

BOARD OF LAND AND NATURAL RESOURCES

STATE OF HAWAI'I

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

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OFFICE OF CONSERVATION
AND COASTAL LANDS

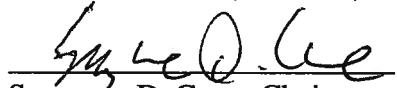
Case No. BLNR-CC-16-002
2016 MAY -2 P 12:13

NOTICE OF FILING OF DISCLOSURES BY
BLNR CHAIRPERSON SUZANNE CASE AND BOARD
MEMBER YUEN; EXHIBITS 1 AND 2;
CERTIFICATE OF SERVICE

**NOTICE OF FILING OF DISCLOSURES OF BLNR BOARD CHAIRPERSON SUZANNE CASE AND
BOARD MEMBER CHRIS YUEN**

Notice is hereby given that BLNR Board Chairperson Suzanne Case and Board Member Chris Yuen have filed disclosure statements related to the above subject Contested Case. The disclosures are attached as Exhibits 1 and 2, respectively,

Dated: Honolulu, Hawai'i, May 2, 2016


SUZANNE D. CASE, Chairperson
Board of Land & Natural Resources
State of Hawai'i

DAVID Y. IGE
GOVERNOR OF
HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

May 2, 2016

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

KEKOA KALUHIWA
FIRST DEPUTY

JEFFREY T. PEARSON, P.E.
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

Disclosure of BLNR Board Chair Suzanne Case re CDUA HA-3568 (Thirty Meter Telescope)

I am the Chair of the Board of Land and Natural Resources (BLNR).

In this capacity I oversee the Department of Land and Natural Resources (DLNR) divisions, under authority of BLNR, including these divisions with management and regulatory jurisdiction over activities on Mauna Kea:

- the Division of Forestry and Wildlife (DOFAW) which has jurisdiction over forest reserves, natural area reserves, and trails;
- the Land Division (LD) which has jurisdiction over unencumbered State lands and makes dispositions including leases, easements and revocable permits;
- the Office of Conservation and Coastal Lands (OCCL) which has responsibility for regulating public and private uses in the conservation district;
- the Division of Conservation and Resource Enforcement (DoCARE) which has responsibility for enforcement of laws and regulations under the jurisdiction of DLNR and as otherwise authorized under joint enforcement agreements
- the State Historic Preservation Division (SHPD) which has responsibility for regulating public and private actions with potential impacts to historic and cultural resources

as well as other areas such as water, aquatics, and state parks.

I began my work at DLNR on April 27, 2015, over three weeks following the April 2, 2015 arrests for blocking the Mauna Kea access road. I did not participate in the February 12, 2013 BLNR decision to approve the conservation district use permit for the Thirty Meter Telescope, nor did I sign the March 6, 2015 Notice To Proceed. These had been approved prior to my appointment as chairperson of the BLNR.

My work related to the Mauna Kea telescope project and related protests from April 27, 2015, to December 2, 2015, focused on ensuring the right of access of the TMT contractors for preliminary construction authorized by the CDUP and notice to proceed. It also focused on working on the portions of the Governor's ten-point plan for Mauna Kea relevant to DLNR, including discussions with UH Hilo for return of the 10,000 acres of the leased area other than the astronomy area and access roadway, rules and enforcement regarding public access including the emergency rule passed by the BLNR on July 10, 2015, eventual establishment of a cultural council, and decommissioning of telescopes; this work is ongoing.

My fundamental approach has been as quoted in the July 10, 2015 Hawaii Tribune Herald article:

"I would suggest our legitimate goal is to keep the mountain open to normal activities," Case wrote to Chin. "Cessation of unlawful activities while protecting free speech and traditional and customary practices would be the path to that goal."

I have addressed questions from time to time from persons in the Cabinet, the University of Hawaii, the Thirty Meter Telescope, the media and the public relating to the permitting and legal challenge process and timing, but not the merits of the contested case. I have engaged in detailed discussions with representatives of the Attorney General's offices and with BLNR members and relevant DLNR staff regarding the specific legal requirements and steps to proceed with the contested case following the December 2, 2015 Supreme Court decision.

