

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

LAND USE COMMISSION
STATE OF HAWAI'I

ORAL ARGUMENT and DECISION MAKING)
A06-771 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 9:10 a.m. on Friday, June 8, 2012 pursuant to Notice.

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

1 A P P E A R A N C E S

2 COMMISSIONERS:

3 THOMAS CONTRADES
4 KYLE CHOCK
5 RONALD HELLER
6 LISA JUDGE
7 NORMAND LEZY (Chairman)
8 JAYE MAKUA
9 ERNEST MATSUMURA
10 CHAD McDONALD
11 NICHOLAS TEVES

12
13 ACTING EXECUTIVE OFFICER: BERT SARUWATARI
14 CHIEF CLERK: RILEY HAKODA
15 STAFF PLANNER: SCOTT DERRICKSON
16 DEPUTY ATTORNEY GENERAL: SARAH HIRAKAMI, ESQ.
17 AUDIO TECHNICIAN: HOTAI ZERBA

18
19 Docket No. A06-771 D.R. HORTON-SCHULER HOMES, LLC

20 For the Petitioner: BENJAMIN KUDO, ESQ.
21 NAOMI KUWAYE, ESQ.
22 CAMERON NEKOTA, ESQ.

23 For the County: DON KITAOKA, ESQ.
24 Deputy Corporation Counsel
25 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.

Also present: Senator Clayton Hee

I N D E X

	PUBLIC WITNESSES	PAGE
1		
2		
3	Dave Nakamura	9
4	Gary Kai	13
5	Karen Nakamura	16
6	Glenn Oamilda	17
7	De'Angelo McIntyre	22
8	Rona Pakoda	24
9	Cheryl Johnson	26
10	Pearl Johnson	28
11	Ricky Cassidy	30
12	Henry Kwok	35
13	Jason Espero	38
14	Pele Yuen	42
15	Pat Kuniyoshi	44
16	Thomas Shirai	49
17	Madori Rampungworn	54
18	Thad Spreg	56
19	Phillip Dang	58
20	Dennis Egge	62
21	Linda Young	64
22	Choon James	66
23	Dana Patria	71
24	Patricia Patterson	71
	Kika Bukoski	72
25	Burke Dunlap	77

I N D E X cont'd

1		
2	CLOSING ARGUMENTS	PAGE
3		
4	By Mr. Kudo	80
5	By Mr. Kitaoka	95
6	By Dr. Dudley	105
7	By Ms. Dunne	120
8	By Mr. Seitz	134
9		
10	REBUTTAL	
11	By Mr. Kudo	141
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

1 CHAIRMAN LEZY: (Gavel). Good morning.
2 This is a meeting of the State of Hawai'i Land Use
3 Commission. Excuse me. Excuse me. We're going to
4 start the hearing. I'd appreciate if everyone could
5 please keep their conversations down. Thank you.

6 This is a meeting of the state of Hawai'i
7 Land Use Commission. The agendaed item today is oral
8 argument on Docket A06-771 D.R. Horton-Schuler Homes,
9 LLC, a Delaware, Limited Liability Company, d.b.a.
10 D.R. Horton-Schuler Division, Honouliuli, 'Ewa, O'ahu,
11 to amend the Agricultural Land Use District Boundary
12 into the Urban Land Use District for approximately
13 1,525.516 acres of land at Honouliuli, 'Ewa District,
14 O'ahu, Hawai'i Tax Map Key Nos.:(1)9-1-17:4 (por.) 059
15 and 072; (1)9-1-18:001 and 004. Parties, appearances,
16 please.

17 MR. KUDO: Good morning, Mr. Chairman, and
18 Members of the Commission. Ben Kudo, Naomi Kuwaye
19 representing D.R. Horton-Schuler, Petitioner in this
20 proceeding. With me is Cameron Nekota, vice president
21 of D.R. Horton-Schuler.

