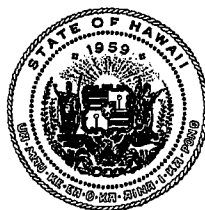


DAVID Y. IGE
GOVERNOR OF
HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

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

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
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

August 23, 2019

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawai'i

OAHU

Denial of Contested Case Petitions from Dwight J. Vincente Regarding the Enforcement Action Against Edwin C. Olson Trust No. 2 Amaulu Camp Cemetery, Pu'u eo Ahupua'a, South Hilo, Island of Hawai'i. **TMK:** (3) 2-6-008:028.

BACKGROUND:

This matter came before the Board on July 26, 2019, Item I-1. SHPD recommended that a possible enforcement action against Edwin C. Olson Trust No. 2 be settled by way of a payment of \$35,000 by the Trust. The Trust did not admit wrongdoing. The Board approved settlement for the amount of \$54,960. The Trust agreed and the matter is fully resolved.

Mr. Dwight J. Vincente later filed a written request for a contested case hearing. See Exhibit 1. Although dated July 25, 2019, DLNR received the request by email on July 29. Mr. Vicente did not appear at the meeting or request a contested case at or before the end of the July 26 meeting.

DISCUSSION

SHPD staff recommends that the Board deny Mr. Vincente's petition for a contested case hearing for the following reasons.

First, Mr. Vincente did not request the contested case at the Board of Land and Natural Resources meeting as required by the rules. HAR § 13-1-29. Mr. Vicente does not state a reason for this failure to request a contested case before or during the meeting or request a waiver of this requirement.

ITEM I-1

Board of Land and Natural Resources
August 23, 2019
Page 2

Second, there is no rule or statute that requires a contested in this matter. The petition does not state any reason that Mr. Vicente might have any property rights in the matter at issue and does not state how or whether any such property rights are affected by

the settlement. To the extent that Mr. Vicente's request is submitted on behalf of "The Hawaiian Kingdom" that entity does not exist. Mr. Vincente is not entitled to a contested case hearing.

Third, with respect to a violation no one other than the alleged violator and the department is entitled to be a party to a contested case. HAR § 13-1-31.1.

RECOMMENDATION

That the Board deny Mr. Vicente's contested case petition.

Respectfully submitted,



Alan Downer
Administrator, SHPD

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson

Affirmation of Settlement Agreement

SUBJECT: Enforcement Action against the Edwin C. Olson Trust No. 2. Alteration of historic properties during the course of land alteration activities without a permit. Amauulu Camp Cemetery. Pu'u'eo Ahupua'a, South Hilo, Island of Hawai'i. TMK: (3) 2-6-008:026

SUMMARY: This Notice of Violation requests the Board find that the Edwin C. Olson Trust No. 2 violated Hawaii Revised Statutes § 6E- 11(c) by altering historic properties without a County approved grading and grubbing permit, and requests that the Board assess an administrative fine pursuant to Hawaii Revised Statutes §6E-11.

DATES OF ALLEGED INCIDENTS: Through September 11, 2016

AGAINST: Edmund C. Olson Trust No.2

WHEREAS the State Historic Preservation Division ("SHPD") initiated this complaint against the Edmund C. Olson Trust No. 2 ("ECOT") in 2017;

WHEREAS the ECOT disputes the allegations and contends that the allegations of wrongdoing are both misdirected and unfounded;

WHEREAS the ECOT and the SHPD believe that their respective resources are better devoted to other matters and that the ECOT is fully aware of its legal obligations and the need for protection of historic properties in accordance with state law; and


WHEREAS the ECOT is willing to resolve this matter by paying \$54,960 to the SHPD's special fund to support its enforcement of the laws protecting historic sites without admitting any fault or wrongdoing with respect to the circumstances underlying this proceeding; and

WHEREAS the SHPD and the Board of Land & Natural Resources both agree that this settlement does not entail any finding or admission of fault or wrongdoing by the ECOT.

THEREFORE, it is agreed this matter will be dismissed with prejudice for payment of \$54,960 from the ECOT receipt and sufficiency of which is hereby acknowledged.

Dated: Honolulu, Hawai'i August 5, 2019

Approved by Board of Land and Natural
Resources July 26, 2019



Suzanne D. Case
Chair – Board of Land and Natural Resources

EXHIBIT 1

7/25/19

To the Board of Land and Natural Resources;

My name is Dwight J. Vicente, I'm representing The Hawaiian Kingdom. This is my Notice for a contested case hearing, on item, I. State Historical Division, Edwin C. Olson Trust No. 2 Amaulu Camp. Cemetery, Pu'u eo Ahupua'a, South Hilo, Hawaiian Kingdom, Crown Lands.

My standing in this matter is my native tenant rights as well as my political rights to this Kingdom's Lease Contract, Crown Lands and Government Lands.

All Rights Reserved

Dwight J. Vicente

2608 Ainaola Dr.

Hilo, Hawaiian Kingdom

From: [Lee, Randolph M](mailto:Lee.Randolph.M)
To: [Ferreira, Darlene S](mailto:Ferreira.Darlene.S)
Cc: [Downer, Alan S](mailto:Downer.Alan.S); [Hirotsu, Chandra H](mailto:Hirotsu.Chandra.H)
Subject: RE: Edwin C. Olson Trust N. 2
Date: Tuesday, August 6, 2019 1:42:52 PM
Attachments: [BLNR 8-23-19 HP.PDF](#)

Aloha Ms. Darlene,

Pursuant to the previous Request for Contested Hearing from Dwight Vincente regarding the subject Olson Trust No. 2 enforcement settlement action by the Board, please find attached the BLNR submittal for denial of the contested case as prepared by Bill Wynhoff, Deputy Attorney General.

SHPD is requesting that the attached submittal be approved by the Chair for inclusion as part of the agenda items at the 8/23/19 BLNR meeting.

Thank you for your assistance with this request.

From: Downer, Alan S <alan.s.downer@hawaii.gov>
Sent: Tuesday, August 6, 2019 12:39 PM
To: Lee, Randolph M <randolph.m.lee@hawaii.gov>
Subject: FW: Edwin C. Olson Trust N. 2

Exhibit is the attachment to Case's email

From: Case, Suzanne D
Sent: Tuesday, July 30, 2019 8:49 AM
To: Downer, Alan S <alan.s.downer@hawaii.gov>
Subject: FW: Edwin C. Olson Trust N. 2

From: DLNR.BLNR.Testimony <blnr.testimony@hawaii.gov>
Sent: Monday, July 29, 2019 12:38 PM
To: Case, Suzanne D <suzanne.case@hawaii.gov>; Wynhoff, Bill J <Bill.J.Wynhoff@hawaii.gov>
Cc: Chow, Linda L <Linda.L.Chow@hawaii.gov>
Subject: FW: Edwin C. Olson Trust N. 2

FYI Request for Contested case for Item I-1, 07.26.2019.

*Darlene S. Ferreira
Secretary
State of Hawaii
Board of Land and Natural Resources
Kalanimoku Building, Room 131
1151 Punchbowl Street*