

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

January 24, 2025

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

Ref: 24OD-124

OAHU

Deny Request for Contested Case by Kanela Kamahalohanuilai on the Item Approved by the Board of Land and Natural Resources (Board) at its Meeting on October 11, 2024, Agenda Item D-6; *Set Aside to the Statewide Office on Homelessness and Housing Solutions for Kauhale Housing Project Purposes; Issuance of Immediate Management Right-of-Entry Permit: Waimanalo, Koolaupoko, Oahu; Tax Map Key: (1) 4-1-008:008.*

Pursuant to Section 92-5(a)(4), Hawaii Revised Statutes (HRS), the Board may go into Executive Session in order to consult with its attorney on questions and issues pertaining to the Board’s powers, duties, privileges, immunities, and liabilities.

BACKGROUND:

At its meeting on October 11, 2024, under agenda item D-6, the Board approved, as submitted, the staff recommendation regarding the subject item.¹

On October 18, 2024, the Department received a written petition from Kanela Kamahalohanuilai (Requestor), dated October 17, 2024, who requested contested case hearing for the subject item. A copy of the petition is attached as **Exhibit 1**.

Land Division, after consultation of the Department of the Attorney General (AG), recommends denial of the request.

Request for Contested Case Hearing:

Section 13-1-29 (a), Hawaii Administrative Rules (HAR) states as follows:

§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

¹ The submittal can be downloaded from the following link <https://dlnr.hawaii.gov/wp-content/uploads/2024/10/D-6.pdf>

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 §919)

Petitioner did not testify at the Board meeting and did not make an oral or written request for a contested case prior to the close of the meeting as required by §13-1-29, HAR.

In the written petition, Petitioner cites as reasons for a contested case:

1. The item was brought to the Land Board without "community support"
 - "the item was brought to the Board without commuity[sic] board approval"
 - "...[t]he Board also had discussion on why the item was not given to the Board for due process"
 - "The Waimanalo Community Chair[sic] voice was ignored by the Board, Mizuno office."
 - "... the insult to the Native Hawaiian state agencies and others that represent our Native Hawaiian population."
2. Although "Hui Mahi Ai Ainal" ("Hui") is not the applicant, she objected that the Hui does not qualify under the Governor's 12th Emergency Proclamation. Further, the Hui
 - did not satisfy and complete all of the requirments[sic] ... set by the Governor to all the exemption under section 4 of the "Emregency Governor Rules[sic]"
 - "...was acting illegally calling it self[sic] a shelter in Waimanalo"
 - "... started building dwellings on AG-1 land"

Petitioner cites as legal authorities entitling her to a contested case:

- “14th Amendment right”
- “Native Hawaiian rights covered under the Great Mahele and Hawaiian Home Commission Act.”
- “due process that was not given to the Waimanalo Community and public since 2018 and August 2024 to present.”

DISCUSSION:

Petitioner did not request a contested case on item D-6 before the close of the October 11, 2024 meeting as required by HAR § 13-1-29(a). The request may be denied for failure to comply with the rules regarding a timely oral request as required under that section. If the Board finds good cause, the time for making the oral or written request may be waived. Under the analysis stated below, we do not recommend a finding of good cause that would justify such a waiver.

There is no statute or rule calling for a contested case hearing in the context of the Board setting aside land to a political subdivision of the State for a public use or purpose, nor for a management right-of-entry.

Without a statute or rule requiring the Board to hold a contested case hearing, the next step would be to determine whether any constitutional due process requires a contested case hearing. To establish a due process right to a contested case hearing, the claimant must first show that the particular interest which claimant seeks to protect by a hearing [is] ‘property’ within the meaning of the due process clauses of the federal and state constitutions. Based on the petition at Exhibit 2, the requestor does not demonstrate that she has a property interest in the project area itself. Nor has she identified any property interest in any area that might be affected by the project.

The Requestor has neither identified as a native Hawaiian nor identified any traditional and customary activities that she engages in or that might be affected by the project. Assuming Requestor’s claim to an undescribed infringement of native Hawaiian rights, she must first show that she qualified as a native Hawaiian, that the claimed native Hawaiian right is constitutionally protected, and that the protection is afforded regarding undeveloped or partially developed land.

Requestor’s petition suggests that the set-aside and right-of-entry did not have community support. Testimony during the board meeting appears to contradict that viewpoint and more importantly does not indicate a right to a contested case. Requestor also identifies a completely different grievance against an entity that is not the applicant.

In the absence of any protected interest, there is no due process requirement to provide a contested case.

The AG's office also determined that the Requestor does not have standing for the contested case hearing. She has not suffered any actual or threatened injury as a result of the proposed action. Her petition does nothing more than speculate that such injury may occur and hopes that the land might be transferred to the Department of Hawaiian Home Lands.

RECOMMENDATION: That the Board deny the Request for Contested Case Hearing filed by Kanela Kamahalohanuilai on October 17, 2024.

Respectfully Submitted,

Barry Cheung

Barry Cheung
District Land Agent

APPROVED FOR SUBMITTAL:



Dawn N. S. Chang, Chairperson *KLN RT*



STATE OF HAWAII
BOARD OF LAND AND NATURAL RESOURCES

RECEIVED

2024 OCT 18 PM 12:13

PETITION FOR A CONTESTED CASE HEARING

DEPARTMENT OF LAND & NATURAL RESOURCES
STATE OF HAWAII

OFFICIAL USE ONLY	
Case No.	Date Received
Board Action Date / Item No.	Division/Office

INSTRUCTIONS:

- File (deliver, mail or fax) this form within ten (10) days of the Board Action Date to:
 Department of Land and Natural Resources
 Administrative Proceedings Office
 1151 Punchbowl Street, Room 130
 Honolulu, Hawaii 96813
 Phone: (808) 587-1496, Fax: (808) 587-0390
- DLNR's contested case hearing rules are listed under Chapter 13-1, HAR, and can be obtained from the DLNR Administrative Proceedings Office or at its website (<http://dlnr.hawaii.gov/forms/contested-case-form/>). Please review these rules before filing a petition.
- If you use the electronic version of this form, note that the boxes are expandable to fit in your statements. If you use the hardcopy form and need more space, you may attach additional sheets.
- Pursuant to §13-1-30, HAR, a petition that involves a Conservation District Use Permit must be accompanied with a \$100.00 non-refundable filing fee (payable to "DLNR") or a request for waiver of this fee. A waiver may be granted by the Chairperson based on a petitioner's financial hardship.
- All materials, including this form, shall be submitted in **three (3)** photocopies.

A. PETITIONER		
(If there are multiple petitioners, use one form for each.)		
1. Name KANELA KAMAHALOHANUILAI	2. Contact Person KANELA KAMAHALOHANUILAI	
3. Address [REDACTED]	4. City WAIMANALO	5. State and ZIP 96795
6. Email [REDACTED]	7. Phone [REDACTED]	8. Fax N/A

B. ATTORNEY (if represented)		
9. Attorney Name	10. Firm Name	
11. Address	12. City	13. State and ZIP
14. Email	15. Phone	16. Fax

C. SUBJECT MATTER

17. Board Action Being Contested

THE APPROVAL FOR RIGHT OF ENTRY TO HUI MAHI AI AINA AND THE TRANSFER OF TMK 4-1-008:008 POR 79 TO THE STATE TO ALLOW A DEVELOPER TO LEASE THE PARCEL TO MAKE A HOUSELESS KAHALE.

