

LAND USE COMMISSION

STATE OF HAWAII 'I

ORAL ARGUMENT and DECISION MAKING)
)
 AO6-771 D.R. HORTON-SCHULER HOMES, LLC)

TRANSCRIPT OF PROCEEDINGS

The above-entitled matter came on for Oral Argument and Decision Making at Conference Room 205, Second Floor, Leiopapa A Kamehameha, 235 S. Beretania Street, Honolulu, Hawai'i, commencing at 9:00 a.m. on May 22, 2012 pursuant to Notice.

REPORTED BY: HOLLY M. HACKETT, CSR #130, RPR
Certified Shorthand Reporter

A P P E A R A N C E S

COMMISSIONERS:

THOMAS CONTRADES
KYLE CHOCK
RONALD HELLER
LISA JUDGE
NORMAND LEZY (Chairman)
JAYE MAKUA
CHAD McDONALD
NICHOLAS TEVES

ACTING EXECUTIVE OFFICER: BERT SARUWATARI
CHIEF CLERK: RILEY HAKODA
STAFF PLANNER: SCOTT DERRICKSON
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AUDIO TECHNICIAN: HOTAI ZERBA

Docket No. A06-771 D.R. HORTON-SCHULER HOMES, LLC

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NAOMI KUWAYE, ESQ.
CAMERON NEKOTA, ESQ.

For the County: DON KITAOKA, ESQ.
Deputy Corporation Counsel
TIM HATA, DPP

For the State: BRYAN YEE, ESQ.
Deputy Attorney General
MARY LOU KOBAYASHI
Planning Program Admin.

For Intervenor Friends of Makakilo: DR. KIONI DUDLEY
LINDA PAUL, ESQ.

For Intervenor Sierra Club: ELIZABETH DUNNE, ESQ.

For Intervenor Senator Clayton Hee: ERIC SEITZ, ESQ.
SARAH DEVINE, ESQ.

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1 CHAIRMAN LEZY: (Gavel) Good morning.
2 This is a meeting of the state of Hawai'i Land Use
3 Commission. This is oral argument on A06-771 D.R.
4 Horton-Schuler Homes, LCC, a Delaware Limited
5 Liability Company, dba D.R. Horton-Schuler Division,
6 Honouliuli, 'Ewa, O'ahu to amend the Agricultural
7 District into the Urban District for approximately
8 1,525.516 acres of land at Honouliuli, 'Ewa District
9 O'ahu, Hawai'i tax map key numbers (1) 9-1-17:4(por.),
10 059 and 072; (1)9-1-18 001 and 004. Parties,
11 appearances please.

12 MR. KUDO: Representing the Petitioner
13 Benjamin Kudo and Naomi Kuwaye. With me Vice
14 President Cameron Nekota, D.R. Horton-Schuler.

15 CHAIRMAN LEZY: Good morning.

16 MR. KITAOKA: Good morning. Don Kitaoka,
17 deputy corporation counsel on behalf of the city
18 Planning and Permitting Department. Along with me in
19 the room is Tim Hata from that department.

20 CHAIRMAN LEZY: Good morning.

21 MR. YEE: Good morning. Deputy Attorney
22 General Bryan Yee on behalf of the Office of Planning.
23 With me is Mary Lou Kobayashi from the Office of
24 Planning.

25 CHAIRMAN LEZY: Good morning.

1 MR. DUDLEY: Good morning. Dr. Kioni Dudley
2 from the Friends of Makakilo and I'm expecting Linda
3 Paul.

4 CHAIRMAN LEZY: Good morning.

5 MS. DUNNE: Good morning. Elizabeth Dunne
6 on behalf of the Sierra Club.

7 CHAIRMAN LEZY: Good morning.

8 MR. SEITZ: Good morning. Eric Seitz
9 appearing for Intervenor Senator Clayton Hee. And
10 also with me is my associate Sarah Devine.

11 CHAIRMAN LEZY: Good morning. Let me
12 update the record relative to this hearing. The
13 evidentiary portion of this docket was concluded on
14 March 16, 2012. The parties timely filed their
15 respective proposed findings of fact, conclusions of
16 law and decisions and orders on April 13, 2012 and the
17 respective comments, responses, joinders, objections
18 and replies on April 27, 2012 and May 7th, 2012.

19 Between March 19, 2012 and May 22, 2012 the
20 Commission received e-mail and written correspondence
21 from 40 individuals and organizations whose names are
22 on file.

23 On May 18, 2012 the Commission received
24 Petitioner's Motion for Leave for the parties to
25 submit written legal briefs and for hearing.

1 On May 21, 2012 the Commission received
2 Office of Planning's Statement of No Objection to
3 Petitioner's Motion for Leave for the Parties to
4 Submit Written Legal Briefs and for Hearing.

5 On May 22, 2012 the Commission received
6 Intervenor Friends of Makakilo's Memorandum in
7 Opposition to Petitioner's Motion for Leave for the
8 Parties to Submit Written Legal Briefs and for
9 Hearing.

10 I'd like to take up Petitioner's motion at
11 this time. I'll entertain a motion to amend the
12 agenda to allow the Commission to address Petitioner's
13 Motion for Leave for the Parties to Submit Written
14 Legal Briefs and for Hearing.

15 COMMISSIONER CHOCK: So moved.

16 COMMISSIONER JUDGE: Second.

17 CHAIRMAN LEZY: All in favor? (voting)
18 Aye. All opposed? Motion passes. Before we turn to
19 the substance of the motion, I've received written
20 submissions from Office of Planning stating no
21 opposition, and from Friends of Makakilo opposing.
22 What is the county's position on the motion?

23 MR. KITAOKA: The county has no objection
24 and supports the motion.

25 CHAIRMAN LEZY: Sierra Club, what's your

1 position?

2 MS. DUNNE: We oppose the motion.

3 CHAIRMAN LEZY: Mr. Seitz?

4 MR. SEITZ: I have no objection to the
5 motion being heard, but I certainly do oppose the
6 substance of the motion and would like to have the
7 opportunity to present my concerns in that regard.

8 CHAIRMAN LEZY: Okay. The Chair will
9 entertain a motion to enter into executive session.

10 COMMISSIONER CHOCK: So moved.

11 COMMISSIONER JUDGE: Second.

12 CHAIRMAN LEZY: All in favor? (voting)
13 Aye. All opposed? Passes. We'll leave you folks and
14 go upstairs. I'm guessing this is probably going to
15 take a little bit of time, probably about 30 minutes.

16 (Executive session held 9:10-9:40)

17 CHAIRMAN LEZY: (Gavel) We're back on the
18 record. We'll take argument now on the motion,
19 Mr. Kudo.

20 MR. KUDO: Thank you, Chairman Lezy. The
21 motion before you seeks leave of the state of Hawai'i
22 Land Use Commission to allow the parties to file legal
23 briefs on the constitutional issues raised by
24 Intervenor Clayton Hee on the applicability of the
25 Hawai'i State Constitution article 11 section 3 on

1 this Petition and on the Commission's authority and
2 power.

3 During these proceedings the legal issue
4 regarding the applicability of the Hawai'i State
5 Constitution article 11 section 3 and the Important
6 Agricultural Lands legislation chapter 205, section
7 205-47 et seq. have been repeatedly raised by
8 Intervenor Hee.

9 Furthermore, HRS 205-47 provides that each
10 county identify and map potential Important
11 Agricultural Lands within the county's jurisdiction
12 based on certain standards and criteria.

13 In fact, the applicability of these two
14 laws and whether this Commission can render a decision
15 on Petitioner's Petition was most recently raised by
16 Mr. Hee's responses to Petitioner's proposed findings
17 of fact, conclusions of law and decision and order.

18 Intervenor Hee has repeatedly argued that
19 this constitutional question goes to the heart of the
20 authority and jurisdiction of this Commission to
21 render a decision on the pending Petition before you.
22 As these two laws involve threshold issues of
23 jurisdiction, the parties should be able to submit
24 legal briefs on this issue prior to the Commission
25 taking any action on this case.

1 And the Commission should have ample time
2 to consider the legal arguments on this matter prior
3 to making any decision on this Petition.

4 I apologize for the short timeframe in
5 which I filed this particular motion. However, the
6 Commission has recently been under judicial scrutiny
7 with respect to its authority and power.

8 Specifically, in March of this year the
9 Third Circuit Court held that this Commission exceeded
10 its statutory authority and violated several
11 provisions of chapter 205 that address the
12 Commission's authority regarding enforcement of its
13 decisions.

14 Only last week, because I was busy with the
15 findings of fact and conclusions of law, I was made
16 aware of a recent Hawai'i Supreme Court decision
17 decided regarding this Commission's action in the
18 Waimanalo Gulch proceedings.

19 In that particular decision the Hawai'i
20 Supreme Court addressed this Commission's authority
21 and power to impose conditions as part of its
22 decision-making authority.

23 Both of these cases address the authority
24 and power of this Commission's decision-making
25 capability. Issues relating to the Commission's

1 decision-making authority have been raised repeatedly
2 and questioned by Intervenor Hee. We believe that
3 there was a strong probability that if this
4 Commission's decision were to grant this Petition that
5 an appeal would be lodged by Intervenor Hee.

6 As recently as this morning in the Civil
7 Beat website, Sierra Club is quoted as having to say
8 they would file a judicial appeal of this decision
9 should this Commission grant this Petition.

10 In light of this pending litigation and
11 appeal of this decision of this Commission, we feel
12 that it is prudent for this Commission to take the
13 time to consider the merits of the authority to make a
14 decision.

15 The Petitioner believes very strongly that
16 this Commission has the authority and power to render
17 and take action on this Petition.

18 If the Commission grants our motion we
19 believe that a court reviewing the decision of this
20 body would reflect that this Commission carefully
21 examined and considered fully the legal issues on its
22 decision-making authority before it rendered a
23 decision.

24 We all know that this case is a large case.
25 It is a significant case. It is an important case.

1 We have the time to consider this before the
2 Commission acts. The only thing that will go up to a
3 court that would review the Commission's actions is
4 the record that we prepare before you.

5 We would like to make sure that that record
6 is complete; that all the legal points and authorities
7 are before you and that this Commission has the
8 opportunity and the time to review that, consult with
9 its legal counsel before deciding whether it will take
10 action on this Petition or not.

11 We also believe that taking the time to
12 allow the parties to address this jurisdictional issue
13 would not cause any prejudice to the parties. Again,
14 we know how important this decision is. And taking
15 the time to examine the legal merits and arguments as
16 to the Commission's authority is prudent and
17 reasonable.

18 Based on the foregoing the Petitioner
19 respectfully requests that this Commission postpone
20 closing arguments originally scheduled for today, and
21 the adoption of a decision and order originally
22 scheduled for June 1st, until such time as the parties
23 have briefed the applicability of the Hawai'i State
24 Constitution article 11, sections 3 and HRS 205-47,
25 and that the arguments have been fully reviewed and

1 considered by this Commission. Thank you very much.

2 CHAIRMAN LEZY: Thank you. Mr. Kitaoka,
3 any comments?

4 MR. KITAOKA: Yes. Basically the city
5 supports the Petitioner's motion for the following
6 reasons: Mr. Kudo has pointed out how important a
7 decision this case will be and that this could be, in
8 fact, considered a landmark decision.

9 The city, as you know, has stated that the
10 Project is consistent with the city's plans and
11 policies including the city's general plan and 'Ewa
12 development plan.

13 And that plan contains elements that are
14 consistent with this Project in that this is
15 considered one of the urban fringe areas that complete
16 the city's plans for development and directed growth
17 to the 'Ewa Plain.

18 Therefore, if this Commission has any
19 question about its legal authority to act with respect
20 to the important issues of agriculture, if this
21 Commission has any questions lingering about the
22 legalities of its actions, then I think it also is
23 prudent to receive briefing on that issue. Only if
24 the Commission, in fact, has these questions that
25 should be fully briefed and answered.

1 CHAIRMAN LEZY: Mr. Yee.

2 MR. YEE: The Office of Planning rests on
3 its statement of no objection.

4 CHAIRMAN LEZY: Dr. Dudley.

5 MR. DUDLEY: Good morning, Mr. Chair and
6 Commissioners. The Friends of Makakilo really does
7 object to this. We are really troubled by the fact
8 that this came about on Friday afternoon at about
9 quarter to 3. And we're more troubled by the fact
10 that the motion doesn't say what the matter is. I
11 want to repeat that. The motion does not say what the
12 matter is. It just refers to the "matter".

13 This is the first time we've heard what the
14 matter really is. We prepared a memorandum and we've
15 been shootin' in the dark, you know. What on earth
16 are they talking about? They're talking about the
17 fur -- they're talking about the constitution and the
18 constitution doesn't regulate this body. But, you
19 know, and they're citing article 11 in the
20 constitution.

21 We cited article -- one of our exhibits is
22 article 11, section 3 of the very section they're
23 talkin' about. We submitted that back in April of
24 2009, you know? What are they talkin' about?
25 This is something that just, you know -- are there any

1 citings anywhere? Do they cite the record of where
2 Senator Hee said all this stuff? I can't find a
3 reading through what Senator Hee wrote. I really
4 can't. Do they offer any exhibits? No. No,
5 this was a 3 o'clock-in-the-afternoon-on-Friday effort
6 to scuttle this hearing today. That's simply what it
7 was. And we object to it. We see it as a way of
8 postponing the decision today, moving it so that we
9 get some new appointees from the governor on the
10 Commission.

