5(f). Thus, “native Hawaiian beneficiaries of the ceded lands trust have a ‘right to bring suit under the Hawai‘i Constitution to prospectively enjoin the State from violating the terms of the ceded lands trust.” OHA v. HCDCH, 117 Hawai‘i at 194, 177 (2009). Violations to the ceded lands trust includes the failure to protect and preserve customary and traditional rights.

Here, I have standing because I have direct ancestral ties to Mauna Kea. (See Exhibit 7 for my affidavit). My ancestors practiced gathering rights on Mauna Kea for hundreds of years. I continue these practices till today with my own child. I will suffer a grave and severe injury if the land of Mauna Kea is further desecrated by the construction of TMT. My injury is traced to UH/TIO and their application for a CDUP. If granted, the TMT will threaten the continuance of my traditional and customary rights in the respective area. I have included a sworn statement to this motion to be incorporated by reference herein. Unlike PUEO, I meet all of the requirements for standing under the Pele ruling.

I also reaffirm and stand on the merits of my first motion to be incorporated by reference herein.

II. CONCLUSION

Based on the foregoing, I, Mehana Kihoi, respectfully urge Hearings Officer Amano to deny PUEO's motion to intervene.

DATED: 08/12/2016

Mehana Kihoi

Mehana Kihoi, Pro Se

IN THE MATTER OF

Case No.: BLNR-CC-16-002

A Contested Case Hearing Re Conservation District Use Permit (CDUP) HA-3568 for the Thirty Meter Telescope at Mauna Kea Science Reserve, Kaohe Mauka, Hamakua District, Island of Hawaii, TMK (3) 4-4-015:009

EXHIBITS TO SUPPORT MEHANA KIHOI'S MOTION FOR RECONSIDERATION TO DENY THE INTERVENTION OF PERPETUATING UNIQUE EDUCATIONAL OPPORTUNITIES AS A PARTY IN THE CONTESTED CASE HEARING; CERTIFICATE OF SERVICE

Mehana Kihoi, Pro Se
PO Box 393
Honaunau, HI 96726

**BOARD OF LAND AND NATURAL RESOURCES
FOR THE STATE OF HAWAII**

**LIST OF EXHIBITS TO SUPPORT MEHANA KIHOI'S MOTION FOR
RECONSIDERATION TO DENY PUEO INTERVENTION**

Exhibit Lists	Name and Content of Document
Exhibit 1	The State of Hawaii, Department of Commerce and Consumer Affairs, Business Registration for Keaukaha One Youth Development
Exhibit 2	The State of Hawaii, Department of Commerce and Consumer Affairs, Business Registration for STANLEY H. ROEHRIG, AAL, LLLC, Attorney at Law
Exhibit 3	Excerpt from the July 25, 2014 Board of Land and Natural Resources Meeting Minutes Pages 10 to 13 regarding the discussion pertaining to Mauna Kea sublease
Exhibit 4	Formal Opinion Numbers 18 and 22 by the Office of Disciplinary Counsel of the Supreme Court of Hawaii regarding shared office space between a non lawyer and a lawyer

Exhibit 5	The State of Hawaii, Bureau of Conveyances Official Public Records, a mortgage held by Stanley Roehrig and Jan Roehrig as husband and wife
Exhibit 6	IRS Form 990-EZ for Keaukaha One Youth Development showing Jan Roehrig as board member of the organization
Exhibit 7	A signed and notarized affidavit by Mehana Kihoi

I hereby submit these exhibits in support of my motion for reconsideration to deny PUEO intervention as a party to the contested case.

Respectfully,

DATED: 08/12/2016

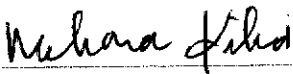

Mehana Kihoi, Pro Se

EXHIBIT 1

The State of Hawaii, Department of Commerce and Consumer Affairs,
Business Registration for Keaukaha One Youth Development.

DCCA State of Hawaii

Downloaded on August 12, 2016.

The information provided below is not a certification of good standing and does not constitute any other certification by the State.

Website URL: <http://hbe.ehawaii.gov/documents>

Business Information

MASTER NAME	KEAUKAHA ONE YOUTH DEVELOPMENT
BUSINESS TYPE	Domestic Nonprofit Corporation
FILE NUMBER	216258 D2
STATUS	Active
PURPOSE	THE CORPORATION IS ORGANIZED EXCLUSIVELY FOR CHARITABLE, EDUCATIONAL, AND SCIENTIFIC PURPOSES UNDER SECTION 501(C)(3) OF THE INTERNAL REVENUE CODE, AS AMENDED, OR ANY FUTURE FEDERAL TAX CODE.
PLACE INCORPORATED	Hawaii UNITED STATES
INCORPORATION DATE	Jul 7, 2006
MAILING ADDRESS	61 KEOKEA LOOP HILO, Hawaii 96720 UNITED STATES
TERM	PER
AGENT NAME	KEAHI WARFIELD
AGENT ADDRESS	101 AUPUNI ST STE 124 HILO, Hawaii 96720 UNITED STATES

Annual Filings

FILING YEAR	DATE RECEIVED	STATUS
2016	Jul 19, 2016	Pending
2015	Jul 6, 2015	Processed
2014	Jul 7, 2014	Processed
2013	Jul 3, 2013	Processed
2012	Jul 18, 2012	Processed
2011	Jul 17, 2011	Processed
2010	Jul 7, 2010	Processed
2009	Jul 19, 2009	Processed
2008	Jul 31, 2008	Processed
2007	Jul 12, 2007	Processed

Officers

NAME	OFFICE	DATE
WARFIELD,SHADD KEAHI	P/D	Apr 20, 2016
OSORIO,ELROY TOM	V/D	Apr 20, 2016
AHU,NAOMI	S/T/D	Apr 20, 2016

EXHIBIT 2

The State of Hawaii, Department of Commerce and Consumer Affairs,
Business Registration for STANLEY H. ROEHRIG, AAL, LLC,
Attorney at Law.

DCCA State of Hawaii

Downloaded on August 12, 2016.

The information provided below is not a certification of good standing and does not constitute any other certification by the State.