18. Board Action Date

10/11/2024

19. Item No.

D-6

20. Any Specific Statute or Rule That Entitles Petitioner to a Contested Case

14TH AMENDMENT RIGHT, NATIVE HAWAIIAN RIGHTS COVERED UNDER THE GREAT MAHELE AND HAWAIIAN HOME COMMISSION ACT. ALSO, DUE PROCESS THAT WAS NOT GIVEN TO THE WAIMANALO COMMUNITY AND PUBLIC SINCE 2018 AND AUGUST 2024 TO PRESENT.

21. Any Specific Property Interest of Petitioner That Is Entitled to Due Process Protection

PROPERTY: TMK 4-1-008:008 POR 79. 41-902 OLUOLU STREET WAIMANALO HAWAII 96795. THE NATIVE HAWAIIAN PEOPLE AND THEIR RIGHTS.

22. Any Disagreement Petitioner May Have with an Application before the Board

THE BOARD STATED ON THE RECORD DURING BLNR MEETING THAT THE ITEM WAS BROUGHT TO THE BOARD WITHOUT COMMUNITY BOARD APPROVAL. THE BOARD ALSO HAD DISCUSSION ON WHY THE ITEM WAS NOT GIVEN TO THE BOARD FOR DUE PROCESS. THE BOARD STATED THAT HUI MAHI AI AINA IS COVERED UNDER THE 12TH EMERGENCY PROCLAMATION SIGNED BY THE GOVERNOR WHICH IT WAS NOT COVERED DUE TO NOT BEING ELIGIBLE SINCE HUI MAHI AI AINA DID NOT SATISFY AND COMPLETE ALL OF THE REQUIREMENTS THAT WERE SET BY THE GOVERNOR TO ALL THE EXEMPTION UNDER SECTION 4 OF THE "EMERGENCY GOVERNOR RULES" THAT NEEDED TO BE COMPLETED TO BE "ELIGIBLE" TO BE EXEMPT UNDER THE PROCLAMATION. ANOTHER POINT IS HUI MAHI AI AINA WAS ACTING ILLEGALLY CALLING IT SELF A SHELTER IN WAIMANALO HINDERING THE SERVICES THAT WERE RIGHTFULLY FOR THE PEOPLE OF WAIMANALO. HUI MAHI AINA ALSO VIOLATED THEIR AGREEMENT WHEN THEY STARTED BUILDING DWELLINGS ON THE AG-1 LAND, WHICH SHOULD HAVE VOIDED ALL 501C3, 509 (A)1 THROUGH 509 (A)3 OF THE IRS CODE. THIS SHOULD HAVE VOIDED THE APPLICATION OF ROE PERMIT THAT WAS APPROVED IN 2016. THOUGH THIS ILLEGAL PROCEDURE MANY PEOPLE WERE LEFT OUT AND AGAIN WITNESS AS A COMMUNITY THE STATE IN FAVOR OF FAST TRACKING ITEMS TO MEET EXECUTIVE ORDER TO HINDER THE VOICES OF THE NATIVE HAWAIIAN PEOPLE IN THE STATE ALSO THOSE WHO SUPPORT ALOHA IN THE STATE. WATCHING AS THE WAIMANALO COMMUNITY CHAIR VOICE WAS IGNORED BY THE BOARD, MIZUNO OFFICE. AND THE INSULT TO THE NATIVE HAWAIIAN STATE AGENCIES AND OTHERS THAT REPRESENT OUR NATIVE HAWAIIAN POPULATION.

23. Any Relief Petitioner Seeks or Deems Itself Entitled to

1. DECISION MADE ON 10-11-2024 BY THE BLNR BOARD REGARDING AGENDA ITEM D-6 RELATING TO RIGHT OF ENTRY, AND TRANSFER OF LAND TO THE STATE TO ALLOW THE DEVELOPER TO LEASE THE LAND TO MAKE A HOUSELESS KAHALE.
2. TRANSFER LAND TMK 4-1-008:008 TO DHHL UNTIL LEGAL PROCEEDING AND DUE PROCESS IS COMPLETE.
3. RESITUTION TO THE COMMUNITY AND PEOPLE THAT WERE IMPACTED.

<p>4. ALLOW FOR MYSELF TO SHARE MY FULL REPORT TO HELP BREAK GENRATIONAL CURSES THAT ARE STILL PRESENT IN OUR STATE.</p> <p>5. FORMAL APOLOGY TO THE NATIVE HAWAIIAN PEOPLE FOR THE DISCRIMINATION OF OUR PEOPLE, PLACE, AND SPACE. X</p>
<p>24. How Petitioner's Participation in the Proceeding Would Serve the Public Interest I WILL CONTINUE TO ADVOCATE FOR THE PEOPLE.</p>
<p>25. 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 TO BE DETERMINE.</p>

- Check this box if Petitioner is submitting supporting documents with this form.
- Check this box if Petitioner will submit additional supporting documents after filing this form.

<i>Kanela Kamahalo Hanuikai</i>	<i>Kanela Kamahalo Hanuikai</i>	10/17/1990 <i>10/17/2024</i>
Petitioner or Representative (Print Name)	Signature	Date

18034
I, am writing this statement to give a summary of the experience that I've been through since 10/10/2024. I am also writing this statement to submit as a part of my advocacy to contest the case on BLNR Agenda item D-6 that was approved on 10/11/2024. This item was illegally fast-tracked. On 10/10/24 I was for the first time made aware of the Expansion of Hui Mahi Ai Aina. During the Waimanalo Community Planning Committee. While at the meeting I voiced my concern that I never heard of an update since 2018. When James Koshiha, and people from the Waimanalo Residentially challenge community was envisioning a space for the people and families at the beach park. I was made aware by the chair that BLNR was going to vote on the item the next day 10-11-24.

On Friday I assumed that Mizuno Office would uphold their offer to remove the agenda item from the meeting, so community engagement will happen so, documentation and update will be available for community members. This was not the case for myself. When I returned home after visiting my sick hanai father and my children father family. I was hurt to see that the BLNR still went on with the voting of item D-6 relating to the Right of Entry and transfer of land to the state to prepare TMK 4-1-008:008 to expand to make a houseless Kauhale. Although our Neighborhood Board, Multiple Committee chair advised and suggested to not fast track the item just so it can be included in the Governor's Executive Plans. His voice was ignored.

I, submitted an email to repmizuno@capitol.hawaii.gov, repmarten@capitol.hawaii.gov, dlhr@hawaii.gov, docare@hawaii.gov, [REDACTED]@gmail.com, Dhhl.contactcent@hawaii.gov, info@oha.org, info@hawaiiancouncil.org. **SUBJECT: Urgent need for Community Engagement and Due Process in Native Hawaiian Land Management.** (Please see attach: email thread.) **No correspondence was return since I emailed the above addresses.**

Since no response was given I decided I should read my email at the Waimanalo Neighborhood Board on 10/14/24. I was prepared and ready until I saw a Hawaii News Now viewing and stating that

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Hui Mahi Ai Aina that was protected under the 12th Emergency proclamation was exempt from the environmental assessment. Since hearing on the news why this item was approved I decided to research and the statements that I shared on 10-14-24 at the Waimanalo Neighborhood Board 32 showed that Hui Mahi Ai Aina was not exempt. Included in this context is a summary for what I shared during the board meeting. Please watch upcoming video that should be on Youtube soon for the full context. (Neighborhood Board 32 monthly meeting)

I gave credit where credit is due to aunty Lavina Aina, Twinkle Borgess, James Keshiba, Kathy, Waimanalo Beach Park Residentially Challenge Community.

I claim my right as a native Hawaiian, Kanaka maoli and my rights to land and law.