11 And we also foresee where if we don't make
12 the decision today, this is D.R. Horton-Schuler who
13 does have a reputation across the nation, and they
14 will somehow arrange so there is no hearing between
15 now and July 25th. You've got to be aware of that. I
16 mean they're pulling this stuff. And we really,
17 really need to be aware of what's going on. We need
18 to finish the hearing today, get this thing done.

19 I mean, you know, there is the
20 constitution. There is the IAL regulation. But
21 there's also HRS 205 which tells you what your rights
22 are and what your obligations are and what you're
23 supposed to do. There's the Hawaii Administrative
24 Rules. They all tell you what you're supposed to do.
25 You folks are doing what you're supposed to do.

1 We just need to move ahead and do it and
2 realize that all of this is just a smoke screen in
3 order to get past July 25th without a decision. And
4 believe me, folks, it will happen. You may not have
5 studied the reputation across the nation but they do
6 this kind of thing. Thank you.

7 CHAIRMAN LEZY: Ms. Dunne.

8 MS. DUNNE: Good morning. As I said
9 earlier we do oppose the Motion to Continue. Our
10 position is that this issue has already been
11 extensively briefed. The parties have had ample time
12 to brief it in their filings. And we don't see how
13 any further briefing would be of assistance to the
14 Commission at this time.

15 The criteria under 15-15-77 shows the
16 Petition must be denied regardless of whether this
17 land has been classified as Important Ag Lands and
18 that process has been completed. You have an
19 independent constitutional obligation under the
20 Hawai'i State Constitution to preserve and protect
21 prime agricultural lands.

22 You also have the authority to yourself
23 look at what is agricultural land and what can be
24 designated as prime agricultural lands. Finally, I'll
25 note that this Commission has sat through these

1 proceedings which have lasted several months. And
2 it's important for the Commissioners that have been
3 here to hear the evidence, to hear the witnesses, make
4 the decision. So we feel that we should move forward
5 at this time.

6 CHAIRMAN LEZY: Mr. Seitz.

7 MR. SEITZ: When I received this motion on
8 Friday, I was actually somewhat amused that only now
9 is Horton discovering that we have constitutional
10 objections to this Petition. Because from the moment
11 I entered this case in September we've been raising
12 those objections.

13 Every single witness that I've questioned,
14 I've questioned them about the constitutional
15 implications, the statutory implications.

16 So it is flatly untrue that Horton did not
17 know that these issues are before you and that we
18 intended to pursue them. And we certainly pursued
19 them as well in our findings of fact, as could they,
20 in terms of the legal citations and arguments that
21 they wished to make.

22 So it is simply untrue that they are only
23 now coming to the conclusion that the issues that they
24 now want to submit additional briefing on are before
25 this Land Use Commission. You and all of us in this

1 room have known that those are issues about which we
2 have raised concerns for a great deal of time.

3 Moreover, if you read the motion, I again
4 wonder what is it they're going to say that hasn't
5 been said. They make no effort to make any kind of
6 offer of proof as to what they're going to add to the
7 record that isn't already there.

8 Any lawyer who files this kind of motion
9 knows that that's an obligation. Because if, in fact,
10 they're asking for a special procedure to augment the
11 record, they could and should have told us what it is
12 they want to argue about.

13 Moreover, they could have attached a
14 proposed additional memorandum when they filed that
15 motion. Or alternatively they could have brought it
16 today. Obviously they have unlimited resources to run
17 radio ads and do all kinds of other things.

18 They certainly could have paid their
19 lawyers to stay in the office over the weekend and
20 draft something to bring here, file it either
21 yesterday or today, to show us what it is that they
22 think is so important that you need to know that you
23 don't already have in front of you.

24 Lastly, they could easily augment this
25 record, if they choose to do so. If you decide this

1 case against them they may file a Motion for
2 Reconsideration. And they can at that point in time
3 add into the record whatever it is they feel you
4 failed to consider. Any one of us who've litigated
5 these kinds of matters has done that many times in the
6 past.

7 We don't need to delay the proceedings
8 simply to give them another bite at the apple when
9 they've had so many opportunities to present what it
10 is they apparently think they still need to do over
11 the course of the past many months.

12 So we oppose this motion. There's no
13 authority for it. There's no factual or legal
14 justification in front of you to grant this motion.
15 And we believe we should proceed as scheduled.
16 (Applause)

17 CHAIRMAN LEZY: Thank you. Mr. Kudo,
18 rebuttal.

19 MR. KUDO: First of all, to address
20 Mr. Dudley's remarks about the July 25th date. The
21 July 25th date is the one year deadline for this
22 Petition to be decided upon and acted on by this
23 Commission.

24 If the Commission does not act on it by
25 then we get an automatic approval. We certainly don't

1 want an approval by that means. We don't want a
2 default entitlement.

3 The rules allow us to file for a 90-day
4 extension, which we intend to file for, to allow this
5 Commission ample time to render a decision to consider
6 the merits of any arguments pursuant to this motion.

7 The other matter that I want to address is
8 what Mr. Seitz raised. Yes, we could have filed this
9 earlier on. But as I said in my argument there have
10 been two recent cases.

11 One case, the Hawai'i Supreme Court case,
12 was decided two weeks ago. We didn't know that before
13 then. And that case goes directly to the authority
14 and power of this Commission to act.

15 We believe that the fact that there have
16 been two cases, one in March and one in May, that have
17 overturned this Commission's power and authority to
18 have acted the way they did in those cases, we believe
19 it prudent because of the importance of this case,
20 that at this time we take the time to look at the
21 legal arguments, the points and authorities, before
22 the Commission decides to act.

23 We firmly believe that this Commission has
24 that authority. But we want to be able to brief and
25 incorporate in our briefs the Waimanalo Gulch decision

1 of the Hawai'i Supreme Court. Whether the other case,
2 which is the Bridge Aina Le'a case, decided by the
3 Third Circuit, will be appealed by the state, I don't
4 know. But that certainly is a decision. It's a
5 written decision by the Third Circuit Court that can
6 also be incorporated into our legal briefs.

7 And I think it's important that this
8 Commission, and I think it's reasonable in light of
9 what's happened recently, to take this step and to
10 take your time to decide whether our arguments are
11 correct or Mr. Seitz' argument has been correct.

12 And I implore this Commission to do so
13 because I believe that it is reasonable and prudent
14 action to take in light of what's happened recently.
15 Thank you.

16 CHAIRMAN LEZY: Thank you. Commissioners,
17 questions? Commissioner Judge.

18 COMMISSIONER JUDGE: Mr. Kudo, after
19 hearing everything that was just presented by the
20 parties and your last remarks, are you ready to file
21 this brief now? I mean as Mr. Seitz said, is your
22 argument ready? Are you ready to file this brief now?
23 Or are you asking this Commission to wait a month?
24 What is your anticipated timing of being able to file
25 a brief?

1 MR. KUDO: We'd like two weeks to prepare a
2 brief. I don't have the brief written now. I mean we
3 didn't know how this Commission would act on this
4 request. If this Commission grants our request we
5 would be prepared to start working on that brief and
6 file it within the two week period.

7 CHAIRMAN LEZY: Other questions?
8 Commissioner Heller.

9 COMMISSIONER HELLER: Again, to Mr. Kudo.
10 I understand your point about the recent Supreme Court
11 decisions. But do you agree that the basic
12 constitutional question was raised considerably
13 earlier in this case?

14 MR. KUDO: Yes. But, again, our move to
15 take extra precautions at this point in light of the
16 importance of this case was because of the recent
17 decisions of the Hawai'i Supreme Court.

18 If it wasn't for that decision we probably
19 would not be filing this motion. But I think to err
20 on the side of caution we believe that the Supreme
21 Court as well as the Third Circuit is very sensitive
22 to this Commission's authority and power and those
23 issues.

24 Since it is highly probable that we will be
25 appealed if this Commission grants this Petition, we

1 want to make sure that a court reviewing the record
2 sees that this Commission took reasonable and prudent
3 action by looking at those points and authorities
4 before it acted. I think that goes a long way toward
5 any kind of argument that says that this Commission
6 didn't have that.

7 And we want to make sure that the record is
8 complete with regard to the actions of this Commission
9 being prudent and reasonable in light of that
10 situation and in light of the Hawai'i Supreme Court
11 decision.

12 I'm not sure if the other cases, that is
13 the Waimanalo Gulch case or the Bridge 'Aina Le'a
14 case, this Commission took the time to ask the parties
15 to brief the issues that were before it before it
16 acted. I didn't -- I don't have the record in those
17 cases so I don't know.

18 But I don't want to fall prey to a
19 situation, because of the gravity of this case, to
20 have taken a simple measure of asking this Commission
21 to take some time to look at this issue before they
22 act in preparation and anticipation that the decision
23 of this Commission may be appealed. It's just extra
24 caution on our part.

25 COMMISSIONER HELLER: Thank you.

1 CHAIRMAN LEZY: Additional questions? I
2 had some questions. I think Mr. Seitz's point on the
3 offer of proof is well taken, Mr. Kudo. The
4 memorandum didn't include any discussion regarding the
5 substance of the briefing that you'll be offering.
6 Can you give us at least a thumbnail sketch of what
7 Petitioner's position is on the constitutional issue?

8 MR. KUDO: Well, we believe that this
9 Commission has the power and authority to act in light
10 of the constitutional amendment, and also the
11 Important Agricultural Lands statute that was passed
12 pursuant to article 11.

13 We want to be able to cite the various case
14 law in this jurisdiction as well as elsewhere, with
15 regard to where similar issues have been raised to
16 bring before this Commission to consider.

17 We believe that the HAR rules provides
18 ample alternatives when agricultural lands are part of
19 the decision-making criteria, in particular 15-15-77
20 and 15-15-18.

21 There's a specific provision in there that
22 allows this Commission to make its decision even if
23 agricultural lands that have been farmed two years
24 prior to a Petition is involved in a case. We want
25 that to be also briefed and brought to the attention

1 of this Commission. That, in a simple nutshell, would
2 be the structure of our legal briefs.

3 CHAIRMAN LEZY: And then a question about
4 what you envision the format of this being. You've
5 styled your motion as a Request for Leave to Submit
6 Briefs and for a Hearing. You anticipate that
7 there'll be a hearing where argument will be presented
8 and a decision will be rendered? Or simply you'll
9 present your respective arguments?

10 MR. KUDO: We made the offer to have an
11 oral argument following the filing of briefs, but it
12 is at the discretion of this Commission whether they
13 feel that's necessary or not. But we made the offer
14 that that might be appropriate if this Commission
15 considers it.

16 If this Commission decides to rule on the
17 briefs *sua sponte* without any hearing, that's the
18 Commission's discretion to do so.

19 CHAIRMAN LEZY: Mr. Seitz, you know, I
20 think there's some validity to the points the
21 Petitioner is making about the questions regarding the
22 Commission's power and authority which, you know, you
23 have gone to frequently, let me say, during the course
24 of these hearings.

25 So I guess the question I have for you at

1 this juncture given where things stand, don't you
2 agree that there would be some utility to having this
3 briefed? And I guess my real question to you is what
4 prejudice would it be to you and the other intervenors
5 who are opposing this if the Commission were to
6 entertain this motion?

7 MR. SEITZ: First of all, in the motion
8 there are no citations to any cases or anything of any
9 sort. And the reason for that is because those cases
10 really don't pertain to what you're called upon to do
11 in this case. And as far as I know there is no
12 comparable statutory construct in other states. There
13 is no law. Really this is a case of first impression
14 in many respects. Now, generally speaking if you're
15 going to make decisions on cases of first impression I
16 would want you to be as well informed as you could be.
17 And you have your own counsel there for that purpose.

18 We have argued existing administrative
19 rules, existing statutes, and existing constitutional
20 provisions which we believe spoke for themselves.
21 Now, how you're going to interpret them and apply them
22 in this case is really your job. We have suggested
23 how they do apply.

24 If, in fact, based upon our suggestions, if
25 we argue this case and you deliberate and you

1 determine that you then need additional briefing on
2 certain issues over and above the 200 pages which
3 Horton has given you, and the 30 or so pages we've
4 given you, then by all means I think you should ask
5 for it at that point in time. Because we do not want
6 you to decide this case and create a record that is
7 inadequate.

8 However, my belief is that you have
9 everything that you can be given. And that together
10 with the oral arguments that will be presented to you
11 that were scheduled to be given today, my belief is
12 there is nothing that two weeks of additional research
13 at this point in time is going to turn up that will
14 assist you. But, again, it's your prerogative. Never
15 would I say if you think you have questions that are
16 unanswered that you need additional input from the
17 parties on, I would never oppose that.

18 But my opposition this morning is
19 predicated upon the fact that these issues have been
20 raised again and again and again, every time we
21 gather. And I think we've given you everything that's
22 out there.

23 As far as prejudice is concerned, at this
24 point we do have a concern about the deadline. We
25 also have a concern about two of you who are -- whose

1 terms are due to expire. And in our view a change of
2 personnel of the board, after we've been through such
3 an extensive hearing process, would be detrimental to
4 any party, the prevailing party as well as the losing
5 party.

6 So those are our concerns. We would like
7 to get this matter resolved. And to that end we have
8 been very respectful of the demands for scheduling and
9 completing witnesses and so forth which have been
10 imposed upon us and which the Petitioners themselves
11 have been pushing for. So we're at this point we
12 think we can go forward.