I have limited my comments on Mauna Kea in public speaking engagements to DLNR's overall jurisdiction on Mauna Kea, TMT's right to proceed with preliminary construction under the CDUP and Notice to Proceed, public safety and enforcement of laws, the emergency rule, the uncertainty with the Supreme Court case pending, the need for constructive dialogue, and moving forward with the Governor's ten-point plan. I have not commented on the merits of the contested case.

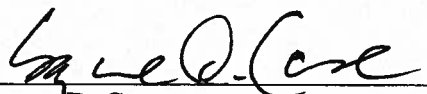
The subject of my presentation at the Japanese Chamber of Commerce in Hilo in November, 2015, was DLNR's role as lessor and associated planning at Banyan Drive and Kanoelehua Industrial Area. I had no conversations beforehand or after with Barry Taniguchi, who merely introduced me at the presentation. Audience members asked some questions regarding Mauna Kea during Q&A; those exchanges are reported in the newspapers and I have no further records on them; I limited my comments on Mauna Kea to process and to DLNR's role in enforcing the existing laws.

When the Supreme Court issued its December, 2015 decision vacating the UHH conservation district use permit, access for construction was therefore no longer legally authorized by the CDUP, so DLNR's role and my role changed that day: from enforcing right of access under the Notice to Proceed, to ensuring TMT construction ceased and to proceeding with the contested case as remanded.

At no time have I engaged in any substantive discussions regarding any potential position I might take as a member of the BLNR with respect to the contested case. I have not been asked to state or agree to a position by Governor Ige or by Chief of Staff Mike McCartney with respect to any such decision in the future. I have not prejudged my position in the contested case eventual BLNR decision.

I have no personal conflict with respect to any party to the contested case. I am not related to the Flores-Case 'ohana. Ian Sandison, counsel for TMT, was my high school classmate and a former professional colleague of my father and brothers; I do not see him regularly but occasionally run into him socially and I have not discussed the TMT case with him.

I do not believe my position as Chair of the Board of Land and Natural Resources nor my actions in carrying out my related duties at the Department of Land and Natural Resources create or reflect bias in my approach, nor would it cause any reasonable person to think that my impartiality in this contested case hearing would be affected.


Suzanne D. Case

CHRISTOPHER J. YUEN
ATTORNEY AT LAW

P.O. Box 5
Ninole, HI 96773
Telephone: (808)963-6966
e-mail: chrisyuenz@hotmail.com

April 29, 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

Dear Suzanne:

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

I have written the following disclosure. I'd 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 Chris Yuen re CDUA HA-3568 (Thirty Meter Telescope)

The applicant for this CDUA is the University of Hawai'i-Hilo. My wife, Dr. Noelie Rodriguez, is a Professor in the Social Science Department at Hawai'i Community College. UH-Hilo and HCC are separate organizations but both are in the University of Hawai'i system. The highest administrator in UH-Hilo is the Chancellor, who is directly under the President of the University of Hawai'i. HCC has a separate Chancellor, who reports to the Vice-President for the Community Colleges, who is directly under the President of the University of Hawai'i.

There are two intermediate levels of administration between the Chancellor of HCC and the HCC Social Science Department, which consists of about ten faculty members.

The Social Science Department consists eight programs: Administration of Justice, Early Childhood Education, Fire Science, Human Services, Philosophy, Psychology, Social Science, and Sociology. Dr. Rodriguez's position is in Sociology.

As far as I know, neither the HCC Social Science Department nor the programs within it have any connection with the development of astronomy in Hawai'i, or specifically with the proposed new telescope. They do not train students for careers in astronomy (except in the very general sense of contributing to their overall education), and, as far as I know, do not receive funding from astronomical facilities. Given the nature of the programs in the Social Science Department it does not seem likely that the current non-involvement in training students for careers in astronomy would change in the future.

