

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
OFFICE OF CONSERVATION AND COASTAL LANDS
Honolulu, Hawai'i

March 25, 2021

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

REGARDING: Appointment and Selection of a Hearing Officer to Conduct All Hearings for Contested Case MO 21-05 Regarding Conservation District Enforcement File MO 20-32 for the Alleged Construction of an Unauthorized Erosion Control Structure Located Along the Coastline within the Conservation District at Waialua, Kaunakakai, Moloka'i makai of Tax Map Key (2) 5-7-001:001, located at 10254 Kamehameha V Highway and owned by George G. Peabody and Susan Yukiko Peabody

BACKGROUND:

Mr. George G. Peabody and Mrs. Susan Y. Peabody own shoreline property located along the coastline in the Waialua area of Kaunakakai, Moloka'i, TMK (2) 5-7-001:001 (the property). The landowners allegedly constructed an unauthorized seawall on state owned conservation district land makai of the property in violation of Chapter 183-7, HRS and Chapter 13-5-6, HAR.

Staff submitted the alleged violation to the Board of Land and Natural Resources (Board). The Board considered the matter at its sunshine meeting of January 22, 2021 as Item K-2. The landowners were provided notice of the meeting but neither landowner was present. This is examined in further detail later in this report.

Mr. and Mrs. Peabody did not attend the Board meeting and did not provide any written or oral comment or testimony although they were informed of the meeting. Thus, an oral request for a contested case on this item was not made by the close of the January 22, 2021 Board Meeting by Mr. or Mrs. Peabody pursuant to HAR §13-1-29. More details of the attempts to get Mr. and Mrs. Peabody's cooperation for the Board meeting are described later in this report.

Hearings of Violations

§13-1-31.1, HAR provides that when a violation is alleged for which an administrative remedy is provided and with respect to which the alleged violator is entitled to a contested case hearing, a contested case shall be held upon the petition of the alleged violator, provided that the petition is made in accordance with the provisions of section 13-1-29(a). No person or government agency other than the department and alleged violator shall be admitted as parties in such proceedings.

AUTHORITY FOR DESIGNATING HEARING OFFICERS

§13-1-32 (b), HAR provides that the Board may conduct the contested case hearing, or at its discretion, may delegate the conduct of the contested case hearing to a hearing officer, in which case the chairperson shall select such hearing officer.

Additionally, §92-16 and §171-6, HRS also provide that the Board may delegate to the Chairperson the authority to select the hearing officer to conduct a Contested Case Hearing.

Basis for Designating Hearings Officers

Conducting a Contested Case Hearing may involve: giving notice of hearings, administering oaths, compelling attendance of witnesses and the production of documentary evidence, examining witnesses, certifying acts, issuing subpoenas, making rules, receiving evidence, holding conferences and hearings, fixing filing deadlines, and disposing of other matters that may arise during the orderly and just conduct of a hearing. History suggests that designating a Hearing Officer to perform these actions may provide a more expeditious resolution of the case than having the full Board conduct the hearing.

DISCUSSION:

Staff notes that proper procedures were not followed by Mr. and Mrs. Peabody in regard to filing a contested case request, despite efforts of both OCCL and Department of the Attorney General (DAG) staff members as shown below. HAR 13-1-29 says "For good cause, the time for making the oral or written request or submitting a written petition or both may be waived." After consultation with the Department of Attorney General, staff believes that good cause may be found based on the Board's strong interest in retaining jurisdiction and decision making over this important issue. Staff does not believe the Peabodys have stated a sufficient reason for their failure to follow the rules. However, staff notes that if they had timely asked, they were clearly entitled to a contested case.

Staff notes that, by designating a Hearing Officer to conduct the hearing, the Board does not relinquish its authority to ultimately decide on the matters being contested. At the conclusion of the contested case, the Board would act with its own discretion on the Hearing Officer's Finding of Fact, Conclusion of Law, and Decision and Order.