13 CHAIRMAN LEZY: Thank you. Commissioners,
14 what's your pleasure on this motion?

15 COMMISSIONER CHOCK: Motion to approve
16 motion, Chair.

17 CHAIRMAN LEZY: Do I have a second?

18 COMMISSIONER McDONALD: Second.

19 CHAIRMAN LEZY: Discussion? Commissioner
20 Heller.

21 COMMISSIONER HELLER: Yes. Thank you. I
22 appreciate the concerns that have been raised about
23 not unduly delaying this proceeding. And I do note
24 that although there have been some recent Supreme
25 Court decisions, there's also been certainly an

1 awareness in this case that we had a constitutional
2 issue that's been, you know, in existence for a long
3 time.

4 So I think if we're going to grant this
5 motion we should set some pretty tight timeframes so
6 as not to unduly delay the decision-making process. I
7 would suggest something in the ballpark of the
8 Petitioner to file whatever they're going to file by
9 not later than the close of business this coming
10 Friday. And then give the other parties a reasonable
11 amount of time to respond to it.

12 I don't want to see this turn into a
13 significant delay that would disrupt our schedule.
14 And if necessary we can set a special meeting in June
15 to get back on track in terms of catching up with when
16 the decision-making should be finalized.

17 CHAIRMAN LEZY: I'll say this. It is a
18 little bit frustrating, the timing of this motion,
19 notwithstanding that, I do think there's some utility
20 in the points that have been raised particularly about
21 the last two decisions by the State Supreme Court
22 regarding actions taken by the Commission that had to
23 do expressly with our powers and authorities are
24 concerning.

25 And from my standpoint only I think that

1 there is merit to having a complete record. And
2 because this issue of the constitutionality of our
3 authority in this instance regarding the redistricting
4 of agricultural land has been a theme with the
5 Intervenors in opposition to the Petition, I do think
6 it is important that we have as complete a record as
7 possible.

8 That said, I completely agree with
9 Commissioner Heller on the timing issues. And I will
10 tell everybody, parties and public alike, that as
11 Chair I will not allow for this matter to be pushed
12 into the next constituted Commission. This matter
13 will be decided by the currently constituted
14 Commission. I will not ask the new appointees to take
15 on the obligation of reviewing the record here. And I
16 will not ask the Commission as it's constituted to
17 delay a decision on a matter that's been before us now
18 literally for years.

19 So I do put everyone on notice that if this
20 motion passes this matter *will* be decided before the
21 end of June.

22 So with that, I think it makes sense to
23 clarify now. The Chair will offer a friendly
24 amendment that if this motion passes, that the
25 Petitioner is to have briefing submitted by this

1 Friday, May 25th and any response or opposition will
2 be submitted by Monday June 4th.

3 MR. KUDO: Mr. Chairman, could we --
4 Monday -- Monday's a holiday. Tuesday, just the
5 weekend to work on it because three days -- we don't
6 want to take this into July. We'll cooperate with the
7 Commission. But could we have 'til the weekend to
8 work on this?

9 CHAIRMAN LEZY: Mr. Kudo, I'm going to
10 stick with the deadline as scheduled, and the reason
11 being this is your motion. I don't want to put
12 Intervenors into a position where they are then going
13 to be pressed for time in responding. The response is
14 the difficult part. The motion is the part I'm sure
15 that you folks have already substantively outlined at
16 least. I'm not going to put the Intervenors into a
17 position where they're going to be pressed for time.

18 I understand that's going to put some
19 difficulties on you folks. And I'm sorry for that.
20 But, again, it is your motion. You're asking for
21 this. And that's an appropriate timeline.

22 So again to be clear: Brief by Friday the
23 25th, opposition reply by Monday the 4th. With that
24 Mr. Saruwatari, if you'd poll.

25 MR. SARUWATARI: On the amended Motion to

1 Grant Petitioner's Motion for Leave for the Parties to
2 Submit Written Legal Briefs, and for hearing within
3 the timeframe so indicated by the Chair: Commissioner
4 Chock?

5 COMMISSIONER CHOCK: Yes.

6 MR. SARUWATARI: Commission McDonald?

7 COMMISSIONER McDONALD: Yes.

8 MR. SARUWATARI: Commissioner Judge?

9 COMMISSIONER JUDGE: Yes.

10 MR. SARUWATARI: Commissioner Teves?

11 COMMISSIONER TEVES: Yes.

12 MR. SARUWATARI: Commissioner Contrades?

13 COMMISSIONER CONTRADES: No.

14 MR. SARUWATARI: Commissioner Makua?

15 COMMISSIONER MAKUA: Aye.

16 MR. SARUWATARI: Commissioner Heller?

17 COMMISSIONER HELLER: Yes.

18 MR. SARUWATARI: And, Chair Lezy?

19 CHAIRMAN LEZY: Yes.

20 MR. SARUWATARI: Chair, we have 8 votes in
21 support of the motion.

22 CHAIRMAN LEZY: Thank you.

23 MR. SARUWATARI: Excuse me, 7 votes in
24 support of the motion.

25 CHAIRMAN LEZY: Obviously that changes

1 today's agenda significantly. We will move now,
2 though, directly into public testimony because this is
3 a noticed hearing. We will still take public
4 testimony and ask folks to keep in mind that you will
5 have an opportunity to provide public testimony on the
6 issue of approval or denial of the Petition when that
7 matter is taken up at the next hearing on this matter.

8 Dr. Dudley, you have a question?

9 DR. DUDLEY: Mr. Chair, you know, we really
10 have great concern about trying to get this done by
11 the end of June. Is it possible that you could set a
12 hearing date now?

13 CHAIRMAN LEZY: No, we can't do that right
14 now, Dr. Dudley, because it depends on availability of
15 Commissioners. But as I said on the record I will
16 ensure that a hearing is set before the end of June
17 and that a decision is made on this Petition before
18 the end of June.

19 MR. DUDLEY: Okay. Sir, I really thank
20 you. We're very concerned, very concerned. Thank
21 you.

22 CHAIRMAN LEZY: We'll first call the four
23 individuals who did not have an opportunity to testify
24 at the last hearing on this docket. So if you'll step
25 forward please: Thad Spreg, Kika Bukowski, Jesse

1 DeVera and Elaine Kam if you are here. Are any of
2 those four individuals here and they wish to
3 provide -- step up please. I'm sorry, I need to swear
4 you in first.

5 JESSICA DeVERA

6 being first duly sworn to tell the truth, was examined
7 and testified as follows:

8 THE WITNESS: I do.

9 CHAIRMAN LEZY: Please state your name,
10 your address and proceed.

11 THE WITNESS: My name is Jessica DeVera.
12 My address is 66-102 Haleiwa Road, Haleiwa, Hawai'i
13 96712.

14 CHAIRMAN LEZY: Thank you.

15 THE WITNESS: I came here today out of
16 concern for this job issue. I'm concerned that this
17 will bring temporary jobs for a couple of years and
18 with 80,000 more people on this island, will they take
19 our jobs after that.

20 My next question is how will this affect
21 surrounding resources in relation to the present time
22 Wai'anae coast and to Nanakuli. I'm requesting for a
23 thorough water resource investigation on this issue.
24 You know, other islands had springs that have dried
25 up. Will this happen because we will over-exhaust our

1 resources? And is D.R. Horton enthusiastically
2 researching this? Or do they even care?

3 You know, if we live in Wai'anae will our
4 great grandchildren have this water? Will they have
5 to desalinate? Or will *they* have jobs? Are these
6 permanent jobs?

7 There's a surplus of housing right now.
8 Why don't we fill those housing before we start
9 building more?

10 The second thing is I'm concerned about the
11 reputation, with all due respect, of D.R. Horton's
12 Company with all respect to the people that work for
13 D.R. Horton.

14 As I've researched they have been involved,
15 and this is FBI warranted, of racketeering, predatory
16 lending, tax evasion, tampering with federal
17 informant, accounting fraud, bribery, mortgage, loan
18 fraud. Even a major investment group, CTW, demanded
19 accountability.

20 You can find these articles on CNN and
21 Business Week. So this is, you know, they're valid
22 resources. And I would like to list the cases that
23 they have been through: Nevada State Court Case
24 05-A-503121-C fraud and deceptive business practices.

25 California State Case RIC 369796 for fraud

1 and deceptive business practices. California Federal
2 Case 07-2625 SBA fraud and deceptive business
3 practices, et cetera, et cetera.

4 Florida: Truth in Lending violations;
5 Georgia Federal Court RA violation; Virginia Federal
6 Court case truth in lending.

7 I'm concerned about the accountability of
8 this company sincerely. I wonder if they will continue
9 to have accountability in this place. That's all.

10 CHAIRMAN LEZY: Parties, questions?
11 Commissioners, questions? No. Thank you for your
12 testimony.

13 MR. SARUWATARI: Elaine Kam?

14 (Ms. Kam: May I go last?)

15 MR. SARUWATARI: Willis Moore. Just as a
16 reminder you have two minutes to present your
17 testimony.

18 WILLIS MOORE
19 being first duly sworn to tell the truth, was examined
20 and testified as follows:

21 THE WITNESS: I do.

22 CHAIRMAN LEZY: Please state your name,
23 your address and proceed.

24 THE WITNESS: My name is Willis Moore. I
25 live in Chinatown, corner of Hotel and Bethel Street.

1 Good enough?

2 CHAIRMAN LEZY: Go ahead.

3 THE WITNESS: All right. I have some
4 concerns in addition to the fact that I'm a member of
5 Sierra Club. And I commend the Club for its work in
6 bringing to the fore questions about farmland and
7 agricultural land.

8 I suppose that I'm more associated with a
9 group of people across the street from where we're
10 sitting at Queen Emma Square, concerns for housing.
11 Where are we going to live and what is it going to
12 cost us to live here?

13 I've lived on this island now 50 years and
14 I know what I've had to pay to live here. And I
15 choose to live in Honolulu where there are no serious
16 housing projects proposed in the affordable range.

17 In careful personal study of the proposal
18 from D.R. Horton-Schuler I find some interesting and
19 some hopeful ideas in what they are proposing to do
20 with the land that you would rezone, if you do. So I
21 speak in support of this one Project in saying that it
22 represents a way forward in both housing, affordable
23 housing on the one hand, and the possibilities for
24 gardening and agriculture on the other. Thank you.

25 CHAIRMAN LEZY: Parties, questions?

1 (audience applause) Petitioner's, questions? Thank
2 you for your testimony.

3 MR. SARUWATARI: Pearl Johnson followed by
4 Charles Zahn.

5 PEARL JOHNSON
6 being first duly sworn to tell the truth, was examined
7 and testified as follows:

8 THE WITNESS: Yes.

9 CHAIRMAN LEZY: Please state your name,
10 your address and proceed.

11 THE WITNESS: Pearl Johnson, 2404 Kaneali'i
12 Avenue, Honolulu. I wish to remind the Commission
13 that if you change the Ho'opili land designation to
14 urban you may not ever be able to put it back into
15 agriculture no matter what D.R. Horton does.

16 The Commission required in 1989 that Bridge
17 Aina Le'a build over 1600 affordable housing units.
18 After numerous extensions, delays, reductions in the
19 requirement, Bridge Aina Le'a came up with just 16
20 units in 2011, 22 years later.

21 When you tried to revert the land back to
22 agriculture the judge ruled that you could not. Even
23 if Horton were to abandon plans to put houses on this
24 most productive farmland in the state, the fertile
25 soil may already have been scraped off and replaced

1 with coral. The Department of Hawaiian Home Lands has
2 already done that with its acreage adjacent to
3 Ho'opili.

4 Agriculture would have been scraped forever
5 from this precious farmland if you grant this Petition
6 even as future generations need more locally produced
7 food.

8 I thank the Commission for pledging to
9 decide with the present membership. It certainly
10 appeared to me that the Petitioner was commissioner
11 shopping. Please, protect the future of our island by
12 refusing to grant the urban designation. Thank you.

13 CHAIRMAN LEZY: Parties, questions?
14 Commissioners, questions? Thank you.

15 MR. SARUWATARI: Charles Zahn followed by
16 Glenn Oamilda.

17 CHARLES ZAHN
18 being first duly sworn to tell the truth, was examined
19 and testified as follows:

20 THE WITNESS: Yes, I do.

21 CHAIRMAN LEZY: Please state your name,
22 your address and proceed.

23 THE WITNESS: My name is Charles Zahn. I
24 live at 92-970 Pu'unene Street in Makakilo, 96707.
25 Morning, Mr. Chair, and Members of the Land Use

1 Commission. I'm a member of the Makakilo, Kapolei,
2 Honokaihole Neighborhood Board No. 34, and the
3 president of Pu'uuhalemuia Association which is an
4 association of homeowners.

5 The Pacific Business News in an editorial
6 on February 17th, 2012 stated, "At the end of the day
7 we think the benefits of these projects outweigh the
8 potential risks. We were not willing to support
9 significant housing development in even a few areas of
10 O'ahu.

11 We better start coming up with a strategy
12 to slow the population growth that's projected to be
13 coming our way. That's a direction we would rather
14 not see O'ahu go."

15 I fully agree with the PBN editorial. I
16 know there have been arguments about agriculture,
17 infrastructure, traffic, et cetera. Some opponents of
18 Ho'opili have made their money and live very
19 comfortably while others struggle to find a place to
20 live, play and work.

