



Patti K Kodarna  
07/21/2003 02:12 PM

2003.3

To: cabletv@dcca.hawaii.gov  
cc.

Subject: Buck Joiner

-Forwarded by Patti K Kodama/DCCA on 07/21/2003 02:20 PM —

Patti K Kodama

To: Clyde Sonobe/DCCA@DCCA

06/06/2003 03:16  
PM

cc: Glen WY Chock/DCCA@DCCA  
Subject: Buck Joiner

Clyde,

~~This~~ guy called and was asking if we were the ones that had control over Akaku on Maui. He said he wanted to talk to someone re the board appointments and whether we appointed the board members. He said previously he was in opposition of DCCA appointing but has since changed his mind and is in favor of it.

He asked if you were still around (does his name sound familiar?) and I told him yes but that you were at a meeting this afternoon. He said no biggie. Could you please call him back a [REDACTED] Thanks.



Patti K Kodama  
07/17/2003 11:20 AM

To: cabletv@dcca.hawaii.gov  
cc:

Subject: RE: DCCA Discussion Document for PEG Access

— Forwarded by Patti K Kodama/DCCA on 07/17/2003 11:28 AM —

"Sean McLaughlin"

07/16/2003 11:35 AM

To: <Mark.E.Reckterwald@dcca.hawaii.gov>

cc: "Myles Inokuma"

<Patti.K.Kodama@dcca.hawaii.gov>  
Subject: RE: DCCA Discussion Document for

Aloha Mark (fyi Randy, Myles and Patti) -

There's a disturbing pattern of industry bias in the DCCA Plan for PEG Access draft document. The most glaring misrepresentation is on page five in the last paragraph that sets up the discussion of "Possible Governance Options":

According to the DCCA Plan: "The cable operator is ordered by the DCCA to calculate, collect and distribute funds from cable subscribers for PEG purposes."

The statement is factually incorrect. DCCA orders the payment of franchise fees, not the collection of funds from subscribers. The cable operator clearly has the option of not passing the expense on to consumers and is specifically NOT ordered to do so.

If AOL Time Warner decided for their own reasons, they could use revenues from other sources (including profits from cable modems or from their telecom subsidiary) to pay the franchise fees. As I recall, before Clyde Sonobe's tenure DCCA actually sought to negotiate for Time Warner to distribute charges for franchise expenses (including compensation for use of the public rights-of-way) across different revenue sources, not solely against the fees charged to cable TV subscribers.

IMHO, the bias reflected in the draft Plan is part of a larger pattern at DCCA's cable division that directly conflicts with the public interest. The industry-supported policies that Mr. Sonobe has introduced and championed at DCCA are consistently anti-consumer. This factual error in the draft State Plan is the tip of an immense iceberg.

To offer a possible path to avoid further damage to the public interest: the State of Hawaii needs a new appointed cable TV administrator with dedicated legal staff and a comprehensive cable franchise audit.



Of course we remain committed to work with you to inform and implement policies of the State that serve the public interest and support our mission: "Empowering our community's voice through access to media."

Sincerely,  
Sean

Sean McLaughlin

President & CEO

Akaku: Maui Community TV

tel: [REDACTED]

fax: [REDACTED]

Molokai & Lanai toll-free 888-577-6240  
or e: [REDACTED]

-----Original Message-----

From: Mark.E.Recktenwald@dcca.hawaii.gov

(mailto:Mark.E.Recktenwald@dcca.hawaii.gov]

Sent: Wednesday, July 16, 2003 8:15 AM

To: Sean McLaughlin

Cc: Patti.K.Kodama@dcca.hawaii.gov

Subject: RE: DCCA Discussion Document for PEG Access

What are the errors?

|  |   |
|--|---|
|  | "Sean McLaughlin"<br>[REDACTED]<br>07/15/2003 02:20<br>PM |
|--|---|

To: <Patti.K.Kodama@dcca.hawaii.gov>

cc: "Mark Recktenwald" <mark.e.recktenwald@dcca.hawaii.gov>

Subject: RE: DCCA Discussion Document for PEG Access

2008-2

## Draft plan spells future for community access TV

By MELISSA TANJI

Staff Writer

KAHULUI — Maui County could have a larger role in overseeing the operation of community access channels shown over cable television systems under a draft plan prepared by the state Department of Commerce and Consumer Affairs (DCCA).

The “discussion draft” of the Statewide Cable Television Access Plan also proposes a redistribution of funding for community access that could provide Akaku: Maui Community Television more revenues for its operations.

The draft plan will provide viewers an opportunity to have input on how community access television is managed, said Sean McLaughlin, *Akaku* president and chief executive officer.

But there also are potential threats to public access if revisions place new restrictions on how community access managers, such as Akaku, operate, he said.

“DCCA’s new plan could set the foundation for the continuing growth and success of Akaku, or conversely, it could spell the end of the community access TV for Maui, Molokai and Lanai,” he said.

A public meeting on the draft plan will be held from **4:30 to 6:30** p.m. Tuesday at Maui Community College, Kaaie Building Room 105.

Community access is required under current state policies that provide for cable television companies, such as Oceanic Time Warner Cable of Hawaii, to set aside **up** to five channels on cable for public use.

In Maui County, Akaku was organized as a nonprofit agency to manage the community access channels, funded by a percentage of fees paid by customers on the cable system. **Akaku** currently operates three channels for community access, including Channel **54**, which is used by Maui Community College for distance-learning classes and related programs.

Channel **52**, dubbed “Calabash,” is used for general community programming, including privately produced videos that can range from presentations on community issues to a Little League game to family parties.

Channel 53, the “Visions” channel, is primarily used for public service programming, including live and taped broadcasts of meetings of the Maui County Council, boards and commissions and legislative sessions.

Hawaii is somewhat unique in having the state responsible for regulating cable television, including rate regulation, franchise applications, renewals, transfers, resolution of customer service complaints and appointment of community access television boards. In most Mainland areas, regulation of the cable industry is at the city, county or municipal levels.

The draft plan raises the question of whether the counties should have a greater role, which could include transferring the regulation of the cable television industry from the state to each county government. Another option is to provide county governments more responsibility for negotiating terms and conditions of franchises to meet the needs of the individual counties, while the state would retain the right to review and approve the final product.

McLaughlin said Akaku supports increasing local participation in regulation of cable television, but does not support "full home rule." He said he wouldn't want to see the counties take over rate regulation, customer service and consumer protection, which can be complex issues that also need to comply with federal regulations.

Another major issue is the distribution of funds for the operations of the community access organizations such as Akaku.

Community access is funded through franchise fees charged for use of public rights of way by cable companies. The fees are 3 percent of gross revenues for each cable company, with revenues from the fees going to the community access organization in which the cable company is operating.

Hawaii Public Television and the **DCCA** also receive a portion of franchise fees.

With Oahu having the largest number of cable subscribers, Olelo Community Television on Oahu receives the most of the four county access managers.

Last year Akaku received \$608,510 while revenues to Olelo totaled **\$3.4** million. In the other counties, the Big Island access manager received **\$547,243** and Kauai's received **\$270,569**.

One option in the draft plan is to distribute some of the revenues now generated on Oahu among the smaller Neighbor Island access managers to allow them to expand the community access services.

"With most of the state's cable access resources directed to Oahu, all of the Neighbor Islands have suffered from a lack of equipment, facilities, operational funding and network capacity," McLaughlin said.

"In particular, Akaku is hoping to gain support to provide improved services for our remote communities of Molokai, Lanai, Hana and West Maui," he said.

The access managers, such as Akaku, provide training for individuals and organizations to produce videos for broadcast over the community access channels as well as produce public service programs and operate the channels.

The draft plan deals with a number of other issues in management of community access, including:

- \* Appointments of the public, education and government (community) television boards.
- \* The channel capacity for community access television.
- \* Whether franchise fees need to be adjusted, beyond a reallocation of revenues.

\* Providing for greater community participation in community television.

\* Developing new standards and procedures for educational and government access to community access channels, including providing for more statewide distribution of public affairs programs such as state legislative sessions.

Copies of the discussion document may be obtained online at [www.hawaii.gov/dcca](http://www.hawaii.gov/dcca) or at [www.akaku.org](http://www.akaku.org). They can also be obtained from the Akaku studios in Kahului or from the Oceanic Time Warner Cable offices at 350 Hoohana St.

Written comments on the plan may be submitted by Sept. 5 by e-mail to [cabletv@dcca.hawaii.gov](mailto:cabletv@dcca.hawaii.gov) or by mail to Cable Television Division, Department of Commerce and Consumer Affairs, 1010 Richards St., 2nd floor, Honolulu, **96813**.

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cgorae [REDACTED] on 08/12/2003 11:23:42 PM

To: cabletv@dcca.hawaii.gov  
[REDACTED]

Subject: support for Maui county

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August 12, 2003

Aloha to all the members of the Department of Commerce and Consumer Affairs,

For several years I have been involved in independent, small format video production, as a means of communication and artistic expression. On a personal, one on one level, I have helped many video neophytes to understand the basics of non linear editing, and the ins and outs of digital video production. This past July, I was a lab assistant for a beginning course in digital production sponsored by Hawaii Filmmakers Initiative. HFI partnered with Akaku to bring University of Hawaii credit film classes (offered with University of Southern California) to our island. Without the support of Akaku, this course would not have been as productive and fulfilling as it was. Members of the community, who participated in HFI's course, demonstrated remarkable diversity and skill in the organization and presentation of their video projects. I was particularly impressed with one class member, who after participating in the class last year, went on to hone her skills as a producer at Akaku. The richness of communication and sensitivity of delivery, that she displayed in this years final project is a tribute to the services and assistance Akaku provides for any interested community member. Its a great feeling to witness a member of the community so empowered by the tools of self expression, and to have developed those skills to such an extent. Akaku provides positive and enriching services to our Maui community and those services need to continue and grow. The County of Maui also includes Lanai and Molokai, and I am deeply concerned that opportunities for continued public access and growth be provided to the outer islands.