Website URL: <http://hbe.ehawaii.gov/documents>

Business Information

MASTER NAME	STANLEY H. ROEHRIG, AAL, LLLC
BUSINESS TYPE	Domestic Limited Liability Company (LLC)
FILE NUMBER	41756 C5
STATUS	Active
PURPOSE	ATTORNEY AT LAW
PLACE INCORPORATED	Hawaii UNITED STATES
REGISTRATION DATE	Dec 21, 2005
MAILING ADDRESS	101 AUPUNI ST STE 124 HILO, Hawaii 96720 UNITED STATES
CROSS REFERENCE NAME	STANLEY H. ROEHRIG, AAL, LLLC
MANAGED BY	MANAGER(S)
AGENT NAME	STANLEY H. ROEHRIG
AGENT ADDRESS	101 AUPUNI ST STE 124 HILO, Hawaii 96720 UNITED STATES

Annual Filings

FILING YEAR	DATE RECEIVED	STATUS
2015	Oct 4, 2015	Processed
2014	Oct 14, 2014	Processed
2013	Oct 4, 2013	Processed
2012	Oct 8, 2012	Processed
2011	Oct 10, 2011	Processed
2010	Oct 12, 2010	Processed
2009	Oct 4, 2009	Processed
2008	Oct 15, 2008	Processed
2007	Nov 11, 2007	Processed
2006	May 24, 2007	Processed

Officers

NAME	OFFICE	DATE
ROEHRIG, STANELY H	MGR	Dec 21, 2005

EXHIBIT 3

Excerpt from the July 25, 2014 Board of Land and Natural Resources Meeting Minutes Pages 10 to 13 regarding the discussion pertaining to Mauna Kea sublease.

Moore asked Barry Cheung- DLNR Land Agent if he had anything to add. Cheung explained that a minimum amount of improvement is not required; they just have to meet building code requirements.

Member Gomes made a motion to approve staff recommendation but stay the effectiveness of the approval until the administrative proceedings on any contested case requests are concluded. Member Oi seconded.

Member Gomes commented that both sides are a subject of great concern, the children of the North Shore, and the girls. This isn't easy, and he is torn.

Member Roehrig added that for him, he is choosing between the desperate, and the really desperate. He also said that the Board of Education needs to get a grip on this and step up.

Member Yuen said he respected both sides, and wish them both the best. He does think Ho'ōla Nā Pua has a better concept as far as fundraising.

Unanimously approved as amended (Gomes, Oi). The Board approved in principle the issuance of the direct lease to Ho'ōla Nā Pua, but stayed the effectiveness of the approval until administrative proceedings on any contested case requests are concluded.

Item D-13 (1) Denial of Requests for Contested Case by E. Kalani Flores and Dan Purcell re: Board Action of June 13, 2014, Item D-8, Consent to Sublease under General Lease No. S-4191 to the University of Hawai'i, Lessee, to TMT International Observatory LLC, Sublessee (deferred); and (2) Denial of Requests for Contested Case by Dan Purcell, Flores-Case 'Ohana, Mauna Kea Anaina Hou, Kealoha Pisciotto, Paul K. Neves, Clarence Kukauakahi Ching, and Harry Fergerstrom, and Acknowledgment and Acceptance of the Withdrawal of the Request for Contested Case filed by Office of Hawaiian Affairs re: Board Action of June 27, 2014, Item D-19, Resubmittal: Consent to Sublease under General Lease No. S-4191 to the University of Hawai'i, Lessee, to TMT International Observatory LLC, Sublessee (approved as amended), Ka'ohe, Hāmākua, Island of Hawai'i, Tax Map Keys: 3rd/ 4-4-15:01 por., 09 & 12.

Written testimony was submitted by Richard Ha, Kealoha Pisciotto, Kumu Paul Neves, Clarence Kakauakahi Ching, Rob Rittenhouse, Tim Lui-Kwan and Ian L. Sandison, Carlsmith Ball LLP.

Moore gave background on item D-13 and explained that on June 13, 2014 item D-8, the issue of the consent to sublease came before the Board for the first time and the Board deferred action until it received some additional information from the University of Hawaii. The matter came back before the Board on June 27, 2014, item D-19 as a resubmittal of the request of the consent to sublease. At that time after hearing a lot of testimony, the Board approved the consent to sublease but conditionally added language that the consent wouldn't be effective until all of the contested case proceedings have been determined. After the June 13, 2014 meeting, two oral requests for contested case were made by E. Kalani Flores and Dan Purcell, but the department

did not receive petitions relating to the June 13, 2014 meeting. After the June 27, 2014 meeting there were oral requests from Dan Purcell, the Flores-Case Ohana, Mauna Kea Anaina Hou, Kealoha Pisciotto, Paul K. Neves, Clarence Kukauakahi Ching and Harry Fergerstorm. Of those, written petitions were submitted by all except Dan Purcell. After consulting with the Department of the Attorney General, staff is recommending that the contested case hearings be denied for the reasons that there is no statute or rule that requires a contested case, there's no due process or property interest involved, and the sublease approval is a matter of internal management for the Board in its land inventory.

Tim Lui-Kwan and Ian Sandison of Carlsmith Ball, and representing the University of Hawaii said they stood on their written testimony.

Joy Kimura along with everyone in the audience from Labors Union 368 were all in support of TMT and staff recommendations.

E. Kalani Flores submitted his written testimony. Flores said any BLNR actions taken regarding the Board action of June 27, 2014, item D-19, Resubmittal: Consent to sublease under general lease No. S-4191 to the University of Hawai'i, lessee, to TMT International Observatory LLC, sublessee (approved as amended) Ka'ohē, Hamakua, Island of Hawai'i, Tax Map Keys: 3rd/ 4-4-15:01 por., 09 & 12 are considered null and void as they are in violation of 171-4 and HRS Chapter 84-Standard of conduct. Thus, any further Board action should be deferred until the State Office of the Attorney General and the State Ethics Commission have rendered opinions on this matter. He said that the BLNR was in error for not requiring Hawaii Island Board member Rob Pacheco, considered a state "employee" in the capacity as a Board member, to recuse himself from actively participating in this Board agenda item D-19 at their June 27, 2014 meeting due to a conflict of interest that was previously identified. Member Pacheco failed to disclose at the meeting that as owner and president of Hawaii Forest & Trail he has a business interest and association with the applicant University of Hawaii Hilo and has been awarded permits through the Office of Mauna Kea Management of the University of Hawaii at Hilo (UH Hilo) to conduct tours to the summit of Mauna Kea. Flores argued that the DLNR and BLNR have failed to follow its rules and procedures as stipulated by Hawaii Revised Statutes. Also, the staff submittals and recommendations on several agenda items have been inconsistent and not in compliance with state laws. Flores did not believe any action should be taken on item D-19.

Shannon Wood lived on Hawaii Island in 1980. Since she and her husband did not have a television at the time, they learned to examine the skies and became actively involved as semiserious astronomers. In 1991 they established a business that they ran for almost 15 years providing tours of our galaxy and beyond. They had to give their business up in 2004. Wood strongly supported going forward with this project because Mauna Kea is the only place in the world that has the kinds of skies close to where people live.

Dan Purcell said that issues continue to be about process and procedures. He said that people in Hilo don't have the opportunity to participate here. Purcell complained that the appraiser was very insensitive about the way he was talking about Mauna Kea. He also said that it would be nice to see a cultural attempt to make this more Hawaiian and not so industrial looking.