21 Ho'opili will work well with the new
22 University of Hawai'i West O'ahu, the Kroc Center, the
23 shopping center being developed by DeBartolo and U.S.
24 Veterans Administration's intention to have a private
25 developer build a 160,000 square foot VA clinic.

1 Working together will increase the quality
2 of life for the residents of the Leeward community.
3 It will provide jobs and homes. With at least 20
4 years to the final buildout there's plenty of time to
5 allow any appropriate modifications to be made:
6 Traffic patterns to be changed because more Ho'opili
7 residents will work in the Kapolei area and others
8 will be able to use the rapid transit system that will
9 be developed.

10 Ho'opili was designed by and for the people
11 of West O'ahu. I know I speak for hundreds of local
12 working families when I say Ho'opili will be a dream
13 come true for us.

14 The Star Advertiser's online poll in
15 3/4/2012 showed that those responding to the poll,
16 55 percent were in favor of Ho'opili. We hope that
17 you listen to us and not those that are playing
18 politics. Thank you for letting me testify.

19 CHAIRMAN LEZY: Parties, questions?
20 Commissioner,s questions? Thank you for your
21 testimony, sir.

22 THE WITNESS: Thank you, sir. (applause)

23 MR. SARUWATARI: Glenn Oamilda followed by
24 Stuart Scott.

25 xx

1 GLENN OAMILDA

2 being first duly sworn to tell the truth, was examined
3 and testified as follows:

4 THE WITNESS: Yes.

5 CHAIRMAN LEZY: Please state your name,
6 your address and proceed.

7 THE WITNESS: Aloha. Good morning. My
8 name is Oamilda, 91-1179 Pu'umae'ole Street in 'Ewa
9 Beach, 96706. Thank you. Good morning, Mr. Chair and
10 Members of the Commission. I'm currently president of
11 the 'Ewa Beach Community Association. And I wish that
12 you had proceeded with this process this morning.

13 There are two things I'm concerned with.
14 One is the importance of agricultural lands. And the
15 other one is the planning process.

16 The agricultural lands is important because
17 there's nobody in this room, I guess -- my family has
18 farmed that land for over a hundred years, my family,
19 when that thing was totally in sugar. My grandfather,
20 my father, my wife's father, my wife's grandfather,
21 all worked on the sugarland. And there's nobody in
22 this room can tell you that there's no more fertile
23 land in the whole state than Ho'opili.

24 I'll hand you this contention that, you
25 know, as far as I'm concerned there shouldn't be any.

1 They talk about mauka of the freeway in Kunia. Kunia
2 is not fertile land as much as Ho'opili. It's been
3 long used in pineapple. Pineapple hasn't been
4 mitigated. The lands haven't been mitigated in all
5 these years.

6 There's Heptachlor. There's other concerns
7 that the land hasn't been mitigated that would cause
8 damage to the crops that are grown in the ground.

9 The other one, No. 2. I've lived in 'Ewa
10 Beach for almost 30 years and I've gone through ah --
11 I been actively involved with all the committees and
12 the associations in 'Ewa Beach. I can tell you that
13 the process of planning has never been implemented
14 (sic).

15 I can tell you, number one, that the 'Ewa
16 development plan, the city planning department has
17 always favored Ho'opili. They never once came to the
18 community. The 'Ewa development plan is 10 years from
19 having public review. It's never been publicly
20 reviewed. In fact it never came before the public
21 since it was accepted in 1997.

22 MR. SARUWATARI: Can you wrap it up?

23 THE WITNESS: Then the other one is the
24 O'ahu general plan. So there's two plans that are
25 coming before the public almost at the end of the year

1 or by next year. So there's a lot of concerns about
2 planning in the area. And I think it's not
3 sufficiently been done. So Ho'opili I think --

4 MR. SARUWATARI: Excuse me. Your 2 minutes
5 are up.

6 THE WITNESS: -- should be taken into
7 consideration in the planning process. Thank you,
8 Mr. Chair.

9 CHAIRMAN LEZY: Parties, questions?
10 Commissioners, questions? Thank you, sir.

11 MR. SARUWATARI: Stuart Scott followed by
12 Lynne Kobayashi. Just as a reminder it's a two
13 minutes, two-minute limit on public testimony.

14 STUART SCOTT
15 being first duly sworn to tell the truth, was examined
16 and testified as follows:

17 THE WITNESS: I do.

18 CHAIRMAN LEZY: Please state your name,
19 your address and proceed.

20 THE WITNESS: My name is Stuart Scott. I
21 live in Honolulu at 2801- N.2 La'i Road in Honolulu
22 back of Palolo. Was there any other question?

23 CHAIRMAN LEZY: No, sir. Go ahead.

24 THE WITNESS: That's it? Okay. Dear
25 Commissioners, when all is said and done in these

1 proceedings both reason and law under score the
2 imperative that you deny D.R. Horton's Petition to
3 proceed with its well-promoted but ill-conceived
4 Ho'opili Development.

5 Of all the reasons for denying this
6 Petition the following I consider the most important
7 ones. The land in question was designated by the city
8 council to be included in consideration as Important
9 Agricultural Lands. The city council makes the laws,
10 not the Office of Planning, not the Department of
11 Planning and Permitting.

12 Allowing these lands to be rezoned from
13 Agricultural to Urban for yet more suburban sprawl at
14 this point before final inclusion of these lands in
15 the prime A or B classification under Important
16 Agricultural Lands, flies in the face of *de facto*
17 recognition of their importance to food production on
18 this island and in the state, which has been well
19 established in the testimony you've received.

20 The focus on further housing development
21 should be in the existing urban core built up, not
22 out. Avoid traffic congestion, pollution, stress and
23 tension in commuters and a raft of other ills by
24 reducing and eliminating commute times. Do not create
25 more of the same ills. And certainly don't pave over

1 Important Agricultural Lands in pursuit of quick
2 profits. The city and county recognizes this and has
3 turned its attention in this direction avoiding more
4 urban sprawl.

5 DLNR testimony from Deputy Director William
6 Tam casts a serious doubt on the sufficiency of
7 aquifers to support the additional increment of
8 suburban sprawl, especially with the additional loss
9 of recharge of the Pearl Harbor aquifer specifically
10 form the paving over of these lands and runoff
11 versus -- of rain versus the percolation of
12 agricultural irrigation.

13 Mr. Tam urged you to make long-term
14 decisions and not continue the short-term thinking
15 that is progressively paintin' us into a tighter and
16 tighter corner.

17 Perhaps, most importantly, the LUC has a
18 mandatory obligation to conserve and protect
19 agricultural lands under the Hawai'i State
20 Constitution article 11, section 3, HRS 205-4.5A; HRS
21 226-7A.

22 MR. SARUWATARI: Excuse me. Your two
23 minutes are up.

24 THE WITNESS: I will wrap very quickly.
25 Okay? Thank you. There's another point of law of

1 constitution I cite but let's go to my last comment.
2 These approximately 1500 acres of uniquely productive
3 agricultural lands must be compared not to the bulk of
4 agricultural lands in the state of all types,
5 characters, trains, hydrological conditions, et
6 cetera. Such comparison would metaphorically be one
7 of apples and cactus.

8 Rather, you must compare the subject lands,
9 comparably productive lands with similar access,
10 fertility, sunlight, water availability, et cetera.
11 With such apples to apples comparison subject lands
12 represent a major percentage of the prime A lands.

13 According to the state Department of
14 Agriculture's own data the subject 1500 acres produce
15 over 40 percent of the locally grown and consumed food
16 on this island. These are not export tourist
17 pineapples but rather corn, melon, squash, ginger and
18 countless other food species that we eat on O'ahu, and
19 upon which we will increasingly depend in many future
20 scenarios.

21 I, therefore, respectfully urge you to
22 comply with the well-reasoned briefs from the
23 Intervenor against the current docket and with your
24 constitutional obligations to deny the Petition, D.R.
25 Horton's application. Thank you.

1 CHAIRMAN LEZY: Parties, questions?
2 Commissioners, questions? (applause) Thank for your
3 testimony.

4 MR. SARUWATARI: Lynne Kobayashi followed
5 by Sadie Green.

6 CHAIRMAN LEZY: Good morning.

7 THE WITNESS: Good morning.

8 LYNNE KOBAYASHI
9 being first duly sworn to tell the truth, was examined
10 and testified as follows:

11 THE WITNESS: Yes.

12 CHAIRMAN LEZY: Please state your name,
13 your address and proceed.

14 THE WITNESS: My name is Lynne Kobayashi.
15 My address is 33-908 Kalihi Street. I just come here
16 as a private citizen concerned about the future of our
17 state. After attending a few of your hearings over
18 the past few weeks, two observations have become clear
19 to me.

20 First, your original mission as defined by
21 statute law is to work to preserve agricultural lands.
22 Second, this mega development will irreversibly
23 devastate fragile resources. Soil and water experts
24 have brought before you compelling evidence of this.
25 There's a lot riding on your decision.

1 On the one hand a lot of money to be made
2 by developers, out-of-state investors and their
3 aggregate industries. And on the other, preservation
4 of the best soil for growing food in the entire state
5 as well as a significantly large area of open land to
6 replenish our water supply.

7 I don't know who you are, but one thing we
8 all have in common is that you and I have accepted
9 Hawai'i as our home. And Hawai'i has made all of us
10 welcome here. My hope is that you'll make the
11 decision that your mission compels you to make; you'll
12 make a decision that you can be proud of; you'll make
13 a decision that will give you an urge one sunny day to
14 take a drive out to the 'Ewa Plain where you can
15 survey a productive, fertile expanse of green.

16 And you can tell your kids and your grand
17 kids, "I did that. I stood up for that. I fought for
18 that." Thank you. (applause)

19 CHAIRMAN LEZY: Parties, questions?
20 Commissioners, questions? Thank you, ma'am.

21 MR. SARUWATARI: Sadie Green followed by
22 Donovan Lewis.

23 CHAIRMAN LEZY: Good morning.

24 SADIE GREEN

25 being first duly sworn to tell the truth, was examined

1 and testified as follows:

2 THE WITNESS: I do.

3 CHAIRMAN LEZY: Please state your name,
4 your address and proceed.

5 THE WITNESS: My name is Sadie Green. And
6 I live at 1450 Young Street in Honolulu. Aloha. I'm
7 here as a concerned citizen and resident of O'ahu.
8 I'm opposed to the development of Ho'opili because of
9 the long-term and irreversible damage that it will
10 cause to the environment, economy and community of
11 O'ahu.

12 The developers will be the big winners
13 here. And don't be confused because big bucks for a
14 small percentage of people is what this really is all
15 about.

16 The idea that we need to develop this prime
17 agriculture land is illogical, especially here on an
18 island such as O'ahu that, one, has a global economy
19 based in tourism and the enjoyment of the natural
20 resources that we have here.

21 And, two, that is so food insecure. We've
22 all heard the statistics about how much food we bring
23 from outside of this island and the need that we have
24 to produce more of what we're consuming here.

25 We need to preserve and malama our natural

1 resources. We need to think in the big picture and
2 long term for the children and the future children of
3 this place. Yes, we need houses and we need jobs.
4 But the big developers like Horton who have a history
5 of predatory lending and fraud across this country,
6 across the U.S., who pass the blame and cost onto the
7 subcontractors and have little to no regard for the
8 preciousness of the 'aina and water that they wish to
9 build upon, are not the ones we should look to to
10 provide this relief.

11 With limited resources this community has
12 let us be accountable to the future generations by
13 saying "no". Our community, our economy, our food
14 security depend on it. This kind of developmental
15 model is destructive.

16 By rezoning this land we will create only
17 short-term job opportunities, but long-term damage to
18 the community and the environment in which we thrive.
19 Thank you.

20 CHAIRMAN LEZY: Parties, questions?
21 Commissioners, questions? Thank you for your
22 testimony. (applause)

23 MR. SARUWATARI: Donovan Lewis followed by
24 Chris Camarillo.

25 CHAIRMAN LEZY: Good morning.

1 DONOVAN LEWIS

2 being first duly sworn to tell the truth, was examined
3 and testified as follows.

4 THE WITNESS: Yes.

5 CHAIRMAN LEZY: Please state your name,
6 address and proceed.

7 THE WITNESS: My name is Donovan Lewis,
8 91-1035 Haulele Street, Kapolei, Hawai'i 96707.
9 Aloha, Chair, Members of the state Land Use
10 Commission. Good morning. My name is Donovan Lewis.
11 I'm testifying today as a resident of the
12 Makakilo/Kapolei area for 34 years. I believe that I
13 can speak on behalf of a large portion of residents in
14 the area because of my different hats that I wear in
15 the community.

16 Besides being a resident I also serve as a
17 bishop -- served as a bishop at the Makakilo Ward of
18 the Church of Jesus Christ Latter Day Saints. I also
19 was involved in Boy Scouts, Little League president,
20 community associations, Makakilo/Kapolei Neighborhood
21 Board when my wife served, served as a member and the
22 chairman and as a high school and college basketball
23 official.

24 I believe that through my conversations
25 with the various entities -- and I don't represent

1 those entities, but the people who belong to it -- in
2 the area, that they have the same sentiments that I do
3 that we need to continue to develop the area to
4 improve our living conditions with affordable housing
5 that was promised to me over 34 years ago.

6 Most of the residents of the area that I
7 associate with are mid age and young couples with
8 families. They moved into the area, like me, many
9 years ago because that is what we could afford. And
10 it brought the promise of a better tomorrow.

11 I believe the Project will help many young
12 families to reach the reality of living and working in
13 the area and that they should help alleviate some of
14 the traffic woes.

