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DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

BOARD OF LAND AND NATURAL RESOURCES

STATE OF HAWAI'I

IN THE MATTER OF

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

Case No. BLNR-CC-16-002

[PROPOSED] MINUTE ORDER NO. _____ DENYING STEPHANIE-MALIA:TABBADA'S MOTION TO VACATE ENTIRE PROCESS FOR VIOLATION OF BLNR AND UNIVERSITY OF HAWAII FIDUCIARY TRUST, RIGHTS, RESPONSIBILITIES, BREACH OF CONTRACT. ETC. MANDATED BY THE LAW OF THE LAND, FILED JULY 18, 2016 [DOC. 97]; CERTIFICATE OF SERVICE

[PROPOSED] MINUTE ORDER NO. _____ DENYING STEPHANIE-MALIA:TABBADA'S MOTION TO VACATE ENTIRE PROCESS FOR VIOLATION OF BLNR AND UNIVERSITY OF HAWAII FIDUCIARY TRUST, RIGHTS, RESPONSIBILITIES, BREACH OF CONTRACT. ETC. MANDATED BY THE LAW OF THE LAND, FILED JULY 18, 2016 [DOC. 97]

On August 5, 2016, a hearing on Stephanie-Malia:Tabbada's Motion to Vacate Entire Process for Violation of BLNR and University of Hawaii Fiduciary Trust, Rights, Responsibilities, Breach of Contract. Etc. Mandated by the Law of the Land [Doc. 97], filed July

18, 2016 (“**Motion**”), was held in Hilo, Hawai‘i, at the YMCA Building, 300 West Lanikaula Street.

The following persons were present:

Julie H. China, Esq., Deputy Attorney General and William Wynhoff, Esq., Deputy Attorney General

Stephen Michael Cain, Staff Planner

Richard N. Wurdeman, Esq., for Mauna Kea Anaina Hou, for and with Kealoha Pisciotta, Clarence Kukauakahi Ching, Pualani Case, and E. Kalani Flores, with Keomailani Van Gogh.

Timothy Lui-Kwan, Esq., John P. Manaut, Esq. and Ian Sandison, Esq., for the University of Hawai‘i-Hilo (“**UH-Hilo**”), with David Lonborg, Esq., Stephanie Nagata and Bob McLaren.

J. Douglas Ing, Esq. and Ross Shinyama, Esq. for TMT International Observatory, LLC. (“**TIO**”), with Sandra Dawson.

Lincoln Ashida, Esq. for Perpetuating Unique Educational Opportunities Inc. (“**PUEO**”), with Bill Brown.

Lanny Alan Sinkin for Lono Temple with Kahuna Nobriga

Kalikolehua Kanaele

Harry Fergerstrom

Richard DeLeon

Mehana Kihoi

C. M. Kaho‘okahi Kanuha

Joseph Kualii Lindsey Camara

Jennifer Leina‘ala Sleightholm

Maelani Lee

Stephanie-Malia Tabbada

Tiffnie Kakalia

Dwight J. Vicente

Brannon Kamahana Kealoha

Cindy Freitas

William K. Freitas

Ivy McIntosh (witness)

Wilma Holi (witness)

Patricia Ikeda (witness)

David Louie, Esq. for the Attorney General and Department of the Attorney General.

In relation to the Motion, the following documents were considered:

Doc. No.	Title	Date	Counsel/Party
139	The University of Hawai‘i at Hilo’s Opposition to Living Heir/Proper Party/Petitioner Stephanie-Malia Tabbada’s Motion to Vacate Entire Process for Violation of BLNR and University of Hawai‘i Fiduciary	08/01/2016	UH-Hilo

	Trust, Rights, Responsibilities, Breach of Contract, Etc. Mandated by the Law of the Land [Doc. 97]		
142	TMT International Observatory, LLC's Joinder in (1) the University of Hawai'i at Hilo's Opposition to Temple of Lono's Motion for Partial Summary Judgment; and (2) the University of Hawai'i at Hilo's Opposition to Living Heir/Proper Party/Petitioner Stephanie-Malia Tabbada's Motion to Vacate Entire Process for Violation of BLNR and University of Hawai'i Fiduciary Trust, Rights, Responsibilities, Breach of Contract, Etc. Mandated by the Law of the Land	08/01/2016	TIO

The Motion, all related and oral submissions from counsels and/or parties, all applicable law, and the entire record have been considered by the Hearing Officer. To the extent the Motion relies on the existence and/or the laws of the Kingdom of Hawai'i, the Hearing Officer finds that such reliance has no legal basis. *See United States v. Lindsey*, Civ. No. 11-00664 JMS-KSC, 2013 WL 3947757 at *2 n.1 (D. Haw. July 30, 2013). The Motion is further denied because there is no legal basis for the Hearing Officer to vacate, or nullify, the entire contested hearing process, and the Hearing Officer lacks the authority to grant the relief sought. Therefore,

IT IS HEREBY ORDERED that the Motion is DENIED.

The deadline for submission of any **motion** to reconsider this minute order shall be submitted no later than **Thursday, October 13, 2016 at 4:30 p.m.** Any **responses to motions to reconsider** shall be submitted no later than **Friday, October 14, 2016 at 4:30 p.m.** Any motions for reconsideration of this minute order shall be treated as a non-hearing motion unless otherwise ordered by this Hearing Officer.

DATED: Honolulu, Hawai'i, October __, 2016.

 Judge Riki May Amano (Ret.)
 Hearing Officer

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Case No. BLNR-CC-16-002

CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

The undersigned certifies that the above-referenced document was served upon the following parties by email unless indicated otherwise:

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BLNR Members SUZANNE CASE and
STANLEY ROEHRIG*

DATED: Honolulu, Hawai'i, October 5, 2016.

A handwritten signature in black ink, appearing to be 'I. Sandison', written over a horizontal line.

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