22 CHAIRMAN LEZY: Good morning.

23 MR. KITAOKA: Good morning, Mr. Chair and
24 Members of the Commission. Don Kitaoka, deputy
25 corporation counsel on behalf of the Department of

1 Planning and Permitting of the city and county of
2 Honolulu. And with me today is Tim Hata from that
3 department.

4 CHAIRMAN LEZY: Good morning.

5 MR. YEE: Good morning. Deputy Attorney
6 General Bryan Yee on behalf of the Office of Planning.
7 With me is Mary Lou Kobayashi from the Office of
8 Planning.

9 CHAIRMAN LEZY: Good morning.

10 MR. DUDLEY: Good morning.
11 Dr. Kioni Dudley from the Friends of Makakilo. With
12 me is my attorney Linda Paul.

13 MS. DUNNE: Good morning. Elizabeth Dunne
14 on behalf of the Sierra Club.

15 CHAIRMAN LEZY: Good morning.

16 MR. SEITZ: Eric Seitz and Sarah Devine
17 representing Senator Clayton Hee. Senator Hee is not
18 here but he will be here shortly.

19 CHAIRMAN LEZY: Good morning. Let me
20 update the record on this matter. On May 22, 2012 the
21 Commission received Intervenor Friends of Makakilo's
22 Memorandum in Option to Petitioner's Motion for Leave
23 for the Parties to Submit Written Legal Briefs and for
24 Hearing.

25 On May 22, 2012 the Commission voted to

1 grant Petitioner's Motion for Leave for the Parties to
2 Submit Written Legal Briefs and for Hearing.

3 On May 24, 2012 the Commission received
4 written correspondence via email from Walter Ritte and
5 mailed the Order Granting Motion for Leave for the
6 Parties to Submit Written Legal Briefs and for
7 Hearing.

8 On May 25, 2012 the Commission received
9 Petitioner's Legal Brief Discussing Points and
10 Authorities Regarding the Issue of the Applicability
11 of Hawai'i State Constitution, Article XI, Section 3
12 on the Jurisdiction and Authority of the state Land
13 Use Commission, Appendices 1 through 7.

14 On June 4, 2012 the Commission received
15 state Office of Planning's Response and Intervenor
16 Senator Clayton Hee and Intervenor the Sierra Club's
17 legal briefs regarding Petitioner's Brief.

18 On June 6, 2012 the Commission received
19 written correspondence from Margo Tschrire, Tristen
20 Walker and Gladys Marrone.

21 And on June 7 the Commission received
22 written correspondence from Karen Nakamura, Building
23 Industry Association of Hawai'i.

24 Let me briefly explain our procedures for
25 today. First, I will call for those individuals

1 desiring to provide public testimony on this docket to
2 identify themselves. All such individuals will be
3 called in turn to our witness box where they will be
4 sworn in prior to their testimony.

5 Following public testimony each party will
6 present oral argument in support of its Proposed
7 Decision and Order or its exceptions to those proposed
8 by the other parties.

9 At the conclusion of oral argument and
10 after questions from the Commissioners and answers
11 thereto, the Commission will conduct formal
12 deliberations on this matter. Are there any questions
13 regarding our procedures for today? Before we take
14 public testimony I'd like to remind the folks who are
15 testifying that the testimony from previous hearings
16 has been transcribed and been made part of the record
17 in this matter.

18 And I would ask for the folks that are
19 testifying again regarding this docket to please
20 confine your testimony to the presentation of new
21 information so that we can get through the business
22 that we need to get through today.

23 Is there anyone signed up on the list,
24 Mr. Saruwatari?

25 MR. SARUWATARI: First up Dave Nakamura

1 followed by Gary Kai for public testimony. Dave
2 Nakamura? Dave Nakamura followed by Gary Kai, Karen
3 Nakamura, Glenn Oamilda.

4 CHAIRMAN LEZY: We'd appreciate the folks
5 whose names have been called if you could step to the
6 front so that we can avoid too much time waiting for
7 folks to get cue'd up. Morning.

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

11 THE WITNESS: Yes, I do.

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

14 THE WITNESS: My name is David Nakamura.
15 My address is 94-1105 Lelehu Street, Waipahu, Hawai'i.
16 Good morning, aloha. My name is Dave Nakamura. I'm
17 the executive director of the Mutual Housing
18 Association of Hawai'i. Mutual Housing is a local,
19 non-profit corporation whose mission is to provide
20 affordable rental housing for low-income families
21 living in Hawai'i.