15 I'm also a father of six children. I'm a
16 master plumber by trade. And being in the
17 construction business I witnessed over the years good
18 times and down times. I'm in support of this Ho'opili
19 Project because it will bring jobs to my children, my
20 grandchildren and other residents as well. And it
21 will bring much needed jobs to the construction
22 industry, revenue for area businesses and to the state
23 and county.

24 I do sympathize that we need land to farm.
25 But I believe that the families that will move into

1 this development will have the option to farm
2 themselves in their backyard which the developer has
3 included as an option, which I believe will bring much
4 excitement to every family and their lifestyle.

5 I do humbly ask that you do approve this
6 Project and others planned in the area for the sake of
7 our future. Mahalo. Respectfully submitted Donovan
8 Lewis. (Applause).

9 CHAIRMAN LEZY: Parties, questions?
10 Commissioners, questions? Thank you.

11 MR. SARUWATARI: Chris Camarillo followed
12 by Ricky Cassiday.

13 THE WITNESS: What I have to say today will
14 be the truth.

15 CHAIRMAN LEZY: Good morning.

16 THE WITNESS: Good morning.

17 CHRIS CAMARILLO
18 being first duly sworn to tell the truth, was examined
19 and testified as follows:

20 THE WITNESS: Yes, I do.

21 CHAIRMAN LEZY: Thank you.

22 THE WITNESS: Aloha. I'm Christopher
23 Keliiwaiho'okeone Camarillo. I grew up at 1428 Onioni
24 Street, Kailua, Hawai'i.

25 Wow. D.R. Horton is like, this is just

1 suicide. Economists around the world will agree that
2 there are two resources that can't be replaced. One
3 is prime agricultural land. The other is water. D.R.
4 Horton has no idea how to do that. Other developments
5 in 'Ewa Beach I've checked out. And I've been, I've
6 seen it. They're horrid. They're ticky tacky little
7 boxes built on top of each other. They're not
8 affordable by what I make. I don't know how many
9 people are going to be working for D.R. Horton could
10 eventually afford to live in one of those houses.

11 The bottom line is, yes, your obligation is
12 to preserve agriculture. Bottom line: Do your jobs.
13 Thank you. (applause)

14 CHAIRMAN LEZY: Parties, questions?
15 Commissioners, questions? I know everybody's
16 enthusiastic. But I'd ask both supporters and
17 opponents please keep your applause down. Thank you.

18 MR. SARUWATARI: Ricky Cassiday followed by
19 Sidney Higa. (pause) Ricky Cassiday? Sidney Higa
20 followed by Larry Hahn.

21 CHAIRMAN LEZY: Good morning.

22 SIDNEY HIGA
23 being first duly sworn to tell the truth, was examined
24 and testified as follows:

25 THE WITNESS: I do.

1 CHAIRMAN LEZY: Please state your name,
2 your and address and proceed.

3 THE WITNESS: Sidney Higa, 92-739 Makakilo
4 Drive. I've been a resident of Makakilo for over 30
5 years. My parents -- my grandparents came over from
6 Okinawa over a hundred years ago to work in the
7 sugarcane fields. My father was in the Marines. When
8 he came back from Korea he worked for the sugar
9 plantation.

10 My family has been in farming. They used
11 to have a taro farm in Kahalu'u. Nowhere in time did
12 they intend all of us kids to continue the farming
13 business, because it's hard work, very laborious.
14 They wanted us to become professionals.

15 I spent 24 years in the military. My last
16 tour of duty was under the Commander in Chief up at
17 CINCPAC staff. My daughter is now in the Air Force
18 Reserves. Her husband is in the Air Force. They're
19 fortunate that they live in Hickam. They have base
20 housing there.

21 But when they get out what's going to
22 happen? I have four little grandsons. I get to see
23 them, I get to take them fishing, I get to attend
24 their birthday parties. If there are no jobs when
25 they get out of the military they're going to be going

1 to the mainland. They're not going to be staying
2 here.

3 I'm for Ho'opili because there's a future
4 for jobs, there's a future for housing. Anybody here
5 that thinks that just keeping this land in agriculture
6 is going to protect our food supply, they haven't done
7 their research in technology. I'm working with a
8 shrimp farmer right now who's looking to export shrimp
9 to other countries.

10 One of the things that we found is called
11 "extensive farming" to where you can grow up to a
12 million pounds of shrimp on one acre of land. There's
13 technology that's coming down the road that will allow
14 us to have more than enough food for our food security
15 in different ways than just protecting these lands.
16 Thank you.

17 CHAIRMAN LEZY: Parties, questions?
18 Commissioners, questions. Thank you for your
19 testimony, sir.

20 MR. SARUWATARI: Larry Hahn followed by
21 Victoria Cannon. Victoria Cannon.

22 VICTORIA CANNON
23 being first duly sworn to tell the truth, was examined
24 and testified as follows:

25 THE WITNESS: I do.

1 CHAIRMAN LEZY: Please state your name,
2 your address and proceed.

3 THE WITNESS: Victoria Cannon. 92-102 Oloa
4 Place. That's O-l-o-a Place in Makakilo. Good
5 morning, Commissioners. Once again, I thank you for
6 this opportunity. I oppose this Petition to
7 reclassify this ag land.

8 I really just want to emphasize today that
9 there's a lot of deception here in the room and in the
10 public. I'm not going to say where it's coming from.
11 We are forgetting that the 'Ewa development plan
12 clearly points out on Page 211: There are already
13 34,805 homes already zoned and planned and shovel
14 ready.

15 We do not need these 11,500 homes. We
16 already have 34,000 just in the 'Ewa Plain alone. If
17 you want to add the 12,000 homes at Wahiawa by Gentry
18 and the other 3500 in Royal Kunia, Launani Valley,
19 that's already we're over the limit that the public
20 decided on. We don't need these homes on these
21 Important Ag Lands. We have plenty of homes already
22 planned, zoned and ready to be built. Thank you.

23 CHAIRMAN LEZY: Parties, questions?
24 Commissioners, questions? Thank you, ma'am.

25 MR. SARUWATARI: Alfonso Oliver followed by

1 Phyllis Kacher.

2 CHAIRMAN LEZY: Good morning.

3 ALFONSO OLIVER,

4 being first duly sworn to tell the truth, was examined
5 and testified as follows:

6 THE WITNESS: Yes.

7 CHAIRMAN LEZY: Proceed.

8 THE WITNESS: Alfonso Oliver, 91-220
9 La'akona Place 'Ewa Beach, Hawai'i 96706. I just have
10 a short testimony. I just support Ho'opili Project.
11 I've lived in 'Ewa Beach over 20 years. I have a
12 daughter that just graduated. She's going to college.
13 She expressed to me one day she would like to buy a
14 home, live by us, have grandchildren that I can visit
15 that I don't have to go to the mainland to see them.

16 And I know Ho'opili has been a very well
17 sought out Project. I followed it from the beginning.
18 And I just support Ho'opili a hundred percent. And I
19 think that they're doing a great job of informing the
20 public. As I said I live in 'Ewa Beach. And the
21 community meetings that I've attended have been very
22 well planned and sought out. Thank you.

23 CHAIRMAN LEZY: Parties, questions?
24 Commissioners, questions? Thank you for your
25 testimony, sir.

1 THE WITNESS: Thank you.

2 CHAIRMAN LEZY:

3 MR. SARUWATARI: Phyllis Kacher followed by
4 Madori Rampungworn.

5 PHYLLIS KACHER

6 being first duly sworn to tell the truth, was examined
7 and testified as follows:

8 THE WITNESS: (Nodding)

9 CHAIRMAN LEZY: Please state your name,
10 address and proceed.

11 THE WITNESS: Phyllis Kacher, 3652 Hilo
12 Place, Honolulu, Hawai'i. My name is Phyllis Kacher.
13 Aloha, members of the Land Use Commission. I'm
14 testifying in favor of Ho'opili. I served as
15 president of the Waikele Community Association for
16 seven years and am here today to attest to the track
17 record of D.R. Horton.

18 D.R. Horton is the right developer for this
19 Project. From start to finish at Waikele they kept
20 their promises and always put people before profits.
21 Even when the recession hit and the sales were very,
22 very slow, Mike Jones and D.R. Horton-Schuler always
23 kept their promises and always acted with aloha.

24 When D.R. Horton-Schuler completed their
25 last home in Waikele the community looked absolutely

1 beautiful. They won a number of Outdoor Circle
2 awards, and awards from the ULI and a lot of other
3 prestigious organizations.

4 A lot of the children that grew group in a
5 D.R. Horton-Schuler home had bought another D.R.
6 Horton home again, attesting to the credibility and
7 the aloha of D.R. Horton.

8 After they finished the last home in
9 Waikele, after about, I think eight or nine years,
10 they left the Association in great financial shape.
11 We were able to reduce maintenance fees by over
12 30 percent. We had so much money that the reserved
13 specialist said we needed to spend it or we had to
14 give it back to the owners.

15 That's the type of track record that this
16 organization has. They always put the people before
17 profits. Even when it hurt their own company they did
18 what was right.

19 And in response to the previous person that
20 testified, these weren't ticky-tacky homes that they
21 built. These were \$80,000 homes but they were
22 two-bedroom one and-a-half town homes, Cape Cod
23 architecture absolutely beautiful. A lot of the homes
24 had yards. And 20 years later after people lived in
25 those homes they we able to sell them from 80,000 to

1 300,000 now.

2 I understand the concerns raised by some of
3 the opponents regarding the loss of farmland. As I've
4 testified before, my parents and grandparents were all
5 farmers. And I understand some of the concerns. But
6 D.R. Horton-Schuler has a 40-year track record of
7 success and to meet their promises.

8 MR. SARUWATARI: Could you wrap up your
9 testimony, please.

10 THE WITNESS: I very respectfully ask that
11 you please have the courage and vision to approve
12 Ho'opili. Thank you very much.

13 CHAIRMAN LEZY: Parties, questions?
14 Commissioners, questions? Thank you.

15 MR. SARUWATARI: Madori Rumpungworn
16 followed by Georgette Stevens.

17 CHAIRMAN LEZY: Good morning.

18 MADORI RUMPUNGWORN
19 being first duly sworn to tell the truth, was examined
20 and testified as follows:

21 THE WITNESS: Yes.

22 CHAIRMAN LEZY: Please state your name,
23 your address and proceed.

24 THE WITNESS: And what? My name, address
25 and what else? Oh...

1 CHAIRMAN LEZY: Your name and address.

2 THE WITNESS: Oh. I didn't hear you. My
3 name is Madori Rumpungworn. That's
4 R-U-M-P-U-N-G-W-O-R-N. And I live in Aiea, 98-114
5 L-i-p-o-a Place Aiea. I was, ah, I was born into an
6 orphanage and foster care in California. I was sent
7 out here 17 years ago for continuing the foster care
8 and traditional housing.

9 So I kinda didn't really have, like, anyone
10 to kind of look up to 'cause it was always so packed
11 and stuff like that. And so -- and I think of myself
12 as an observer who kind of watch people and, like,
13 let the people be the example for me because I don't
14 have anyone else to kind of, like, lead me the way.

15 So looking around I see a lot of good
16 people in here. I really do appreciate everyone's
17 mana'o, everyone's kuleana to be here and try to do
18 the right thing. But I see so many, all my friends
19 living in 'Ewa Beach for about 15 years there's a lot
20 of foreclosed houses in there. I wonder how many
21 foreclosed houses are in 'Ewa Beach alone.

22 We talk about we need housing for these
23 people and jobs for these people too, but there's so
24 many empty space here. And it's not so much even with
25 food security you see all these people on the

1 roadside. It's not that we don't have enough food to
2 feed them or enough space to put the shelter for them,
3 but more so because we don't have enough money to do
4 it.

5 We use so much of our time to make this
6 money to make these profits. Then in the end we have
7 so much stuff, we have so many things that we don't
8 even know what to do with. So I guess I'm here to ask
9 you not only what does your future look like and what
10 does it look like to those around us, but a little bit
11 about -- I mean is it as green as the grass or is it
12 as white as these walls?

13 I'm here to ask you how come we only talk
14 about housing when we have so much space left? I mean
15 why don't we just fill up the spaces in there? Is my
16 time running out? Okay. You gave me that look so....
17 (audience laughter) I know that look. I get it a
18 lot. Sorry. I'll finish up.

19 "We have bigger houses but smaller
20 families; more conveniences, but less time.

21 "We have more degrees but less sense; more
22 knowledge, but less judgment; more experts, but more
23 problems; more medicines but less healthiness.

24 "We have been all the way to the moon and
25 back, but have trouble crossing the street to meet our

1 new neighbor.

2 "We built more computers to hold more
3 information to produce more copies than ever, but have
4 less communication.

5 "We have become long on quantity but short
6 on quality.

7 "These are times of fast food but slow
8 digestion; tall men, but short characters; steep
9 profit but shallow relationships.

10 "It's a time when there's much in the
11 window but nothing in the room."

12 That's Paradox Voyage by the 14th Dalai
13 Lama. Thank you.

14 CHAIRMAN LEZY: Parties, questions?
15 Commissioners, questions. Thank you for your
16 testimony. We'll take a short break now. Thank you.
17 We'll take a short break for our court reporter.
18 Thank you for your testimony.

19 (Recess was held. 10:50-11:10)

20 (Gavel.)