Chair Aila asked Purcell if he had any testimony regarding the staff recommendation that the contested case be denied. Purcell said he is about processes and procedure and opportunities for participation for people from other islands.

Shelley Muneoka testified asking the Board to reject the denial of a contested case hearing from those who have requested one. She commented that she wondered if in the future the agenda items couldn't be stated in more natural terms. So instead of the agenda item reading "denial of request" changed to "discussion of request", so that they can feel like they are approaching a neutral body. She challenged the order in which this process has unfolded. Muneoka feels the contested case should be held before the Board makes a decision on an item, not after so that the hearing officer's recommendation can be made to a neutral body. She feels that the entire process is unfair. Muneoka asked the Board to please grant this contested case hearing and allow for a hearing officer to sort out issues of standing.

Candice Fujikane, an English professor at UH Manoa testified by asking the Board to reconsider the arguments made in the staff submittal. She was very disturbed when reading the language in item A-2 of the staff submittal because this recalls the legislative attempt to register and certify gathering rights through Senate Bill 8 and House Bill 1920. Fujikane felt that a contested case should be permitted under these conditions. She asked what happens if the Supreme Court rules against the BLNR and TMT has already started construction?

Diane Marshall said she was wearing the only testimony that she has. She wants to know what it's going to take to hear the cries of the people over the money.

Laulani Teale introduced herself and stated that if this contested case is denied, it would fall under what they would consider abuse. She asked that the matter be handed over to a hearings officer and allow the hearings officer to sort out the issues that were presented. Teale continued her testimony by reading a 8 page testimony submitted by the petitioners Mauna Kea Anaina Hou, Kealoha Pisciotta, Kumu Paul K. Neves, and Clarence Kukauakahi Ching. They filed the following objections to the approval of the sublease and the Board's decision to deny their request for the contested case. 1) Public hearings not being held on Hawaii Island as the rules require; they object to BLNR failing to conduct meetings on Hawaii Island where Mauna Kea is located and because of this their rights are being violated 2) Notice Errors; HAR 13-5-40 (c) requires that Notice of hearing shall be given not less than twenty days prior to the date set for the hearing 3) Objections to BLNR staff submittal comments; they object to subleasing and subdividing of the lands of Mauna Kea because it intensifies the land uses which in turn will impact Native Hawaiian access and practices and the environment where those rights are exercised. Increasing the land use also impacts the delicate life forms who live on the Mauna 4) The Margaret Wille Case is not relevant to support denial of our request for contested case because it is not on point; this situation does not involve pasture leases it involves the proposed disposition of conservation lands and therefore the prevailing statues and rules to be applied here are the State Conservation District Rules under HAR Title 13[conservation districts] 5)

petitioners have standing under prevailing Hawaii Law to require a contested case hearing; most significantly, the submittal argues that petitioners lack standing and therefore no contested case hearing is required because petitioners do not have a "property" interest that may be affected by the proposed sublease 6) Due Process; Petitioner's due process rights to an evidentiary hearing will be denied if BLNR rejects standing. 7) Pratt Case not relevant; the petitioners state that they are not criminals and therefore the Pratt case and its implication do not apply to them or their claims as Native Hawaiian practitioners requesting a contested case on the sublease for the TMT. In conclusion for the reasons stated above, the BLNR should 1) determine that the petitioners have standing and 2) grant their petition for a contested case hearing on the TMT sublease and/or 3) in the alternative deny the TMT request for a sublease. It was noted that Ms. Laulani Teale has been granted permission to sign and read testimony on the behalf of the above named parties.

12:37PM RECESS
12:43PM RECONVENE

Richard Ha submitted written testimony in support of staff recommendation. Ha signed as president of Hamakua Springs, representing Hawaii Farmers and Ranchers United and as president of the Big Island Community Coalition.

Liko Martin, from Kaua'i submitted his testimony by song (Mauna Kea Sleep). He explained how the song came to him in regards to this contested case. Martin said it sounds like there is a conspiracy and the Board should consider the integrity of the staff.

Member Gomes made a motion to go into Executive Session pursuant to Section 92-5(a) (4), Hawai'i Revised Statutes, in order to consult with its attorney on questions and issues pertaining to the Board's powers, duties, privileges, immunities and liabilities. Member Oi seconded.

12:53PM EXECUTIVE SECESSION
1:39PM RECONVENE

Chair Aila shared that during executive secession the Board was able to receive clarification.

Member Roehrig commented that this is a very sensitive matter to him and his family. Member Roehrig then made a motion to accept staff recommendations, and by this motion the Board concluded the administrative proceedings on the sublease. Member Yuen seconded.

The Board approved the staff recommendation and concluded the administrative proceedings on all contested case requests in this matter.

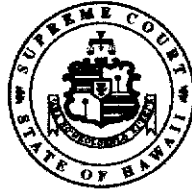
Unanimously approved (Roehrig, Yuen)

Item J-1 Request Approval for Extension of Time by Maui Dry Dock & Boat Storage, LLC to Complete an Environmental Assessment, Preliminary Entitlements and Authorize the Extension of a Limited Right-of-Entry for a Vessel Haul

EXHIBIT 4

Formal Opinion Numbers 18 and 22 by the Office of Disciplinary Counsel of the Supreme Court of Hawaii regarding shared office space between a non lawyer and lawyer.

Disciplinary Board of the Hawai'i Supreme Court
201 Merchant Street, Suite 1600
Honolulu, Hawai'i 96813
Telephone (808) 599-1909
www.odchawaii.com



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Asst. Chief Eugene Uemura, (Ret.), MA.Ed.

FORMAL OPINION NOS. 18 and 22

SHARING OFFICE SPACE

Where a law firm sublets part of its offices to nonlawyers and agrees to make available secretarial services on a cost sharing basis, the arrangement is permissible as long as each of the parties maintains a separate identity and there is neither "feeding" of clients to the lawyers nor nonlawyer influence over the lawyers, or sharing of fees. (No. 18).

It is not improper for an attorney to enter into an office and expense sharing arrangement with a nonlawyer so long as the separate business entities are distinct to callers and visitors and the nonlawyer does not solicit for or feed cases to the lawyer. (No. 22).

REQUESTING PARTY'S SUMMARY STATEMENT OF FACTS, PROBLEM(S), AND QUESTION(S):

A law firm wishes to sublet part of its offices to two nonlawyers. The law firm will allow the nonlawyers to use the reception and conference rooms, and possibly avail themselves of secretarial services on a shared cost basis. The nonlawyers have a separate phone line, number, and ring. The law firm's attorneys have advised the nonlawyers not to in any way create an impression they are soliciting legal business for the attorneys. (No. 18).

An attorney wishes to share his offices with a Certified Public Accountant. The attorney and the accountant will sign a separate lease for their respective halves of the office. Each will have separate offices. They will share a common reception area. It is to be assumed that they will share the services of the same receptionist and secretary. The arrangement is for economical purpose only. (No. 22).