We have an opportunity to do something positive for the enrichment of our local community, and I urge you to support the continued growth of Akaku Community Television.

Sincerely,

**Christina Goray**  
[REDACTED]  
[REDACTED]  
[REDACTED]

2003-25



CABLE DIVISION  
COMMERCE AND  
CONSUMER AFFAIRS

AUG 15 10 03 AM '03

AUG 15 10 03 AM '03

FILE

## TESTIMONY

DATE: February 5, 2003

TO: Commissioner, Department of Commerce and Consumer Affairs

RE: Support of Akaku Community Access Television on Maui

Aloha Commissioner:

I am writing in strong support of **AKAKU** Community Access Television. In many ways **AKAKU** is our most important as well as popular media outlet because it serves as an effective information dissemination tool to complement the age-old "coconut wireless." I say this in all seriousness because thousands of people each day keep in touch with what is going on across Maui through **AKAKU**'s programming -from Council meetings and commission hearings to talk shows, discussion forums, and rebroadcasts of important events.

Having lived on Oahu as well as Maui, I believe the role of **AKAKU** is especially critical for our Neighbor Island communities here on Maui, including the more isolated areas such as Hana, Moloka'i, and Lana'i. **AKAKU** serves as an important communication bridge as well as a forum for keeping us all in touch with what is going on across our county and state.

I know whenever I am on the air, for weeks after people come up and tell me they saw me, commenting on the show or whatever topic I may have been addressing --or simply acknowledging that I was on the air. This speaks volumes, I believe, about the popularity and impact **AKAKU** has on our communities and on our citizens.

With that in mind, I humbly ask that you continue to support **AKAKU** and, indeed, help make sure that it receives a fair share of the statewide finds. Maui continues to grow at a fast pace and I would hope **AKAKU** would receive finding commensurate with our increasing population base.

Me ka ha'aha'a,

A stylized handwritten signature, likely of Samuel W. Millington, consisting of a large, bold, upward-pointing arrow-like shape followed by a horizontal line.

Samuel W. Millington  
Executive Director, Hui Malama Learning Center





# HALE MAKUA

A Tradition of Caring

The logo is symbolic of our warm, personal health services. The sun never sets within this community trust, where a half-century ago, the people of our island home breathed into our walls and people a special spirit of care which has become the tradition of Hale Makua.

## HALE MAKUA BOARD OF TRUSTEES

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The Hale Makua Board of Trustees meets at noon on the third Wednesday of each month in the Hale Makua, Kahului Board Room

August 12, 2003

**Mark Recktenwald**

Director, Department of Commerce and Consumer Affairs  
State of Hawaii  
Honolulu HI

**Re: SUPPORT FOR CONTINUED AND INCREASED FUNDING  
FOR AKAKU COMMUNITY TELEVISION**

Dear Mr. Recktenwald:

I am writing to ask that you continue to support Akaku Public Television and its affiliated stations at higher funding levels than current allocations and that additional funds be considered to keep the public access television "backbone", and production equipment at or near "state of the art" levels.

### **RATIONALE:**

Maui County like the other "neighbor island" counties does not have local commercial television. As you know, essentially all television programming on commercial stations is generated in Honolulu. Akaku and its affiliates (e.g. MCC channel) provide the only locally developed information programs to keep our community appraised and involved in local issues facing our county. Until very recently, Maui County was totally cut off from observing the deliberations of the State Legislature and other public deliberations which originate in Honolulu and effect commercial, health and social welfare of our community. Live video from these televised programs requires sophisticated equipment. New technology to assist locally trained producers to create public information programming is needed now and in the future. I recommend that some consideration be given in funding for new technology.

Maui's citizens have always had a high level of interest in community affairs, public discourse and participation in local community issues. Akaku provides an accessible, low cost way for these issues to be presented by various constituencies, which reach people in their homes who would otherwise not be exposed to the discussion. Because of the lack of consistent public transportation and the distances involved in driving to the County Seat, and because our County is made up of three distinct islands, Maui citizens find it difficult to participate or even hear public discussion on the issues. Public access television provides a way for citizens to watch and listen to these discussions regardless of where they live in Maui County.

472 Kaula Street

Kahului, Maui, HI 96732-2099

(808) 77-2761

Fax (808) 71-9262

Our Mission

Excellence in Healthcare in Our Home and Yours

halema ua.com

Mark Recktenwald  
August 12, 2003

Page 2

As the leader of a long term care delivery system, I know that many of our nursing home residents rely on Akaku to keep them informed and to a certain extent involved in the issues, which helps to feel connected and reduces the feeling of community isolation and "institutionalization".

I am also the principle investigator of the Maui Long Term Care Partnership, a group of community organizations, health and human service providers, representatives from county and state government and individuals who are dedicated to finding solutions to the long term care needs of an exploding elder population on Maui. Akaku is a key member of this partnership. We came together and successfully applied for a grant from the Robert Wood Johnson Foundation to educate and support citizens and community partnership groups to develop a strategic plan for long term care on Maui. We are one of only 13 communities (out of an applicant pool of **525** across the United States) that have received RWJ funds for this purpose. And, we are the only project that is using public access television as part of the community education effort.

Throughout the past nine months Akaku and it's Maui Community College affiliate have helped us to produce educational videos, which have been broadcast to the public on the issues surrounding the long-term care crisis on Maui. We have used some of the "regularly occurring programs (such as "Hot Topics") and produced others, to provide information, point and counterpoint to highlight the issues and the ground-breaking legislation from last session regarding long term care financing.

Akaku's Chief Executive has provided many hours of volunteer service as a member of the project's core leadership team as well a member of the project Communications subcommittee. His media experience has helped us link the public television time with print media to get the community interested, talking and involved in our project.

Finally, as a leader of a major non-profit corporation in our community, I appreciate the offer free public service announcement time to highlight our programs and services to reach a wider audience than radio and print provides.

Therefore, I urge you to consider additional funding for operations and for improved technological capabilities to support this important educational and informational resource in Maui County.

Sincerely,



Tony Krieg  
President & CEO



2003-17

CABLE DIVISION  
COMMUNITY AND  
CIVIL AFFAIRS

Public Testimony  
Submitted by Robert M. Albert  
MCC Media Center Director  
August 12, 2003

AUG 13 10 08 AM '03

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FILE

## PEG ACCESS, AKAKU, AND MCC

### PAST HISTORY:

In 1983 MCC began distance learning services on Cable TV, including a mixture of live classes and pre-taped telecourses. For 20 years now, MCC has been providing the citizens of Maui County educational services and programs such as credit and non-credit courses, arts and humanities programs, life-long learning programs and both lower education and higher education programming access offered through The Department of Education and MCC/UH systems statewide.

In 1987, the Maui PEG Planing Committee was created by the DCCA, comprised of MCC, DOE, County and non-profit agency representatives.

In 1992, the DCCA established the Maui PEG Consortium as an advisory board for distribution of PEG franchise fees. Cable franchise fees were allocated, per mandate with DCCA to P, E, and G services. A Public Access channel was also started on Maui.

In 1997, the PEG consortium was dissolved and AKAKU became the agency for PEG management of Maui, and has since been the management arm of PEG franchise fees.

The "E" portion of funding provided to MCC (operators of the E segment of PEG) continued from 1993 until 1999. During those years, funding for E remained at an average of 29% of franchise fees. Directly following the establishment of AKAKU, funding to the E portion of franchise fees dropped to **15%**. (\$53,000. of a total of \$535,000.) In 2000, all funding was discontinued. I came on board as MCC Media Coordinator in 2001, and have attempted to resolve funding issues between MCC as the "E" channel provider and **AKAKU**. During these discussions I was continuously led to believe that funding issues would be resolved and all funds allocated for "E" portion of PEG would be released. After approximately two years of paperwork, negotiations, and mediation, The Board voted to release funding for MCC for the 2002 - 2003 fiscal year of approximately 9% of franchise fees. Unfortunately, no retroactive funding for fiscal years 99/00, 00/01, 01/02 were released. Since then, it is my opinion that The Board has essential "written off" past funding. This funding totals between \$12,000.00 to 300,000, depending on what percentage of franchise fees should be allocated to "E".

## TODAY: FUNDING AND COMMITMENT TO EDUCATION

In July of this year, the AKAKU Board unanimously voted to no longer provide operating funds for any State Agency, including MCC and DOE. Since MCC operates the designated higher "E" channel of the PEG access network, I feel this vote demonstrates the Boards lack of understanding regarding:

- 1) Contractual requirements with DCCA and the AKAKU Board to provide funds to the "E" portion of PEG access. Per contract financial support must be made to the "E" channel providers: MCC
- 2) Misunderstanding of the college's financial requirements to operate MCC-TV. Engineering, programming, and operational support to manage MCC-TV on a 24/7 basis requires funding. The availability of educational services is essential to the economic growth of our state. The current fiscal crisis now facing MCC and the UH system is a reality. Programs and classes are facing cutbacks. Without additional funding from Akaku to assist in the college in the production and operation of MCC-TV, the residents of Maui County may not benefit from expanded intellectual, educational and cultural programming these funds would help provide.

