

BICKERTON ■ DANG

A LIMITED LIABILITY LAW PARTNERSHIP

September 30, 2016

Via Email to Suzanne.case@hawaii.gov
Suzanne D. Case, Chairperson
Department of Land and Natural Resources
P.O. Box 621
Honolulu, HI 96809

Re: CDUA HA-3568 (Thirty Meter Telescope) Contested Case.

Dear Suzanne:

I have written the following disclosure. I would appreciate it very much if you would forward this to the parties in the contested case, our fellow board members, and to anyone else you may find appropriate.

**Disclosure of Board Member Stanley H. Roehrig
re CDUA HA-3568 (Thirty Meter Telescope)**

BACKGROUND

I was born in Honolulu, on March 11, 1939. I was licensed to practice law in the State of Hawaii On November 10, 1965. I have practiced law in Hilo, Hawaii for about 51 years. We dissolved our last Hilo law firm in 2008. I have been *Of Counsel* for Bickerton, Dang LLLP for about five years.

I was appointed to the legislature in January 1969 by Governor John A. Burns, a leader of the Democratic Revolution in Hawaii. I served until 1976. A man of few words, he strived to bring the entire community together and move the State of Hawai'i forward in harmony, "Aloha aku, Aloha mai." My home precinct was Keaukaha. My Keaukaha precinct campaign managers during those years were Genesis Lee Loy and Samson Kela, Sr. Measures passed between 1969-1976 affecting the future of Hawai'ian Cultural Rights included approval of the University of Hawai'i at Mānoa School of Law; SB 660 (1973), extending the Statute of Limitations on Adverse Possession claims from 10 to 20 years; and the 1976 revision of the Uniform Probate Code CH. 490 HRS to reflect local intestacy law refinements affecting the Hawai'ian community.

I served on the Board of Regents, State of Hawaii from 1997-1999. During that time, emphasis by the Board and the Administration was given in part to enhance the management of Mauna Kea and develop a Hilo-based astronomy infrastructure.

Between September 1999 and May 14, 2005, I was a student at the Ka Haka`Ula `O Ke`elikōlani Hawai'ian Language College at UH-Hilo. I graduated on May 14, 2005 with a **Palapala Hō`oia Kālai`ike** (completion of all requirements for Hawai'ian Language). My law partner and I attended the Hawai'ian Language College to develop better skills to represent local Hawai'ian families to recover land lost to developers and plantation entities over the past 150 years. Much of the historic information regarding land title is uniquely documented only in the

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Hawai`ian language. English translations by the plantations and landowners were not always reliable.

I served in the State of Hawaii Land Use Commission (LUC) from 1999-2003. On September 11, 2000, while I was a member of the LUC, the Supreme Court of the State of Hawai`i, in *Ka Pa`akai O Ka`aina et al. v. Land Use Commission, State of Hawai`i et al.* 94 Hawai`i 31 (2000), Vacated and Remanded the State Land Use Commission's reclassification of approximately 1,000 acres of land from the State Land Use Conservation District. The Court held that the LUC's Findings of Fact and Conclusions of Law pertaining to a large area in proximity to the 1801 Hualālai lava flow and the shore line in the Ka`upulehu area of North Kona were insufficient to preserve and protect customary and traditional rights of Native Hawai`ians protected by Article XII Sec. 7 of the Hawai`i Constitution.

After the Court's decision, the LUC revisited the issues and facts of the Ka Pa`akai docket. The LUC entered a revised Order.

The revised LUC Order generally provided as follows:

- (I.) A permanent plan of joint management of the development at Ka`upulehu, Hawai`i.
- (II.) A plan for the set aside of a particular area of the 1801 lava flow for Hawai`ian worship.
- (III.) A plan for the reinterment or other action resulting from to the discovery of ancient human burial remains on the premises.
- (IV.) A plan for the harvesting of sea salt, gathering of shells, and other shoreline resources.

That 2nd Order of the LUC was not appealed.

I am presently serving on the Board of Land and Natural Resources as the Big Island member for a term expiring June 30, 2018.

CONTACT WITH THE CONTESTED CASE PARTIES

(1) **Applicant for this CDUA is the University of Hawaii at Hilo.**

(a) As mentioned above, I was a member of the Board of Regents of the University of Hawaii from approximately December, 1997 until June 30, 1999. In that official capacity, I engaged in no decision making or other discussions with respect to the TMT project at the summit of Mauna Kea.

(b) After I became a member of the BLNR on July 1, 2014, and until the Decision by the Supreme Court of Hawaii in December, 2015, vacating the UHH Conservation District Use Permit, herein. I had contact with administrative personnel at UH Hilo. This included Chancellor Don Straney; his secretary, Marsha Heller; and Ka`tu Kimura, Director of the Imiloa Astronomy Center. Since December, 2015, when the Vacation Order from the Supreme Court was issued, I have suspended all contact with UH Hilo staff on any matters relating to the TMT contested case docket.