21 MR. SARUWATARI: Georgette Stevens followed
22 by Vern Ta'a.

23 GEORGETTE STEVENS
24 being first duly sworn to tell the truth, was examined
25 and testified as follows:

1 THE WITNESS: Yes.

2 CHAIRMAN LEZY: Please state your name,
3 your address and proceed.

4 THE WITNESS: Georgette Stevens, P. O. Box
5 75414 Kapolei. Aloha, Members of the Land Use
6 Commission. I'm here to support D.R. Horton's
7 Ho'opili community in East Kapolei. I've been a
8 member of the Ho'opili Task Force since its inception.
9 And the reality is that it's been way too long a wait
10 to get this Project started.

11 My daughter was three years old when we
12 first started and now she's nine. We need Ho'opili to
13 get started and now. First of all, I want to thank
14 you for the time and consideration you've put into
15 this process. Listening to many passionate people on
16 both sides and then having to make the decision either
17 way, as I'm sure not an easy task.

18 I have come before you many times and
19 you've heard my pleas. But today I'm here to tell you
20 about our Task Force committee. We have approximately
21 30 people that participate on the committee and they
22 represent the communities of Kapolei, Waipahu, and
23 'Ewa Beach.

24 In the beginning we met on a monthly basis.
25 We were given the opportunity to share what we would

1 like Ho'opili to be throughout a charrette process.
2 We learned a lot about the varying styles of housing
3 development like Smart communities and
4 Transit-Oriented Development.

5 They provided professional people from
6 Hawai'i and abroad to help us to understand many
7 processes including permitting.

8 We are now equipped to be better
9 decision-makers in the residential development
10 process. We want Ho'opili in our community because it
11 provides a place where we can come together, which is
12 what "Ho'opili" means "coming together".

13 This is where we can fellowship with our
14 neighbors and build a strong community especially with
15 the growth of UH West O'ahu, and the upcoming public
16 schools' plan surrounding D.R. Horton's development.

17 We already have a church, the Salvation
18 Army's Kroc Center and the DeBartolo shopping center,
19 it's on its way. Let us not forget the rail is being
20 built as we speak. So with all of this we need homes.
21 Please approve D.R. Horton's request. Mahalo.

22 CHAIRMAN LEZY: Parties, questions?
23 Commissioners? Thank you for your testimony.

24 MR. SARUWATARI: Vern Ta'a followed by
25 D'Angelo McIntyre.

1 VERNON TA'A

2 being first duly sworn to tell the truth, was examined
3 and testified as follows:

4 THE WITNESS: I do.

5 CHAIRMAN LEZY: Please state your name,
6 your address and proceed.

7 THE WITNESS: Vernon Ta'a, 91-1028
8 Keali'iahonui Street, Kapolei, Hawaiian Homes. I'm a
9 retired member of the Plumbers and Fitters Union 675.
10 It's pretty obvious why a lot of us are here. What
11 may not be obvious is the basic principle which I
12 follow. And I belong to an organization that follows
13 the same principle. And that is we believe that
14 plants and animals were created for man and not the
15 other way around.

16 My great grandfather -- I'm a Native
17 Hawaiian -- my great grandfather built the first poi
18 factory out in La'ie changed the whole lifestyle of
19 all the people in La'ie. Each family in La'ie had
20 their own taro patch. And it was hard to pound the
21 poi ever day to eat the poi that we like. When my
22 great-grandfather built the poi factory it changed the
23 lifestyle.

24 Today when Brigham Young University moved
25 into La'ie, all the campus that is close to the temple

1 was all taro patch and sugarcane fields to the left.

2 There are no taro patches anymore.

3 Things change. They change because
4 everybody's here. We have been adjusting for over
5 hundreds and hundreds of years as Native Hawaiians,
6 and we're still changing.

7 It's a treat for me to get a bag of poi.
8 Sometimes I feel like my kids can't afford to be
9 Hawaiian anymore. But I enjoy poi. It doesn't taste
10 as good as when my grandfather made it but I still
11 enjoy it on occasion today. My favorite now is garlic
12 mashed potato. My grand kids love macaroni and
13 cheese. That's what they're raised on. We have to
14 adjust.

15 People are the basic principle of why we
16 work in the unions too. I appreciate D.R. Horton for
17 putting on the demonstration they had last week. I
18 participated in it. It was one lady who said that
19 nothing can grow in the backyards in Hawaiian Homes
20 because they took the dirt away. She has my address.
21 Come to my house. I'll show you the banana trees,
22 the sweet potato, the taro, the lettuce and all the
23 other stuff that I grow in my backyard in Hawaiian
24 Homes.

25 Please, please accept the premise, the

1 principle, basic principle, common sense principle:
2 People are more important than plants and animals.
3 Thank you.

4 CHAIRMAN LEZY: Parties, questions?
5 Commissioners, questions? Thank you for your
6 testimony, sir.

7 MR. SARUWATARI: D'Angelo McIntyre followed
8 by Scott Cuney.

9 D'ANGELO MCINTYRE
10 being first duly sworn to tell the truth, was examined
11 and testified as follows:

12 THE WITNESS: Yes.

13 CHAIRMAN LEZY: Please state your name,
14 your address and go ahead.

15 THE WITNESS: My name is D'Angelo McIntyre.
16 And I live 91-1010 Makaloa Street, apartment B.
17 That's in 'Ewa Beach, Hawai'i. I first wanted to
18 start off my testimony with an apology for some
19 profane language that I used the last time with an
20 older lady. And I really apologize for that. And I
21 hope you guys can forgive me. And if she is in here:
22 "I am sorry."

23 With that being said, when the atmosphere
24 in the Hawaiian Islands air space is unstable it can
25 produce a thunderstorm in normal conditions on the

1 island. But lately we have been seeing a phenomenon
2 known as urban heat island, to be referred here as UHI
3 take affect. UHI is a metropolitan area which is
4 significantly warmer than its surrounding rural areas.

5 It goes like this: A thunderstorm is
6 approaching. Storms feed off heat to be powered. It
7 comes into contact with a source of immense heat like
8 an urban concrete jungle and the storm becomes super
9 charged.

10 We have tons of stored extra heat from
11 asphalt, glass and concrete all over the island which
12 do not radiate heat back into the atmosphere as fast
13 as the natural vegetation it replaced. Rather, it
14 holds it in much longer. Thus, at night when land
15 usually radiates heat back into the sky, the UHI is
16 holding it in just as little longer.

17 The weather we've experienced in recent
18 years has been reflecting these effects. On Friday
19 the 9th of March 2012 a tornado touched down in what
20 was called unprecedented wacky weather on the windward
21 side of all islands. Hail stones, some 2 inches in
22 diameter fell on Kaneohe. Residents in the area from
23 Kaneohe to Waimanalo had never witnessed weather as
24 severe as that.

25 The frequent cloud-to-ground lightning and

1 the hails and the tornadoes is not, are not normal
2 O'ahu weather. Even though that same storm hit other
3 islands first such as Moloka'i and Maui first, it
4 became significantly more intense when it encountered
5 O'ahu's air space.

6 It is the addition of all the extra
7 concrete, glass and metal giving off more heat than
8 the natural land it replaces is causing, in my eyes,
9 more frequent and unusual makahiki weather.

10 Have you ever had to -- have you ever
11 walked barefoot on the sidewalk and had to jump into
12 the grass to keep from burning your feet? What I'm
13 getting at is Ho'opili would just be one more source
14 in a sea of urban development that's already fueling
15 the violent weather here on O'ahu.

16 MR. SARUWATARI: Could you wrap it up
17 please?

18 THE WITNESS: Yes, yes. And lastly,
19 Ho'opili is entirely too close to Schofield to not be
20 occupied by military personnel. It would be foolish
21 to think that a subdivision of almost 12,000 homes
22 that sits in between Schofield and Pearl Harbor would
23 not welcome and host hundreds of military, not local
24 families.

25 For every tree is known by its fruit for

1 men do not gather figs from thorns, nor do they gather
2 grapes from a bramble bush. Please think about this
3 before you make your decision and vote no on Ho'opili.
4 Thank you.

5 CHAIRMAN LEZY: Parties, questions?
6 Commissioners, questions? Thank you for your
7 testimony, sir.

8 MR. SARUWATARI: Scott Cuney followed by
9 Pat Patterson.

10 SCOTT CUNEY
11 being first duly sworn to tell the truth, was examined
12 and testified as follows:

13 THE WITNESS: I do.

14 CHAIRMAN LEZY: State your name, your
15 address and proceed.

16 THE WITNESS: Thank you to the Commission.
17 Thanks to all interested parties. I think we are all
18 united in what's best for Hawai'i. And I appreciate
19 the viewpoints of everyone in the room. We all have
20 parts to play in Hawai'i's future. I'm a business
21 consultant. I've worked --

22 CHAIRMAN LEZY: Can you state your name?

23 THE WITNESS: Important detail. My name is
24 Scott Cuney. I live at 3731 Kana'aina Avenue in
25 Honolulu.

1 CHAIRMAN LEZY: Thank you.

2 THE WITNESS: I'm a business consultant and
3 worked for Wal-Mart, GE, NBC, Universal, Proctor &
4 Gamble, Johnson & Johnson, investors in Eastman
5 Chemical, large Fortune 500 companies. They're all
6 looking to the long-term vision.

7 And now I teach at the University of
8 Hawai'i at Manoa in the Business School. I teach in
9 the MBA program. And what I'm here to testify about
10 is the long-term economics of Ho'opili.

11 What we're looking at is short-term job
12 development. There will be some good jobs for a short
13 period of time. In the long run we have more strip
14 malls, more McDonald's, more franchises, and more of
15 our money leaving the state. When more of our money
16 leaves the state we have less jobs. That is just the
17 truth.

18 Governor Abercrombie likes to say that our
19 number one expert is cash. And it is because we keep
20 exporting all of our cash for the 90 percent of energy
21 that we import and the 90 percent of food that we
22 import. That doesn't create jobs for Hawai'i. That
23 creates jobs elsewhere. We need jobs here. We need
24 long-term jobs, not short-term jobs.

25 So I hope whatever is being paid to the

1 laborers for the next year and-a-half that they're
2 developing D.R. Horton Homes is enough to set you up
3 for retirement because after that you'll probably be
4 looking for a new job. Thank you.

5 CHAIRMAN LEZY: Parties, questions?
6 Commissions, questions? Thank you.

7 MR. SARUWATARI: Pat Patterson followed by
8 Jesse Ponce de Leon.

9 PAT PATTERSON
10 being first duly sworn to tell the truth, was examined
11 and testified as follows:

12 THE WITNESS: I do.

13 CHAIRMAN LEZY: Please state your name,
14 your address and proceed.

15 THE WITNESS: I am Patricia Patterson
16 usually known as Pat. And I live at Makaha Valley
17 Plantation. Thank you for allowing me to be here this
18 morning to share. I also bring greetings from Alice
19 Greenwood who is the director of our Concerned Elders
20 of Wai'anae.

21 I'm against developing the Ho'opili
22 Project. We need all the agricultural land possible
23 to grow our good food now and into the future. We
24 also need ag land for all the young farmers we are
25 growing.

1 At Mr. G.G. Ho'o's 'Aina o Makaha where the
2 science projects of the students at Makaha Elementary
3 School are carried out, at Ka'ahumanu where young
4 people come from the mainland and learn how to farm as
5 well as some of our local youngsters, and at the
6 well-known Ma'o Farms who are growing farms.

7 They also are enrolled in Leeward Community
8 College Waianae. So we do need land for farmers as
9 well as for food.

10 But especially what I want to ask you is:
11 Why do we want to pave over that particular piece of
12 land? It's unique. Do you know you can grow four
13 seasons of crops on that land? And we don't want to
14 let that go. Please. Mahalo.

15 CHAIRMAN LEZY: Parties, questions?
16 Commissioners, questions? Thank you, ma'am.

17 MR. SARUWATARI: Jesse Ponce de Leon
18 followed by Alice Fisher.

19 JESSE PONCE de LEON
20 being first duly sworn to tell the truth, was examined
21 and testified as follows:

22 THE WITNESS: I do.

23 CHAIRMAN LEZY: Please state your name,
24 your address and proceed.

25 THE WITNESS: My name is Jesse Ponce de

1 Leon. I'm at 1541 Kalakaua Avenue, Honolulu. Number
2 one I want to congratulate and thank everybody here
3 and the Commission for I'm sure their diligent effort
4 of trying to make an honest resolve.

5 I may not agree with some of you, but I
6 want to thank you anyway. We hope that all of you
7 folks that are on the Commission that truly believe
8 that the decisions that you make are for the
9 community.

10 It's very difficult when people, the
11 economy, of course, this is military base and the
12 second is supposedly tourism. And now because of the
13 economics here we have our beaches at Waikiki full of
14 staphylococcus, MRSA.

15 We have -- five years ago when I filmed
16 Walter Ritte People's House, the capital, and
17 complaining about the GMOs and where our farms were
18 going, it just -- that's five years ago.

19 Now we're continuing this effort trying to
20 bring to the forefront. Is this sustainable, this
21 continued construction and construction and we can't
22 go back and fix the infrastructure? I remember when
23 UH was having trouble fixing their toilets. But we
24 now have a chancellor that's 440,000 a year.

25 So, again, I hope that all of you really

1 look at this for the betterment of the 'aina, for
2 food, for sustainability and really for our own
3 well-being because we need to take life a lot more
4 serious now and cut back on all of these type of
5 expenses that we don't need.