## PARTNERING EQUALS FUNDING:

The Akaku Board has on numerous occasions suggested MCC and AKAKU better partner their resources. In this way, funding for program and facility use will be allocated to the college. Recently, MCC has attempted to "partner" on many occasions. In the past 15 months, MCC and Akaku have partnered on a variety of programs, including Legislative and County Council productions produced at MCC's new Media Center. These programs aired on the Akaku government channel. A series of Maui Economic Opportunity/Akaku productions with Lou Tice, a motivational speaker, were produced at MCC. This video series is used by prison inmates for re-entry into society. In addition, Digital Video Production credit courses are offered on Molokai through a partnership with AKAKU. Equipment and logistics provided is by AKAKU and the instructor's salary is provided through MCC. And tonight's DCCA Public Hearing is being produced by MCC staff as, and is being sent to Akaku studios for "live" County-wide coverage. Other partnerships that have and are in place include DOE programming provided to Akaku utilizing the UH HITS II network. Lastly, this past years' Legislative Session was provided to AKAKU via the UH-HITS11 network. All of these "partnerships" have been provided without financial compensation to MCC/UH facilities or staff. A "partnership" is already in place. The staff of both MCC and AKAKU work well together. This partnership can be further cultivated and nourished. However, it will take additional financial resources to continue to grow.

When I heard of Oceanic Time Warner was providing an additional channel dedicated to Lower Ed/DOE programming, I informed Mr. McLaughlin of MCC's interest in providing our facilities to operate the new channel. It made sense to me to operate both "E" networks from the college. This was an additional effort MCC offered to help foster our "partnership." Unfortunately, I received no response from AKAKU regarding my offer. In July, to my disappointment, after *so* many "partnerships" have already taken place between our two entities, The Board denied further funding to MCC or DOE until "partnerships" are formed.

#### REOUEST: SIMILAR DECISION AND ORDER #261

Decision and Order #261 requires OLELO to distribute funds to the Hawaii Education Network Consortium (HENC). This order was put in place to assist in the continuing development and availability of educational programs and services to the residents of Hawaii who have access to cable television services. I believe a similar Decision and Order should be implemented for the community of Maui County. The latest AKAKU Board vote and it's decision not to fund educational access providers (MCC & DOE), shows a lack of understanding and commitment to education via Distance Learning. The DCCA has the authority to require cable franchises to pay money to PEG access organizations. I ask the DCCA to also use that authority to mandate PEG access organizations to allocate a specific percentage of franchise fees. Said funding should be provided on a yearly basis. I further request retroactive funding be provided to MCC/DOE for DCCA mandated funding that has not been not released for the three of the past four years, by either a lump sum payment, or a pro-rated payment included in future franchise fees allocated to MCC to account for the past deficit.

#### CONSOLIDATED FRANCHISING ORDER

Finally, I request that there be a State/ConsolidatedFRANCHISING ORDER implemented. A consolidated franchise order will help prevent these issues from occurring in the future.

Mahalo for allowing me to speak this evening.

2003-136



"Stephen Luksic" [REDACTED] on 09/03/2003 11:07:22 AM

Please respond to [REDACTED]

TO <cabletv@dcca.hawaii.gov>  
cc:

Subject: Public Comment on Draft

Aloha,

Attached is the printed version from the public meeting at MCC on August 12th.

Stephen Luksic

Li t Studios, Maui



DCCA comments.rtf

Aloha Mr. Richtenwald,

(From Public Testimony)

Thank you for taking the time to come to Maui to listen to the people on at least one of the three islands within Maui County.

My name is Stephen Luksic and I have lived on Maui for the past 9 years. I have worked in film and television for 22 years. I started my career in Philadelphia and Delaware through public television. WHYY-TV 12 to be exact. I was involved in pioneering efforts at the University of Delaware with interactive video education and instructional television procedures and practices. I assisted in the design, drafting and implementation of a facility not much different than what the Maui Community College has here. For 5 years I was on the cutting edge, sometimes bleeding edge, of technology and film making in Los Angeles at the American Film Institute. I now travel extensively editing videos for corporate clients and I am partnered in a local Television production company, First Light Studios. I am also a member of the Maui Community Television's program committee. I have produced several documentaries and a news program through Akaku.

Due to the draft presented to the public by the DCCA, it is obvious that community Television is threatened and soon will be in dire straits. The most confusing thing for me may be my assumption; the DCCA was founded on the premise of protecting the consumer and regulating fair commerce practices. Yet, for some reason, this does not appear to be happening regarding Time Warner and its use of public property for monopolistic profiteering.

The process for DCCA procedures established through past administrations is wrong. The draft of issues appears to be nothing more than a distraction and a document of intentional confusion created to garner apathy from the public. The opening page of the draft clearly states, that after public comment is heard action will be taken. This is clearly public oppression as there is no option for a rebuttal. The outcome would do nothing but benefit a monopolistic entity whose gross income has never been publicly defined.

The secret deal the DCCA accomplished with Time Warner, at its takeover, has proven that a public oversight commission needs to be created. From my understanding, When Time Warner took over cable operations, it was to be business as usual, that is why the government gave consent, that is why there was no public opposition. However, The DCCA reduced the amount given back to the public through a reduction of the Cable Franchise agreement. Clearly, oversight is required, however; not the old CAC but a new commission made up of representatives from each county whose deliberations are open to the public.

I truly hope that you wish to do the right thing and amend the practices of the DCCA regarding the CFA and community television. I would sincerely like to be involved more frequently regarding the benefits of public communication and the responsibility of huge corporations.

Thank you for your time, and thank you for coming to Maui.

Sincerely,

Stephen Luksic,



buck [REDACTED] n 09/05/2003 04:17:04 PM

2003-171

To: cabletv@dcca.hawaii.gov, mrechtenwald@dccahawaii.gov  
cc:

Subject: DCCA\_PEG\_Plan

Attached are my comments on the DCCA PEG plan. Please feel free to contact me by phone email or letter.

Buck Joiner



-PEG comments.doc

September 5, 2003

Cable Television Division  
DCCA  
1010 Richards St.  
Honolulu, HI 96813

Dear Sirs:

My credentials: I produced my first program on Akaku 11 years ago. Since then I have produced over 200 programs on social issues important to the citizens of Maui. I have won a national award for the quality of my TV programs. Excerpts from one of my programs was used in a Spanish language National Geographic type program. Several of my programs are used in courses and are in the libraries of the University of Hawaii. In addition to 50 years of experience on Boards, Commissions, and Committees in the public and non-profit sector, I have served on the Maui County Cost of Government Commission and the Maui County Grants Review Committee. In the latter position, I review grant applications as well as the financial and physical operations of more than 70 non-profit organizations.

Issue #1 Expanded Role for Counties in Cable Regulation Generally speaking, I am a firm supporter of home rule. I am not aware that the DCCA has played any significant role in the governance or operation of Akaku. I believe much has happened at various times that could have benefited from closer scrutiny by the DCCA. In the early days of Akaku, the MCC channel received tremendously favorable treatment due to the fact that the head of the local cable operation was married to the head of MCC. Subsequently, MCC has received near brutal treatment at the hands of the President, endorsed by the Board to the point that the MCC representative was reduced to tears at one of the meetings as a result of unfair treatment. While this would seem to be unconscionable to the average person, in my opinion, this is a normal matter of operation at Akaku.

Closer scrutiny by an overseer should result in a more responsible manner of operation. The County is better able to provide that oversight and I would support the transfer of such responsibility to the county.

Issue #2 Governance The draft states "currently, members of the PEG board of directors are appointed by the Director of the DCCA and by the cable operator for each County." For Akaku, that is not true. The board is self selected and therefore inbred. An announcement is placed in the local newspaper soliciting applications or board participation but my very considerable experience indicates there is little to no response to such items.

I believe that people of competence, interest, commitment and who are independent of control or excessive influence by the E.D./Pres. or Chairman of the Board, should be placed on the Board by the DCCA. To the best of my knowledge, neither the DCCA nor the cable operator has ever proposed anybody to be on the Akaku Board.

Given the self serving nature of the existing self appointed board selection method it is expected that the E.D./Pres. and certain sycophant members of the Board would oppose any oversight of or appointments to the Board by the DCCA. I believe that it is fundamental to the interest of the cable subscribers for the DCCA or other similar

government agency, to maintain and responsibly execute the ability to appoint members to the PEG Board.

It has been my observation through all of the above experience, that in any organization where the Board meets once every two months, the Board is pure window dressing for the operation. In every instance, the Executive Director, President or by whatever title, has absolute control over operations, finances, planning and implementation. The Board serves no other purpose other than to agree with whatever is presented to them by the leader of the organization.

With respect to the Board at Akaku, and most other boards as well, they are self selected. As such, the leader of the organization solicits individuals with no little or no knowledge or devoted interest in the organization. Individuals are also selected for their "go along to get along" attitude. While this approach leads to a harmonious board, the leader of the organization has complete and absolute control over all aspects of the operation.

Issue #3 Cable Advisory Committee It would be wonderful if there were such a body to be able to address issues, opportunities or problems common to all **PEG** in the state. The membership of such a committee would be critical to its effectiveness. As an example of a common issue, Akaku allows producers from other PEG in the state to present their shows on Akaku. Olelo refuse to allow neighbor island producers to air their programs unless the program is hand carried in by a full time Oahu resident who must be the local contact for viewers. This is a preposterous policy which has restricted the Oahu viewers from seeing many quality state wide issues.