22 In addition to providing affordable shelter
23 we also provide supportive social services for the
24 communities we serve such as subsidized child care,
25 computer learning centers, food bank distributions,

1 and educational classes.

2 I've come here today to express our support
3 for D.R. Horton-Schuler Homes zoning Petition for the
4 Ho'opili community. Mutual Housing has worked with
5 D.R. Horton for the past seven years on several
6 projects to produce affordable rental housing for
7 O'ahu's 'Ewa Plain.

8 D.R. Horton is currently serving as the
9 general contractor to build Mutual Housing's Koloua
10 rental projects. Koloua is located in East Kapolei II
11 subdivision which is located just west of Ho'opili.
12 You might see in the news I think just last week we
13 had a groundbreaking for the project.

14 Koloua is targeting families in the area
15 earning below 60 percent of HUD incomes. D.R.
16 Horton's participation in the project does not provide
17 them with any regulatory -- ah, help them meet any
18 regulatory obligations. And they have done so in a
19 sincere effort to help address Hawai'i's dire need for
20 low income rental housing.

21 They have proven to be a reliable and
22 valued partner who has offered their expertise in the
23 design and construction of affordable housing to help
24 make our project financially feasible. Our
25 construction costs have come in at least 10 percent

1 below comparable projects. And we attribute this to
2 D.R. Horton's efforts to help provide us with the
3 lowest cost possible in sharing their company's
4 purchasing power.

5 We can attest to D.R. Horton's commitment
6 to the community and to help O'ahu's families that
7 struggle to find affordable and safe shelter.

8 As a housing service provider we can
9 confirm the great need for affordable housing on O'ahu
10 and the many families that are impacted by the
11 imbalance of the housing inventory for local working
12 families.

13 Ho'opili is part of a larger vision that
14 the state had to build a second city on O'ahu. And it
15 is within the Urban Growth Boundary set decades ago by
16 state and city planners. Therefore, we ask that you
17 approve the application before you. Mahalo.

18 CHAIRMAN LEZY: Parties, questions?
19 Dr. Dudley.

20 DR. DUDLEY: I'd like to know, this is
21 rental housing, right?

22 THE WITNESS: Yes, that's correct.

23 MR. DUDLEY: This is the big rental project
24 that was just dedicated, right?

25 THE WITNESS: Well, we're just starting

1 construction.

2 MR. DUDLEY: Just starting construction.

3 THE WITNESS: Yes.

4 DR. DUDLEY: And D.R. Horton is the builder
5 but they're not financing it, right?

6 THE WITNESS: They're the general
7 contractor.

8 DR. DUDLEY: "General contractor." Thank
9 you. And is it on their land?

10 THE WITNESS: No, it is not.

11 DR. DUDLEY: No, it is not. Okay. So in
12 reality that project doesn't have very much to do here
13 because that's a rental project for very poor people,
14 right?

15 THE WITNESS: I'm sorry. Rephrase the
16 question, please.

17 MR. DUDLEY: You aren't suggesting that
18 they're building this kind of affordable rental
19 housing on Ho'opili, are you?

20 THE WITNESS: No, I'm not suggesting that.
21 I'm just --

22 DR. DUDLEY: Thank you very much.

23 THE WITNESS: Thank you.

24 CHAIRMAN LEZY: Any additional questions?
25 Commissioners, questions? Thank you for your

1 testimony, sir.

2 MR. SARUWATARI: Gary Kai followed by Karen
3 Nakamura.

4 THE WITNESS: Good morning.

5 GARY KAI

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: Gary Kai, 1717 Mott-Smith
12 Drive, Honolulu. Thank you, Chair Lezy, Vice-Chair
13 Chock and Vice-Chair Teves for this opportunity to
14 testify on behalf of Dave Schuler and Schuler Homes.