(2) **Party/Petitioners Mauna Kea Anaina Hou, Kealoha Pisciotta, Paul K. Neves, et al.**

(a) During the period from approximately 2002 through 2008, I discussed the subject of Hawai`ian Culture and PASH rights with *Kealoha Pisciotta* on approximately a half dozen occasions. I remember at least five or six occasions when this occurred at canoe races, both in Hilo and on the Kailua-Kona pier. This occurred both during the races and afterward at the post race club potlucks. She also came to our law office at the Hilo Lagoon Centre. I confirmed this with my former law partner, Andrew P. Wilson. She participated in a discussion in our library with five or six other people, including Mr. Wilson and myself about PASH rights. There was no discussion about the TMT Project.

(b) I also know *Paul K. Neves*. He lives about a block and a half from our house in Keaukaha. He lives on Nahale-a Street. When I am exercising on the road in the morning, I see him walking his dog.

(3) **Party/ TMT International Observatory LLC.**

(a) Before the State Supreme Court's December 2015 decision above, I was introduced to Henry Yang. He visited me at my office to introduce himself. We did not discuss the TMT project. I also met Sandra Dawson to pick up an invitation in 2014. We had no discussions about the TMT project.

(4) **Party/Perpetuating Unique Educational Opportunities, Inc (PUEO), Inc.**

(a) I have known both attorneys Lincoln Ashida and Newton Chu for a number of years as fellow members of the Hawai`i Bar Association. I believe they are both partners of the Torkildson, Katz et al. law firm. In 2015, Lincoln Ashida, of that firm, was co-counsel for the Defense in a major personal injury case here on the Big Island. Bickerton, Dang, LLLP, of which I am *Of Counsel*, represented the Plaintiffs, a Chinese family from Puna. On the eve of the trial in April 2015, the case was sent to mediation by the Third Circuit Trial Court. Judge Amano (Ret.) was the mediator. A mediated resolution was reached in about June, 2015. (See also: "Interactions with Judge Amano")

(b) I have known *Shadd Keahi Warfield* since 2002. We were students together at the Ka Haka `Ula o Ke`elikōlani, College of Hawai`ian Language at the University of Hawaii at Hilo. He graduated a year or two before me. I graduated in 2005. In approximately 2006 or 2007, he became a paddler at Keaukaha Canoe Club and also a volunteer at the Keaukaha One Youth Development (KOYD), a 501(c)(3) public charity in Keaukaha.

(c) KOYD was conceived by Jimmy Nani`ole of Hilo, then President of the Keaukaha Canoe Club, to provide support to at-risk local youth, principally in the Keaukaha-Pana`ewa Hawai`ian Homes area. I supported him in his efforts. Keahi Warfield eventually became Executive Director of KOYD after Jimmy Nani`ole stepped down as President of the Keaukaha Canoe Club and KOYD. My wife and I were volunteers on the board of KOYD until March, 2015, when we resigned. KOYD has its after school program next door to our house at

the former Doc Hill premises, which is presently owned by me, my wife, and our three children as a Limited Liability Family Partnership called "Makana Kai LLFP." Since approximately 2014, KOYD has been paying a portion of the maintenance and upkeep on the premises. The youth program generally meets four to five afternoons a week at the premises.

The program also has a lease (BOC Document No. Doc A-50930414) (TMK: 3-2-014: 033, 055, 056, 057) across the street from the Doc Hill premises until 2018. The educational uses include farming, canoe carving, and canoe restoration.

KOYD also leases a 60-acre parcel (BOC Document No. Doc A-50930413) (TMK 3-8-7-013:063) in Opihihale, Kona for camping trips and shoreline fishing on at least a quarterly basis until 2018.

(d) I have known *Richard Ha* for a number of years. Richard's father was my client until he died. His father was a chicken farmer in the Pana'ewa farm lots area.

(e) I have had no involvement of any nature whatsoever with PUEO, Inc. I was not involved in its incorporation nor have I been involved in any of its ongoing operations or decision making.

(5) **Party/ Kalikolehua Kanaele.**

I first met *Kaliko Kanaele* at my law office in Hilo in June or July, 2005, after I graduated from the UH Hilo Hawai'ian Language College. He and two other representatives of the Royal Order of Kamehameha made a visit to my office. We discussed Hawai'ian Cultural matters. I also saw him within the last year or two at the Hale Kaulike Courthouse here in Hilo.

(6) **Party Stefanie-Malia Tabbada**

Ms. Tabbada's mother, Margaret Dancel, formerly of Na'alehu, was my client and political supporter in the 1960's. I briefly met Stefanie on several occasions at the Dancel home years ago.

(7) **Party Dwight J. Vincente**

I have seen Dwight Vincente at the various court houses in Hilo from time to time.

(8) **Relationships with Law Firms in the TMT contested case.**

(a) **Carlsmith Ball LLP. Maui Cases - Adverse**

(1) 'Ulupalakua Ranch Case

We represented Defendants' Snowden from the 1990's until early 2000's. Carlsmith Ball represented the developer. The case was settled sometime in 2003.

(2) Lochland Holdings v. Keleau et al.