Issue #4 Financial Resources I would not be opposed to excess funds from Oahu cable operations being shared between **KHET** and the neighbor island **PEG**. What I would really like to see is a fund dedicated to a VOLUNTEER PRODUCERS organization at each **PEG**. At the moment, the volunteer producers are second to the bottom in consideration by the **PEG** operators with the absolute bottom being the cable subscriber. The Board of Directors, at least at Akaku, has no interest what so ever in issues of or by the volunteer producers.

Issue #5 Channel Resource No comment

Issue #6 Sustainability I have great concern over the lack of PEG access to non-cable operations. This is more of a national issue than a state issue. I would like to see a provision for the **PEG** signals to be added to the satellite feed along with funding for such operations. I have no concept as to the technical or financial feasibility of such action.

As to the income from "for profit" activities, Akaku currently charges for some services such as the Mayors program and as a result, gives it a priority for support and air time to the exclusion of volunteer producer efforts. If the paid staff were to have more paid programs, the community access is actually reduced.

Issue #7 Greater Community Participation The rate of turnover of volunteers at Akaku is absolutely incredible. It would appear that community volunteers are brought in as a profit source. The volunteers are charged \$350 for training and the subsequent support is minimalist on the part of the administration. They are faced with a never ending list of rules, requirements, restrictions and regulations. There is no acknowledgement or appreciation for volunteer producers. On the other hand, Board members who put in as much as 9 hours per year are richly rewarded and acknowledged for their efforts.



There is a near desperate need for a strong volunteer producer organization to speak on behalf of the interest of the Community and volunteer producers. Efforts to organize such a group within the PEG have been unsuccessful.

Issue #8 Cooperation and Collaboration Amona PEG Oraanizations This is desperately needed. A spirit of cooperation and respect should exist between PEG operations, particularly with respect to programming and the use of facilities by certified producers from other PEG operations in the state. Olelo is the worst at this maintaining an Oahu centric position that any producer from a neighbor island is absolutely unwelcome.

Issue #9 PEG By-laws This is an issue which needs DCCA or other oversight. The critical issue of monthly or bi-monthly meetings of the Board of Directors should be addressed. Again, my observation based on decades of experience is that any board that meets only every other month is a sham.

Issue #10 UIPA All PEG operations are and should be treated as completely public operations the same as any government agency. The PEG was created by the government, and overseen by the government. The cable viewers are taxed for this service without their consent and they have absolutely no input whatsoever into the operation of the PEG.

Issue #11 and #12 No comment

Issue #13 Review of Connectivity This is very worthy of review. There have been occasions when I had the desire to do a state wide live program but the facilities to do so were not available.

Issue #14 no comment

Issue #15 Resolution of Complaints concerning PEG's It has never been made known to the volunteer producers that the DCCA could or would listen to the concerns of the volunteer producers or take action on their behalf. The phraseology included in the draft clearly implies that the DCCA will back the PEG Board position. This is detrimental to a fair hearing of the issue. This wording needs to be modified extensively.

Issue #16 Production vs. Facilitation Akaku has increasingly moved away from production by volunteer and community members while dedicating ever greater resources to programs produced by the paid staff. This is also true in the airing of programs in that the Akaku staff programs will receive vastly greater air time and better prime time spots. There is absolutely NO recourse for this. The Board adamantly refuses to address any concerns by Volunteer Producers. Akaku staff has absolute control over resources.

I am available to discuss anything related to the above or other PEG issues.

Yours truly,

**Buck Joiner**

Buck Joiner, former Akaku Producer



"Sean McLaughlin" [REDACTED] n 09/05/2003 05:14:36 PM

2003-174

Please respond to <sean@akaku.org>

To: <cabletv@dcca.hawaii.gov>

cc:

[REDACTED]  
[REDACTED] Mark Recktenwald" <mark.e.recktenwald@dcca.hawaii.gov>

Subject: Statewide Cable Planning

DCCA Director Mark Recktenwald -

On behalf of Akaku, I am submitting these three brief comments.

1. DCCA's statewide cable TV and telecom planning process needs to allow for more meaningful public input by providing for thoughtful reply to the public comments received to the "discuseion draft" thus far and a reasonable opportunity for comment upon an actual draft plan.
2. Akaku requests that DCCA conduct public comment meetings on each of the islands with cable TV service, including Moloka'i and Lana'i. Remote outer islands such as these are the most underserved by media and their perspective is critical to inform your deliberations.
3. Public accountability of the DCCA's cable TV and telecommunications regulation is sorely needed to return public trust and ethics to this important area of State jurisdiction. Public oversight by an appointed State commission can best inform DCCA's deliberations and ensure that public interests are adequately represented.

In summary:

Akaku actively participates in county, state and national discussions of cable and telecom regulatory policy. We remain committed to support DCCA in developing smart policies for cable, telcom and media for Hawai'i. Your leadership will guide the future development of State policies that best serve the public interest.

We look forward to providing detailed analysis of the public comments recieved thus far by DCCA on the discussion draft document. I am hereby requesting that your cable TV division maintain a complete public file for our review for these purposes.

Thank you for your thoughtful consideration of our views as you continue the policy planning process. Please feel free to contact me, or our board chair Myles Inokuma if you have any questions.

Sincerely,  
Sean McLaughlin

---

Sean McLaughlin  
President & CEO tel: 808-871-5554  
Akaku: Maui Community TV fax: 808-871-5510

Mark Rechtenwald  
Director

DCCA  
State of Hawaii  
P.O. Box 541  
Honolulu, HI 96809

CABLE DIVISION  
SEPTEMBER 4, 2003  
COMMERCE AND  
CONSUMER AFFAIRS

SEP 8 8 20 AM '03

AUG 20 2003

2003 - 189  
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2003 SEP - 8 A 8: 32

RE: 47USC Sec. 531 CABLE CHANNELS FOR PUBLIC, EDUCATIONAL, OR GOVERNMENTAL USE AND COMMUNITY PUBLIC ACCESS TELEVISION IN THE STATE OF HAWAII (CPATV)

Aloha.

It was a pleasure meeting you at the recent Maui Open Forum on the above subject.

Enclosed are two letters, Senator Trent Lott dated March 4, 1997, and former Director Kathryn S. Matayoshi dated September 27, 1997, and other data.

Being the new kid on the street, I **am** sure you have spent considerable time updating yourself on the past and present of this confusing dilemma that faces our communities.

As you can see from my letters, which were quite condensed, this **has** been and ongoing fiasco. It continues today even to the highest powers in the nation, FCC vs Judicial. Rather than repeat the contents of the enclosed documents, I will proceed to the bottom line.

At the outset of CPATV the Power Brokers saw the Golden Goose and they will not let go even today, though the premise upon which the present system in Hawaii was built shows no semblance **to** the dictates of the Federal Legislation. Only a few in the State have continued their dominant power roles.

You have the opportunity of providing gigantic steps in providing autonomy to CPATV in the State. You need to provide a new beginning. Have the fortitude and wisdom to take action. Avoid the maneuvering and strategy **that** the Power Brokers continue to set forth. This **was** so obvious at the Forum that it really pained me.

#### Suggested Steps

1. Promote all of the personnel who had any input to CPATV prior to your appointment to other positions so that they have no **say** in the process other than **as** private citizens like me. As you know, there has been no new blood in this department for many, many years. Lets not taint the new blood.
2. Immediately discontinue the allocation (1%) of our funds to HPBS.

3. In an orderly fashion, dismantle the DCCA as the Authority for CPATV. Your thrust at this time, rather than pursuing a revised version of the old song, should be a new beginning. We know that the Power Brokers from MCC, HPBS, UH and others who would benefit financially are at your doorstep and are welcomed with open arms as they have been over the years. Party time may be no more. Excuse my sarcasm, but unfortunately these are facts.

4. Confer with the FCC and the State Legislature and do what is right in setting up the Authority in each County. These Autonomous Authorities will then work out equitable funding (division of our 5%) among one another for the betterment of all Hawaiian citizens. The original development of the DCCA as the Authority was promoted by a few Power Brokers backed by a few of their friends in the State Legislature. A fact.

## RESULTS

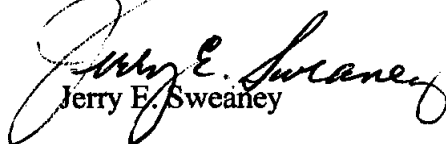
The DCCA will;

1. Relinquish its 1/2 % allocation to be utilized for better things by CPATV County Authorities.
2. Be able to utilize their infrastructure, offices and other assets for its core function of tending the State's business structure and promoting more commerce.
3. Avoid the continuing controversy that surrounds CPATV, Power Brokers and Greedy Cable Companies, and hopefully put some Power Brokers out of business.

In conclusion, we are Hawaii citizens, and except for those who have been prompted by the Power Brokers, we are loosely structured, not paid employees or recipients of any funds from any organization. Our only lever is our vote. In my case, I am an independent voter. However, I would vote to keep the present Administration in office if a new beginning would take place with CPATV.

Hopefully, Marc, you will read this rather than one of your subordinates from the old blood.

Mahalo

  
Jerry E. Sweaney

PS I have never had an explanation of where a %% of our funds goes. 3% to CPATV, 1% to HPBS and 1/2% DCCA = 4 %% out of 5%.