*The Disciplinary Board's mission is to maintain the integrity of the legal profession
and protect the public from professional misconduct by attorneys.*

ISSUE(S) AND RELEVANT SECTIONS OF
HAWAII RULES OF PROFESSIONAL CONDUCT:

Would such an arrangement violate:

HRPC 7.3(a) A lawyer shall not by in-person, live telephone or real-time electronic contact solicit professional employment when a significant motive for the lawyer's doing so is the lawyer's pecuniary gain, unless the person contacted has a family, close personal, or prior professional relationship with the lawyer.

HRPC 7.2(b) A lawyer shall not give anything of value to a person for recommending the lawyer's services except that a lawyer may:

(1) pay the reasonable costs of advertisements or communications permitted by this Rule;

(2) pay the usual charges of a not-for-profit lawyer referral service or qualified legal assistance organization, which charges, in addition to any referral fee, may include a fee calculated as a percentage of legal fees earned by the lawyer to whom the service or organization has referred a matter, provided that any such percentage fee shall be used only to pay the reasonable operating expenses of the service or organization and to fund public service activities of the service or organization, including the delivery of pro bono legal services; and

(3) pay for the purchase of a law practice in accordance with Rule 1.17 of these Rules.

HRPC 5.4(b) A lawyer shall not form a partnership with a nonlawyer if any of the activities of the partnership consist of the practice of law.

(Nos. 18 and 22)

DISCUSSION

Two ethical issues are posed by this fact situation. The first is whether or not the arrangement creates a feeder situation for the attorney. The situation whereby a law firm shares space with a nonlawyer, in itself, is not improper. It becomes improper only if the nonlawyer solicits clients for the attorney or consistently recommends the attorney to handle the nonlawyer's client's legal problems.

The second problem arises if the attorney and nonlawyer conduct business in such a way as to function as or create the impression of being a partnership. Clearly, under the disciplinary rules, a lawyer may not form a partnership with a nonlawyer if even part of the function of the partnership is rendering legal services. HRPC 5.4(b). Therefore, there must be no division of fees. HRPC 5.4(a). Nothing prohibits the law firm from employing services of nonlawyers on a strict salary or fee basis. It must be clear to clients of both the attorney and the non lawyer there exist two separate businesses. Ill. Op. 203 (2/10/61). This can be effected by signs on the door clearly showing the separate businesses and members of each. The reception area should be set up so that visitors do not feel they are only in a law office. Again, a sign or divider designating the separation is helpful. Separate telephone lines are desirable; however, if the phone line is shared, the secretary or receptionist must not answer the phone in a way to indicate to clients of the attorney that they are calling a non lawyer's office, or vice versa. This may be achieved by answering simply giving a telephone number. (No. 22).

OPINION

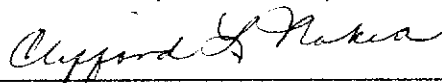
A law firm, or attorney, may sublet part of its offices to nonlawyers provided the latter do not serve to solicit or "feed" potential clients to the law firm, and there is a clear nonmisleading distinction to visitors between the law and business offices (Nos. 18 and 22).

DATED: Honolulu, Hawai'i, March 10, 1978 (No. 18)
Honolulu, Hawai'i, October 13, 1978 (No. 22)

UPDATED: Honolulu, Hawai'i, June 28, 2001

Carroll S. Taylor
Chairperson, Disciplinary Board

UPDATED: Honolulu, Hawai'i, March 19, 2015



Hon. Clifford L. Nakea (Ret.)
Chairperson, Disciplinary Board

EXHIBIT 5

The State of Hawaii, Bureau of Conveyances Official Public Records,
a mortgage held by Stanley Roehrig and Jan Roehrig as husband and
wife.



Department of Land & Natural Resources

Bureau of Conveyances -Official Public Records

Document Number T2642180

No. of Pages 12 pages

Fee Fee:

Computed at \$1.00 per page for documents in the system. \$12.00
Flat fee will be charged for documents not in the system.

Recording Date

Recording Date: 2000-08-04

Date instrument recorded. YYYY-MM-DD

Description DEED

Grantor Grantor:

Party transferring interest. NOZAKI SANGYO KABUSHIKI KAISHA

Grantee Grantee:

Party acquiring interest. ROEHRIG STANLEY H &WF
ROEHRIG JANICE H &HSB

TMK TMK:

Tax Map Key. Parcel identification, if known. Used for real property assessments purposes.

Notes Notes:

Brief comments on affected interests. D CT 560084 APP 1301 LOT 1 APP 1301 &C CT \$850.00

Choose the type of document to purchase:

- Electronic Non-Certified (download immediately after purchase - unlimited download available for up to 10 days after purchase)

EXHIBIT 6

IRS Form 990-EZ for Keaukaha One Youth Development showing
Jan Roehrig as board member of the organization.

Form **990-EZ**

Short Form Return of Organization Exempt From Income Tax

Under section 501(c), 527, or 4947(a)(1) of the Internal Revenue Code (except black lung benefit trust or private foundation)

OMB No 1545-1150

2008

Department of the Treasury
Internal Revenue Service

▶ Sponsoring organizations of donor advised funds and controlling organizations as defined in section 512(b)(13) must file Form 990. All other organizations with gross receipts less than \$1,000,000 and total assets less than \$2,500,000 at the end of the year may use this form.
▶ The organization may have to use a copy of this return to satisfy state reporting requirements.

Open to Public Inspection

A For the 2008 calendar year, or tax year beginning and ending										
B Check if applicable: <input type="checkbox"/> Address change <input type="checkbox"/> Name change <input type="checkbox"/> Initial return <input type="checkbox"/> Termination <input type="checkbox"/> Amended return <input type="checkbox"/> Application pending	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 15%; vertical-align: top;"> Please use IRS label or print or type See Specific Instructions </td> <td style="width: 65%;"> C Name of organization KEAUKAHA ONE YOUTH DEVELOPMENT Number and street (or P.O. box, if mail is not delivered to street address) Room/suite 101 AUPUNI STREET 124 City or town, state or country, and ZIP + 4 HILO, HI 96720 </td> <td style="width: 20%;"> D Employer identification number 20-5386779 </td> </tr> <tr> <td></td> <td></td> <td> E Telephone number 808-969-1441 </td> </tr> <tr> <td></td> <td></td> <td> F Group Exemption Number ▶ </td> </tr> </table>	Please use IRS label or print or type See Specific Instructions	C Name of organization KEAUKAHA ONE YOUTH DEVELOPMENT Number and street (or P.O. box, if mail is not delivered to street address) Room/suite 101 AUPUNI STREET 124 City or town, state or country, and ZIP + 4 HILO, HI 96720	D Employer identification number 20-5386779			E Telephone number 808-969-1441			F Group Exemption Number ▶
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		E Telephone number 808-969-1441								
		F Group Exemption Number ▶								

• Section 501(c)(3) organizations and 4947(a)(1) nonexempt charitable trusts must attach a completed Schedule A (Form 990 or 990-EZ). **B** Accounting method: Cash Accrual Other (specify) ▶

I Website: ▶ **N/A** **H** Check if the organization is not required to attach Schedule B (Form 990, 990-EZ, or 990-PF)

J Organization type (check only one) — 501(c)(3) (insert no.) 4947(a)(1) or 527

K Check if the organization is not a section 509(a)(3) supporting organization and its gross receipts are normally not more than \$25,000. A return is not required, but if the organization chooses to file a return, be sure to file a complete return.