TIMELINE OF EVENTS: POST-BOARD MEETING & CONTESTED CASE REQUEST

On January 25, 2021, three days after the Board Meeting was held in which Mr. and Mrs. Peabody's item was heard, Mr. Peabody emailed Salvatore Saluga of OCCL stating that he did not make it to the meeting due to "weather and off/on/off again internet" and requested a transcript of the meeting. Mr. Saluga informed Mr. Peabody that there are not transcripts taken of the meetings, but they are broadcast live and able to be viewed on YouTube and that he was welcome to have someone transcribe it for him. This email thread is attached as **Exhibit A**.

On January 27, 2021, five days after the Board Meeting was held, Mr. Peabody sent an email to Salvatore Saluga of OCCL requesting a contested case hearing. Mr. Saluga

responded on January 28, 2021 informing Mr. Peabody of the proper procedures to file a contested case (**Exhibit B**).

Between February 12 and February 22, 2021, Mr. Peabody exchanged multiple emails with Deputy Attorney General Bill Wynhoff regarding his difficulty in properly filing a contested case. This email thread is attached as **Exhibit C**.

On March 4, 2021, Mr. Peabody emailed to Salvatore Saluga of OCCL a Petition for a Contested Case attached herein as **Exhibit D**. This document does not provide all the information that might be desired but does clearly express the Peabodys' desire to have a contested case.

CONCLUSION

Despite knowledge of the January 22, 2021 Board meeting, neither Mr. nor Mrs. Peabody attended or provided testimony for their item at the meeting; thus, they did not make an oral or written request for a contested case hearing before the close of the January 22, 2021 Board meeting pursuant to HAR § 13-1-29. Additionally, despite multiple attempts at assistance on the part of staff of both the DLNR as well as the Department of the Attorney General, Mr. and Mrs. Peabody failed to properly file for a contested case hearing within ten calendar days of the board meeting in which their item was heard.

AS SUCH, STAFF RECOMMENDS AS FOLLOWS:

That, pursuant to the information contained within this staff report and its accompanying exhibits, the Board move to:

1. That the Board withdraw any and all previous decisions and determinations regarding Landowner or the alleged violation;
2. Waive the requirement as stated within HAR § 13-1-29 that Mr. and Mrs. Peabody needed to make an oral or written request for a contested case hearing before the close of the January 22, 2021 board meeting in which their item was heard;
3. Waive the requirement as stated within HAR § 13-1-29 that Mr. and Mrs. Peabody properly file a contested case hearing through the correct procedures within ten (10) calendar days of the January 22, 2021 board meeting in which their item was heard;
4. Consider Mr. and Mrs. Peabody's request for a contested case hearing, bearing in mind the non-compliance of Mr. and Mrs. Peabody with the rules for requesting a contested case hearing pursuant to HAR § 13-1-29 as well as the information contained within this staff report exemplifying efforts on behalf of both the DLNR and the DAG to assist them in complying with the proper procedures laid out within HAR § 13-1-29.
5. That, if the Board moves to allow Mr. and Mrs. Peabody's request for a contested case in light of the information contained within this staff report, the Board

authorize the appointment of a Hearing Officer for Contested Case MO 21-05 to conduct all the hearings relevant to the subject petition for a Contested Case Hearing. Pursuant to HAR §13-1-32 (b), the Chairperson shall select such Hearing Officer once the Board has delegated the conduct of the Contested Case Hearing to a Hearing Officer.

Respectfully submitted,

Salvatore Saluga

Salvatore Saluga, Coastal Lands Program Specialist
Office of Conservation and Coastal Lands

Approved for submittal:

Suzanne D. Case

Suzanne D. Case, Chairperson
Board of Land and Natural Resources

From: Saluga, Salvatore J
To: George Peabody
Subject: RE: [EXTERNAL] BLNR old Coastal Erosion Management Plan; need PDF TRANSCRIPT 1-22-2021
Date: Tuesday, January 26, 2021 12:47:00 PM

Hi Mr. Peabody,

Thanks for your response. I've been informed by the BLNR secretary that they do not do written transcripts for the meetings. However, the audio file is found at the link below:

https://hawaiioint-my.sharepoint.com/:u:/g/personal/darlens_ferreira_hawaii_gov/EZhAnPZf1_5Mm_H3-NGF4nYBPDok5fB-Fqkr25M71_3dhw?e=A4hVEX

The BLNR secretary has informed me that you are more than welcome to use the above link or the YouTube feed that was sent to you in a previous email to have someone transcript the hearing for you. Please note that the above link expires after one week, so it would be very beneficial for you to download the link at the above file to your computer as the link will expire on this upcoming Friday (01/29/2021).