6 So please keep that in mind. Again, thank
7 you again for everything that you're trying to do.
8 Mahalo.

9 CHAIRMAN LEZY: Parties, questions?
10 Commissioners, questions? Thank you, sir.

11 MR. SARUWATARI: Alice Fisher followed by
12 Cynthia Frith.

13 ALICE FISHER
14 being first duly sworn to tell the truth, was examined
15 and testified as follows:

16 THE WITNESS: I certainly do.

17 CHAIRMAN LEZY: Thank you. State your
18 name, your address and proceed.

19 THE WITNESS: My name is Alice D. Fisher.
20 And I live at 4300 Waialae Avenue in Honolulu. And
21 I'm here in opposition to the D.R. Horton request.

22 Our appearance on the earth occurred
23 because the one celled organisms from which we are
24 descended, have oxygen and water as well as the other
25 component which is food, which enable the formation of

1 the animal species.

2 In view of this, please note that the O'ahu
3 water table has been falling, according to the
4 scientific investigations, for many years. I think
5 it's 1916 that it started. I have had that just from
6 memory. And this will be made worse by such buildings
7 as are proposed for Ho'opili because it uses the water
8 up. It doesn't provide more water in any way, and the
9 water is not useful.

10 Most, maybe there's a little peripheral
11 farming but most of it will be used for toilets and
12 baths, cooking and drinking and maybe water watering
13 lawn.

14 And then the other component of this is
15 oxygen. And it is really not farfetched at all to
16 point out that our oxygen is being depleted by burning
17 fossil fuels.

18 In fact, some of us wonder why scientists
19 aren't rioting in the street and pointing out that the
20 human race may run out of oxygen. It sounds
21 cataclysmic. And it would be.

22 But we, at some point people also point out
23 that the tipping point has occurred in the burning and
24 the excess of fossil fuel. It's going to become more
25 and more dangerous to burn it as the oxygen gets used

1 up. And there's more to this than I possibly can go
2 in.

3 And you've been extremely patient. And I
4 know I'm talking in much broader terms than just
5 wishing that your grandchildren would have houses to
6 live in. But this is really what lies ahead.

7 And as I said I think maybe the scientists
8 aren't rioting because of two factors: And one is
9 they think nobody will believe them. And the other is
10 because sometimes we kill the messengers. And
11 Galileo, after all, was on house arrest the last eight
12 years of his life.

13 I know this sounds strange and peculiar
14 compared to all of this other. But this is what I'm
15 worried about. I'm afraid my great grandchildren will
16 die. Thank you.

17 CHAIRMAN LEZY: Parties, questions?
18 Commissioners, questions? Thank you for your
19 testimony, ma'am.

20 MR. SARUWATARI: Cynthia Frith followed by
21 Lucas Miller.

22 CHAIRMAN LEZY: Morning.

23 THE WITNESS: Morning.

24 CYNTHIA FRITH
25 being first duly sworn to tell the truth, was examined

1 and testified as follows:

2 THE WITNESS: I do.

3 CHAIRMAN LEZY: Please state your name,
4 your and address and proceed.

5 THE WITNESS: Okay. My name is Cynthia
6 Frith. And I live at 42-128 Ka Uka Place in Kailua,
7 96734. I'm here to talk about what we say and what we
8 actually do because they're often two very different
9 events. Take, for example, our State Constitution
10 which clearly promotes not only the virtues but the
11 sheer necessity of perpetuating productive farmlands
12 for future generations.

13 The words like "green", "sustainability",
14 and "retention for our keiki" are phrases and thoughts
15 bandied about not only by our elected officials but
16 those appointed to assume a stewardship role in this
17 process.

18 Then reality sets in, the reality of very
19 valuable land legally owned by an experienced
20 developer who *must* get the zoning changed on this
21 currently productive prime ag land to urban so that a
22 master plan, a plan that was created many years ago
23 and set into motion, supposedly this will halt
24 development in other parts of O'ahu which I suggest is
25 total nonsense.

1 Developers make their money by developing.
2 And the incentive for ever-creeping sprawl is built
3 into the political system. Only the LUC has the
4 ability and hopefully the foresight and tenacity to
5 choose this prime farmland over the tempting but
6 overreaching goals of D.R. Horton.

7 We don't need to sacrifice this land to the
8 developer gods. Thousands of homes are already in the
9 pipeline. We know infrastructure will be stretched
10 beyond capacity no matter what D.R. Horton advances as
11 this garden community. Thank you very much.

12 CHAIRMAN LEZY: Parties, questions?
13 Commissioner, questions? Thank you, ma'am.

14 MR. SARUWATARI: Lucas Miller followed by
15 Elaine Kam.

16 THE WITNESS: Aloha.

17 CHAIRMAN LEZY: Aloha.

18 LUCAS MILLER
19 being first duly sworn to tell the truth, was examined
20 and testified as follows:

21 THE WITNESS: Yes.

22 CHAIRMAN LEZY: Please state your name,
23 your address and proceed.

24 THE WITNESS: My name is Lucas Miller. My
25 address is P. O. Box 2306 Honolulu, Hawai'i 96828. I

1 moved to O'ahu in 2005 at which point I really got my
2 life on track and started studying education. And
3 have been in this field for four or five years now.

4 I teach environmental awareness primarily.
5 Over the summer I'm going to be teaching an ag
6 training course in Waimanalo. The objective is to
7 train people in self-sufficiency practices of
8 sustainability, to be able to care for themselves and
9 not be dependent on outside entities.

10 I'm concerned that there's not going to be
11 any places for them to grow food to farm in the
12 future. And why bother learning to take of ourselves
13 if everything's paved over to the point where we *have*
14 to import 90 some odd percent of our food? We *have* to
15 be the number one generator of trash in the world.

16 Thank you for being here, doing what you
17 do, and taking so much time to really consider the
18 effect of the continuing pattern of development. Hope
19 you make the right decision. Mahalo.

20 CHAIRMAN LEZY: Parties, questions?
21 Commissioners? Thank you for your testimony.

22 MR. SARUWATARI: Elaine Kam.

23 CHAIRMAN LEZY: Good morning, ma'am.

24 ELAINE KAM

25 being first duly sworn to tell the truth, was examined

1 and testified as follows:

2 THE WITNESS: Yes.

3 CHAIRMAN LEZY: Please state your name,
4 your address and proceed.

5 THE WITNESS: My name is Elaine Kam. And
6 my box number is P. O. Box 10102 Honolulu, 96816. I
7 firmly oppose Ho'opili. I do have two grandchildren
8 that I'm considering their future's about and other
9 people who need to eat.

10 If you ever experienced food insecurity,
11 many of us have not, and I would like to give you a
12 little idea what it's like to have that insecurity or
13 famine. We could last probably for three to five
14 weeks when we are in the starvation mode.

15 And then what happens is we have
16 malnutrition, epidemics and then death. Okay. That's
17 kind of morbid, isn't it? And I've gotten this from
18 Mosher, Steven Mosher's book, "A Mother's Ordeal. One
19 Woman's Fight Against China's One Child Policy."

20 Some of the things that happened in their
21 place of famine was this mother -- they didn't have --
22 they ran out of their rations. And her two children
23 were asked not to move at all because the more you
24 move the more food you would need.

25 Later, when they ran out of food, she asked

1 them to go out and pick these branches from the Poplar
2 trees. The leaves were used and soaked and made into
3 pancakes. The beggars outside, when they saw an
4 opening, they would steal their pancakes and eat it.
5 The thing is although the pancakes were, smelt good,
6 the acid ate up their intestines. But still they
7 continued to do it because there was nothing else to
8 eat.

9 Another example is the village. They ran
10 out of food to even feed their livestock, their pigs,
11 for instance. And so what they would do is they would
12 have the pigs come in as -- this is gross I know --
13 and as they were moving their bowels the pigs were
14 there and trying to find and get the first amount of
15 their BMs to eat.

16 That's how they, the pigs were fed. Later
17 on, because they had nothing else to do, they had to
18 kill the pigs to eat that.

19 And the third example has to do with
20 cannibalism. When you're in a starvation mode,
21 sometimes when your two or three-year-old cries and
22 cries in hunger, this couple, the woman couldn't stand
23 it any longer and she strangled her little youngster,
24 her little girl. And maybe she was trying to put it
25 out from her starvation.

1 MR. SARUWATARI: Please wrap it, please.

2 THE WITNESS: Yes. She gave her baby to
3 the husband. And he, in his distraught mode, put it
4 in this pot of water that they had all kinds of things
5 that they had foraged in the forest and he made his
6 wife eat it. And she felt so bad that she reported
7 him to the authorities. And in China it's very bad to
8 do that. So they executed both of them.

9 Anyway, thank you for your time. I
10 strongly oppose and hope that you will oppose
11 Ho'opili.

12 CHAIRMAN LEZY: Parties, questions?
13 Commissioners, questions? Thank you for your
14 testimony, ma'am.

15 MR. SARUWATARI: Is there a Ricky Cassidy
16 here or a Larry Hahn? (no responses)

17 CHAIRMAN LEZY: That's the end of the
18 signed up public witnesses. Is there anyone else in
19 the audience who wishes to provide public testimony?
20 I'd ask anybody who wishes to provide public testimony
21 to step forward now, please. Morning.

22 ANTONY ALTO
23 being first duly sworn to tell the truth, was examined
24 and testified as follows:

25 THE WITNESS: Yes.

1 CHAIRMAN LEZY: Please state your name,
2 your address and proceed.

3 THE WITNESS: My name is Antony Alto, 3946
4 Lurline Drive, Honolulu. I hadn't planned to testify
5 today and I apologize. I suspect when you got to the
6 end of your list you might have thought, "Thank God
7 we're out of here."

8 As a volunteer I'm Chair of the O'ahu group
9 of the Sierra Club. This is the third time I've
10 testified before you. And every time I start off with
11 a fairly lengthy "thank you". And it's not just to
12 suck up, although I can understand why you might think
13 that.

14 I actually approached nearly two dozen
15 people asking them to put their names forth for
16 consideration by the governor to be members of this
17 Commission. Not one of them agreed to do it. They
18 all said, "It's just too much work. It takes up too
19 much time." So I am, from the bottom of my heart, I
20 really do thank you. It's a thankless task.

21 The reason I decided to testify today is I
22 suspect this may be the last chance for public
23 testimony on this issue. And what I wanted to say --

24 CHAIRMAN LEZY: Let me just tell you no,
25 that's not the fact.

1 THE WITNESS: You want me to stop?

2 (audience laughter)

3 CHAIRMAN LEZY: I just don't want there to
4 be any confusion.

5 THE WITNESS: I got wrong advice from my
6 attorney. What can I say? I think the difficulty you
7 guys have is you have these competing interests which
8 are both very strong and have, they have very strong
9 arguments on their sides.

10 It's hard to sit in this room and to see
11 these many people, these many gentlemen in their brown
12 shirts and realize that a lot of them, most of them
13 probably are without work. I know that 50 percent of
14 the Carpenters Union don't have jobs. We've also
15 heard very compelling testimony from people who say
16 that they're afraid their kids and their grandkids
17 won't have anywhere to live.

18 The issue of jobs and housing is a crucial
19 issue. And it's one of the issues that you are
20 required to consider when you look at this Petition.

21 And yet on the other hand, you would have
22 to be blind not to see the desperate need for food
23 growing farmland. We only grow 8 percent of our food
24 now. And the damage that's been done to the island by
25 suburban sprawl and how if we urbanize this piece we

1 will have a single connovation from Hawai'i Kai to
2 Barbers Point. And there *will* be no Second City.
3 We'll all live in a place called Greater Honolulu.
4 Maybe it will be called Lesser Honolulu because
5 there'll be no individual communities. We'll have
6 lost something.

7 So at the Sierra Club what we say is the
8 solution to that is to grow taller and denser to make
9 the city more City. To make Kapolei more of a real
10 city because at the moment it's not a city. If I tell
11 my friends, "I'm going to go out for a night on the
12 town in downtown Kapolei," they laugh at me. There is
13 no downtown Kapolei.

14 If I say to them, "I'm going shopping in
15 the Second City," they say, "What are you talking
16 about? Kapolei is a strip mall." It's a pretty strip
17 mall with palm trees and grass medians. But it's a
18 strip mall.

19 So what we say -- the other thing we say is
20 we get the need for housing. The people who are on
21 our side who have testified today say: Well, there
22 are already 50,000 houses that are zoned and entitled.

23 It's true. But the experts at the city
24 tell us we actually need a hundred thousand homes by
25 the year 2030. So we're still short of some. And

1 we're desperately short of affordable housing.

2 So I don't go to meetings and say: We
3 should stop development. I don't say -- I don't stop
4 at saying "stop Ho'opili". I say we need the homes
5 that D.R. Horton wants to build. I'm not
6 anti-development. And I get the need for D.R. Horton
7 to make a profit. It has a bottom line. That's their
8 job. What we say is build taller and denser.

9 So the last point I'd like to make is I
10 actually think that by denying this Petition you can
11 push us in the direction of what might ultimately be a
12 win/win/win.

13 Because we at the Sierra Club stand ready
14 to negotiate with D.R. Horton, with the governor's
15 office to find somewhere else to put this development.
16 We recognize the need for homes. We recognize the
17 need to create jobs for these people who are sitting
18 in this room.