L Add lines 5b, 6b, and 7b, to line 9 to determine gross receipts; if \$1,000,000 or more, file Form 990 instead of Form 990-EZ ▶ \$ **40,000.**

Part I Revenue, Expenses, and Changes in Net Assets or Fund Balances (See the instructions for Part I.)

	Description	Line	Amount
Revenue	1 Contributions, gifts, grants, and similar amounts received	1	40,000.
	2 Program service revenue including government fees and contracts	2	
	3 Membership dues and assessments	3	
	4 Investment income	4	
	5a Gross amount from sale of assets other than inventory	5a	
	b Less: cost or other basis and sales expenses	5b	
	c Gain or (loss) from sale of assets other than inventory (Subtract line 5b from line 5a) (net of capital gains and losses)	5c	
	6 Special events and activities (complete applicable parts of Schedule G). If any additional information is required, check here <input type="checkbox"/>		
	a Gross revenue (not including \$ _____ of contributions reported on line 1)	6a	
	b Less: direct expenses other than fundraising expenses	6b	
c Net income or (loss) from special events and activities (Subtract line 6b from line 6a)	6c		
7a Gross sales of inventory, less returns and allowances			
b Less: cost of goods sold			
c Gross profit or (loss) from sales of inventory (Subtract line 7b from line 7a)	7c		
8 Other revenue (describe ▶ _____)	8		
9 Total revenue. Add lines 1, 2, 3, 4, 5c, 6c, 7c, and 8	9	40,000.	
Expenses	10 Grants and similar amounts paid (attach schedule)	10	
	11 Benefits paid to or for members	11	
	12 Salaries, other compensation, and employee benefits	12	
	13 Professional fees and other payments to independent contractors	13	
	14 Occupancy, rent, utilities, and maintenance	14	1,414.
	15 Printing, publications, postage, and shipping	15	
	16 Other expenses (describe ▶ SEE STATEMENT 1)	16	32,888.
17 Total expenses. Add lines 10 through 16	17	34,302.	
Net Assets	18 Excess or (deficit) for the year (Subtract line 17 from line 9)	18	5,698.
	19 Net assets or fund balances at beginning of year (from line 27, column (A)) (must agree with end-of-year figure reported on prior year's return)	19	9,902.
	20 Other changes in net assets or fund balances (attach explanation)	20	
	21 Net assets or fund balances at end of year. Combine lines 18 through 20	21	15,600.

Part II Balance Sheets. If total assets on line 25, column (B) are \$2,500,000 or more, file Form 990 instead of Form 990-EZ.

(See the instructions for Part II.)

	Description	(A) Beginning of year	(B) End of year
22	Cash, savings, and investments	378.	313.
23	Land and buildings		
24	Other assets (describe ▶ OTHER DEPRECIABLE ASSETS)	9,524.	15,287.
25	Total assets	9,902.	15,600.
26	Total liabilities (describe ▶ _____)	0.	0.
27	Net assets or fund balances (line 27 of column (B) must agree with line 21)	9,902.	15,600.

832171
12-17-08

LHA For Privacy Act and Paperwork Reduction Act Notice, see the Instructions for Form 990.

Form **990-EZ** (2008)

5-8 7

SCANNED JUL 10 2009

INTERNAL REVENUE SERVICE
W&I-FIELD ASSISTANCE
HILO, HI
MAY 27 2009
RECEIVED
31601

Part V Other information (Note the statement requirements in the instructions for Part VI)

		Yes	No
33	Did the organization engage in any activity not previously reported to the IRS? If "Yes," attach a detailed description of each activity		X
34	Were any changes made to the organizing or governing documents but not reported to the IRS? If "Yes," attach a conformed copy of the changes		X
35	If the organization had income from business activities, such as those reported on lines 2, 6a, and 7a (among others), but not reported on Form 990-T, attach a statement explaining your reason for not reporting the income on Form 990-T.		
a	Did the organization have unrelated business gross income of \$1,000 or more or section 6033(e) notice, reporting, and proxy tax requirements?	35a	X
b	If "Yes," has it filed a tax return on Form 990-T for this year?	35b	N/A
36	Was there a liquidation, dissolution, termination, or substantial contraction during the year? If "Yes," complete applicable parts of Sch. M	36	X
37a	Enter amount of political expenditures, direct or indirect, as described in the instructions.	37a	0.
b	Did the organization file Form 1120-POL for this year?	37b	X
38a	Did the organization borrow from, or make any loans to, any officer, director, trustee, or key employee or were any such loans made in a prior year and still unpaid at the start of the period covered by this return?	38a	X
b	If "Yes," complete Schedule L, Part II and enter the total amount involved	38b	N/A
39	Section 501(c)(7) organizations. Enter:		
a	Initiation fees and capital contributions included on line 9	39a	N/A
b	Gross receipts, included on line 9, for public use of club facilities	39b	N/A
40a	Section 501(c)(3) organizations. Enter amount of tax imposed on the organization during the year under: section 4911 <u>0.</u> ; section 4912 <u>0.</u> ; section 4955 <u>0.</u>		
b	Section 501(c)(3) and (4) organizations. Did the organization engage in any section 4958 excess benefit transaction during the year or did it become aware of an excess benefit transaction from a prior year? If "Yes," complete Schedule L, Part I	40b	X
c	Enter amount of tax imposed on organization managers or disqualified persons during the year under sections 4912, 4955, and 4958		0.
d	Enter amount of tax on line 40c reimbursed by the organization		0.
e	All organizations. At any time during the tax year, was the organization a party to a prohibited tax shelter transaction? If "Yes," complete Form 8886-T	40e	X
41	List the states with which a copy of this return is filed. <u>NONE</u>		
42a	The books are in care of <u>JANICE ROEHRIG</u> Telephone no. <u>(808) 969-1441</u> Located at <u>101 AUPUNI ST STE 124, HILO, HI</u> ZIP + 4 <u>96720</u>		
b	At any time during the calendar year, did the organization have an interest in or a signature or other authority over a financial account in a foreign country (such as a bank account, securities account, or other financial account)?	42b	X
	If "Yes," enter the name of the foreign country: _____		
	See the instructions for exceptions and filing requirements for Form TD F 90-22.1, Report of Foreign Bank and Financial Accounts.		
c	At any time during the calendar year, did the organization maintain an office outside of the U.S.?	42c	X
	If "Yes," enter the name of the foreign country: _____		
43	Section 4947(a)(1) nonexempt charitable trusts filing Form 990-EZ in lieu of Form 1041 - Check here <input type="checkbox"/> and enter the amount of tax-exempt interest received or accrued during the tax year	43	N/A
44	Did the organization maintain any donor advised funds? If "Yes," Form 990 must be completed instead of Form 990-EZ	44	X
45	Is any related organization a controlled entity of the organization within the meaning of section 512(b)(13)? If "Yes," Form 990 must be completed instead of Form 990-EZ	45	X

Part VI Section 501(c)(3) organizations only. All section 501(c)(3) organizations must answer questions 46-49 and complete the tables for lines 50 and 51.