15 My name's Gary Kai. And it gives me great
16 pleasure to submit this in support of James Schuler
17 and Schuler Homes. I've known Jim since 1976 when I
18 first joined First Hawaiian Bank.

19 Jim already had an excellent reputation
20 with the senior management of the bank. He was held
21 in very high regard. But earlier in his career he
22 helped the bank recover on a very difficult trouble
23 loan.

24 Jim was just an employee of the company
25 that was in severe financial trouble. Instead of

1 leaving the company and the bank for more lucrative
2 opportunities, he chose to stay and resolve the
3 problems. His strength of character and integrity
4 during this difficult period was the basis for a long
5 relationship with the bank.

6 Jim's great business knowledge was
7 important at First Hawaiian, but more important was
8 his and Schuler's Homes integrity and honesty. First
9 Hawaiian financed most of its projects because of his
10 commitment to building quality homes and communities.

11 The first real estate joint venture ever
12 entered into by First Hawaiian Bank was with Jim and
13 Schuler Homes. The management of First Hawaiian Bank
14 felt they could be identified with the project because
15 they knew it would result in a high-quality community
16 for our residents.

17 Through the many years that I worked with
18 Jim, and later Mike Jones and Schuler Homes, there was
19 never a question about whether it was the right thing
20 to do. We did so knowing that all the loans would be
21 repaid, that the high quality communities would be
22 built and that the entire state would benefit. Thank
23 you for the opportunity to testify.

24 CHAIRMAN LEZY: Parties, questions?
25 Dr. Dudley.

1 MR. DUDLEY: Yes. I'm sorry to again
2 interrupt. But, you know, we all have a lot of
3 admiration for Mr. Schuler. And Mike Jones is a fine
4 man, but, sir, isn't it true that the company now is
5 no longer Mr. Schuler's company and that it's a
6 Texas-based company?

7 THE WITNESS: That's my understanding.

8 DR. DUDLEY: Good. And so really all the
9 profits, the real profits from this Project would go
10 to Texas rather than to here.

11 THE WITNESS: Ir couldn't testify on that.

12 MR. DUDLEY: Thank you very much.

13 CHAIRMAN LEZY: Any additional questions?
14 Mr. Seitz.

15 MR. SEITZ: Yes. Then why are you here? I
16 don't understand. Why are you testifying this morning
17 at this late stage in the case?

18 THE WITNESS: Basically my support of
19 Mr. Schuler and Schuler Homes.

20 MR. SEITZ: Did somebody ask you to come?

21 THE WITNESS: They did.

22 MR. SEITZ: Thank you.

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

1 MR. SARUWATARI: Karen Nakamura followed by
2 Glenn Oamilda.

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

6 THE WITNESS: Yes, I do.

7 CHAIRMAN LEZY: Please state your name,
8 your address and proceed.

9 THE WITNESS: My name is Karen Nakamura.
10 My address is 2825 South King Street, Honolulu,
11 Hawai'i. Good morning, Chair and Members of the
12 Commission. My name is Karen Nakamura. I am the CEO
13 of the Building Industry Association of Hawai'i. And
14 I'm here to testify in support of Ho'opili and the
15 Schuler, D.R. Horton-Schuler Company.

16 Schuler was -- Carl Schuler was a member,
17 our twelfth president of the Building Industry
18 Association since 1966. And his company has been
19 active members and supporters of the community and the
20 industry since for over 40 years. So I'm here to
21 testify on the quality of their homes and the benefits
22 that our community reap from them.

23 Two years ago they are very active in
24 providing monies to local charities. And they
25 provided a hundred thousand dollars to the Building

1 Industry Association to build the Construction
2 Training Center of the Pacific which puts on
3 pre-apprenticeship construction training programs for
4 entering level of our industry.

5 So I am here to ask you to please pass
6 Ho'opili. Because without homes we will have more
7 homeless and rents will be higher. Thank you very
8 much.

