

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)
TMK (3) 4-4-015:009)
)
_____) **Certificate of Service**

CASE NO. BLNR-CC-16-002
Minute Order No. 90
(Order Denying Flores-Case
'Ohana's Motion for Full
Disclosure Re: Spoliation of
Evidence (Doc. 676))

MINUTE ORDER NO. 90

**(Order Denying Flores-Case 'Ohana's Motion for Full
Disclosure Re: Spoliation of Evidence (Doc. 676))**

Flores-Case 'Ohana filed its Flores-Case 'Ohana's Motion for Full Disclosure Re:
Spoliation of Evidence (Doc. 676) on June 2, 2017 (“Motion”). In addition to the Motion, the
following submissions were considered:

Doc. #	Filed	Party	Title
695	6-Jun-17	Ching	Clarence Kukauakahi Ching's Joinder of Flores-Case 'Ohana's Motion for Full Disclosure re: Spoliation of Evidence and Memorandum in Support of Motion
700	9-Jun-17	UHH	The University of Hawaii at Hilo's Opposition to Flores-Case 'Ohana's Motion for Full Disclosure re: Spoliation of Evidence Filed June 2, 2017 [Doc. No. 676] (“UHH Opposition)
702	9-Jun-17	TIO	TMT International Observatory, LLC's Joinder to The University of Hawaii at Hilo's Opposition to Flores-Case 'Ohana's Motion for Full Disclosure re: Spoliation of Evidence Filed June 2, 2017 [Doc. No. 676]

This Motion seeks:

“... full disclosure of the issues surrounding the act of spoliation of evidence in the proceeding of this contested case hearing for the reasons set forth below as well as those outlined in its previous submittals Doc. Nos. 577 and 623. The FLORES-CASE ‘OHANA previously filed Motion to Reconsider Minute Order No. 44 and Notice of Spoliation of Evidence [Doc. No. 577] on April 27, 2017 and Response to Applicant University of Hawai‘i at Hilo's Doc. Nos. 592 & 615 [Doc. No. 623] on May 7, 2017 regarding this matter. Minute Order No. 51 [Doc. No. 647] filed by the Hearing Officer failed to address this issue prior to the deadline of May 30, 2017 for submittal of findings of fact, conclusions of law, and decision order. As such, this required the filing of this motion to seek full disclosure in this matter.”

Motion at page 1.

UHH contends that the Motion is a rehashing of previously filed and ruled-upon motions, “raises no legitimate grounds and cites no rule that would allow it to further reconsider its already-denied motion for reconsideration” and that “[e]ven if the Hearing Officer were to consider the merits of the Motion, she should nonetheless deny the Motion because it fails to provide any credible support for its spoliation claim.” UHH Opposition at pages 2-6.

The joinders by Ching and TIO are simple joinders, not substantive.

The Motion fails to provide any credible facts nor legal support for the Flores-Case `Ohana’s spoliation of evidence claim. Furthermore, to the extent that the Motion seeks reconsideration of prior Minute Orders and decisions, it is untimely.

Based upon the Motion, all related submissions from counsels and/or parties, all applicable law, the entire record having been considered by the Hearing Officer,


IT IS HEREBY ORDERED that the Motion is DENIED.

Motion to Reconsider. A party, who believes it appropriate, may file a motion to 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 is no later than **5 business days** after the date this Minute Order is filed in the Documents Library. Any **responses to motions to reconsider**, shall be submitted no later than **10 business days** after this order is 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, July 14, 2017.



Judge Riki May Amano (Ret.)
Hearing Officer