19 If you say "no" that doesn't mean that
20 these homes won't get built. It doesn't mean that
21 these jobs won't be created. What it will say is,
22 "D.R. Horton, sit down with these people, find a way
23 to put this land, the most productive land in the
24 state, permanently into food farming but you don't
25 have to walk away. You don't have to leave Hawai'i

1 having made a huge loss by doing that." That's not
2 their job. They're not a charity.

3 By doing that you will then encourage them
4 to come and sit at the table with us and with the
5 governor's office and find somewhere else. The state
6 has all kinds of developments it needs. The state is
7 not in the business of building. The state needs to
8 find private developers. 690 Pohukaina, a 600-story
9 (sic) tower in Kaka'ako.

10 MR. SARUWATARI: Would you wrap it up.

11 THE WITNESS: Yeah, I'm wrapping it up.
12 690 Pohukaina a 600-foot tower in Kaka'ako is not
13 being built by the state. There's an RFP out there at
14 the moment looking for developers to build that. We
15 would be very happy to work with Horton to say: Let's
16 see if we can get you to be the developer of something
17 like that so that you can make your profits and create
18 the construction jobs and preserve Ho'opili. Thank
19 you.

20 CHAIRMAN LEZY: Parties, questions?

21 MR. SEITZ: I have a couple.

22 CHAIRMAN LEZY: Mr. Seitz.

23 MR. SEITZ: Are you aware that some of
24 those discussions about building this Project
25 elsewhere have, in fact, already occurred with the

1 governor's office, that Senator Hee has brought those
2 issues to the governor's office?

3 THE WITNESS: Senator Hee hasn't told me so
4 himself, but I have heard via the grape vine, yes.

5 MR. SEITZ: Are you aware that D.R. Horton
6 has already been invited to consider those
7 alternatives?

8 THE WITNESS: I don't know that for a fact,
9 but I understand, I've heard that there was an offer
10 made, yeah.

11 MR. SEITZ: Thank you.

12 CHAIRMAN LEZY: Commissioners, questions?
13 Thank you for your testimony.

14 THE WITNESS: Thank you.

15 MR. SARUWATARI: Dennis Egge followed by
16 Esther Roberts.

17 CHAIRMAN LEZY: Good morning.

18 DENNIS EGGE
19 being first duly sworn to tell the truth, was examined
20 and testified as follows:

21 THE WITNESS: I do.

22 CHAIRMAN LEZY: Please state your name,
23 your address, proceed.

24 THE WITNESS: I'm Dennis Egge. I live at
25 2920 Ala Ilima Street in Salt Lake area where there

1 aren't any farms but there's a golf course.

2 I can't add too much to what the Sierra
3 Club just said preceding me. But I do thank you folks
4 for taking on this thankless job of deciding, making a
5 decision between food and housing. It's difficult.

6 In my opinion, Horton Ho'opili development
7 represents \$30 million dollars per year in property
8 taxes and is a step towards total dependency on
9 imported food for us. That's not a good thing. The
10 property taxes -- I notice the mayor's not here but I
11 think his DPP is here. So that's one issue.

12 After these 1500 acres of Ho'opili is gone
13 about all that will be left of our agriculture
14 industry on O'ahu is boutique farming and gardening.
15 That's about it.

16 I urge you to consider encouraging Horton
17 to look right across the highway, which has already
18 been done, we know that, 25,000 acres mauka of H-1
19 between exit 3 and 5 growing weeds.

20 In Korea that's a valuable property. They
21 eat weeds in Korea, so we've been told. I'm not sure
22 that's true. I've never been there. But if Horton
23 were to focus its efforts and energies and resources
24 on this less valuable farmland I think the 12,000
25 houses could go in just as easily. People that live

1 in Makakilo, they know that it doesn't have to be flat
2 farmland for a house.

3 Now, to the issue of the jobs. How much of
4 a backlog do we need to ensure that every carpenter on
5 this island has a job? It's been testified here today
6 that we've got over 30,000 permits waiting to be built
7 right in the 'Ewa Plain.

8 Interesting that we want to add 12,000 more
9 on the most productive farmland in the county if not
10 in the state, and the gateway to the new UH campus
11 with a railroad taking us from downtown Ala Moana
12 Center directly out here. I think there's some other
13 again, this year.

14 As just a common, ordinary
15 live-below-the-invisible-ceiling citizen we don't have
16 access to this unless we read the paper very carefully
17 every day. And then we're not going to get it all.

18 I know you folks have more information just
19 because you've been dealing with this issue for so
20 many years. And I urge you to call it to an end.
21 Horton has options. Save the farmland. Make the
22 green lands stay green and the rocky land they can
23 build all the houses they want on it. And thank you
24 very much for allowing me to say what I have to say
25 today.

1 CHAIRMAN LEZY: Parties, questions
2 Commissioners? Thank you for your testimony.

3 MR. SARUWATARI: Esther Roberts followed by
4 Kahu Manu Mook.

5 ESTHER ROBERTS
6 being first duly sworn to tell the truth, was examined
7 and testified as follows:

8 THE WITNESS: I do.

9 CHAIRMAN LEZY: Please state your name,
10 your address and proceed.

11 THE WITNESS: My name is Esther Roberts. I
12 live at 7012 Hawai'i Kai Drive, unit 704 in Honolulu,
13 96825. I'm attorney at Case Lombardi & Pettit. And
14 our firm does work for Horton. We have for a very
15 long time. But I'm here to speak from a personal
16 viewpoint and about the dream of owning your own home.

17 My first home was a D.R. Horton-Schuler
18 home. And I moved back here from the mainland with a
19 daughter and looking for a place to live out in East
20 Honolulu. The only place where we could find an
21 option that was affordable was at a community called
22 Nanea Kai in Hawai'i Kai.

23 I have three children now. I live in
24 another D.R. Horton-Schuler home. And I want to just
25 convey that D.R. Horton cares about people, not

1 profits but people.

2 My experience, soup to nuts, in buying a
3 home first and second time, was that they're about
4 quality development and they're about responsible
5 development. I want my children to have an affordable
6 home. And I want that home to be in Ho'opili. So I
7 urge you to look to their vision and have the courage
8 to support the Petition. Thank you.

9 CHAIRMAN LEZY: Parties, questions?
10 Commissioners? No. Thank you for your testimony.

11 MR. SARUWATARI: Kahu Manu Mook followed by
12 Rickey Tyg.

13 KAHU MANU MOOK
14 being first duly sworn to tell the truth, was examined
15 and testified as follows:

16 THE WITNESS: Yes.

17 CHAIRMAN LEZY: Please state your name,
18 your address and proceed.

19 THE WITNESS: Aloha. My name is Kahu Manu
20 Mook. I reside at 2029 Ala Wai Boulevard, Honolulu,
21 Hawai'i 98815. I'm a kanaka ma'oli like all of us in
22 our hearts are. Thank you, Commissioners, for being
23 here, our lawyers, our leaders of our communities,
24 our union leaders and all my brothers and sisters out
25 there in the union.

1 I'm here from my heart. The purpose we all
2 here -- we have a purpose. The purpose is do what is
3 right. If something is good, continue. If it's
4 broken you fix it. But if it's good for future and
5 for the benefit of all of us, continue our kupuna,
6 ancestors, would say that.

7 And to my union brothers and to D.R. Horton
8 and his representatives forgive me for saying harsh
9 words, and I pass that back to all our representatives
10 and staff. This is from the business article in
11 Business Week and it says, "Watch out, Union. In Iowa
12 D.R. Horton did not comply with their warranty
13 agreement on a project. D.R. Horton was sued. Then
14 D.R. Horton blamed the contractors, the union." So
15 they say "Watch out, Union." That's from Business
16 Week.

17 I commend the governor and the mayor for
18 putting their feet forward this past week saying we
19 must take our sewers, our roads, and everything. I
20 also now commend D.R. Horton. They can put their
21 energy and strength to get the contract for all of
22 this, to get the contract for all the houses, fixing,
23 remodeling, painting all the houses and all the hotels
24 in the islands.

25 And that all of my union brothers and

1 sisters in jobs even in the hotel industry but keep
2 our 'aina green. Where it's good, leave 'em green.
3 There's many more places to go live going be more
4 affordable one day when we get our Hawaiian Nation
5 back. So just be patient and wait and good things
6 going happen 'cause we have a good president.

7 We have good leaders, but we have to work
8 with our politicians, educate them 'cause they
9 educated us to be where we are, to represent your
10 family for the future, yourselves to give back a
11 legacy like I am giving a legacy and you are to do
12 what is right in our life 'cause your childrens going
13 be affected by that. And they're going be the
14 leaders. Because we've known in the past what the
15 leaders been done -- doing.

16 Enough of this going backwards, idle. We
17 must move on for our island. We gotta take care our
18 family because we all family here. We going be
19 married. One day our families going be married and we
20 get plenny children.

21 MR. SARUWATARI: Could you please wrap it
22 up.

23 THE WITNESS: But anyway, I pray for us
24 every day our family been living on this land, our
25 'aina, Hawai'i, this is heaven. And continue moving

1 on the right direction for our kupuna and our
2 children. Thank you, Commission and everyone here.

3 CHAIRMAN LEZY: Parties, questions?
4 Commissioners, questions? Thank you for your
5 testimony, sir.

6 MR. SARUWATARI: Rickey Tye.

7 THE WITNESS: Morning.

8 RICKEY RICARDO TYE
9 being first duly sworn to tell the truth, was examined
10 and testified as follows:

11 THE WITNESS: Yes.

12 CHAIRMAN LEZY: State your name, your
13 address and proceed.

14 THE WITNESS: My name's Rickey Ricardo Tye.
15 I live 2624 Manuai Place, Honolulu, 96819 --26. I'm
16 sorry. I'd like to start off by saying thank you,
17 this Commission, for giving not only myself but
18 everyone else their opportunity to speak their
19 opinion.

20 I'm in favor of the Ho'opili Project. I'm
21 a *proud* member of Local 368 the Laborers' Union for
22 the past 23 years. These past few months, in fact
23 these past four years have been hard for most of the
24 people I know in the construction industry.

25 Not only would this Project give us work to

1 do, but I think about my grandchildren and I think
2 about my god son, what's gonna happen to them in the
3 next 20 years?

4 They're gonna be adults. They're gonna
5 need jobs. They're gonna need a place to live. And I
6 think this Ho'opili Project is something that would
7 greatly benefit them, not only us for today but our
8 future generation. Just like the brother just said,
9 the keikis, they're our future. But if there's
10 nothing there for them then everything is lost. Thank
11 you.

12 CHAIRMAN LEZY: Parties, questions?
13 Commissioners, questions? Thank you. That concludes
14 public testimony. We will, as soon as possible, have
15 a new hearing date set. For the benefit of the public
16 that will be by way of a printed agenda which will be
17 available online. As soon as we have that we'll let
18 everybody know. Ms. Dunne, you had a question?

19 MS. DUNNE: Yes. I just wanted to clarify
20 the scope of the briefing. You may have already
21 stated this. I wanted to clarify that it's limited to
22 the issue of the Commission's authority and
23 jurisdiction with regard to Important Agricultural
24 Lands in that issue. That's the scope of the
25 briefing. Is that....

1 CHAIRMAN LEZY: The briefing should be on
2 -- let me ask Petitioner first.

3 MR. KUDO: I think our motion sets it out.
4 It's regarding article 11 section 3 of the State
5 Constitution and chapter 205-47 which is the IAL
6 legislation because that sprung from that article. So
7 both the statute as well as the constitutional with
8 regard to the authority of this Commission.

9 MS. DUNNE: Okay, thanks. I just wanted to
10 clarify 'cause I think there's some mention of the
11 criteria under 15-15-77(b)(6) or something. But I
12 just wanted to clarify.

13 MR. KUDO: I think when I mentioned that,
14 if you look at that particular provision of the Hawaii
15 Administrative Rules it references back to the
16 agricultural issue. That's why I mentioned it.

17 CHAIRMAN LEZY: Does that answer your
18 question, Ms. Dunne?

19 MS. DUNNE: Well, I don't want to get into
20 a legal discussion regarding the meaning of that
21 provision. So I guess...

22 CHAIRMAN LEZY: You'll have your chance.

23 MS. DUNNE: Yes. Well, I'm hoping the
24 briefing -- as I said I think we have extensively
25 briefed these issues. I'm hoping it will be narrowly

1 focused and hopefully helpful to the Commission.

2 Thanks.

3 CHAIRMAN LEZY: All right. Again, the
4 agenda will be published as soon as we are able to set
5 a hearing date. That will definitely be prior to the
6 end of June. With that, is there anything else that
7 we need to discuss before we close the meeting on this
8 matter? Thank you. The Chair will entertain a motion
9 to enter executive session.

10 COMMISSIONER CONTRADES: So moved.

11 COMMISSIONER HELLER: Second.

12 CHAIRMAN LEZY: Opposed? Thank you.

13 (Executive session held)

14
15 (The proceedings were adjourned at 11:55 a.m.)

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17 --oo00oo--
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C E R T I F I C A T E

I, HOLLY HACKETT, CSR, RPR, in and for the State of Hawai'i, do hereby certify;

That I was acting as court reporter in the foregoing LUC matter on the 22nd day of May 2012;

That the proceedings were taken down in computerized machine shorthand by me and were thereafter reduced to print by me;

That the foregoing represents, to the best of my ability, a true and correct transcript of the proceedings had in the foregoing matter.

DATED: This _____ day of _____ 2012

Q

HOLLY M. HACKETT, HI CSR #130, RPR
Certified Shorthand Reporter