9 CHAIRMAN LEZY: Parties, questions?
10 Commissioners, questions?

11 MR. SARUWATARI: Glenn Oamilda followed by
12 De'Angelo McIntyre and Rona Pakada.

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

16 THE WITNESS: I do.

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

19 THE WITNESS: My name is Glenn Oamilda,
20 91-1179 Puamaeole Street in 'Ewa Beach, 96706. Good
21 morning, Mr. Chair, Members of the Commission. I am
22 presently the president of the 'Ewa Beach Community
23 Association and many activities, sit on many
24 activities within the area. My comments this morning
25 is well noted from previous testimonies. So what I'm

1 here this morning is to ask that you deny Horton's
2 request to rezone that ag land.

3 I'm a product of the plantation, born and
4 raised in Waipahu on the O'ahu Sugar Plantation. I
5 have at least a hundred years. My grandfather, my
6 father and my brother all worked on the plantation.
7 And I know firsthand that this 1500 acres of land is
8 the most productive in the state, let alone the
9 island.

10 So there's no importance than preserving
11 this land for future food security and for the needs
12 of the population. We have done a lot of planning.
13 My 30 years of being involved in the 'Ewa Plains I've
14 insured that planning to the utmost would be done with
15 care.

16 And I feel this Project has never gone
17 through a well planned out process. I can only
18 imagine that the developer has selected few people
19 within the region to sit on this board, members from
20 my own community, members from my board have sit on
21 this. But there was never an open and transparent
22 process on how this is going to proceed. And I was
23 never consulted as *the* guy.

24 I mean we've been in the region, the
25 Community Association has been in the region for over

1 30 years. And we never been consulted on issues
2 regarding planning. So I consider planning is *the*
3 most important process in development in the 'Ewa
4 Plains.

5 Furthermore, Mr. Chair, there's two
6 products. There's the 'Ewa Development Plan and the
7 O'ahu Master Plan. None of these have come to the
8 community. The 'Ewa Development Plan was accepted by
9 the City in 1997 and should have come for public
10 review five years later. It never came to public
11 review. And this is 2012.

12 So the lingering things on people's mind:
13 "Well, it's well within the guidelines of the 'Ewa
14 Development Plans" but it's not. The public has never
15 reviewed these plans.

16 So I'm requesting that, look, planners,
17 DPP, the state planners, consider this. Consider
18 planning as the focal point within the region. We're
19 bombarded with development. There's rampant
20 development. Everybody wants to come to 'Ewa. And
21 nothing has been done to really put things in place so
22 that people can be well satisfied that the process or
23 their impacts are limited to, you know, their
24 lifestyles. But it's not.

25 So again, Mr. Chair and, Commissioners, you

1 know, unless we have something in place this is all
2 for not. We're given up -- we're given up our food
3 security for one. And we're not improving the
4 conditions within the region. Those are the important
5 things that I consider as being one of the focal
6 points in trying to resolve issues within the 'Ewa
7 region, the 'Ewa Plains.

8 And I cannot, for one, think of all these
9 rampant developments and nobody's on top of it, not
10 even the city nor the stated. The city has never
11 denied any kind of process. They haven't denied any
12 kind of no's, no's to developers.

13 From 2000 to the present time 'Ewa has gone
14 rampant in development. They have issued permits like
15 it's gone outta style. We try to be on top of it but
16 the community sense that it's futile; that the
17 government has ceded, ceded it's authority to the
18 developers.

19 The city, our steward, they should be
20 protecting us in the process but they have yielded.
21 They have yielded to the developers in the region.
22 That's why people are so upset about conditions in the
23 region: in 'Ewa Beach, Kalaeloa. Kalaeloa is another
24 one. They don't have a Master Plan in place but they
25 still building. Consider that.

1 Consider Kapolei where you have the transit
2 station, Ho'opili three, four, miles from the civic
3 center. I mean how people gonna, you know, get around
4 the civic center? You're gonna drive. You're going
5 to have to drive to the civic center or when the
6 development is 12,000 units is three, four miles away
7 from the civic center. I mean the thing is not well
8 planned.

9 So I ask you to deny that based on
10 conditions that it's gonna exacerbate: 1. People
11 moving back to town. People moving back -- people
12 driving back to town. I always emphasize, if you're
13 gonna create a second city let's have a second city.