NOTE: Senators and Representatives **please** work out this problem Mahalo

March 4, 1997

Senator Trent Lott  
Senate Majority Leader  
**US**Senate  
487 Russell Senate Office Building  
Washington **DC** 20510-2403

RE: 47USC Sec. **531** CABLE CHANNELS FOR PUBLIC, EDUCATIONAL, OR GOVERNMENTAL USE

Dear Senator Lott:

This letter is directed **to** you primarily because I found in *my* research that you had **been** involved with the FCC in matters related to the above referenced item. Being **the** Senate Majority Leader, you could direct this **to** your fellow Senators and Congressmen and resolve the major problems that continue to build in this area.

**The** concept of 47USC Sec. **531** public access/community access television is an honorable one. Even predating the Internet, where the Nation, the Community and Individuals can express themselves without censorship and selection by a higher authoritarian power and **also** for the passive audience that can select and reject without literally being brainwashed **as** is the case on other channels. Public access and public viewing of public access **is** the only avenue for untainted Information and entertainment. I salute **those** who **had** the far reaching vision.

However, their efforts and grand vision are being bastardized. The Congress **failed** to establish sufficient parameters for the FCC to follow and the FCC, based on my research, has washed their hands of the whole program after **the** Authorities have been appointed in the various **States** individual citizens are **told** to complain to their local authorities. However, when these local governmental authorities have their own agendas, have funds from public taxes to fuel their agendas, have the infrastructure, secretaries, equipment and other cooperative agencies within the local government supporting their agenda, then the public, the individual has no place in this growing monster.

We only need to highlight a few situations. The tremendous boondoggle in New York vs Time Warner, Baltimore and many constituents throughout the East Coast fighting court battles re' billing methods by the Cable companies. We, here in Hawaii, have many of the same problems. However, Individuals are not **as** tough **and** well healed **as** the City of Baltimore, New York and others to fight this battle. The bottom line **is** that Congress left a wide open door for this kind of **abuse** by power **brokers**.

We on Maui basically reflect what is **going** on in our State of Hawaii. We have big problems. I would like to preface these remarks by stating that the general public (from our polls) does not discern the difference between public/community access, c-span and Public Broadcasting Television. This is unfortunate because **the** local Authority can play with the public's mind relative to this factor.

Take for example our monthly billings for cable **Note**; the **law** states that the local authority can assess to the cable company up to **5%** of their gross proceeds for public/community access television. In our case, the cable company is billing this **5%** onto the actual bill as extra gross proceeds/income. The Cable companies have shrewdly turned the intent of congress upside down. In addition, in our State, **1%** goes to Public Broadcasting TV, **1%** **goes to** the Authority(DCCA), and the balance **3%** goes for public/community access. The **3%** then is divided between Education (MCC and the DOE), the Government (County Council and Administration) and the public access station. There are many implications here. The most powerful being that Congress and the Authority have allowed the Cable companies to tax/charge the public subscribers for public access with no subscriber input. This **is**, as in the olden days, taxation without representation.

In **the** State of Hawaii, the Director of the DCCA appoints all members of any active governing group, board of directors, consortium who then have the power to relegate and regulate what that public/community access station does. In the **State** of Hawaii, the DCCA wears the hat as the authority for public/community access and in addition wears a controlling hat for HPBS, Hawaii Public Broadcasting. In addition, the Authority/DCCA is under the power of the Governor, the Regents of the University of Hawaii and all the other power brokers. Under these circumstances, how can the public/community access station be autonomous and not be influenced by the power brokers when they hold the purse strings and dictate policy. I have done considerable investigation throughout the **States and** although the problems and game plans of the power brokers are not exactly the same, the bottom line does not add **up** to the original concepts set forth by Congress as I see them.

Another example; **On Maui** we have what **is** loosely called a Consortium, not a legal entity, appointed by the Authority(DCCA) some **5** years ago. The Consortium has had an ongoing battle within **its** group about who controls and has access to the money and what the mission of public/community access should be. Currently, over \$800,000 **is** in trust and has been for the past several years because these same parties have not been able to come to agreement on how to use these funds and the funds continue to grow. The primary constituents of this Consortium **are** made up of government representatives, from the local community college (MCC) which **is** a branch of the University of Hawaii, from the Department of Education (DOE), from Maui County Government (Council and Administration) and last but not least, two representatives out of the eight, from AKAKU, the local

public/community access television station. All parties have their missions and special agendas but not an agenda for the Public.

Smoke and Screen activities have been going on relative ~~to~~ all of the above and of **course** the power is in the hands of the government as noted earlier and the public **and** the representatives of the local station, AKAKU, are being hindered from **doing** what the Congress expected.

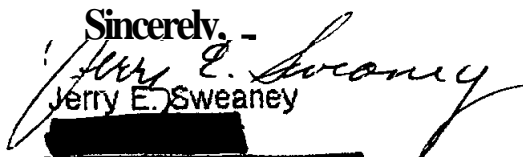
Another monster has been released by Congress related to the misuse of the terms Public, Education and Government. I spent many years as a successful teacher in the California Public School System and I **am** well aware of the importance of Public Schools. From the public outcry, Congress is well aware of our Public School systems across the country and what the statistics and **polls** reveal. Hawaii **is** near the bottom of the list. In addition to the institutionalized public system, we do have an equivalent of private **schools**, colleges, Unlversltles, tradeschools, military schools, the military, and so on, which should justifiably be considered under the definition of EDUCATION. The local Authorities across the country have narrowly defined the Education in **47USC** as being Public Education which has opened the flood gates to the bureaucrats. The same can be said of the interpretation of Government in 47USC.

I am sure other citizens across our fair lands feel the frustration as I do. Particularly when they see the vlsion set forth by the orlgnators of **47USC**. Thts vision and action was as brilliant as subscribers to the Declaration of Independence and our Constitution and could have resounding consequences for our future freedoms. It **is** now time to fine tune this legislation.

I recommend that Congress hold hearings on this matter open to the public so that a breakthrough can be made favorable to the public's interest.

Thank you for your attention.

Sincerely, -

  
Jerry E. Sweaney

TEL [REDACTED]

FAX [REDACTED]

e-mail [REDACTED]

September 27, 1997

Kathryn S. Matayoshi  
Director  
Department of Commerce and Consumer Affairs  
State of Hawaii  
F.O. Box 541  
Honolulu, Hawaii 96809

RE: Community Public Access Television in the State of Hawaii

Dear Director:

Your "Interim Policy" **for** the Maui County Consortium mandated by you in September 1996 has had reasonable success. September 1997 is like an anniversary. The Needs Assessment has been ongoing and various agreements within the Consortium have born fruit in many ways.

I feel uncomfortable writing this letter inasmuch as the letter I sent to you on December 7, 1996, had no response from you **or** your office. I feel that public servants should respond to those who pay their salaries. I do not feel there was an oversight, inasmuch as I talked with your secretary sometime after the letter was sent and she acknowledged receipt of my letter.

I don't mean to be adversarial. I hope that my suggestions may be incorporated in your plans for a great Hawaii Community Public Access Television (HCPAT) system **OF THE PEOPLE, BY THE PEOPLE AND FOR THE PEOPLE** as Congress intended.

Even now in Congress, hearings are ongoing regarding the Telecommunication Act of 1984, its 1992 and 1996 Amendments. They were not completely correct their first time around and I **am** sure they will continue to fine tune this Act for the **PEOPLE** unless influenced by the Powerful and Wealthy Cable Companies Lobbyists and other Telecommunication participants.

In my opinion, **Mr.** Robbie Alm, who has been mentioned many times recently on Akaku and Olelo, did not do justice to the Hawaiian residents when he was the Director. I mention this due to the fact that you have great power, great responsibility and great accountability in this arena. **YOU CAN MAKE CHANGES FOR THE BETTER FOR THE TOTAL COMMUNITY.** You are not bound by the past or a few bureaucratic insiders. You have the people, the community, behind you **if** you do what is right. I have learned in my later years as I look at my peers that things come around. I can sleep at night very well.

On page 72 of Jaworowski's "Unscrambling the Signals" , I quote;



" (Hawaii) Senate Resolution 65 S.D. 1  
Eighteenth Legislature

WHEREAS, federal law allows the DCCA to assess up to six percent of the Cable Companies' gross income to fund public educational and government (PEG) access in exchange for the value given to cable companies to operate using the public rights of way; and

WHEREAS, the congressional legislative intent in assessing five per cent of the cable companies' gross revenues is to insure cable companies contribute to the community; and"

I completely agree with these premises. The rhetoric is beautiful. Mom and pop and apple pie and all that stuff. However, what the congress did not mention was the fact that each cable company was being given a monopoly. In addition, the US Government, by downsizing, has removed the FCC from our State and communication and access to that entity in Washington DC is literally impossible, including the Internet. Now the topping on the cake is Robbie Alm and fellow Hawaii legislature members and cable company negotiators;

" WHEREAS, the cable companies throughout the State pass on the costs of funding PEG access to the cable subscriber as part of **their** cable bill;" and so on

NOW YOU SEE IT, NOW YOU DON'T. What about the beautiful rhetoric of WHEREAS above? The cable companies are home free. You, the director, have, in reality, been giving the cable companies windfall of millions of dollars and a FREE RIDE over the past several years, no matter how you cut it. The public is completely unaware of this fact. We, the public, have been paying the costs of administering our Community Public Access Television. We, the public, who have been contributing on occasions as individuals to Hawaii Public Broadcasting, also, as subscribers have been paying over \$1,200,000 to HPBC's operations. In addition, we have been paying completely for the Community Access operation. Who needs grants?