Carlsmith Ball represents the Plaintiff, and our prior firm represented the Defendants Snowden. This case is 19 years old and is still ongoing. It has been to the Appellate Courts twice so far. Counsel Richard Wurdeman represents other Defendants. My former law partner, Andrew P. Wilson, and I still represent Defendants Snowden.

(b) Carlsmith Ball LLP. Big Island Cases - Adverse

(1) Ho'opuloa Mauka

We represented Defendants Kuahiwinui. Carlsmith Ball represented Dillingham Investment.

(2) Pahoehoe/Kahuna `Aina Heirs

Carlsmith Ball represented the Magoon Estate. We represented one of the Fred Iona heirs.

(3) Ka'awaloa Ahupua`a Litigation

Carlsmith Ball represented the major land owner. We represented one lot owner.

(4) Kanani Ili v. Kuwahara et al.

We represented the Plaintiff in a Hawai`ian Quiet Title/Fraud case. The matter went to a jury trial. The verdict was appealed. It was affirmed by the State Supreme Court.

(5) The Hilea Ahupua`a Litigation

We represented numerous Hawai`ian Plaintiffs. The trial court granted Ka`ū Sugar/Olsen Trust Partial Summary Judgment. It was appealed and affirmed by the State Supreme Court in 2007. (See *Clara Apili Omerod et al v. Heirs of Kainoa Kupuna et al*, 116 Hawai`i 239, Nov. 15, (2007)).

Carlsmith Ball represented Ka`ū Sugar. After the Supreme Court decision, Judge Amano commenced mediation between some of the Parties. Clients we represented settled some issues with successor, Olsen Trust. Other PASH issues are ongoing before Judge Amano. I have withdrawn from the case and further mediation. My former law partner, Andrew P. Wilson, is still representing my former clients.

University of Hawai`i at Mānoa Professor Davianna McGregor was hired in the early stages of the above litigation as an expert witness. She has been listed as a potential witness in the TMT contested case.

(6) Bickerton, Dang LLLP, of which I am *Of Counsel*, represents the Plaintiffs in a major personal injury case in Kona, *Haynes v. Clark Realty et al*. Carlsmith Ball represents one of the Defendants, Allied Self Storage. That case is on appeal.

(7) Carlsmith Ball represented McCandless Ranch in a boundary dispute. We represented a native Hawai'ian neighbor. The case was settled before trial.

(c) Carlsmith Ball tax attorney, Jim Starshak, has provided estate planning advice to members of my family from time to time.

(9) **Interaction With The Hearing Officer Judge Amano**

Judge Amano (Ret) served as a Circuit Court Judge in the Third Circuit. I appeared before her in numerous trials and related motions. She was also a mediator on a major personal injury action brought in the Third Circuit involving a Chinese family from Puna as plaintiffs. I participated in this matter as Of Counsel for the plaintiffs as part of the Bickerton, Dang LLLP law firm. Lincoln Ashida of the Katz et al defense firm represented one of the major defendants in that case. A mediated settlement was reached by Judge Amano on or about June 2015.

I also participated as co-counsel with one of my former partners, Andrew P. Wilson in a quiet title action in Ka`ū where Judge Amano was a mediator in the Hilea Ahupua`a litigation (See *infra* at Carlsmith Ball) (See also *Omerod et al v. Heirs of Kaheananui et al* 116 Hawai`i 239, Supreme Court of the State of Hawai`i (2007)).

(10) **Financial Interest/Bias/Partiality**

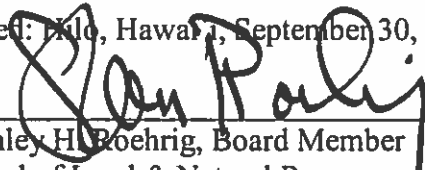
I have no financial interest in the outcome of this CDUA. I have no financial relationship with any of the parties. Based on my background in the public sector, including service in the State of Hawai`i House of representatives, the Board of Regents, the Land Use Commission, and the BLNR, I have strived to make reasonable decisions in the public interest as a voting member of the above public entities.

CONCLUSION

I have disclosed above, my contacts and relationships with the parties and representatives of those parties. None of these relationships will influence my actions. I have not been asked to state or agree to a position by anyone with respect to any such decision. I have in no way prejudged my position in any matter before the BLNR with respect to the TMT contested case.

Based on the above, I do not think that a reasonable person knowing all the facts herein would conclude that the above context would cause me to be partial for or against this CDUA or any of the parties thereto.

Dated: Hilo, Hawaii, September 30, 2016


Stanley H. Boehrig, Board Member
Board of Land & Natural Resources
State of Hawai`i

BOARD OF LAND AND NATURAL RESOURCES

STATE OF HAWAII

Contested Case Hearing Re Conservation
District Use Application (CDUA) HA-3568
for the Thirty Meter Telescope at the Mauna
Kea Science Reserve, Ka'ohē Mauka,
Hāmākua, Hawai'i, TMK (3) 4-4-015:009

BLNR Contested Case HA-16-02
Document title: Notice of Disclosure of Board
Member Stanley H. Roehrig re CDUA HA-2568
(Thirty Meter Telescope)

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the above referenced document was served upon the following parties by the means indicated on September 30, 2016:

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