Regarding your request for documentation on Coastal Erosion Management Plans, is this the document you are looking for?

<https://climateadaptation.hawaii.gov/wp-content/uploads/2015/07/COEMAP1.pdf>

Please let me know if this is the correct document you are seeking. Have a good rest of your day

Salvatore Saluga
Coastal Lands Program Specialist
Office of Conservation and Coastal Lands

From: George Peabody
Sent: Tuesday, January 26, 2021 12:15 PM
To: Saluga, Salvatore J <salvatore.j.saluga@hawaii.gov>
Subject: [EXTERNAL] BLNR old Coastal Erosion Management Plan; need PDF TRANSCRIPT 1-22-2021

Aloha again, Sal: Thanks for the link, though seems internet here still not working the video goes off/ on, voices garbled, etc. So I still need the PDF full transcript, please.

Also, Please send me another older document titled Coastal Erosion Management Plan that DLNR uses as their beginning foundation for policy and enforcement. It is different than the link you sent me for the Managed Retreat.

Apparently Maui County SMA knows about it, but they do not have it to send to me, or refuse to send it. Hmmm.....

mahalos, George Peabody

**Exhibit A – January 25-26, 2021: Email Thread With Mr. Peabody
re: His Non-Participation in 01/22/2021 Board Hearing**

-- salvatore.j.saluga@hawaii.gov wrote:

From: "Saluga, Salvatore J" <salvatore.j.saluga@hawaii.gov>
To: [REDACTED] George Peabody <[REDACTED]>
Subject: RE: [EXTERNAL] BLNR Hearing (1/22/21)need PDF TRANSCRIPT
Date: Mon, 25 Jan 2021 23:07:21 +0000

Hi Mr. Peabody,

Thank you for reaching out. I will see if there is a PDF transcript of the meeting's minutes available. In the meantime, the Zoom Hearing was broadcast live on YouTube on the BLNR's YouTube channel. It can be found at this link

<https://www.youtube.com/watch?v=ulsw8CXvets>

Your matter is heard from the following times within the above link: 1:18:55-1:33:15. I will continue to try and obtain a PDF transcript of the meeting if possible. Thank you and have a good day

Salvatore Saluga
Coastal Lands Program Specialist
Office of Conservation and Coastal Lands

From: [REDACTED] George Peabody <[REDACTED]>
Sent: Monday, January 25, 2021 11:38 AM
To: Saluga, Salvatore J <salvatore.j.saluga@hawaii.gov>
Subject: [EXTERNAL] BLNR Hearing (1/22/21)need PDF TRANSCRIPT

Aloha Salvatore: between the weather and off/on/off again internet I NEVER made it to the BLNR ZOOM meeting 1-22-2021. Never did a zoom before, too. SOOoooo.....Please email me a PDF transcript of the meeting so I can read every testimony from Victims and DLNR before I decide what to do next. I Presume BLNR crucified me in absentia?

Good News: so far my little 5-foot retaining wall on my property is protecting the beach, protecting my aina, protecting my home against these super tides and huge surf, and now flooding.

mahalos, George Peabody

=====

-- salvatore.j.saluga@hawaii.gov wrote:

From: "Saluga, Salvatore J" <salvatore.j.saluga@hawaii.gov>
To: [REDACTED] George Peabody <[REDACTED]>
Subject: BLNR Hearing TODAY (1/22/21)
Date: Fri, 22 Jan 2021 17:51:54 +0000

Dear Mr. Peabody,

This email is related to today's Board of Land and Natural Resources (BLNR) January 22, 2021 Zoom meeting at 9:00 AM in which your case is Item K-2 on the Board's agenda. The Zoom link for the meeting is below:

<https://us02web.zoom.us/j/88159278417?pwd=T2llciZvTkFVZW5sVXhHWVBnNkFkZz09>

Please email blnr.testimony@hawaii.gov to ensure that you are let into the Board of Land and Natural Resources (BLNR) January 22, 2021 Zoom meeting. To partake and provide live oral/video testimony during the online meeting, email your request to blnr.testimony@hawaii.gov with your name, phone number, email address, computer identification name (check your device settings), and the agenda item (K-2) on which you would like to testify. You will need a computer with internet access, video camera and microphone to participate. If you require access by phone only, please indicate that in your email request. Please allow yourself ample time (~ 15 to 30 min) to set up or download the appropriate software/app to participate in the meeting.

