



New Public Testimony

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Representing

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Agenda Item

Docket No. DR26-79 Komar Maui Properties I

Position

Oppose

Testimony

COUNTY OF HAWAI'I – TESTIMONY OPPOSING APPROVAL

Before the State Land Use Commission

Docket No. DR26-79 – Komar Maui Properties I LLC

Dear Chair Lee and Members of the Commission:

The County of Hawai'i Department of Environmental Management (DEM) submits this testimony in opposition to the Petitioner's position that a landfill on Agricultural District land may only be authorized through a District Boundary Amendment (DBA). We strongly support Maui County's request for clear guidance confirming that Special Permits remain an appropriate and lawful mechanism for authorizing landfill uses within the Agricultural District.

Key Points

Landfills are essential public infrastructure, and HRS § 205-6 expressly allows "unusual and reasonable uses" in the Agricultural District through the Special Permit process.

A Special Permit protects the long-term integrity of Agricultural lands by avoiding permanent urbanization. Landfills permitted under Special Permit are ultimately closed, capped, remediated, and returned to open space or agricultural use, unlike DBAs that permanently convert land to Urban District.

Every major municipal solid waste landfill in Hawai'i — including Pu'uana'hulu in Hawai'i County — operates under a Special Permit, not a DBA. Requiring DBAs for all future expansions would disrupt statewide solid waste operations and contradict decades of LUC practice.

The Hawai'i Supreme Court's decision in *Department of Environmental Services v. LUC* (2012) implicitly affirmed the validity of Special Permits for municipal solid waste landfills by addressing permit conditions rather than requiring a DBA.

The critical statewide need for landfill capacity, especially highlighted by Maui's 2023 wildfire disaster, demonstrates why counties must retain the flexibility and timeliness of the Special Permit process.

Request

The County of Hawai'i respectfully urges the Commission to deny the Petitioner's interpretation and affirm that landfills within the Agricultural District may be authorized by Special Permit. Removing this tool would jeopardize ongoing operations, future planning, and emergency response capacity across all counties.

Thank you for your consideration.