

BOARD OF LAND AND NATURAL RESOURCES

STATE OF HAWAII

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`ohe Mauka, Hamakua, Hawai`i)
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_____)
Certificate of Service

MINUTE ORDER NO. 25

(Order 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 (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) (“Motion”) was held in Hilo, Hawai`i at the YMCA, 300 W. Lanikaula Street.

The following persons were present:

Richard N. Wurdeman, Esq., Attorney for Mauna Kea Anaina Hou, et al. for and with Kealoha Pisciotta, Clarence K. Ching, Deborah Ward, Paul Neves, Pualani Case, E. Kalani Flores and Keomailani Van Gogh
Timothy Lui-Kwan, Esq.; John Manaut, Esq.; and Ian Sandison, Esq.; Attorneys for the University of Hawaii-Hilo (“UHH”)
J. Douglas Ing, Esq. and Ross Shinyama, Esq., Attorneys for TMT International
Lincoln Ashida, Esq. and Newton Chu, Esq., Attorneys for Perpetuating Unique Educational Opportunities Inc. (“PUEO”)
Lanny Sinkin for Temple of Lono

Received
Office of Conservation and Coastal Lands
2016 Oct 10 5:09 pm
Department of Land and Natural Resources
State of Hawaii

Harry Fergerstrom
 Richard DeLeon
 Mehana Kihoi
 C.M. Kahookahi Kanuha
 Joseph Camara
 Jennifer Leina`ala Sleightholm
 Maelani Lee
 Kalikolehua Kanaele
 Stephanie-Malia Tabbada
 Tiffnie Kakalia
 Glen Kila
 Dwight Vicente
 Brannon Kamahana Kealoha
 Cindy Freitas
 William Freitas

In addition to the Motion, the following submissions were considered:

DOC.	TITLE	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 Trust, Rights, Responsibilities, Breach of Contract. Etc. Mandated by the Law of the Land (Doc. 97)	University of Hawai`i at Hilo
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	TMT International Observatory, LLC

On October 5, 2016, the University of Hawai`i at Hilo filed a Proposed Minute Order No.

___ Denying the Motion ("Proposed Minute Order"; Doc. 316).¹ Cindy Freitas submitted

¹ At the 5th pre-hearing conference, held on October 3, 2016, the Hearing Officer requested that prevailing parties submit proposed minute orders relative to motions for which oral rulings were rendered but written Minute Orders were still outstanding. Deadline for submission of the proposed minute orders was set for Wednesday,

Objection to All Minute Order No. ____ That Was Filed In The Document Library On October 5, 2016 Doc 322, 321, 320, 319, 318, 317, 316, 315, 314, 312, 311, 310, 309 and 308, on October 7, 2016 (“C. Freitas Objection”; Doc. 332 and Doc. 333)².

Based upon the Motions, all related and oral submissions from counsels and/or parties, the Proposed Minute Order and all submissions related thereto, all applicable law, the entire record having been considered by the Hearing Officer,

IT IS HEREBY ORDERED that the Motion is DENIED. 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.

Ms. Freitas’ objections to the Proposed Minute Order are based on her belief that “There for [sic] all **DOC 322, 321, 320, 319, 318, 318, 317, 316, 315, 314, 312, 311, 310, 309 AND 308** filed in the Document Library on October 5, 2016 is premature.” Citing the “14th Amendment” Ms. Freitas contends that her rights are somehow denied by the Proposed Minute Order. Her arguments are illogical. The appropriate time to ask for reconsideration of the Minute Order in question is after it is filed. It has not been filed yet. The filing of this Minute Order will trigger the process for reconsideration as set out herein.

Motion to Reconsider. A party, who believes it appropriate, may file a motion to

October 5, 2016, 4:30 p.m. Deadline for the submission of responses to the proposed minute orders was set for Friday, October 7, 2016, 4:30 p.m.

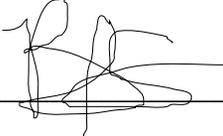
² It appears that C. Freitas filed two identical documents; Doc. No. 332 is file-stamped “2016 Oct 07 at 11:44 a.m.” and Doc. No. 333 is file-stamped “2016 Oct 07 at 3:39”.

reconsider using the procedure set out herein. Any Motion for Reconsideration shall not be used to reargue the motion or set out positions of a purely repetitious nature or to present factual or legal grounds that could or should have been presented at the original hearing. AMFAC, Inc. v. Waikiki Beachcomber Inv. Co., 74 Haw. 85, 114 (1992).

The deadline for submission of any **motion** to reconsider this minute order and/or the Order Setting Issues, is no later than **5 business days** after the date this Minute Order are filed in the Documents Library. Any **responses to motions to reconsider**, shall be submitted no later than **10 business days** after this motion and order are filed in the Documents Library; essentially 5 business days after the deadline for motions to reconsider.

Any Motion to Reconsider shall be considered a non-hearing motion unless otherwise designated by the Hearing Officer.

DATED: Honolulu, Hawai`i, October 10, 2016.



Judge Riki May Amano (Ret.)
Hearing Officer

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
Kea Science Reserve, Ka'ohē Mauka,
Hāmākua, Hawai'i, TMK (3) 4-4-015:009

BLNR Contested Case HA-16-02
Document title:
Minute Orders 21, 22, 23, 24, 25, 26, 27

(CORRECTED) CERTIFICATE OF SERVICE

The undersigned hereby certifies that the above referenced Minute Orders were served upon the following parties by the means indicated on October 10, 2016:

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Witness for the Hearing Officer

Signature:

Name: Michael Cain

Date: October 11, 2016