I requested council members, OHA, DHHL, CNHA, etc to help investigate into the fast track, mismanagement and transfer of the 11 acres more or less land parcel on 41-902 Oluolu Street Waimanalo. TMK 4-1-008:008 POR 79.

Although Waimanalo Neighborhood Board 32 chair and the chair for every single committee in Waimanalo, voice his concern. He also shared how the Mizuno office offered to remove the item from the agenda. The BLNR continued to ignore our representative of Waimanalo. Please watch Youtube link on 10-11-24 of the BLNR meeting. Timestamped: 14:32-50:12.

Back to the context Neighborhood Board Meeting 32.

I then shared from the public information that I gathered I personally concluded that Hui Mahi Ai Aina is not eligible to be included under the 12th Emergency Proclamation due to the "Governor's

Emergency rules."

I also stated that altering the land may pose a threat to the current residents in and around the surround areas due to the area and flood zone.

I also included that where Hui Mahi Ai Aina is located is in a riverbank.

I ended my speech requesting the land parcel to be transferred to DHHL until legal and proper due process are fully completed. Also, stating that the land has not passed fire, safety, flood assessment and insurance since 2018. This is also conservation land.

Since the meeting at the Neighborhood Board I've decided to contest the case, since it shows that my 14th Amendment right was violated since 2018 and August 2024 until present. Also, my native Hawaiian rights were violated which I am protect under the Great Mahele, Organic Act, and Hawaiian Home Commission Act. (Please see Second attached email:

SUBJECT: Contest the Case D-6 regarding TMK: 4-1-008:008 during BLNR meeting on 10-11-2024.) The second email was sent to Governor Josh Green, Lt. Governor, DLNR, etc. Since, the reporting Process of "Contest a Case" is not user friendly. I do not know where to send the email or who should receive the email, so I decided I will try and send it to as much state government individuals, so someone can get back to me, so I can contest the case on time. Please understand since no one responded to my first email or recognizing that I was heard. I decided to email as much people, so I can get a chance to contest the case. So, thank you Bin C. Li. for responding and helping me to contest a case.

ABD 34

In Conclusion I would like the decision made On 10-11-2024 by the BLNR to be rescinded regarding Agenda item D-6. The Parcel relating to item D-6 be transferred to DHHL until all legal steps are satisfied and due process is completed properly. I believe if restitution is offered to the community for the illegal proceeding it should be determine and satisfied by those who imposed damages to the people and community. I also request that my full report is shared at the BLNR meeting even if it goes over allotted time. I speak for myself and maybe others that we want to set the precedent that we ask for permission first and not forgiveness. Also, allow community engagement and feedback from the people in the community espically the native Hawaiians and Kanaka Maoli that suffers from these illegal procedures, fast tracking decisions. No, Hawaii Revised Statute, Emergency proclamation, or illegal procedures take precedence over the laws protecting myself and others. Again I would like to Contest the case on BLNR Agenda item D-6 relating to the right of entry and transfer of land from DLNR to the state to make a homeless Kauhale in Waimanalo relating to TMK 4-1-008:008 Por 79.

Thank you,

Kanela Kamahalohanuilai

10-17-2024

Kanela Kamahalohanuilai



UNIVERSITY
of HAWAII
SYSTEM

Kanela Kamahalohanuilai [REDACTED]

Subject: Urgent Need for Community Engagement and Due Process in Native Hawaiian Land Management

3 messages

Kanela Kamahalohanuilai [REDACTED] Sat, Oct 12, 2024 at 10:36 AM
 To: "repmizuno@capitol.hawaii.gov" <repmizuno@capitol.hawaii.gov>, repmarten@capitol.hawaii.gov, "dlnr@hawaii.gov" <dlnr@hawaii.gov>, docare@hawaii.gov, [REDACTED] <[REDACTED]>, Dhhl.contactcenter@hawaii.gov, info@oha.org, Info@hawaiiancouncil.org

Attached is the meeting relating to this concern:

Please watch from 14:32-50:12.

I hope you all can understand my distress and concerns on what I saw and heard in this meeting.

<https://www.youtube.com/live/D01rEHZKjrl>

Name: Kanela Kamahalohanuilai

Address: Resident of Waimanalo

Title: Survivor of homelessness in Hawaii, born and raised. Mother, Advocate, and community member of the greater public, kanaka Maoli, Native Hawaiian.

I am writing to express my profound disappointment regarding the fast-tracked decision made on October 11, 2024, by the Department of Land and Natural Resources (DLNR) concerning agenda item D-6, which involves granting a right of entry into the Waimanalo Parcel Ag-2 flood zone for Hui Mahi Ai Aina. TMK: 4-1-008:088 and transfer of land from DLNR to the state.

It is clear that this decision lacked the due process essential for genuine community engagement. The support for an organization that is not compliant with necessary regulations and permitting raises serious legal and ethical concerns. It appears that both state officials and staff, as well as our elected representatives, have either knowingly or unknowingly facilitated actions that could be interpreted as fraudulent, particularly in relation to a non-profit entity operating outside legal parameters.

During the meeting, I was disheartened to witness members laughing while the founder of Hui Mahi Ai Aina admitted to violating laws and regulations. Such behavior trivializes the serious nature of this situation, particularly given the heavy concerns voiced by community members in 2018 regarding this particular project in Waimanalo.

The right of entry granted to Hui Mahi Ai Aina is fundamentally illegal, and I intend to voice my concerns in future meetings. It is vital for our community to establish a precedent of seeking permission, rather than simply asking for forgiveness after the fact. This disregard for proper procedure only serves to deepen the divisions and erode trust within Waimanalo.

I have observed how other entities were subjected to rigorous scrutiny while seeking permits for relatively straightforward projects, such as a drone show in Waikiki. Yet, in Waimanalo, we see a starkly different standard applied. The false promise from the Mizuno office to remove this agenda item on October 2, 2024 was deceptive and misleading. Since, the item was not removed from the agenda for further community involvement.

I will conclude with several pressing questions that I hope will be addressed in upcoming discussions:

1. How did Hui Mahi Ai Aina transition from a food distribution center to a shelter?
2. Who authorized the establishment of the illegal housing encampment?

3. How is Hui Mahi Ai Aina obtaining government funding and support without adhering to state and federal regulations?
4. Why would state representatives support an initiative that clearly violates legal standards in our community?
5. What accountability measures are in place for Hui Mahi Ai Aina regarding these illegal actions and possibly others?
6. Are you aware that Hui Malama O Ke Kai is the parent organization of Hui Mahi Ai Aina, and is this arrangement legal and ethical?
7. Was any comprehensive survey conducted on the land aside from soil analysis? Does the survey share why the land behind Oluolu street is designed that way? Please take into consideration that negative impact that will happen to the surrounding of the parcel if a land and soil change happen in that area. Take into consideration the river bed that exists in that part of the neighborhood.
8. When was the last time Hui Mahi Ai Aina was discussed with the Waimanalo committee and neighborhood board?
9. Why? Would members of the state, county, representative approve of a project that openly disregarded federal, state, and county regulations?
10. Does any member know what happens to the people that can not afford to pay \$200 a month to Hui Mahi Ai Aina? Or can not give their EBT benefits to Hui Mahi Ai Aina? Or can not complete community service work? What happen to them?

I know, because I'm the one helping them when they get kicked out of Hui Mahi Ai Aina. Why? Because they are family members, community members, and members that come from incarceration and generation homelessness.


As I shared I was born and raised houseless in Hawaii. I am now considered permanently housed in 2019 with my children.

My passion and purpose is to support and advocate for social justice, equality, and equity to be given to all members that are impacted and affected by houseless in Hawaii is important to me.