- | | Yes | No |
|---|-----|----|
| 46 Did the organization engage in direct or indirect political campaign activities on behalf of or in opposition to candidates for public office? If "Yes," complete Schedule C, Part I | | X |
| 47 Did the organization engage in lobbying activities? If "Yes," complete Schedule C, Part II | | X |
| 48 Is the organization operating a school as described in section 170(b)(1)(A)(ii)? If "Yes," complete Schedule E | | X |
| 49a Did the organization make any transfers to an exempt non-charitable related organization? | | X |
| b If "Yes," was the related organization(s) a section 527 organization? | | |
- 50 Complete this table for the five highest compensated employees (other than officers, directors, trustees and key employees) who each received more than \$100,000 of compensation from the organization. If there is none, enter "None."

(a) Name and address of each employee paid more than \$100,000	(b) Title and average hours per week devoted to position	(c) Compensation	(d) Contributions to employee benefit plans & deferred compensation	(E) Expense account and other allowances
NONE				
Total number of other employees paid over \$100,000 ▶				

- 51 Complete this table for the five highest compensated independent contractors who each received more than \$100,000 of compensation from the organization. If there is none, enter "None."

(a) Name and address of each independent contractor paid more than \$100,000	(b) Type of service	(c) Compensation
NONE		
Total number of other independent contractors each receiving over \$100,000 ▶		

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than officer) is based on all information of which preparer has any knowledge.

Sign Here ▶ *Janice Roehrig, Director* Date **5/27/09**
Signature of officer

▶ **JANICE ROEHRIG, DIRECTOR**
Type or print name and title

Paid Preparer's Use Only

Preparer's signature ▶ *Diana M. [Signature]* Date **05/21/09** Check if self-employed Preparer's Identifying Number (See instr.)

Firm's name (or years if self-employed), address, and ZIP + 4 ▶ **TAKETA, IWATA, HARA & ASSOCIATES, LLC** EIN ▶
101 AUPUNI STREET SUITE 139 Phone ▶
HILO, HAWAII 96720 no. **(808) 935-5404**

May the IRS discuss this return with the preparer shown above? See instructions ▶ Yes No

SCHEDULE A
(Form 990 or 990-EZ)

Department of the Treasury
Internal Revenue Service

Public Charity Status and Public Support

To be completed by all section 501(c)(3) organizations and section 4947(a)(1) nonexempt charitable trusts.

▶ Attach to Form 990 or Form 990-EZ. ▶ See separate instructions.

OMB No 1545-0047

2008
Open to Public Inspection

Name of the organization

KEAUKAHA ONE YOUTH DEVELOPMENT

Employer identification number

20-5386779

Part I Reason for Public Charity Status (All organizations must complete this part) (see instructions)

The organization is not a private foundation because it is: (Please check only one organization.)

- 1 A church, convention of churches, or association of churches described in section 170(b)(1)(A)(i).
- 2 A school described in section 170(b)(1)(A)(ii). (Attach Schedule E.)
- 3 A hospital or a cooperative hospital service organization described in section 170(b)(1)(A)(iii). (Attach Schedule H.)
- 4 A medical research organization operated in conjunction with a hospital described in section 170(b)(1)(A)(iii). Enter the hospital's name, city, and state: _____
- 5 An organization operated for the benefit of a college or university owned or operated by a governmental unit described in section 170(b)(1)(A)(iv). (Complete Part II.)
- 6 A federal, state, or local government or governmental unit described in section 170(b)(1)(A)(v).
- 7 An organization that normally receives a substantial part of its support from a governmental unit or from the general public described in section 170(b)(1)(A)(vi). (Complete Part II.)
- 8 A community trust described in section 170(b)(1)(A)(vi). (Complete Part II.)
- 9 An organization that normally receives: (1) more than 33 1/3% of its support from contributions, membership fees, and gross receipts from activities related to its exempt functions - subject to certain exceptions, and (2) no more than 33 1/3% of its support from gross investment income and unrelated business taxable income (less section 511 tax) from businesses acquired by the organization after June 30, 1975. See section 509(a)(2). (Complete the Part III.)
- 10 An organization organized and operated exclusively to test for public safety. See section 509(a)(4). (see instructions)
- 11 An organization organized and operated exclusively for the benefit of, to perform the functions of, or to carry out the purposes of one or more publicly supported organizations described in section 509(a)(1) or section 509(a)(2). See section 509(a)(3). Check the box that describes the type of supporting organization and complete lines 11e through 11h.
 a Type I b Type II c Type III - Functionally integrated d Type III - Other
- e By checking this box, I certify that the organization is not controlled directly or indirectly by one or more disqualified persons other than foundation managers and other than one or more publicly supported organizations described in section 509(a)(1) or section 509(a)(2).
- f If the organization received a written determination from the IRS that it is a Type I, Type II, or Type III supporting organization, check this box
- g Since August 17, 2006, has the organization accepted any gift or contribution from any of the following persons?
 (i) A person who directly or indirectly controls, either alone or together with persons described in (ii) and (iii) below, the governing body of the supported organization?
 (ii) A family member of a person described in (i) above?
 (iii) A 35% controlled entity of a person described in (i) or (ii) above?
- h Provide the following information about the organizations the organization supports.