Should you have any further questions regarding this matter, feel free to contact me or the BLNR secretary (587-0404 or blnr.testimony@hawaii.gov). Thank you

Salvatore Saluga

Coastal Lands Program Specialist

Office of Conservation and Coastal Lands

From: Saluga, Salvatore J
To: George Peabody
Subject: RE: [EXTERNAL] BLNR CONTESTED CASE. DEMAND K-2
Date: Thursday, January 28, 2021 11:45:00 AM

Hi Mr. Peabody,

To properly request a contested case hearing, please fill out and submit the proper forms as instructed on the DLNR website below:

<https://dlnr.hawaii.gov/forms/contested-case-form/>

Additionally, regarding your request for more documentation, I am unable to complete this request as we do not have information like this on hand. I suggest looking for information that you need on Google, as staff is unable to assist with these types of requests. Have a good day

Salvatore Saluga
Coastal Lands Program Specialist
Office of Conservation and Coastal Lands

From: George Peabody <[REDACTED]>
Sent: Wednesday, January 27, 2021 2:33 PM
To: Saluga, Salvatore J <salvatore.j.saluga@hawaii.gov>
Subject: [EXTERNAL] BLNR CONTESTED CASE. DEMAND K-2

DATED 1-27-2021

DEAR BLNR : CONTESTED CASE HEARING DEMANDED re MO 20-32, BLNR Item # K-2:

I hereby demand my rights to a contested case proceeding to correct the BLNR's egregious actions approving the lies, and slanders, vindictive punishments inflicted

against me mainly by one Sam Lemmo who was acting prosecutor at the zoom meeting when I was absent and unable to do, you know, dat zoom stuff on 1-22-2021.

I will make my presentation in Contested Case in writing via email, such as I am now doing for this Demand for Contested Case Proceeding.

mahalos for your attention, and please acknowledge this written notice.

George Peabody
10254 Kamehameha V Hwy
Kaunakakai, HI. 96748

Exhibit B – January 27-28, 2021: Mr. Peabody's Email Request for a Contested Case Hearing to Mr. Saluga & Mr. Saluga's Response

From: Wynhoff, Bill J
To: [REDACTED] Saluga, Salvatore J
Cc: Chow, Linda L; Lummo, Sam J
Subject: RE: [EXTERNAL] Beach Electronic FORM Problem HOW to SAVE ?? LEGAL BLNR CONTESTED CASE, DEMAND K-2
Date: Monday, February 22, 2021 8:04:02 AM

It's just a word document sir. Respectfully you should consider getting some tech advice. We cannot provide that advice.

Best regards

William J. Wynhoff
Supervising Deputy – Land Transportation Division
Department of the Attorney General
465 S. King Street, Suite 300
Honolulu Hawaii 96813
Phone: (808) 587-2995

Confidentiality Notice: This e-mail message, including any attachments, is for the sole use of the intended recipient(s) and may contain confidential and/or privileged information. Any review, use, disclosure, or distribution by unintended recipients is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message.

From: George Peabody <[REDACTED]>
Sent: Sunday, February 21, 2021 7:48 PM
To: Wynhoff, Bill J <Bill.J.Wynhoff@hawaii.gov>; Saluga, Salvatore J <salvatore.j.saluga@hawaii.gov>
Subject: [EXTERNAL] Beach Electronic FORM Problem HOW to SAVE ?? LEGAL BLNR CONTESTED CASE, DEMAND K-2

Aloha, this electronic form seems to work very well, but I can not find any place thereon to SAVE all my information b before I turn it off and email to you. Probably something simple, but I DO NOT want to lose the info I wrote so I am keeping the document OPEN tonight until you send me instruction how to SAVE it.

mahalos, George Peabody

NOTICE: NO DUTIES ARE ASSUMED, INTENDED OR CREATED BY THIS COMMUNICATION. All rights of the sender for violations of the confidentiality and privileges applicable to this email and any attachments are expressly reserved.