14 Put the government structure in place. Put
15 the government structure in place. We have a tax base
16 in Kapolei. We have the resources. We got police.
17 We got fire. But everybody seems to want to go back
18 to town.

19 I can't imagine a second city where
20 everybody wants to go back -- government is leading
21 the way to push people back to the Primary Urban
22 Center. I mean makes no sense at all in planning.
23 And they gonna create 12,000 more houses? Where
24 people going work if you don't have the infrastructure
25 in the second city in place?

1 So, you know, Commissioners, I don't know.
2 I personally feel that being involved in the region
3 that something's gotta be done. And I ask you this
4 morning to deny the request so we can sit down and
5 plan. Plan in the region. Plan in the 'Ewa Plains so
6 that people can be well satisfied that something is
7 being done by the government, not by developers.

8 So I conclude my testimony anyway. Thank
9 you.

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

12 MR. SARUWATARI: De'Angelo McIntyre
13 followed by Ronald Pakada and Sheryl Johnson.

14 De'Angelo McIntyre
15 being first duly sworn to tell the truth, was examined
16 and testified as follows:

17 THE WITNESS: Yes.

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

20 THE WITNESS: My name is De'Angelo
21 McIntyre. My address is 91-1010 Maka'aloa Street,
22 Apartment B, 'Ewa Beach, Hawai'i. It's 96706. I
23 didn't prepare today like I usually do because I read
24 a verse in the Bible that said, "Don't worry about
25 what you're going to say. God will give you the

1 words. You just go up and there do your thing." And
2 here I am. I'm actually kind of scared, nervous
3 because of what I want to say. It deals with the
4 kids.

5 Because this is the first thing I see on
6 the back of the shirts is "Our Keikis' Future". Now,
7 back in the '90s I was a keiki and I lived in
8 Louisville, Kentucky. And they built subdivisions and
9 whatnot and things out there. And they worried about
10 my future. But no one knows what the future holds.

11 Because I grew up and I moved here, 5,000 miles away.

12 What I'm getting at is the future is so
13 uncertain. Like how do you know your kids even want
14 to live in the Ho'opili subdivision particularly?
15 What if they marry some guy in the military and they
16 end up living in Italy or move to Hana on Maui or
17 Kohala on the Big Island? Who knows?

18 And just don't think -- I don't think it's
19 fair to make people feel bad by using children. That
20 and the fact that D.R. Horton is Texas based, yeah?
21 So they come over here and they want to build a
22 subdivision and they start using all these Hawaiian
23 words "Ho'opili" coming together; "keiki", "'ohana",
24 I'm just, like, whatever. Where did you get that
25 from? Lilo and Stitch? You just want to build a

1 house.

2 I don't care about profits. I care about
3 the land. So I came back here from Kentucky. You
4 haven't lived until you've had the land speak to you.
5 Don't do this.

6 And for those of you that need jobs, I pray
7 in the name of Jesus that you find them and that you
8 get them. Because we all do need jobs. And we need
9 to get by. I just don't want the subdivision on top
10 of farmland. We could put it somewhere else because
11 people do need homes. I care about everybody. I love
12 you. Thank you.

13 CHAIRMAN LEZY: Parties, questions?
14 Commissioners, questions? Thank you for your
15 testimony.

16 THE WITNESS: Thank you.

17 MR. SARUWATARI: Rona Pakada followed by
18 Cheryl Johnson and Pearl Johnson.

19 RONA PAKADA
20 being first duly sworn to tell the truth, was examined
21 and testified as follows:

22 THE WITNESS: Yes.

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

25 THE WITNESS: My name is Rona Pakada. My

1 address is 91-131 Makalea Street, 'Ewa Beach, Hawai'i
2 96706. Aloha Land Use Commissioners. As a 12-year
3 'Ewa Beach resident and as a parent of a second grader
4 at Makakilo Elementary School, I'm here to share with
5 you the positive impact D.R. Horton-Schuler Homes has
6 had on our school community.