The cable companies have been paying nothing. Yet they have monopoly, use our public rights of way, and receive bouquets for being such good corporate community partners. What a deal.

I, and many on Maui, fear? as we gain more input that there are many questions regarding the directions being taken by the DCCA and those behind the scenes who are influencing these moves with reference to the future of HCPAT.

I would like to quote from THE SELLING OF THE PRESIDENT (1968) Joe McGinniss;

"POLITICS, in a sense, has always been a con game.

The American voter, insisting upon his belief in a higher order, clings to his religion, which promises another, better life; and defends passionately the illusion that the men he chooses to lead him are of finer nature than he."

I am a realist. All we have to do is look around and we see the muck. However, only a few are creating it. Most public servants are forthright, honest and good people. Some have their own agendas at whatever the expense to others. However, one person does not act alone.

There are several subjects that have not been covered in this letter. However, I hope that this gives you some insight to ~~W~~ THE PEOPLE.

Mahalo

Jerry E. Sweaney  


P.S. You may want to review my letter dated December 7, 1996

June 13, 1997

**TQ:** Maui Community Public Television Consortium Members  
**FROM :** Jerry E. Sweaney/Concerned Maui/Hawaii Resident

## Maui Community Public Access Information

### CABLE RATE INCREASE AND ITS IMPACT

|                     | 9/96  | 5/97   | 2003 |
|---------------------|-------|--------|------|
| LTD BRDCST SVC      | 8.85  | 10.01  |      |
| EXPND SAT SVC       | 13.37 | 14.63  |      |
| HIFRANCHISE FEE *** | .22   | .25 1% |      |
| HI ACCESS FEE ***   | .67   | .74 3% |      |
| HI GEN EXCISE TAX   | .98   | 1.08   |      |
| HI HPBA FEE ***     | .22   | .25 1% |      |
| FCC REG FEE         | .04   | .05    |      |
| <b>TOTAL</b>        | 24.35 | 27.01  |      |

#### Concerns:

1. The Hawaii Franchise Fee **1%** is **what** is paid to the DCCA for administering Community Access Public Television. Keep in mind that **an** equivalent **amount** is paid relative to the other counties i.e. O'lelo. Big bucks/see below. Does **the** DCCA really need these big bucks to administer the Community Access Public Television Program in Hawaii, inasmuch **as** each county has Community Access Public Television non-profit corporations set up for this purpose (i.e. Akaku/O'lelo/etc. **administering** the bulk of the **program** for its **area**).

2. The Hawaii Access Fee **3%** is **what** is paid to the county non-profit corporation, (i.e. on Oahu/O'lelo and on Maui/the Consortium (note-not a non-profit corporation) divided between **MCC** (note-not a non-profit corporation), **Akaku**, DOE (note-not a non-profit corporation), **County** Government, and other recipients that the Consortium **may** deem worthy.

3. The **HPBA 1%** Fee is a portion paid to the Hawaii Public Broadcasting Association/Oahu which has strict oversight of its **own** programming, not **available** to public productions without their selection **and** completely contrary to the principals set forth by our **US Congress** for Community Access Television which HPBA is not.

4. **Paramount** to the above contradictions of the purpose and funding of Community Public Access is the **FUNDING**.

**Cable** companies receive **some** of their bread and butter revenue **from** cable fees **as has** been shown above (note-this does not include expensive advertising rates **that** they receive from **infomercials** **and** access by other broadcasting companies). The **formulae** set forth by

the Congress and the FCC is that from those fees that a community cable subscriber pays for access to the cable company, the cable company pays **5%** to the entity set up by the FCC to administer and divide that pie (ie. in the State of Hawaii the DCCA is the designated Authority).

1. First of all, on Maui, the Cable company is not deducting the **5%** from its **gross** revenues. It is charging the cable customer the extra **5%** (see billing above). It then pays the DCCA or its **subpart** their **5% from** the Cable companies total billing including the **extra 5%**.

2. The Maui community cable customers, who pay the bill, have absolutely no say in the following items;

- a. The Consortium and its power
- b. Percentage paid to the DCCA for administering the **funds**
- c. Allocation to HPBA

3. Points to keep in mind;

a. Including all fees collected in Hawaii, approximately

\$ **1,200,000.00** are paid to W B A per year (1%)

\$ 1,200,000.00 are paid to the DCCA for **administering** (1%)

(note-there seems to be a discrepancy in the DDCA **1%** inasmuch some reliable spokespersons **say that** the DCCA is only **taking 1/2%**. However, the cable company is in fact charging the customer for 1%. see above bill.

Is the cable company billing inappropriately??? **What** is going on?)

**Shouldn't** we resolve these questions and problems before we get involved in **an** additional beaurocratic mish/mash such **as** a State wide H-Scan which seem to have many of the same objectives **as** Community Public Access Television except **with** additional multi-layers of authority and could be funded **by** these same access fees that trouble us today.

**What** else is **on** the horizon that **we as** Maui residents do not have privy to **but** are paying for??? MCC is expanding its higher education programs and degress and will need more access. Thirteen Universities in the Western US and UH are **joining** forces in another impenetrable **organizations**. great for them but questionable for us who pay the bill. Will the DCCA think that theses programs are more favorable and provide the increasing cable **funds** to these entities at the detriment of Community Public Access in Hawaii and particularly on Maui?? No discussion **so far at** the Maui Consortium level regarding these matters even **though** it is very probable that these matters **and** probably others will impact Maui Coummunity Public Access Television detrimentaly **as well as** financially.

WAKE **///** MAUI...KEEP SPEAKING OUT...

# Maui Independent Certified Producers

## *"~~MAUI~~ COMMUNITYACCESS TELEVISION"*

### WHERE AS:

1. The Maui Community has not been deriving the full benefits ~~from~~ fully funded and expanded community **access** television **as** defined in the United States Federal and Hawaii State **Laws**, and
2. The Maui Certified Producers and future Certified Producers (certified by AMCTV) are being deprived of their rights by exclusion due to restriction on current funding (operational and capital funding) . Some of these exclusions include minimal media equipment, limited access to this equipment, limited **space** for doing in-house productions, limited **and** inadequate space for doing **final** productions including editing, dubbing, and inadequate mobile facilities for conducting field productions, and
3. The Maui Community and Certified Producers are being penalized by the exclusion of a third cable channel which would allow for more programming for material ~~that~~ is currently available and increasing, but not accessible to the community due **to** present community television airing time, and
4. AKAKU: Maui Community Television (AMCTV) ,anon-profit corporation, duly incorporated in ~~the~~ State of Hawaii with **a** Board of Directors, Articles of Incorporation and By-Laws, which **has** set forth its **mission** ~~as~~ established by the State ~~of~~ Hawaii DCCA (Department of Commerce and Consumer Affairs) **authority**and
5. **AMCTV** has been conducting business under a **5 year** plan originated **by** the DCCA and the Maui PEG Access Consortium ( Consortium ) on a GOOD FAITH basis without a duly signed contract (over 3 years) between AMCTV and the DCCA ,and
6. The ~~Maui~~ PEG Access Consortium, made up primarily of Government

representatives appointed by the DCCA **as an** advisory committee, prior to August 1996 had no rules for conducting business, did not make public notice of coming meetings, **had** no open meetings to the public, unanimous votees were required on passing of **any** matter, were not bound or did not recognize the State of Hawaii **SUNSHINE LAW**, has failed to unanimously reach agreement on recommendations to the DCCA for **a** contract for the future of **Maui** Community Television

7. The Maui **PEG** Access Consortium was originally established **as an** advisory group to the DCCA **to assist** in establishing Maui Community Television Access, but **has** usurped its advisory position over the past years by broadening its scope of involvement **and** recommendations to the DCCA even though **AMCTV** has **a** decision making Board of Directors appointed by **that** same DCCA and

8. The DCCA and the Maui **PEG** Consortium have been unable to reach agreement ~ of September 10, 1996, on **a** contract (see No. 5 above) between **the** DCCA and **AMCTV** . which may detrimentally effect ;

a the allocation **by** the DCCA of part of the **5%** of **gross** revenues **from** the cable franchisees for operational expenses of **AMCTV**

b. the allocation **to AMCTV** by the DCCA of the more than **\$800,000.00** now held in **trust for** the benefit of **Maui Community Television**

c. or **may** provide the Cable Franchisees a valid argument for compromising their requirements under the **law** for the payment of **5%** of their **gross** revenues, additional fees for capital improvements and equipment, and the addition of cable channels

d. the Maui Community of many First Amendment Rights benefits

9. **Our FIRST AMENDMENT RIGHTS** under the Constitution of the United States are being bandied about **and** fooled with by **SPECIAL INTERESTS**

**We , Maui Community Members and Maui Certified Producers certified by AMCTV , hereby PETITION the State of Hawaii and the DCCA on behalf of the Maui Community for the following recommendation;**

