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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;) CINDY FREITAS MOTION TO
Use Application (CDUA) HA-3568 For the) RECONSIDERATION TO
Thirty Meter Telescope at the Mauna Kea) MINUTE ORDER 44;
Science Reserve, Ka'ohe Mauka, Hamakua,) MEMORANDUM IN SUPPORT;
Hawai'i TMK(3)4-4-015:009) COS
)

CINDY FREITAS MOTION TO RECONSIDERATION TO
MINUTE ORDER 44

Minute Order 44 (DOC 553) was upload to the Document Library on April 20, 2017.

("Order").

The Order denied admission of numerous exhibits offered by Cindy Freitas
("Petitioner") as well as the process of the filing and submission procedures.

Petitioner moves the Hearing Officer to reconsider those decision and other decisions
in the Order and submit this Memorandum in Support of that Motion

Kailua Kona HI April 26, 2017


Cindy Freitas Petitioner

Received
Office of Conservation and Coastal Lands
Department of Land and Natural Resources
State of Hawaii
2017 April 26 9:02 pm

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IN THE MATTER OF) Case No. BLNR-CC-16-002
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A Contested Case Hearing Re Conservation;) MEMORANDUM IN SUPPORT
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Science Reserve, Ka'ohe Mauka, Hamakua,)
Hawai'i TMK(3)4-4-015:009)
_____)

**MEMORANDUM IN SUPPORT OF MOTION TO
RECONSIDERATION OF MINUTE ORDER 44**

I. INTRODUCTION

I Cindy Freitas ("Petitioner") file this Motion to Reconsider Minute Order 44 (DOC 553) filed in the Document Library on April 20, 2017.

The Order denied admission of numerous exhibits offered by Cindy Freitas and moves to reconsider those decision and offers this Memorandum in Support of Motion to Reconsideration of Minute Order 44.

II ARGUMENT

A. THE PROCESS OF FILING IS A DUE PROCES FAILURE

The Process of filing motions, reconsideration motions, objections, and responses throughout this Contested Case was agreed on all parties that it was allow to do email by

internet electronic filing procedures and that a few other parties requested by mail due to unreliable internet services or no internet at all.

On March 2, 2017 Contested Case Hearing at housekeeping the parties were not inform that there will be any changes to the "FILING/SUBMISSION PROCEDURES" by the Hearing Officer. Therefore my conclusion of this "FILING/SUBMISSION PROCEDURES" are bias and an act of due process failure in the system.

B. PARITIES FILED MOTION TO ADMIT EXHIBITS

The Hearing Officer on March 2, 2017 stated "the exhibits be moved into evidence is by written motion. It should say, Deborah Ward Motion to Move into evidence, and lay out whatever exhibits you want. The deadline for that is March 9th. So if you have things coming up today or yesterday or last week and didn't have the time to move it into the document, library so that it could be uploaded, do that before March 9th. Because then on March 9th, you're going to move everything that is in the document library for you into evidence. After that, we're not going to take any more uploading. A week later, March 16th, you may file if you wish, objections, responses, replies, joinders to the motion that were made. So if you have an objection to B-12, you may file an objection saying that we object to whoever is offering B-12, and here's the reason why. And then a week later, March 23rd, I will, by Minute Order, identify all the exhibits that I will be receiving in evidence. And those are the documents that—the documents are in evidence. And that will be close of the hearing. No other evidence will be allowed." March 2, 2017 Tr. Vol 44, Page 288 Line 1-22; HAR 13-1-35

As a Petitioner I fully understood this last oral Order. Also the Hearing Officer stated many times though out the Hearing process that she intended to decide on what weight to give the exhibits admitted into evidence.

Hearing Officer stated, "unless it's a series thing, then I don't expect to see or hear many objection." (DOC 530 Declaration of Cindy Freitas).

Hearing Officer has set a schedule on the Minute Order No. 44 it fails to schedule filing Motion of Objection to admission, Hearing Officer on the ruling that provided reasonable

explanation for ruling, Motion for Reconsideration and Response to Motion for Reconsideration then the final ruling. Another BAIS and DUE PROCESS FAILURE in the system.

C. EXHIBITS

Petitioner Exhibits S ("Ex. S") that was denied in consideration of TMT International Observatory, LLC ("TIO") and University of Hawaii at Hilo ("UHH").

As stated by the Hearing Officer on March 2, 2017 S-18L was enter before March 9, 2017 for the close of the hearing and S-18o is an oil drum, you find this on all construction site, it's for use oils which it supposed to be taken off the site.

I find it very odd that the Hearing Officer has considered TIO explanation on denied numerous Ex. S-28, S-29, S-29a, S-29b, S-30, S-30a, S-31, S-31a, S-31b, S-31c, S-18b 1 and S-18b 2 that TIO stated, "cannot find exhibit in Documents Library and therefore unable to confirm if exhibits is what it is described to be". However if you look at the UHH column, it look like UHH found it. So TIO explanation is unacceptable, in all due respect, yet the Hearing Officer did not even take the time to see how noticeable it is on the spreadsheet. Again another BAIS and DUE PROCESS FAILURE in the system.

UHH has denied numerous Ex. S-18L and S-18o same reason as TIO as stated above. Ex. S-18f are relevant to this proceeding due to the nature of Area E that is made of "hard solid a'a, pahoehoe and some adze rocks" that is stated in A-1 CDUA.

UHH expresses Ex. S-19, S-20, S-21, S-24, S-25, S-22, S-27, and S-27a as legal argument is not evidence, in this case, the Hearing Officer has repeatedly noted that rules of evidence do not apply in an administrative proceeding and that hearsay is admissible.

Ex. S-18b and S-18b2 was filed as Seventh Supplemental Exhibit List, due to the size of the file it would not go through the email so I sent the link instead, but how every I delivery a hard copy to the Contested Hearing and handed to Custodian of Records around or about February 13, 2017 of that week.

II CONCLUSION

Due to the nature of this Contested Care Hearing it's been very confusing as a Petitioner, but how every in good faith this Motion to Reconsideration of Minute Order 44 should be granted.

Kailua Kona, HI April 26, 2017

 TDC
Cindy Freitas Petitioner

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'ōhe Mauka,
Hāmakua, Hawai'i, TMK (3) 4-4-015:009

BLNR Contested Case HA-16-02
Document title:

MOTION TO RECONSIDERATION
MINTUE ORDER 44

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the above referenced document was served upon the following parties by email (when indicated):

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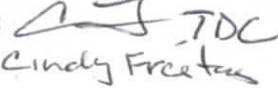
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