=====

--- Bill.J.Wynhoff@hawaii.gov wrote:

From: "Wynhoff, Bill J" <Bill.J.Wynhoff@hawaii.gov>

Exhibit C – January 27-February 22, 2021: Email Thread re: Contested Case Request by Mr. Peabody

To: [REDACTED] "Saluga, Salvatore J"
<salvatore.j.saluga@hawaii.gov>
Subject: RE: [EXTERNAL] Beach Electronic FORM Problem LEGAL BLNR
CONTESTED CASE. DEMAND K-2
Date: Mon, 15 Feb 2021 17:35:42 +0000

Sorry you are having a problem sir. Try this attached version.

Best regards

William J. Wynchhoff
Supervising Deputy – Land Transportation Division
Department of the Attorney General
465 S. King Street, Suite 300
Honolulu Hawaii 96813
Phone: (808) 587-2995

Confidentiality Notice: This e-mail message, including any attachments, is for the sole use of the intended recipient(s) and may contain confidential and/or privileged information. Any review, use, disclosure, or distribution by unintended recipients is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message.

From: George Peabody <[REDACTED]>
Sent: Sunday, February 14, 2021 10:32 PM
To: Saluga, Salvatore J <salvatore.j.saluga@hawaii.gov>; Wynchhoff, Bill J <Bill.J.Wynchhoff@hawaii.gov>
Subject: [EXTERNAL] Beach Electronic FORM Problem LEGAL BLNR CONTESTED CASE. DEMAND K-2

ok, I am trying to use the electronic version since I do not have a printer, but the cursor for text does not appear, only a blue box appears if I CLICK JUST A CERTAIN

WAY. But the box does not accept any text.

What is the problem with this electronic version? HOW can I make it accept text, and save a copy for my records?

mahalos, George Peabody

=====

--- [REDACTED] wrote:

From: [REDACTED]
To: "Wynhoff, Bill J" <Bill.J.Wynhoff@hawaii.gov>
Cc:
Subject: Beach LEGAL BLNR CONTESTED CASE. DEMAND K-2
Date: Fri, 12 Feb 2021 00:08:13 -0800

--- Bill.J.Wynhoff@hawaii.gov wrote:

From: "Wynhoff, Bill J" <Bill.J.Wynhoff@hawaii.gov>
To: [REDACTED]
Subject: FW: [EXTERNAL] BLNR CONTESTED CASE. DEMAND K-2
Date: Fri, 12 Feb 2021 01:51:29 +0000

Dear Mr. Peabody

This acknowledges your email of January 27, 2021, referring to a contested case. The applicable rule is HAR § 13-1-29 which provides:

§13-1-29 Request for hearing. (a) On its own motion, the board may hold a contested case hearing. Others must both request a contested case and petition the board to hold a contested case hearing. An oral or written request for a contested case hearing must be made to the board no later than the close of the board meeting at which the subject matter of the request is scheduled for board disposition. An agency or person so requesting a contested case must also file (or mail a postmarked) written petition with the board for a

contested case no later than ten calendar days after the close of the board meeting at which the matter was scheduled for disposition. For good cause, the time for making the oral or written request or submitting a written petition or both may be waived.

(b) Except as otherwise provided in section 13- 1- 31.1, the formal written petition for a contested

case hearing shall contain concise statements of:

- (1) The nature and extent of the requestor's interest that may be affected by board action on the subject matter that entitles the requestor to participate in a contested case;
- (2) The disagreement, if any, the requestor has with an application before the board;
- (3) The relief the requestor seeks or to which the requestor deems itself entitled;
- (4) How the requestor's participation would serve the public interest; and
- (5) Any other information that may assist the board in determining whether the requestor meets the criteria to be a party pursuant to section 13- 1-31. [Eff 9/7/82; am and comp 2/27/09] (Auth: HRS §91-2) (Imp: HRS §91- 9)

Staff will present your demand to the Board. We reserve the right to contend that your demand is late and does not contain the information required by the rule. Please see the attached links and document that contain the department's suggested form of petition in case you wish to use this to provide any additional information. We will let you know when the petition is set for consideration by the Board.