7 D.R. Horton-Schulers is not new to Hawai'i
8 nor to West O'ahu. They have long been an active
9 community partner to Makakilo Elementary School and
10 other schools across the Department of Education
11 Leeward District. Specifically at Makakilo as well as
12 at five other schools in Kapolei, 'Ewa and Ma'ili for
13 seven years the company has generously supported our
14 school's efforts to improve reading through its Read
15 To Win program.

16 The support we received from D.R. Horton
17 goes a long way including new books and supplies for
18 our students and teachers.

19 In addition to the reading program the
20 company has had a representative on our school
21 community council for the last five years. This
22 council is important to our school community because
23 it encourages the school administration, teachers,
24 parents and students to work together to achieve our
25 goals.

1 Additionally, our relationship with D.R.
2 Horton has allowed us to form many other partnerships
3 within the Kapolei community. Having a local business
4 partner such as D.R. Horton is critical to achieving
5 our school's goals. Thank you for allowing me to
6 testify in support of D.R. Horton-Schuler Homes.

7 CHAIRMAN LEZY: Parties, questions?
8 Commissioners, questions? Thank you for your
9 testimony.

10 MR. SARUWATARI: Cheryl Johnson followed by
11 Pearl Johnson and Ricky Cassidy.

12 CHERYL JOHNSON
13 being first duly sworn to tell the truth, was examined
14 and testified as follows:

15 THE WITNESS: I do.

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

18 THE WITNESS: Cheryl Johnson, 47-696
19 Pu'ukele Street, Kaneohe. Good morning,
20 Commissioners. I'm Cheryl Johnson, the Teen Program
21 director at Parents and Children Together, also known
22 as PACT.

23 PACT is a non-profit family service agency
24 whose mission is to promote and support healthy
25 individuals, families and community by creating

1 opportunities for them to identify and address their
2 own strengths, needs and concerns --

3 CHAIRMAN LEZY: I'm sorry, Ma'am. If you
4 could slow down just a little bit.

5 THE WITNESS: Okay -- and to successfully
6 realize their potential. Currently PACT has 15
7 programs that serve thousands of individuals and
8 families each year statewide. However, our work would
9 not be possible without the support and financial help
10 from companies like D.R. Horton Schuler Homes and
11 philanthropic organizations like the Schuler Family
12 Foundation.

13 Led by Jim Schuler, the Schuler Family
14 Foundation has supported PACT for many years. The
15 Foundation's generosity allows our community teen
16 program to offer educational, recreational and
17 skill-building activities for youth who live in and
18 around the high risk communities of Kuhio Park Terrace
19 and Pu'uwaaimomi in Aiea.

20 This support has been invaluable by
21 allowing us to maintain our level of service
22 especially in these tough economic times. Our program
23 has a positive effect on youth, families and the
24 broader community. We give the youth a safe, healthy
25 place to go after school, keeping them off the streets

1 and out of trouble. We are thankful for the Schuler
2 Family Foundation's sincere commitment to PACT and to
3 the youth of Hawai'i. Thank you for this opportunity.

4 CHAIRMAN LEZY: Parties, questions?
5 Commissioners, questions? Thank you.

6 MR. SARUWATARI: Pearl Johnson followed by
7 Ricky Cassidy and Henry Kwok.

8 CHAIRMAN LEZY: Good morning, Ms. Johnson.

9 THE WITNESS: Good morning.

10 PEARL JOHNSON

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

13 THE WITNESS: Yes.

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

16 THE WITNESS: Pearl Johnson, 2404 Kaneali'i
17 Avenue, Honolulu, 96813. I am testifying for the
18 League of Women Voters of Honolulu. We shouldn't even
19 have been here today but the Petitioner has delayed
20 your decision by three weeks.

21 In a blatant attempt to Commissioner shop,
22 he wants the next two Commissioners who will succeed
23 the two Commissioners whose terms expire at the end of
24 this month to make the decision. I hope that you will
25 fulfill your pledge to make this decision with the

1 present Commissioners.

2 As you make your decision on Ho'opili
3 please remember Aina Le'a. No matter what D.R. Horton
4 does you cannot put this precious land back into
5 agriculture. Although Petitioner keeps referring to
6 the thousands of acres available for agriculture,
7 these 1550 acres represent 32 percent of the land, now
8 growing land for local consumption.