I strongly urge that the granting of the right of entry and transfer of land be paused, and that no further work on this project be carried forward until proper due process is followed and genuine community support is secured. It is essential that we prioritize transparency and engagement with local residents to ensure that any developments align with the needs and concerns of our community. Without this critical input, we risk undermining trust and creating further division within Waimanalo.

I look forward to engaging further on this critical matter and hope for a transparent resolution that prioritizes the well-being of our community.

Sincerely,

Kanela Kamahalohanuilai


Mail Delivery Subsystem <MAILER-DAEMON@mx0b-007a6701.pphosted.com>
To: 

Sat, Oct 12, 2024 at 10:36 AM

The original message was received at Sat, 12 Oct 2024 10:36:49 -1000
from m0313026.pops.net [127.0.0.1]

----- The following addresses had permanent fatal errors -----

<repmizuno@capitol.hawaii.gov>

(reason: 550 5.4.1 Recipient address rejected: Access denied. [CH3PEPF00000017.namprd21.prod.outlook.com 2024-10-12T20:36:50.085Z 08DCE9E7D5225D23])

----- Transcript of session follows -----

... while talking to capitol-hawaii-gov.mail.protection.outlook.com.:

>>> DATA

<<< 550 5.4.1 Recipient address rejected: Access denied. [CH3PEPF00000017.namprd21.prod.outlook.com 2024-10-12T20:36:50.085Z 08DCE9E7D5225D23]

550 5.1.1 <repmizuno@capitol.hawaii.gov>... User unknown

<<< 503 5.5.2 Need rcpt command [CH3PEPF00000017.namprd21.prod.outlook.com 2024-10-12T20:36:50.085Z 08DCE9E7D5225D23]

Final-Recipient: RFC822; repmizuno@capitol.hawaii.gov

X-Actual-Recipient: rfc822; repmizuno@capitol.hawaii.gov

Action: failed

Status: 5.4.1

Remote-MTA: DNS; capitol-hawaii-gov.mail.protection.outlook.com

Diagnostic-Code: SMTP; 550 5.4.1 Recipient address rejected: Access denied. [CH3PEPF00000017.namprd21.prod.outlook.com 2024-10-12T20:36:50.085Z 08DCE9E7D5225D23]

Last-Attempt-Date: Sat, 12 Oct 2024 10:36:50 -1000

----- Forwarded message -----

From: Kanela Kamahalohanuilai [redacted]

To: "repmizuno@capitol.hawaii.gov" <repmizuno@capitol.hawaii.gov>, repmarten@capitol.hawaii.gov, "dlnr@hawaii.gov" <dlnr@hawaii.gov>, docare@hawaii.gov, [redacted]

Dhhl.contactcenter@hawaii.gov, info@oha.org, Info@hawaiiancouncil.org

Cc:

Bcc:

Date: Sat, 12 Oct 2024 10:36:45 -1000

Subject: Subject: Urgent Need for Community Engagement and Due Process in Native Hawaiian Land Management

Attached is the meeting relating to this concern:

Please watch from 14:32-50:12.

I hope you all can understand my distress and concerns on what I saw and heard in this meeting.

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Name: Kanela Kamahalohanuilai

Address: Resident of Waimanalo

Title: Survivor of homelessness in Hawaii, born and raised. Mother, Advocate, and community member of the greater public, kanaka Maoli, Native Hawaiian.

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It is clear that this decision lacked the due process essential for genuine community engagement. The support for an organization that is not compliant with necessary regulations and permitting raises serious legal and ethical concerns. It appears that both state officials and staff, as well as our elected representatives, have either knowingly or unknowingly facilitated actions that could be interpreted as fraudulent, particularly in relation to a non-profit entity operating outside legal parameters.

During the meeting, I was disheartened to witness members laughing while the founder of Hui Mahi Ai Aina admitted to violating laws and regulations. Such behavior trivializes the serious nature of this situation, particularly given the heavy concerns voiced by community members in 2018 regarding this particular project in Waimanalo.

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I know, because I'm the one helping them when they get kicked out of Hui Mahi Ai Aina. Why? Because they are family members, community members, and members that come from incarceration and generation homelessness.

As I shared I was born and raised houseless in Hawaii. I am now considered permanently housed in 2019 with my children.

My passion and purpose is to support and advocate for social justice, equality, and equity to be given to all members that are impacted and affected by houseless in Hawaii is important to me.

I strongly urge that the granting of the right of entry and transfer of land be paused, and that no further work on this project be carried forward until proper due process is followed and genuine community support is secured. It is essential that we prioritize transparency and engagement with local residents to ensure that any developments align with the needs and concerns of our community. Without this critical input, we risk undermining trust and creating further division within Waimanalo.

I look forward to engaging further on this critical matter and hope for a transparent resolution that prioritizes the well-being of our community.

Sincerely,

Kanela Kamahalohanuilai

[Redacted]

Mail Delivery Subsystem <MAILER-DAEMON@mx0b-0032ed01.pphosted.com>

Sat, Oct 12, 2024 at 10:37 AM

To: [Redacted]

The original message was received at Sat, 12 Oct 2024 10:37:11 -1000 from m0157385.pops.net [127.0.0.1]

----- The following addresses had permanent fatal errors -----

<docare@hawaii.gov>

(reason: 554 5.4.14 Hop count exceeded - possible mail loop ATTR34 [DS4PEPF0000016F.namprd09.prod.outlook.com 2024-10-12T20:37:11.778Z 08DCEAA7032C1632])

----- Transcript of session follows -----

... while talking to hawaii-gov.mail.protection.outlook.com.:

>>> DATA

<<< 554 5.4.14 Hop count exceeded - possible mail loop ATTR34 [DS4PEPF0000016F.namprd09.prod.outlook.com 2024-10-12T20:37:11.778Z 08DCEAA7032C1632]

554 5.0.0 Service unavailable

Final-Recipient: RFC822; docare@hawaii.gov

X-Actual-Recipient: rfc822; docare@hawaii.gov

Action: failed

Status: 5.4.14

Remote-MTA: DNS; hawaii-gov.mail.protection.outlook.com

Diagnostic-Code: SMTP; 554 5.4.14 Hop count exceeded - possible mail loop ATTR34 [DS4PEPF0000016F.namprd09.prod.outlook.com 2024-10-12T20:37:11.778Z 08DCEAA7032C1632]

Last-Attempt-Date: Sat, 12 Oct 2024 10:37:11 -1000

----- Forwarded message -----

From: Kanela Kamahalohanuilai [Redacted]

To: "repimizuno@capitol.hawaii.gov" <repimizuno@capitol.hawaii.gov>, repmarten@capitol.hawaii.gov, "dlnr@hawaii.gov" <dlnr@hawaii.gov>, docare@hawaii.gov, [Redacted]

Dhhl.contactcenter@hawaii.gov, info@oha.org, Info@hawaiiancouncil.org

Cc:

Bcc:

Date: Sat, 12 Oct 2024 10:36:45 -1000

Subject: [EXTERNAL] Subject: Urgent Need for Community Engagement and Due Process in Native Hawaiian Land Management

Attached is the meeting relating to this concern:

Please watch from 14:32-50:12.

I hope you all can understand my distress and concerns on what I saw and heard in this meeting.

<https://www.youtube.com/live/D01rEHZKjrl>

Name: Kanela Kamahalohanuilai

Address: Resident of Waimanalo

Title: Survivor of homelessness in Hawaii, born and raised. Mother, Advocate, and community member of the greater public, kanaka Maoli, Native Hawaiian.