1. The DCCA should immediately abolish **the** Maui PEG Access Consortium

2. The DCCA should enter into and complete a contract with *AMCTV* immediately based on contractual discussions with only the *AMCTV* Board of Directors
3. ~~That~~ a third cable channel be immediately scheduled for *AMCTV*
4. That all programming for **PEG**, with the exception of the *MCC* channel 12, be made through *AMCTV*
5. Henceforth, the clarification and definition of **PEG**, with incorporation of the implied and ~~actual~~ intent in the Federal Cable Communications Policy Act of 1984 should include the following
  - a. provide electronic communication of the people (public), by ~~the~~ people (public) and for the people (public) devoid of any governmental or commercial interference or control,
  - b. provide a free platform; for individuals or **groups** to express their ideas (**P**) ; for all educational organizations, public, private, religious **and** others to provide materials and ideas in a structured educational manner (**E**) ; for **all** governmental organizations to provide **materials and** ideas **and**, within the community, governmental debates and **forums** dealing with all **facets** of government (**G**) . This, hereinafter, will be referred to as **PEG** ( Public, Educational, Government ) NOTE: The United States ~~Government~~ The **State of** Hawaii Government, the **Maui County** Government, ~~the~~ Department of Education or Maui Community College should have no control over **funding** or programming of **any** materials with the exception of the DCCA in cooperation with its non-government, non-profit Community controlled **Maui** Community Facilitator, ( see 4 )
  - c. *AMCTV* will be the facilitator **and** programmer for all materials provided under **PEG** as outlined in (b.) *AMCTV* will continue to provide to the Maui Community all programs outlined **in** its Public Access Mission Document and approved **by** the DCCA



OFFICE OF THE PROVOST  
MAUI COMMUNITY COLLEGE  
310 Ka'ahumanu Avenue  
Kahului, HI 96732

2003-191

FAX TRANSMITTAL

DATE: 9/09/03

TO: Mr. Mark Recktenwald

FAX#: 1-808-586-2856

COMPANY: Dept. of Commerce & Consumer Affairs

PHONE#: \_\_\_\_\_

Number of pages including this transmittal sheet: 3

FROM Clyde Sakamoto

PHONE #: 984-3209

Please call the name and number above if you have any questions regarding this FAX. FAX # (808)244-0862.

SPECIAL INSTRUCTIONS:

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SEP 9 8 11 AM '03  
CABLE DIVISION  
COMMERCE AND  
CONSUMER AFFAIRS



University of Hawai'i

## MAUI COMMUNITY COLLEGE

Office of the Chancellor

August 22, 2003

**To:** Mr. Mark Recktenwald, Director  
Department of Commerce and Consumer Affairs  
1010 Richards Street, 2nd floor  
Honolulu, HI 96813

First, I would like to express my appreciation for the opportunity to address current issues as well as future concerns for the continued involvement of Maui Community College in providing educational access for the County of Maui. In **1989**, the DCCA invited MCC to join with representatives from DOE, Maui County and other nonprofit agencies to design a plan for **PEG** access for Maui. In **1992**, the DCCA established the Maui PEG Consortium as the advisory body to oversee implementation of the access plan and, until the dissolution of the Maui **PEG** Consortium in **1997**, MCC was an active partner in the delivery and management of **PEG** access for Maui County. MCC's willingness to support the dissolution of the Maui **PEG** Consortium in **1997** was based on a "gentlemen's agreement" that funding for educational access would continue at prior levels. The allocations from franchise fees for **PEG** were initially established by the DCCA at an average of **29%** for educational access,

When Akaku took over fiduciary responsibility for **PEG** on Maui, funds for educational access were drastically reduced and for several years (**1999-2002**) no funds were received at all by MCC or DOE. MCC has been in constant, ongoing negotiations with Akaku since **1997**: submitting proposals, exploring possible arrangements, attending **Board** and committee meetings, always acting in good faith that an agreement could be reached.

In June, 2000, MCC received a letter from the president of the Akaku Board of Directors stating that, "For long term planning and development of educational access in Maui county. Akaku will commit ongoing funding at this fourteen percent level...You can plan your educational access activities with this allocation in mind." With this written confirmation in hand, MCC established advance accounts to cover operational expenses. MCC has honored our commitment to educational access by spending over **\$170,000** of institutional funds over the past four years. We did this trusting that the Akaku board would honor their promise of providing **14%** funding for educational access. Instead, Akaku has recently voted not to reimburse MCC for monies advanced or to provide any future funding.

As the DCCA looks to create a state-wide plan for the future, we ask first, that the controversy over the fiduciary responsibility of the Akaku Board of Directors be addressed. The current (and ongoing) contract between Akaku and the DCCA states, "Whereas, the Director also understands that as part of the agreements with MCC and DOE, Akaku will provide financial resources for educational access." We would like the DCCA to clarify and enforce (retroactively) the terms of the contract.

Decision and Order **#261** clearly states, "Continuing development and availability of educational programs and services for all ages is essential to the further growth of the State's economy as well as enhancing cultural enrichment for Hawaii residents. ..It is in the public interest to provide for the allocation by this Decision and Order, a portion of the **PEG** access operating funds..for institutional educational access purposes."

The **1997** Community Media Needs Assessment mandated by the DCCA and a 2002 survey by MCC (mailed to every Maui household) both indicate that one of the most important concerns of

Mr. Mark Recktenwald  
September 5, 2003  
Page 2

our residents is education. With drastic budget cuts at the state level, both higher education and the Department of Education have been challenged to meet an increased public need for education and training with diminishing resources. Lack of financial support for educational access results in a reduction in the quantity and quality of services and instruction MCC is able to offer students and lifelong learners. In addition to academic programming, MCC has responded to the 1997 Community Media Needs Assessment by providing noncredit programming that explores the cultural, economic, ethnic and social diversity of Maui.

During the recent DCCA public hearings on Maui you heard from several concerned citizens about one of these projects. Preserving Our Recollections, an initiative that we are particularly delighted and proud of, was created in 1999 through the academic leadership of our anthropology faculty member. Since that time, over fifty of Maui's elders have been interviewed, sharing their life stories and remembrances on digital video that will be shared for generations to come. The public testimonies reflect the appreciation and value that this type of cultural programming brings to the community. With faculty and student participation, MCC also produces **ON MAUI** - the only local news and issues show for the county that doubles as a practical lab for students. Our faculty and staff have also produced a series exploring economic development (MAUI WORKS) and HEALTHBEAT MAUI, a series looking at health concerns from prenatal to elder care. All of these programs meet the criteria established by the Media Needs Assessment for community awareness and public education. However, without financial support from PEG resources, these shows have been discontinued, so connections between education/training and employment opportunities and health education and information have been discontinued.

We have the irony of having state of the art facilities and technology without the funding required to take full advantage of their potential to educate our students in our tri-isle community. The DCCA has charged Akaku to leverage resources but the recent ~~decision~~ by their board to withhold past and future funding for MCC leaves little hope for proper utilization of these facilities. Anything that could be done to correct the situation so that a more collaborative approach could be created would be extraordinarily helpful not simply to the college and the higher education agenda but to the community of Maui County itself.

As the DCCA continues the process of developing a statewide plan, we would ask that MCC/UH be involved in any ongoing discussions or meetings. Our former recommendations for a statewide plan included educational access concerns related to all of education's requirements. Having learned of other challenges related to education accessing PEG resources around the state, we now recommend that a statewide educational resolution be sought to assure fair access to PEG resources available to address some of the state's most pressing needs.

We are pleased to be engaged in exploration of the challenges and opportunities before us and hope that an equitable distribution of funds and a leveraging of the considerable media resources that MCC can provide will be used to meet the educational access needs for Maui County.

Aloha,



Clyde M. Sakamoto  
Chancellor

Aloha -

Thanks for the phone call last week. <sup>SEP 11 5:11 PM '03</sup>  
I do hope this Akaku-MCC conflict <sup>A.E. FILE</sup> gets resolved  
soon - so everyone can move forward & work on  
improving & expanding public, educational &  
government access.

Please e-mail me ( [REDACTED] )  
or call me at [REDACTED] if you have any  
questions or comments ....

I'm interested in the statewide plan &  
look forward to the future ... exciting  
possibilities ahead.

Take Care.

Kate S. [REDACTED]

August 12, 2003

**To:** Cable Television Division  
Department of Commerce and Consumer Affairs  
1010 Richards Street, 2nd Floor  
Honolulu, HI 96813

Aloha,

Thank you for creating this opportunity to listen to public testimony about cable access.

My name is Kate Sample and I am here today as an individual who has been active in **PEG** access for over 20 years, as a public producer of individual projects and as a producer and crew member for both government and educational access. I believe strongly in the value and potential of **PEG** access in providing citizens with local information, entertainment and opportunities.

Until recently, I worked at Maui Community College producing what has been called, "little e" - educational programming that is not for academic credit. Following the guidelines established by the 1997 Community Media Needs Assessment (a study mandated by the DCCA), MCC has produced hundreds of hours of original programming with an emphasis on Maui-based news, economic development, health issues, cultural events and lifelong learning.

I have attended almost every meeting of the Akaku Board of Directors in the past 8 years and frankly, the ongoing conflict over funding between the public and educational sectors has caused me to lose many a night's sleep. Some may think that my concern is because those funds paid for my salary at MCC - and at a certain level of course that is true. However, I am a community-minded person and although I am an advocate for education, I also respect and support the value of public access.

In Decision and Order #261 it states, "Continuing development and availability of educational program and services for all ages is essential to the further growth of the State's economy as well as enhancing cultural enrichment for Hawaii residents. ..It is in the public interest to provide for the allocation by this Decision and Order, a portion of the PEG access operating funds...for institutional educational access purposes.