<https://dlnr.hawaii.gov/forms/contested-case-form/>

<https://dlnr.hawaii.gov/wp-content/uploads/2020/02/APO-11-Petition-for-Contested-Case-version-2020.pdf>

Best regards

William J. Wynhoff

Supervising Deputy – Land Transportation Division

Department of the Attorney General

465 S. King Street, Suite 300

Honolulu Hawaii 96813

Phone: (808) 587-2995

Confidentiality Notice: This e-mail message, including any attachments, is for the sole use of the intended recipient(s) and may contain confidential and/or privileged information. Any review, use, disclosure, or distribution by unintended recipients is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message.

From: [REDACTED] George Peabody [REDACTED]
Sent: Wednesday, January 27, 2021 2:33 PM
To: Saluga, Salvatore J <salvatore.j.saluga@hawaii.gov>
Subject: [EXTERNAL] BLNR CONTESTED CASE, DEMAND K-2

DATED 1-27-2021

DEAR BLNR : CONTESTED CASE HEARING DEMANDED re MO 20-32, BLNR Item # K-2:

I hereby demand my rights to a contested case proceeding to correct the BLNR's egregious actions approving the lies, and slanders, vindictive punishments inflicted

against me mainly by one Sam Lemmo who was acting prosecutor at the zoom meeting when I was absent and unable to do, you know, dat zoom stuff on 1-22-2021.

I will make my presentation in Contested Case in writing via email, such as I am now doing for this Demand for Contested Case Proceeding.

mahalos for your attention, and please acknowledge this written notice.

George Peabody

10254 Kamehameha V Hwy

Kaunakakai, HI. 96748

From: George Peabody
To: Saluga, Salvatore J
Subject: [EXTERNAL] DLNR. Contested case eDocument attached
Date: Thursday, March 4, 2021 10:58:15 PM
Attachments: DLNRcontested case form (2).pages

Aloha, Sal: 3-4-2021 where are you, not reply? Wyncoff obstructing our comms?
 Please send me the links to previous zooms, etc., and documents regarding State \$60-K
 Easement 55-yrs. Approved Nesbitt/Obama's Waimanalo seawall They asked state officials for something called an
 easement, a real estate tool that allows private property owners to essentially lease the public land that sits under the seawall.
 The cost: a one-time low-cost payment of \$61,400. Officials with the state Department of Land and Natural Resources
 approved the permit, which authorized the wall for another 55 years, and Nesbitt purchased the property.

Attached is the eDoc for Contested Case. Please reply confirm receipt. mahalos,
 George Peabody

<p>1. Board Action Being Contested</p> <p>K-2 on 2-22-2021. Peabody "tried" in absentia! Bill of ATTAINDER? No Due Process! Lemnio's egregious actions, personal vituperation, lies, against Mr. Peabody; proceeding is void ab initio as a legal issue. Susan Case failed to follow up to Peabody's multiple attempts to timely contact her by phone#s and email address provided by her Staff-girls, to accept her invitation dated May 26, 2020, to "discuss a remedy" with her. Case also threatened that if I failed to do so within 10-days, "...will result in the matter being forwarded to the Board for formal action."</p> <p>Yet, here we are?! STRESS, SUFFERING, Slander, Elder Abuse Mr & Mrs.: \$300,000!</p>	
<p>1. Board Action Date. 2-22-2021</p>	<p>1. Item No. K-2</p>
<p>1. Any Specific Statute or Rule That Entitles Petitioner to a Contested Case</p> <p>Deputy A.G. Wyncoff knows it.</p> <p>NOTICE: NO DUTIES ARE ASSUMED, INTENDED OR CREATED BY THIS COMMUNICATION. All rights of the sender for violations of the confidentiality and privileges applicable to this email and any attachments are expressly reserved.</p>	
<p>1. Any Specific Property Interest of Petitioner That Is Entitled to Due Process Protection</p> <p>TMK (2) 5-7-001:001 is resident home, our "Castle", since 1986 to Mr. and Mrs. George G., and Susan Yukiko Peabody per Constitution FOR the USA, all others contrary is fascist BS and not with standing. Marbury v. Madison: A Law repugnant to the Constitution is void.</p>	
<p>1. Any Disagreement Petitioner May Have with an Application before the Board</p> <p>I have no Application before the Board, and that unjust proceeding is void.</p> <p>Self-reliant American Citizens do not ask for help; Our sacred Kuleana is to care for our Aina: Build a Retaining Wall to save the Aina, Protect the Beach, and Makai. We did n nothing to cause harm to Hawaii-nei. We enhanced beach safety for public.</p>	
<p>1. Any Relief Petitioner Seeks or Deems Itself Entitled to. PEACE !</p>	