I am writing to express my profound disappointment regarding the fast-tracked decision made on October 11, 2024, by the Department of Land and Natural Resources (DLNR) concerning agenda item D-6, which involves granting a right of entry into the Waimanalo Parcel Ag-2 flood zone for Hui Mahi Ai Aina. TMK: 4-1-008:088 and transfer of land from DLNR to the state.

It is clear that this decision lacked the due process essential for genuine community engagement. The support for an organization that is not compliant with necessary regulations and permitting raises serious legal and ethical concerns. It appears that both state officials and staff, as well as our elected representatives, have

either knowingly or unknowingly facilitated actions that could be interpreted as fraudulent, particularly in relation to a non-profit entity operating outside legal parameters.

During the meeting, I was disheartened to witness members laughing while the founder of Hui Mahi Ai Aina admitted to violating laws and regulations. Such behavior trivializes the serious nature of this situation, particularly given the heavy concerns voiced by community members in 2018 regarding this particular project in Waimanalo.

The right of entry granted to Hui Mahi Ai Aina is fundamentally illegal, and I intend to voice my concerns in future meetings. It is vital for our community to establish a precedent of seeking permission, rather than simply asking for forgiveness after the fact. This disregard for proper procedure only serves to deepen the divisions and erode trust within Waimanalo.

I have observed how other entities were subjected to rigorous scrutiny while seeking permits for relatively straightforward projects, such as a drone show in Waikiki. Yet, in Waimanalo, we see a starkly different standard applied. The false promise from the Mizuno office to remove this agenda item on October 2, 2024 was deceptive and misleading. Since, the item was not removed from the agenda for further community involvement.

I will conclude with several pressing questions that I hope will be addressed in upcoming discussions:

1. How did Hui Mahi Ai Aina transition from a food distribution center to a shelter?
2. Who authorized the establishment of the illegal housing encampment?
3. How is Hui Mahi Ai Aina obtaining government funding and support without adhering to state and federal regulations?
4. Why would state representatives support an initiative that clearly violates legal standards in our community?
5. What accountability measures are in place for Hui Mahi Ai Aina regarding these illegal actions and possibly others?
6. Are you aware that Hui Malama O Ke Kai is the parent organization of Hui Mahi Ai Aina, and is this arrangement legal and ethical?
7. Was any comprehensive survey conducted on the land aside from soil analysis? Does the survey share why the land behind Oluolu street is designed that way? Please take into consideration that negative impact that will happen to the surrounding of the parcel if a land and soil change happen in that area. Take into consideration the river bed that exists in that part of the neighborhood.
8. When was the last time Hui Mahi Ai Aina was discussed with the Waimanalo committee and neighborhood board?
9. Why? Would members of the state, county, representative approve of a project that openly disregarded federal, state, and county regulations?
10. Does any member know what happens to the people that can not afford to pay \$200 a month to Hui Mahi Ai Aina? Or can not give their EBT benefits to Hui Mahi Ai Aina? Or can not complete community service work? What happen to them?

I know, because I'm the one helping them when they get kicked out of Hui Mahi Ai Aina. Why? Because they are family members, community members, and members that come from incarceration and generation homelessness.

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I strongly urge that the granting of the right of entry and transfer of land be paused, and that no further work on this project be carried forward until proper due process is followed and genuine community support is secured. It is essential that we prioritize transparency and engagement with local residents to ensure that any developments align with the needs and concerns of our community. Without this critical input, we risk undermining trust and creating further division within Waimanalo.

I look forward to engaging further on this critical matter and hope for a transparent resolution that prioritizes the well-being of our community.

Sincerely,

Kanela Kamahalohanuilai

~~(Kanela Kamahalohanuilai)~~



UNIVERSITY
of HAWAII
SYSTEM

Kanela Kamahalohanuilai <kkamaha@hawaii.edu>

Re: [EXTERNAL] Contest case item D-6 Made on 10/11/2024 Regarding TMK 4-1-008:008

1 message

Li, Bin C <bin.c.li@hawaii.gov>

Wed, Oct 16, 2024 at 3:59 PM

To: "[REDACTED] <[REDACTED]@gmail.com>", "[REDACTED] <[REDACTED]@hawaii.edu>", "[REDACTED] <[REDACTED]@hawaii.edu>"

Aloha Kanela,

This is to inform you that DLNR is in receipt of your contested case request below. However, we do require that the petition form be filled out and filed with my office within the specified time by mail, in person or by fax. An email copy in addition will be helpful too.

Please see the attached file for the form and instructions. Let me know if you have questions. Mahalo!

Bin C. Li
Department of Land and Natural Resources
Administrative Proceedings Coordinator
1151 Punchbowl St, Rm 131, Honolulu, Hawaii 96813
Phone (808)587-1496, bin.c.li@hawaii.gov

From: Kanela Kamahalohanuilai <kanela121910@gmail.com>
Sent: Wednesday, October 16, 2024 2:59 PM
To: DLNR.CO.PublicDLNR <dlnr@hawaii.gov>
Subject: [EXTERNAL] Contest case item D-6 Made on 10/11/2024 Regarding TMK 4-1-008:008

Kanela Kamahalohanuilai
Resident of Waimanalo
[REDACTED]

10/16/2024

Board of Land and Natural Resources
Department of Land and Natural Resources
1151 Punchbowl Street, Room 130
Honolulu, HI 96813

Dear Members of the Board,

I am writing to formally contest the case made during the BLNR meeting on October 11, 2024, regarding the transfer and right of entry to TMK 4-1-008:008. I believe that the fast-tracking of this item process, coupled with the lack of adequate public notice and a detailed agenda description, constitutes a violation of my 14th Amendment rights.

The 14th Amendment to the United States Constitution addresses citizenship rights and equal protection under the law. It includes several key provisions:

1. Citizenship Clause: Grants citizenship to all persons born or naturalized in the U.S.

2. Due Process Clause: Prohibits states from denying any person "life, liberty, or property, without due process of law."
3. Equal Protection Clause: Requires states to provide equal protection under the law to all persons, prohibiting discrimination.

I, Kanela Kamahalohanuilai am sharing that the decision made by the BLNR violates my rights to due process and equal protection, particularly in how the meeting's fast-tracking and lack of public notice impacted my ability to participate and voice my concerns.

As someone with a background that includes experiences of houselessness, I feel deeply affected by the proceedings that took place between August and October 2024. The decisions made in this meeting not only disregard my social, emotional, and mental wellbeing but also appear to discriminate against my family and myself.

Moreover, as a Kanaka Maoli, I hold a profound connection to this land and its history. The lack of opportunity to voice my concerns and represent my community in opposition to this development is a violation of my rights and those of my ancestors. It is imperative that the voices of Native Hawaiians are heard and respected in matters affecting our land and heritage.

The approval for Right of Entry, Land Transfer, and alteration of TMK 4-1-008:008 to add soil and move the people of Hui Mahi Ai Aina, may have significant negative impacts on the surrounding residential homestead properties, particularly concerning water runoff and inadequate drainage. Without proper mitigation measures, increased runoff from the development could lead to flooding and erosion, jeopardizing the stability of nearby homes and infrastructure.


This not only threatens the safety and well-being of residents but also diminishes the overall quality of life in the community by potentially compromising access to clean water and creating hazardous conditions. It is crucial that these environmental considerations be thoroughly addressed before proceeding with any development.

When Chair Kimeona's call for the item to be removed from the BLNR agenda, as proposed by the Mizuno office on October 2, 2024, underscores the necessity for genuine community engagement in this process. The failure to honor this request has created a deceptive and misleading understanding of the decision-making process, leaving many community members feeling sidelined and uninformed. It is essential that transparency and open dialogue be prioritized to ensure that all voices are heard and considered, fostering a more inclusive approach to land management that respects the concerns of the community.