	Yes	No
11g(i)		
11g(ii)		
11g(iii)		

(i) Name of supported organization	(ii) EIN	(iii) Type of organization (described on lines 1-9 above or IRC section (see instructions))	(iv) Is the organization in col. (i) listed in your governing document?		(v) Did you notify the organization in col. (i) of your support?		(vi) Is the organization in col. (i) organized in the U.S.?		(vii) Amount of support
			Yes	No	Yes	No	Yes	No	
Total									

Part II Support Schedule for Organizations Described in Sections 170(b)(1)(A)(iv) and 170(b)(1)(A)(vi)

(Complete only if you checked the box on line 5, 7, or 8 of Part I)

Section A. Public Support

Calendar year (or fiscal year beginning in)	(a) 2004	(b) 2005	(c) 2006	(d) 2007	(e) 2008	(f) Total
1 Gifts, grants, contributions, and membership fees received. (Do not include any "unusual grants.")			10,100.	6,900.	40,000.	57,000.
2 Tax revenues levied for the organization's benefit and either paid to or expended on its behalf						
3 The value of services or facilities furnished by a governmental unit to the organization without charge						
4 Total. Add lines 1 - 3			10,100.	6,900.	40,000.	57,000.
5 The portion of total contributions by each person (other than a governmental unit or publicly supported organization) included on line 1 that exceeds 2% of the amount shown on line 11, column (f)						
6 Public support. Subtract line 5 from line 4						57,000.

Section B. Total Support

Calendar year (or fiscal year beginning in)	(a) 2004	(b) 2005	(c) 2006	(d) 2007	(e) 2008	(f) Total
7 Amounts from line 4			10,100.	6,900.	40,000.	57,000.
8 Gross income from interest, dividends, payments received on securities loans, rents, royalties and income from similar sources						
9 Net income from unrelated business activities, whether or not the business is regularly carried on						
10 Other income. Do not include gain or loss from the sale of capital assets (Explain in Part IV.)						
11 Total support. Add lines 7 through 10						57,000.
12 Gross receipts from related activities, etc. (see instructions)					12	
13 First five years. If the Form 990 is for the organization's first, second, third, fourth, or fifth tax year as a section 501(c)(3) organization, check this box and stop here <input type="checkbox"/>						

Section C. Computation of Public Support Percentage

14 Public support percentage for 2008 (line 6, column (f) divided by line 11, column (f))	14	100.00	%
15 Public support percentage from 2007 Schedule A, Part IV-A, line 26f	15		%
16a 33 1/3% support test - 2008. If the organization did not check the box on line 13, and line 14 is 33 1/3% or more, check this box and stop here. The organization qualifies as a publicly supported organization <input checked="" type="checkbox"/>			
b 33 1/3% support test - 2007. If the organization did not check a box on line 13 or 16a, and line 15 is 33 1/3% or more, check this box and stop here. The organization qualifies as a publicly supported organization <input type="checkbox"/>			
17a 10% -facts-and-circumstances test - 2008. If the organization did not check a box on line 13, 16a, or 16b, and line 14 is 10% or more, and if the organization meets the "facts-and-circumstances" test, check this box and stop here. Explain in Part IV how the organization meets the "facts-and-circumstances" test. The organization qualifies as a publicly supported organization <input type="checkbox"/>			
b 10% -facts-and-circumstances test - 2007. If the organization did not check a box on line 13, 16a, 16b, or 17a, and line 15 is 10% or more, and if the organization meets the "facts-and-circumstances" test, check this box and stop here. Explain in Part IV how the organization meets the "facts-and-circumstances" test. The organization qualifies as a publicly supported organization <input type="checkbox"/>			
18 Private foundation. If the organization did not check a box on line 13, 16a, 16b, 17a, or 17b, check this box and see instructions <input type="checkbox"/>			

Part III Support Schedule for Organizations Described in Section 509(a)(2) (Complete only if you checked the box on line 9 of Part I.)

Section A. Public Support

Calendar year (or fiscal year beginning in)	(a) 2004	(b) 2005	(c) 2006	(d) 2007	(e) 2008	(f) Total
1 Gifts, grants, contributions, and membership fees received. (Do not include any "unusual grants.")						
2 Gross receipts from admissions, merchandise sold or services performed, or facilities furnished in any activity that is related to the organization's tax-exempt purpose						
3 Gross receipts from activities that are not an unrelated trade or business under section 513						
4 Tax revenues levied for the organization's benefit and either paid to or expended on its behalf						
5 The value of services or facilities furnished by a governmental unit to the organization without charge						
6 Total. Add lines 1 - 5						
7a Amounts included on lines 1, 2, and 3 received from disqualified persons						
b Amounts included on lines 2 and 3 received from other than disqualified persons that exceed the greater of 1% of the total of lines 9, 10c, 11, and 12 for the year or \$5,000						
c Add lines 7a and 7b						
8 Public support (Subtract line 7c from line 6)						

Section B. Total Support

Calendar year (or fiscal year beginning in)	(a) 2004	(b) 2005	(c) 2006	(d) 2007	(e) 2008	(f) Total
9 Amounts from line 6						
10a Gross income from interest, dividends, payments received on securities loans, rents, royalties and income from similar sources						
b Unrelated business taxable income (less section 511 taxes) from businesses acquired after June 30, 1975						
c Add lines 10a and 10b						
11 Net income from unrelated business activities not included in line 10b, whether or not the business is regularly carried on						
12 Other income. Do not include gain or loss from the sale of capital assets (Explain in Part IV.)						
13 Total support (Add lines 9, 10c, 11, and 12)						

14 First five years. If the Form 990 is for the organization's first, second, third, fourth, or fifth tax year as a section 501(c)(3) organization, check this box and stop here

Section C. Computation of Public Support Percentage

15 Public support percentage for 2008 (line 8, column (f) divided by line 13, column (f))	15	%
16 Public support percentage from 2007 Schedule A, Part IV-A, line 27g	16	%

Section D. Computation of Investment Income Percentage

17 Investment income percentage for 2008 (line 10c, column (f) divided by line 13, column (f))	17	%
18 Investment income percentage from 2007 Schedule A, Part IV-A, line 27h	18	%

19a 33 1/3% support tests - 2008. If the organization did not check the box on line 14, and line 15 is more than 33 1/3%, and line 17 is not more than 33 1/3%, check this box and stop here. The organization qualifies as a publicly supported organization

b 33 1/3% support tests - 2007. If the organization did not check a box on line 14 or line 19a, and line 16 is more than 33 1/3%, and line 18 is not more than 33 1/3%, check this box and stop here. The organization qualifies as a publicly supported organization

20 Private foundation. If the organization did not check a box on line 14, 19a, or 19b, check this box and see instructions

FORM 990-EZ OTHER EXPENSES STATEMENT 1

DESCRIPTION	AMOUNT
LICENSES & PERMITS	20.
PROGRAM EXPENSES	32,868.
TOTAL TO FORM 990-EZ, LINE 16	32,888.

FORM 990-EZ OCCUPANCY, RENT, UTILITIES AND MAINTENANCE STATEMENT 2

DESCRIPTION	AMOUNT
DEPRECIATION	1,414.
TOTAL TO FORM 990-EZ, LINE 14	1,414.