Dr. Rodriguez has been a tenured professor at HCC for almost twenty years. She is a full professor, which means that she has no possibility for further promotion as a professor. She has never applied for any administrative position within the UH system and does not plan to in the future. Her compensation is set by the union contract, and she has protections afforded by tenure and the union contract.

I do not foresee any way in which the approval or non-approval of this CDUA would affect her compensation or benefits, or the programs at HCC in which she is involved.

Neither my wife nor I have any direct or indirect pecuniary interest in the outcome of this CDUA.

If there were some positive or negative action affecting my wife's employment taken by the University to try to affect my views on this CDUA, it would, of course, be completely improper and I would report it to the parties. I do not see what actions of that nature could be taken, given my wife's situation at HCC.

I was the attorney in an employment discrimination lawsuit against the University of Hawai'i-Hilo and three individuals who were either administrators or faculty members at UH-Hilo. My wife was the plaintiff. The suit was filed in 1993 and settled in 1994. None of the individual defendants has been affiliated with UH-Hilo for at least ten years. A parallel suit on behalf of my wife, arising from the same factual circumstances, was filed earlier by the Hawai'i Civil Rights Commission against the same defendants, in 1992, and also settled at the same time as the other suit, in 1994.

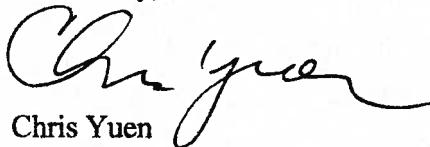
There are no ongoing issues from these lawsuits that would bias my views about UH-Hilo or this CDUA.

I taught one class for one semester at Hawai'i Community College as a lecturer in the mid-1980's. I have not tried to get employment in the UH system since, nor do I expect to in the future.

I graduated from the William S. Richardson School of Law, a part of the UH system, in 1982. There is no ongoing relationship that would affect my views on this CDUA.

None of these past, present, or foreseeable future relationships between myself or my wife with the University of Hawai'i or any of its subsidiaries has any actual effect on how I will approach this CDUA and do not bias my views about any of the parties. I do not think that a reasonable person, knowing all the facts about these relationships, would conclude that they might cause me to be partial for or against this CDUA or any of the parties.

Yours truly,

A handwritten signature in black ink, appearing to read "Chris Yuen", written in a cursive style.

Chris Yuen

BOARD OF LAND AND NATURAL RESOURCES

STATE OF HAWAI'I

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Kea Science Reserve, Ka'ohē Mauka,
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Case No. BLNR-CC-16-002

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the disclosure of BLNR Chairperson Suzanne Case, dated May 2, 2016, and the disclosure of BLNR Board Member Chris Yuen, dated April 29, 2016 was served upon the following parties via regular mail on May 2, 2016, addressed as follows:

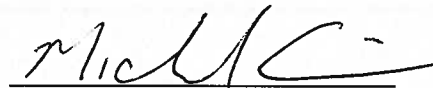
Julie China, Deputy Attorney General
Land and Transportation Division
Kekuanao`a Building
465 South King Street, Third Floor
Honolulu, HI 96813
*Counsel for the Board of Land and Natural
Resources*

Ian Sandison
Tim Lui Kwon
Arsima K. Muller
Carlsmith Ball LLP
1001 Bishop Street
ASB Tower, Suite 2200
Honolulu, HI 96813
*Counsel for the University of Hawai'i at
Hilo*

Judge Riki May Amano (Ret.)
1003 Bishop Street, Suite 1155
Honolulu, HI 96813
Hearing Officer

Richard N. Wurdeman
Attorney at Law
1003 Bishop Street, Suite 720
Honolulu, HI 96813
*Counsel for the petitioners Mauna Kea
Anaina Hou, Clarence Kukauakahi Ching,
Flores-Case 'Ohana, Deborah J. Ward,
Paul K. Neves, and Kahea: The
Environmental Alliance*

Dated: Honolulu, Hawai'i, May 2, 2016



Michael Cain
Department of Land & Natural Resources
State of Hawai'i