I urge the Board to reconsider the process that led to this decision, ensuring that all affected individuals and communities are given the opportunity to participate fully in discussions that impact our lives and the future of our land.

Thank you for your attention to this important matter.

Sincerely,

Kanela Kamahalohanuilai


 APO-1 Notice of Civil Resource Violation 2022 version.doc
875K

OFFICE OF THE GOVERNOR

STATE OF HAWAI'I

TWELFTH PROCLAMATION RELATING TO HOMELESSNESS

By the authority vested in me as Governor by the Constitution and laws of the State of Hawai'i, in order to provide relief for damages, losses, and suffering, and to protect the health, safety, and welfare of the people, I, Josh Green, M.D., Governor of the State of Hawai'i, hereby determine, designate, and proclaim as follows:

WHEREAS, homelessness is a humanitarian crisis that threatens the health, safety, security, and wellbeing of our community; and

WHEREAS, on January 23, 2023, a Proclamation was issued relating to homelessness that declared an emergency created by homelessness for the people of Hawai'i ("Proclamation"); and

WHEREAS, on January 26, 2023, a second Proclamation was issued relating to homelessness that clarified the terms of the Proclamation; and

WHEREAS, on March 20, 2023, a third Proclamation was issued relating to homelessness that clarified the terms of the Proclamation; and

WHEREAS, on May 19, 2023, a fourth Proclamation was issued relating to homelessness that clarified the terms of the Proclamation and that included Rules Relating to the Construction of Homeless Dwelling Units; and

WHEREAS, on July 18, 2023, a fifth Proclamation was issued related to homelessness that clarified the terms of the Proclamation and that included Rules Relating to the Construction of Homeless Dwelling Units;

WHEREAS, on September 15, 2023, a sixth Proclamation was issued related to homelessness that clarified the terms of the Proclamation and that included Rules Relating to the Construction of Homeless Dwelling Units;

WHEREAS, on November 9, 2023, a seventh Proclamation was issued related to homelessness that clarified the terms of the Proclamation and that included Rules Relating to the Construction of Homeless Dwelling Units;

WHEREAS, on January 8, 2024, an eighth Proclamation was issued related to homelessness that clarified the terms of the Proclamation and that included Rules Relating to the Construction of Homeless Dwelling Units;

WHEREAS, on March 8, 2024, a ninth Proclamation was issued related to homelessness that clarified the terms of the Proclamation and that included Rules Relating to the Construction of Homeless Dwelling Units;

WHEREAS, on May 3, 2024, a tenth Proclamation was issued related to homelessness that clarified the terms of the Proclamation and that included Rules Relating to the Construction of Homeless Dwelling Units ("Emergency Rules");

WHEREAS, on July 2, 2024, an eleventh Proclamation was issued related to homelessness that clarified the terms of the Proclamation and that included Rules Relating to the Construction of Homeless Dwelling Units (“Emergency Rules”); and

WHEREAS, based on the eleventh Proclamation and the Emergency Rules, the effort to issue development agreements that allow for the construction of homeless dwelling units is underway; and

WHEREAS, more time is needed to continue the construction of homeless dwelling units and to relocate homeless individuals and families to completed dwelling units; and

WHEREAS, the creation of more permanent affordable housing, permanent supportive housing, transitional housing, and shelter space is necessary to protect the health, safety, and welfare, not only for individuals experiencing homelessness, but for all residents of the State, but it must be done in a way that is respectful to our environment, our history, and our *iwi kupuna*.

NOW, THEREFORE, I, Josh Green, M.D., Governor of the State of Hawai‘i, hereby determine and proclaim that an emergency contemplated by section 127A-14, Hawaii Revised Statutes (HRS), is continuing in the State of Hawai‘i, and in order to promote and protect the public health, safety, and welfare of the people of the State of Hawai‘i, and to prepare for and maintain the flexibility to take proactive, preventative, and mitigative measures to minimize the adverse impact that the present emergency may cause on the State, and to work cooperatively and in conjunction with federal and county agencies, do hereby invoke the following measures under the Hawaii Revised Statutes:

I. Suspension of Laws

Section 127A-13(a)(3), HRS, **Additional Powers in an Emergency Period**, to the extent necessary to expedite the acquisition, construction, repair, renovation, and occupancy of housing that is designed exclusively for permanent, temporary, or transitional occupancy by persons experiencing homelessness or at risk of being homeless, and the provision of services to those persons, I hereby suspend the following statutes and regulations:

Section 127A-30, HRS, **Rental or Sale of Essential Commodities During a State of Emergency; Prohibition Against Price Increases**, to prevent the automatic statewide, 96-hour operation of this section, which is unnecessary for this emergency. The invocations and suspensions of section 127A-30, HRS, contained in my July 19, 2024 Sixteenth Proclamation Relating to Wildfires are not affected by this Proclamation.

Chapter 6E, HRS, **Historic Preservation** to the extent necessary to expedite the provision of housing for homeless persons, subject to the attached Governor’s emergency rules.

Section 37-41, HRS, **Appropriations to Revert to State Treasury; Exceptions**.

Section 37-74(d), HRS, **Program Execution**, except for sections 37-74(d)(2) and 37-74(d)(3), and any such transfers or changes considered to be authorized transfers or changes for purposes of section 34-74(d)(1) for legislative reporting requirements.

Section 40-66, HRS, **Appropriations Lapse When**.

Chapter 46, HRS, **General Provisions**, to the extent prescribed by the counties in order to meet the minimum requirements for health and safety and floodplain management.

Chapter 76, HRS, **Civil Service Law**.

Chapter 89, HRS, **Collective Bargaining in Public Employment**.

Chapter 89C, HRS, **Public Officers and Employees Excluded from Collective Bargaining**.

Section 102-2, HRS, **Contracts for Concessions; Bid Required, Exception**.

Section 103-2, HRS, **General Fund**.

Section 103-53, HRS, **Contracts with the State or Counties; Tax Clearances, Assignments**.

Section 103-55, HRS, **Wages, Hours, and Working Conditions of Employees of Contractors Performing Services**.

Section 103-55.5, HRS, **Wages and Hours of Employees on Public Works Construction Contracts**.

Section 103-55.6, HRS, **Public Works Construction; Apprenticeship Agreement**.

Chapter 103D, HRS, **Hawaii Public Procurement Code**.

Chapter 103F, HRS, **Purchases of Health and Human Services**.

Chapter 104, HRS, **Wages and Hours of Employees on Public Works**.

Sections 105-1 to 105-10, HRS, **Government Motor Vehicles**.

Chapter 171, HRS, **Public Lands**.

Section 183C, HRS, **Conservation District**.

Chapter 205, HRS, **Land Use Commission** except as it applies to conservation district lands and important agricultural lands.

Chapter 205A, HRS, **Coastal Zone Management**.

Chapter 206E, HRS, **Hawaii Community Development Authority**.

Chapter 237, HRS, **General Excise Tax Law**, to the extent that the suspension shall only apply to qualified persons or firms involved with a newly constructed, or a moderately or substantially rehabilitated, project that is developed under this

Proclamation for the provision of housing for homeless persons, subject to the attached Governor's emergency rules. The suspension shall apply to the planning, design, financing, construction, sale, or lease in the State of a project that has been certified under the attached Governor's emergency rules. "Moderate rehabilitation" and "substantial rehabilitation" shall have the same meaning as set forth in section 201H-36(d), HRS.

Sections 302A-1601 through 302A-1608, HRS, **School Impact Fees**.