From 1992 till 1997, MCC did receive monies for educational access - an average of **30%**. The specific amounts were designated by the DCCA. However, since 1997, when Akaku took over management of **PEG** resources for Maui County, the total amount for educational access has dropped drastically - to less than 9% and for several years we have received nothing. What is most disturbing about this is that it is in direct violation of the contract between the DCCA and Akaku. That contract clearly states, "Wherever the Director also understands that as part of the agreements with MCC and DOE, Akaku will provide financial resources for educational access." The lack of support from Akaku also ignores the needs assessment finding that educational programming is one of the highest priorities for Maui County.

It isn't clear to me why the contract is not being honored. Nor is it clear to me why the DCCA hasn't intervened and attempted to mediate this long standing conflict. Why hasn't the DCCA terminated or renegotiated the contract to protect the community's interest and needs for educational access? Just imagine for a minute that the situation is reversed and MCC has been designated to oversee PEG operations on Maui. Imagine that MCC receives \$3 million over a 5-year period and that the PEG revenues increase every year. Now imagine that MCC decides to drastically reduce the allotment to

Akaku and for several years does not give any money at all for public access. Imagine that MCC fills the Board of Directors with people who have come forward to testify against funding for Akaku on behalf of MCC. Imagine that hand-picked Board of Directors taking away the voting rights of the only Akaku representative on the board. Imagine them filling vacated seats with people who know nothing about video or **PEG** access and are often too busy or not interested enough to attend meetings. Can you imagine how this would be viewed by the public?

To add to the frustration, the Akaku Board has not even honored their own motions and decisions. In a letter to MCC from Lynne Woods, President of the Akaku BOD, dated June 30, 2000, Ms. Woods writes, "For long-term planning and development of educational access in Maui County, Akaku will commit ongoing funding at this fourteen percent level ... You can plan your educational access activities with this allocation in mind."

Assured by this letter of intent to continue funding for educational access, MCC's fiscal office set up advance accounts – accounts that were to be reimbursed once the actual contracts were negotiated and signed. MCC submitted fully executable contracts to Akaku but they were not signed or returned. Instead, Akaku presented obstacle upon obstacle to the negotiation process. We were told if we file "this report", the contract will be signed. We filed "this report" but still no contract. We were asked to make a presentation of our operational plans to the Board. We did so, but as was often the case, there was no quorum to take action. We were told the programming committee was to decide our fate and we would be included in the process. We were never notified of the programming committee meetings. This dysfunctional and undermining behavior has gone on for years. Akaku Board members have come and gone and still no resolution has been made.

MCC has honored their commitment to educational access by spending over \$170,000 of institutional funds over the past four years. They did this trusting that the Akaku board would honor their promise of providing **14%** funding for educational access. I think it is appropriate and imperative that the DCCA intervene by terminating their current contract with Akaku, renewing the former contracts with UH/MCC, and renegotiating the contract with Akaku to insure that MCC is reimbursed for funds expended.

All of us would really like to move forward, leave the past behind and look to the future. However, the failure of the Akaku Board to set aside "personality" issues and their total disregard for their contractual and fiduciary responsibility to provide PEG funds to MCC, has left any hopes of collaboration and sharing of resources doubtful. This saddens me deeply.

We are meeting today in a state of the art media center built by public funds. Unfortunately, most of the time the broadcast studio is dark because MCC does not have the resources to hire a production crew. Our edit bays sit with empty work stations gathering dust because we do not have money to buy editing equipment. Our digital media labs are only used for academic classes because we do not even have enough money in our budget to hire part-time lab monitors. This is not leveraging state resources to serve the community.

You asked us to address the issues of sustainability and you suggest that collaboration is the answer but Akaku has not been willing to include MCC as a partner. Akaku was even chastised for this exclusive behavior in a letter on July 6, 2000 from Clyde Sonobe, Cable Television Director for the DCCA to Sean McLaughlin, Executive Director of Akaku. Mr. Sonobe wrote, "... it is unfortunate that input was not received from organizations directly involved with PEG activities. We hope your next draft will include input from the following entities: the Mayor's Office, Maui County Council, Maui Community

College, University of Hawaii, Department of Education, ICSD and Hawaiian Cablevision." This directive was ignored. We were never included in the development of the Access Plan for Maui County.

Akaku has even gone so far as to undermine MCC's productions. In the year 2000, MCC received a 3-year grant to create a local news show, again, one of the highest priorities of the media needs assessment. We joyfully announced receipt of this grant at the Akaku Board meeting. We advertised and held open public meetings to focus and define the process **for** the show. Instead of offering to collaborate with us, Akaku decided to create their own news show, using Akaku staff and volunteers. They went so far as to recruit and hire a local producer who had previously committed to work on the MCC program. Their show aired two weeks before **our** first scheduled airdate and only lasted a few months. **ON MAUI**, the MCC news show, continues to air every weekend night and it has been very gratifying to receive enthusiastic feedback from the community. However, with the grant soon coming to an end, and no monies expected to be received from PEG resources, Maui's only local news and issues show will most likely come to an end.

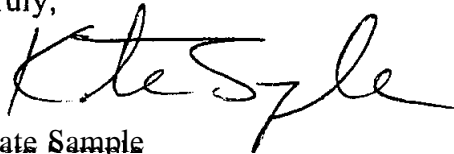
I think the DCCA needs to take immediate action to insure funding for educational access on Maui and to restructure the Akaku board to create an inclusive, collaborative and fair process.

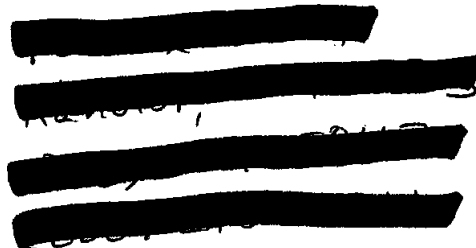
Here are my recommendations for a statewide plan:

- 1 - Educational access be funded at a state level that reflects the expressed need and priority for lifelong learning, at least **30%**.
- 2- A statewide educational access committee be created to insure collaboration and leveraging of resources for educational access.
- 3- Board members for **PEG** organizations be selected by a committee of representatives from the agencies and organizations that are directly involved with PEG access. Applications to the board can be submitted by anyone. The selection committee will base their appointments on the applicant's experience in PEG access, digital media, or an active commitment to apply their professional expertise to the support of PEG access.
- 4- Funds be designated from the Olelo budget to create a CSPAN style coverage of important civic and cultural events statewide.

Hawaii is blessed with having one of the highest per capita budgets for PEG access in the nation. Our citizens continue to become aware and involved with the training, facilities and programs that are available to them. We have much to be proud of and by working together we can expand and enhance the use of digital media in building better communities and providing opportunities for lifelong learning. Again, mahalo for your time and attention. I hope that the DCCA will continue to provide leadership in creating equitable distribution and leveraging of resources for PEG access on Maui and across our great state.

Truly,

  
Kate Sample



2003-200

Patti K Kodama  
09/26/2003 09:23 AM

To: cabletv@dcca.hawaii.gov  
cc:

Subject: Cable Policy - Socializing media access?

"Sean McLaughlin"

09/18/2003 06:40 AM

Please respond to scan

To: "Mark Recktenwald" <mark.e.recktenwald@dcca.hawaii.gov>

cc: "Randy Roth", "Lloyd Yonenaka"

Subject: Cable Policy - Socializing media access?

Aloha Mark (fyi Randy and Lloyd) -

Next week I will review more of the public comments received by DCCA regarding the statewide cable planning process. Meanwhile, please share these thoughts as you deem appropriate with the Governor and offer her my support for further discussion:

Looking at recent testimony to DCCA by State education agencies (UH 9/3/03 and DOE 9/2/03), in many ways they are asking you to socialize media access in Hawaii! These State institutions are trying to rationalize the blatant diversion of local community-based resources to their own offices, rather than partnering to create new public, educational and governmental benefits on each island. A shameful money grab by centralized bureaucracies is being proposed!

Currently, community media access in Hawaii is almost completely privatized through DCCA contracts with non-profit 501(c)3 agencies serving each County. Independent local organizations manage the limited cable franchise resources for each County and are charged to create maximum benefits in the form of public, educational and governmental (PEG) programming services and locally accessible media production resources. For the islands of Maui, Moloka'i and Lana'i, Akaku provides educational access media services directly in our remote island communities.

A different but related public media benefit is also created statewide through cable franchise support to PBS Hawaii (a private non-profit 501(c)3).

Yet, apparently due to their desperate fiscal situations, UH and DOE are now proposing that major and integral components of community access media and PBS Hawaii, including funding and TV channels, be carved out to fund and support their institutional needs. This is an ill-considered and unwise proposal.

In effect UH and DOE are now asking the Governor to cripple community access TV and PBS statewide in order to sustain their own basic budget needs.

Ironically, while there is always room for improvement, the private organizations contracted to manage **PEG** access and operate community **TV** for each County are generally much more accountable to the public in their local communities than the **UH** and **DOE** bureaucracies.

There is no rational basis for taking **funds** away from community-based private non-profit agencies **and** directing those **resource** to centralized State educational institutions.

I recommend that you reject the **UH** and **DOE** proposal and that you do not de-privatize community access **TV** or **PBS** in Hawaii! The public interest will not **be served** by socializing educational media access in Hawai'i, nor by centralizing management and oversight of **educational** access **TV**.

Thanks for **your** thoughtful consideration of **this** recommendation.

O wau me ka ha'aha'a,  
**Sean**

---

**Sean** McLaughlin

President & **CEO**

tel: [REDACTED]

**Akaku: mui** community **TV** fax: [REDACTED]

e: [REDACTED]

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Molokai & Lanai toll-free  
ore: [REDACTED]