FORM 990-EZ

INFORMATION REGARDING TRANSFERS
ASSOCIATED WITH PERSONAL BENEFIT CONTRACTS

STATEMENT 3

- A) DID THE ORGANIZATION, DURING THE YEAR, RECEIVE ANY FUNDS,
DIRECTLY OR INDIRECTLY, TO PAY PREMIUMS ON A PERSONAL
BENEFIT CONTRACT? [] YES [X] NO
- B) DID THE ORGANIZATION, DURING THE YEAR, PAY PREMIUMS,
DIRECTLY OR INDIRECTLY, ON A PERSONAL BENEFIT CONTRACT? . . [] YES [X] NO

THE ORGANIZATION HIRED INDIVIDUALS SKILLED IN OUTRIGGER CANOE REPAIR TO RECONDITION ITS CANOES. THE RECONDITIONED CANOES WILL ALLOW IT TO SUSTAIN ITS MISSION OF RECONNECTING WITH HAWAII'S YOUTH ON THE OCEAN'S IMPORTANT ROLE IN NATIVE HAWAIIAN HISTORY.

TO PROVIDE NATIVE CULTURAL OPPORTUNITIES FOR LOCAL YOUTH TO RECONNECT WITH
HISTORIC OCEAN EXPERIENCES IN HAWAII

EXHIBIT 7

A signed and notarized affidavit by Mehana Kihoi.

AFFIDAVIT OF MEHANA KIHOI

Name: Mehana Kihoi

Petitioner.

I, Mehana Kihoi, swear or affirm:

1. That I am a Native Hawaiian cultural and spiritual practitioner of Mauna Kea and other neighboring areas.
2. That I am a Native Hawaiian beneficiary as defined by the Hawaiian Homes Commission Act of 1921.
3. That I am a beneficiary of the Ceded Lands Trust under Section 5(f) of the Admissions Act.
4. That I have a spiritual, cultural, psychological, physical, close and significant relationship to Mauna Kea that is tied to my identity as a Native Hawaiian.
5. That Mauna Kea is my place of spiritual worship where I connect to my ancestors and my creators Papa and Wākea.
6. That Mauna Kea is a sacred place.
7. The health and well-being of Mauna Kea are tied directly to my own health and well-being because my close and significant relationship to the land there.
8. Mauna Kea is where I achieve the highest level of spirituality to connect with my ancestors and creators.
9. That I have direct ancestral lineage to Mauna Kea, which dates back to Pā'ao and Hewa Hewa Nui, and their traditional practices that have transcended thru generations.

10. Pā'ao and Hewa Hewa Nui, and subsequent generations, gathered adze which is used to build voyaging canoes. My ancestors also used Mauna Kea as a place of spiritual worship to pay tribute to our creators Papa and Wākea.
11. That my ancestors and I gather water from Lake Waiau for spiritual and healing purposes as these waters are considered sacred.
12. That my ancestors were stewards of Mauna Kea to ensure that these sacred lands remain untouched because of its importance to the creation of Native Hawaiians.
13. I continue to practice these ancestral gathering rights and spiritual worship on Mauna Kea to carry on the traditions empowered to me by my ancestors.
14. That I empower my own child by teaching her these gathering and spiritual practices at Mauna Kea to carry these traditions to the next generation.
15. That my child and I attend monthly spiritual ceremonies on Mauna Kea paying tribute to our ancestors and our creators.
16. Having a direct ancestral connection to Mauna Kea, I am an active steward of this land to ensure there is no more further desecration of this land because it is tied to my spiritual and cultural identity, health and well-being as a Native Hawaiian.
17. I have built ahu and intend to build more spiritual ahu on Mauna Kea to pay tribute to my ancestors and our creators Papa and Wākea
18. Further desecration of this sacred site will cause irreparable harm not only to myself but to my child who continues the same cultural practices that were passed on to me.
19. That Mauna Kea saved my life and strengthened my identity as a Native Hawaiian because of my spiritual and cultural connection to this sacred place.

20. My imminent injury is connected to the University of Hawaii's application for a Conservation District Use Permit to request approval to construct a mega telescope that will cause further desecration of Mauna Kea because the proposed construction will forever change the uniqueness and spiritual landscape of this sacred place.
21. If the permit is granted, I will suffer a severe cultural, spiritual, psychological and physical injury that will cause irreparable harm to who I am as a Native Hawaiian, my cultural identity and my spirituality as a Native Hawaiian.
22. The existing telescopes on Mauna Kea and the State of Hawaii and the University of Hawaii's poor management of Mauna Kea have caused me to have an injury because their failure to honor the customary and traditional practices of this area.
23. Mauna Kea is my church and my place of worship. Further desecration of this land will cause me an imminent injury because of my strong ancestral and cultural ties to these lands.
24. Further affiant saith not.

I SWEAR OR AFFIRM THAT THE ABOVE AND FOREGOING REPRESENTATIONS ARE TRUE AND CORRECT TO THE BEST OF MY INFORMATION, KNOWLEDGE, AND BELIEF.

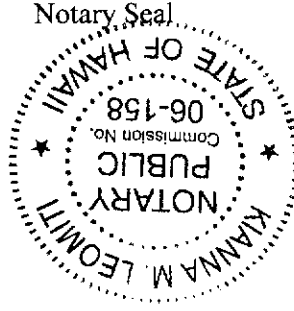
08/09/14
Date

Mehana Kihoi
Mehana Kihoi

State of Hawai'i)
Hawaii)
City and County of Honolulu)

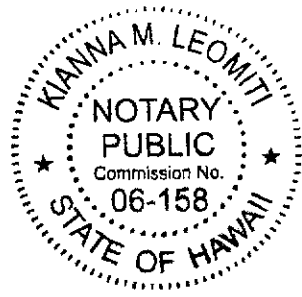
On this 9th day of Aug., in the year **2016**, before me,
Kianna M. Leomiti (Insert name of notary public) appeared Mehana Kihoi personally
known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is
subscribed to this instrument, and acknowledged that he or she executed it.

[Signature]
Kianna M. Leomiti
(Signature of Notary Public)



My Commission Expires: 03/19/2018
Document Date 08/09/16 Number of Pages 3 4 ju
Name: Kianna M. Leomiti 3rd Circuit
Document Description affidavit
Signature [Signature] Date 08/09/16
Notary Certification

Doc. Date: 08/09/16 # Pages 4 3
Notary Name: Kianna M. Leomiti Third Circuit
Doc. Description affidavit
[Signature] 08/09/16
Notary Signature Date



BOARD OF LAND AND NATURAL RESOURCES
FOR THE STATE OF HAWAII

IN THE MATTER OF) Case No. BLNR-CC-16-002
)
A Contested Case Hearing Re Conservation;)
Use Application (CDUA) HA-3568 For the)
Thirty Meter Telescope at the Mauna Kea)
Science Reserve, Ka'ohē Mauka, Hamakua,)
Hawai'i TMK(3)4-4-015:009) Certificate of Service
)
)
_____)

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the above referenced document was served upon the following parties by the means indicated:

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Name (Print): Mehana Kiksi
Date: 08/12/10