Chapter 343, HRS, **Environmental Impact Statements** to the extent necessary to expedite the provision of housing for homeless persons, subject to the attached Governor's emergency rules.

Chapter 346, HRS, **Social Services**.

Section 464-4, HRS, **Public Works**.

Sections 601-1.5, 708-817, 708-818, 708-820(1)(c), 708-830.5(1)(d), 708-840(1)(c) and (d), HRS, to the extent these sections contain provisions for the suspension, tolling, extension, or granting of relief from deadlines, time schedules, or filing requirements in civil, criminal, or administrative matters before the courts of the state or to the extent that these sections contain provisions for criminal penalties that are automatically heightened by reasons of any declared disaster or emergency.

Section 127A-25(c), HRS, rules and orders, to the extent the requirement to publish rules adopted pursuant to chapter 127A, HRS, in a newspaper of general circulation in the State shall be suspended inasmuch as the posting of such rules on the applicable state or county government website or by other means of official announcement as provided by this section brings the rules' content to the attention of the general public.

Pursuant to section 127A-25, HRS, I hereby adopt the Rules Relating to Construction of Homeless Dwelling Units attached hereto. These rules shall have the force and effect of law.

II. **State Cooperation**

Pursuant to Section 127A-12(b), HRS, I hereby direct all state agencies and officers to cooperate with and extend services, materials, and facilities as may be required to assist in all efforts to address the objectives of this Proclamation.

III. **Severability**

If any provision of this Proclamation is rendered or declared illegal for any reason, or shall be invalid or unenforceable, such provision shall be modified or deleted, and the remainder of this Proclamation and the application of such provision to other persons or circumstances shall not be affected thereby but shall be enforced to the greatest extent permitted by applicable law.

IV. Enforcement

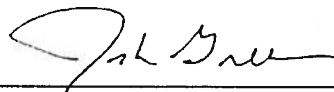
No provision of this Proclamation, or any rule or regulation hereunder, shall be construed as authorizing any private right of action to enforce any requirement of this Proclamation, or of any rule or regulation. Unless the Governor, Director of Emergency Management, or their designee issues an express order to a non-judicial public officer, no provision of this Proclamation, or any rule or regulation hereunder, shall be construed as imposing any ministerial duty upon any non-judicial public officer and shall not bind the officer to any specific course of action or planning in response to the emergency or interfere with the officer's authority to utilize his or her discretion.

I FURTHER DECLARE that the disaster emergency relief period shall commence immediately and continue through October 29, 2024, unless terminated or superseded by separate proclamation, whichever shall occur first.

I FURTHER DECLARE that notwithstanding the termination of this emergency relief period, all contracts and agreements entered into and all procurements started during the emergency relief period shall continue in full force and effect until expiration or termination of the contracts and agreements, and all construction projects commenced during the emergency relief period shall remain covered by the terms of this Proclamation through completion of construction.

I FURTHER DECLARE that this Proclamation or subsequent emergency rules is not intended to create, and does not create, any rights or benefits, whether substantive or procedural, or enforceable at law or in equity, against the State of Hawai'i, the counties of this State, or any State or County agencies, departments, entities, officers, employees, or any other person.

Done at the State Capitol, this 30th day of August, 2024.



Josh Gfeen, M.D.
Governor of Hawai'i

APPROVED:



Matthew S. Dvonch
Acting Attorney General, State of Hawai'i

Rules Relating to
Construction of Homeless Dwelling Units

- §1 Purpose and Authority
- §2 Definitions
- §3 Applicability of Proclamation and Rules
- §4 Project Eligibility
- §5 Project Agreements

§1 Purpose and Authority.

These rules are intended to expedite and apply only to construction of temporary or permanent housing for people experiencing homelessness or who are at risk of homelessness. Quickly creating such spaces is key to reducing unsheltered homelessness.

Projects that propose to house or serve low-income people living in public housing or people experiencing homelessness or who are at risk of homelessness are eligible for coverage under the Twelfth Proclamation Relating to Homelessness issued on August 30, 2024 ("Proclamation") and these rules.

These rules are adopted pursuant to sections 127A-11, 12, 13, and 25, Hawai'i Revised Statutes ("HRS"), to respond to the homelessness emergency declared by the Governor and have the force and effect of law.

§2 Definitions.

"At risk of homelessness" is defined as:

- (a) An individual who is exiting an institutional facility where he or she resided and who resided in an Emergency Shelter or place not meant for human habitation immediately before entering that institution, provided that no subsequent residence has been identified; and the individual or family lacks the resources or support networks, e.g., family, friends, faith-based, or other social networks, needed to obtain other Permanent Housing.
- (b) An individual or family who will imminently lose their primary nighttime residence, provided that: (i) The primary nighttime residence will be lost within 14 days of the date of application for Homeless assistance; (ii) No subsequent residence has been identified; and (iii) The individual or family lacks the resources or support networks, e.g., family, friends, faith-based, or other social networks, needed to obtain other Permanent Housing; or

- (c) Any individual or family who: (i) is fleeing, or is attempting to flee, domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions that relate to violence against the individual or a family member, including a child, that has either taken place within the individual's or family's primary nighttime residence or has made the individual or family afraid to return to their primary nighttime residence; (ii) has no other residence; and (iii) lacks the resources or support networks, e.g. family, friends, faith-based, or other social networks, needed to obtain other Permanent Housing.

"Dwelling," "dwelling unit," or "unit" means any structure or room, for sale, lease, or rent, that provides shelter. § 356D-1, HRS.

"Emergency Shelter" means a homeless facility designed to provide temporary shelter and appropriate and available services to homeless families or individuals for a specified period of time who are not able to stay in a transitional shelter or reside in a dwelling unit. § 346-361, HRS.

"Homeless" means:

- (1) An individual or family who lacks a fixed, regular, and adequate night-time residence; or
- (2) An individual or family who has a primary night-time residence that is:
 - (A) A supervised publicly or privately operated shelter designed to provide temporary living accommodations;
 - (B) An institution that provides temporary residence for individuals intended to be institutionalized; or
 - (C) A public or private place not designed for or ordinarily used as sleeping accommodations for human beings.

This term does not include any individual imprisoned or otherwise detained under an act of Congress or a state law. § 346-361, HRS.

"Homeless facility" means a development designed to provide shelter for homeless families or individuals pursuant to this part, or to facilitate any other homeless program authorized by this part and may include emergency or transitional shelters. § 346-361, HRS.

"Institutional facility" means a:

- (1) Hospital;
- (2) Convalescent home;
- (3) Nursing home;

- (4) Extended care facility;
- (5) Mental institution;
- (6) Rehabilitation center;
- (7) Health maintenance organization;
- (8) Psychiatric center;
- (9) Intellectual disability center;
- (10) Penal institution; or
- (11) Any other organization whose primary purpose is to provide a physical environment for patients to obtain health care services or at-home care services, except those places where physicians, dentists, veterinarians, osteopaths, podiatrists, or other prescribers who are duly licensed, engage in private practice. HRS § 328C-1.

“Permanent housing” means community-based housing without a designated length of stay. Examples of permanent housing include, but are not limited to, a house or apartment with a month-to-month or annual lease term or home ownership.

“Transitional shelter” means a homeless facility designed to provide temporary shelter and appropriate and available services for a maximum of twenty-four months to homeless families or individuals qualified by the pertinent provider agency or department to stay in the transitional shelter. § 346-361, HRS.

§ 3 Applicability of Proclamation and Rules

These rules shall apply only to those construction projects of temporary or permanent housing for people experiencing homelessness or who are at-risk of homelessness which are certified by the Governor's Coordinator on Homelessness (“Coordinator”) as having met the requirements for eligibility set forth in these rules (“Certified Projects”).