**Exhibit D – March 4, 2021 Email Containing Peabody's Petition
 For A Contested Case**

STRESS, SUFFERING, Slander, Elder Abuse of Mr & Mrs. Peabody: \$300,000! PEACE !

Will that penalty cause DLNR to, as Sam Lemmo opined, make violators straighten up ?

Not likely, because Lemmo, Case, Gov., AG, et.al have power of life and death over us Hawaiians.

1. How Petitioner's Participation in the Proceeding Would Serve the Public Interest

Protecting and Defending Our Christian-God Inspired Constitution FOR the USA!

Protecting the God-Given and Constitutionally protected Rights of We The People of the Great State of Hawaii to Life, Liberty, and Property.

Expose DLNR's seminal FRAUD about so called Seawalls; Chip Fletcher; Fishpond scams, i.e. Bill Paty, Dunbar, Machado/Schroll Trust, RICO, Racism, Unequal/Favored treatment cases, bias, i.e., Dunbar, Wright, Miguel, Maples, Linda Miguel Place, Obama, Soros & Tides Foundation, C. Machado/Schroll Trust, Duvauchel, etc

1. Any Other Information That May Assist the Board in Determining Whether Petitioner Meets the Criteria to Be a Party under Section 13-1-31, HAR

FIRST: Susan Case meeting with Mr. Peabody as she invited May 26, 2020.

The job of a good government is to do whatever they can to ensure Americans are always allowed to exercise their rights. I will demonstrate DLNR's malfeasance, crimes.

Fletcher the Fascist FRAUD: "The only answer is those locations have to go from private ownership to public ownership...". LOL! That is patently FASCIST !

But, Sam Lemmo/DLNR is exactly what the Communists would do in Soviet Russia. If the DLNR-State of Hawaii enforces tyrannical shoreline laws against local residents under such circumstances, they are murderers....do not care about anything but their insane policies, and personal power over other people. These choices are not making any sense at all. They will have ONE CHOICE: a choice to NOT be the enforcement arm of tyranny.

Lemmo should be fired post haste, in response to his egregious behaviours, i.e., 1-100.

=====
 NOTICE: NO DUTIES ARE ASSUMED, INTENDED OR CREATED BY THIS COMMUNICATION. All rights of the sender for violations of the confidentiality and privileges applicable to this email and any attachments are expressly reserved.

Please send me the links to previous zooms, and documents regarding State \$60-K Easement 55-yrs. Approved Nesbitt/Obama's Waimanalo seawall They asked state officials for something called an easement, a real estate tool that allows private property owners to essentially lease the public land that sits under the seawall. The cost: a one-time low-cost payment of \$61,400. Officials with the state Department of Land and Natural Resources approved the permit, which authorized the wall for another 55 years, and Nesbitt purchased the property.

Also, links to zoom/audio, pdf of JAMES OSHEA case, and court documents pdf's.

mahalos, George Peabody

=====
 NOTICE: NO DUTIES ARE ASSUMED, INTENDED OR CREATED BY THIS COMMUNICATION. All rights of the sender for violations of the confidentiality and privileges applicable to this email and any attachments are expressly reserved.