Certified Projects do not require further state approvals to proceed with the project. Certified Projects will not be subject to the state regulations suspended under the Proclamation.

Certified Projects are still required to seek applicable county approval in the appropriate county where the project is located. The counties may adopt an expedited approval process to support the provision of housing for homeless individuals and families while still ensuring that improvements constructed pursuant to the Proclamation meet life safety standards as defined by the counties.

The Coordinator may also approve the application of the suspension of laws set forth in the Proclamation for projects proposed by state agencies where the use of the suspended laws shall be for operational functions of the agency or

to repair, renovate, or refurbish existing housing for use or occupancy by people experiencing homelessness.

§ 4 Determination of Project Eligibility.

(a) Project proponents seeking to have the terms of the Proclamation apply to their project shall submit to the Coordinator the following documentation:

- (1) Name, address, email address and telephone number of the project proponent and each member of the project team. If the project proponent is a corporation or other legal entity, evidence of the project proponent's status and registration with the Department of Commerce and Consumer Affairs, and the names, address, email address and telephone number of each officer and director of the entity. The name, address, email address, and telephone number of the main point of contact should be identified;
- (2) Proof that the project proponent has site control such as a deed, agreement of sale, long term lease, or other disposition;
- (3) A description of the project proponent's experience or involvement, if any, in the development of housing or projects of similar scope, size, and complexity;
- (4) A description of the project proponent's past or current experience or involvement, if any, in any programs or its provision of services, including other than housing, that would give evidence of the project proponent's ability to manage a project of this type and scope;
- (5) A conceptual site plan showing the general development of the project site including the locations and descriptions of proposed and existing buildings, parking areas, unusual site features, proposed and existing major drainage facilities;
- (6) A development plan including the number of units, maximum occupancy, construction method, and infrastructure needs. The infrastructure needs should include a description of methods of sewage and solid waste disposal and sources of water and other utilities as well as depth and location of any trenches required;
- (7) The proposed funding for the project, including the manner in which the project will be funded during the development and construction of the project, and upon completion of the project and sources of repayment of financing, if applicable. This should include any proposed grants, donations, loans, bonds, tax credits, or other

sources of financial resources;

- (8) The project's method of homeless verification (e.g., homeless verification letter or Homeless Management Information System database); and
- (9) The project proponent's plan for obtaining community input (e.g., via Neighborhood Board meeting, neighborhood survey, or community meeting).

(b) Expedited reviews in the following areas shall be completed, as set forth herein, to determine whether the project is likely to have an adverse impact on resources and to define any mitigation and monitoring of impacts needed. Once the reviews are complete, the Coordinator may certify the project and the project may proceed to be developed under the Proclamation. The project proponent shall provide the following information to the Coordinator:

- (1) Historical review (DLNR SHPD)
 - a. TMK of property;
 - b. Preliminary site plan;
 - c. Proposed construction methodology;
 - d. Proposed underground infrastructure;
 - e. Any grading or trenching plans;
 - f. Information of historic properties on the project site;
 - g. Any prior historical or archaeological studies or reports done; and
 - h. Photos of the property.
- (2) Environmental issues (DOH HEER)
 - a. TMK of property;
 - b. Whether the dwelling units or restroom facilities will be serviced through a sewer connection or whether an individual wastewater system will be installed;
 - c. Whether an NPDES permit will be required. An NPDES permit is required if:
 - i. 1 acre or more of land will be disturbed (e.g. by grading), either on its own or as part of a larger common plan of development that will disturb 1 or more acres of land; or
 - ii. if there will be any construction-related discharge to state waters (e.g., hydrotesting, dewatering); and
 - d. Whether an U.S. Army Corps of Engineers Regulatory Program permit is required because there is anticipated to be the discharge of dredged or fill material into waters of the United States.
- (3) Endangered species impacts (DLNR DOFAW)

- a. TMK of property;
- b. Any on-site or nearby streams, waterways, or wetlands;
- c. Any native vegetation on site;
- d. Any known native fauna on site;
- e. Vegetation control anticipated to occur as part of construction, including but not limited to tree trimming or cutting, mowing of grassy areas, or removal of native vegetation;
- f. Any night time construction anticipated, if yes, months during which night time construction will be used;
- g. Lighting plans; and
- h. Whether the property is covered by a habitat conservation plan.

(4) Flood plain management (DLNR Engineering)

- a. TMK of property; and
- b. Floodplain management zone.

If potential adverse impacts are identified, the project will be required to address these impacts in accordance with standard State processes for development projects. These processes include, but are not limited to, the review processes set forth in HRS chapters 6E, 322, 342D, 342E, 343, and Hawai'i Administrative Rules chapters 11-53, 11-55, 11-56, 11-62, 13-275, and 13-284.

Notwithstanding the Proclamation, counties may establish their own process or rules for ensuring that a Certified Project meets life safety standards.

§ 5 Project Development Agreements

If, after reviews under section 4 of these rules are complete and the Coordinator finds that the project proponent has submitted the required project information under Section 4(a), the Coordinator may accept the project as qualified under the Proclamation. Upon acceptance, the Coordinator shall enter into a development agreement with the project proponent.

The terms and conditions of the development agreement shall include:

(a) The purpose of the agreement, which shall include the development of dwelling units for homeless individuals or families;

(b) A description of the role and responsibilities of the project proponent and other parties to the agreement;

(c) Any measures required to mitigate any anticipated adverse effects of the project;

(d) A restrictive covenant requiring the property to be used for dwelling units for homeless individuals or families for a minimum of twenty years. Where the project proponent only has a leasehold interest with a remaining term of less than twenty years the restrictive covenant may be for less than twenty years, but in no case shall it be less than fifteen years with the option to extend the restriction to twenty years if the lease term is extended; and

(e) Standard clauses that the Coordinator determines to be required, including, but not limited to, the following:

1. Indemnity
2. Severability
3. Termination; and
4. Assignability.

A memorandum regarding the development agreement will be recorded at the Bureau of Conveyances or Land Court against the fee simple or leasehold interest, as appropriate.

Once an agreement is executed and the memorandum is filed, a project will be considered "certified" under the Proclamation. An annual review of every project is required to verify compliance with the conditions under the Project Agreement.

(f) The fully executed development agreements will be posted on the Coordinator's or other government website.

10/17/2024

Board of Land Natural Resources
1151 Punchbowl, Room131
Honolulu, Hawaii 96813

Re: Dawn N.S. Chang

Dear Chairperson,

Subject: Request for Fee Waiver for Contested Case – BLNR Agenda Item D-6 (TMK 4-1-008:008)

I am writing to formally request a fee waiver for my contested case related to October 11, 2024 BLNR Agenda Item D-6 regarding TMK 4-1-008:008.

As a full-time worker earning \$52,000 annually and supporting a household of nine, I face significant financial challenges. I currently receive SNAP benefits, WIC funding, and reside in public housing on federal property. Despite my best efforts to provide for my family, these circumstances have made it difficult to manage our finances effectively.

Coming from a background of homelessness, I am continuously learning to navigate financial responsibilities while teaching my children the importance of financial literacy. However, the emotional and financial strain from our situation makes it hard for me to cover the necessary fees associated with this case.

Given these hardships, I respectfully request that you consider my application for a fee waiver. Your understanding and support in this matter would greatly assist me in pursuing this case on behalf of my family and others around me.

Thank you for considering my request. I look forward to your favorable response.

Sincerely,



Kanela Kamahalohanuilai