9 UH Professor Fujikani testified here in
10 January that when pineapple, coffee, and other export
11 crops are excluded there are only 4800 acres here on
12 O'ahu producing food for us residents.

13 The Land Use Commission was created in 1961
14 to remedy the lack of control over the conversion of
15 prime agricultural land to residential use. Since
16 1961 the loss of agricultural land has continued a
17 pace, if not accelerated.

18 Please, fulfill your purpose this time as
19 you and your predecessors have never done. I hope you
20 will make the right decision today and deny the
21 Petition.

22 Should the Petitioner somehow again succeed
23 in delaying your decision, please remember your pledge
24 to make the decision with the members you now have.
25 You have courteously listened to me many times. Thank

1 you for your courtesy. And, please, protect our
2 future.

3 CHAIRMAN LEZY: Parties, questions?
4 Commissioners, questions? Thank you, ma'am.

5 MR. SARUWATARI: Ricky Cassiday followed by
6 Henry Kwok and Jason Espero.

7 RICKY CASSIDAY
8 being first duly sworn to tell the truth, was examined
9 and testified as follows:

10 THE WITNESS: I do.

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

13 THE WITNESS: I live of 1029 I'iwi Street
14 Honolulu. My name is Paul R. Cassiday -- Paul Richard
15 Kanahoakalani Cassiday, Jr. My father was Paul R.
16 Cassiday. He was a trustee for the Campbell Estate
17 for 30 years.

18 I do market research. I came back --
19 market research for housing -- I came back 20 years
20 ago. I worked for Gentry Homes. The first thing they
21 said to me when I was doing their long-term projection
22 was that they wanted me to pencil in Waiawa. And I
23 said, How soon?"

24 "Five years". This was 1990. Every year,
25 20 years since then, they have told me, "It's five

1 years". When I came to work with them in 1990 it was
2 at the top of the real estate cycle and they couldn't
3 get it going. That's the time when you get a project
4 going.

5 Fifteen years -- well, okay. Fifteen years
6 later there's another real estate cycle. It's the top
7 of the cycle. Whole bunch of mainland companies come
8 into Hawai'i and they look at doing Waiawa Ridge.
9 They can't make it pencil. It...is...too...expensive
10 at the top of the cycle.

11 The other day there's an article by Kioni
12 Dudley about the numbers that you're looking at. He
13 posited that Waiawa would contribute 12,000 homes. I
14 would say that is very unlikely in this real estate
15 cycle, which is about to kick off again and maybe not
16 even the next one. It's too expensive.

17 So you take off 12,000 homes of the 60,000
18 homes that have been zoned. I've looked at those
19 numbers, the 60,000 entitlements, for 20 years. And
20 you can't take them as numbers that are actual that
21 are all apples. You have to take out some of the
22 numbers. Some are Waiawa which won't get built
23 because it's too expensive. Then there's Makaiwa
24 which is too expense and they'll never have affordable
25 housing.

1 And then you take out the Hawaiian Home
2 Lands, you take out of the affordables, and you come
3 down to a much smaller number. Then you have to
4 overlay that with the utility of that number, which is
5 a whole bunch of trusts have zoned land. And a whole
6 bunch of trusts don't have money to go ahead and do
7 it. And they are prevented from going ahead and
8 developing. They need a builder.

9 So any number that you're looking at you
10 have to go to the number that a developer owns like
11 Mililani, for Castle & Cooke, et cetera. That land
12 will then proceed with housing.

13 So it's a much less number. If you read
14 the paper today you'll see that housing prices are
15 going up. Paul Brewbaker is saying that prices are
16 just going to keep on going higher. And he's right.
17 As soon as people hear that, they're gonna start
18 taking out mortgages and they're going to say: Okay.
19 We're in the midst of another bubble.

20 For the next couple years you guys are
21 going to see guys like me coming up and saying, "Look,
22 we need help. Housing prices are too high. We want
23 you to supply houses."

24 If you don't do that, high prices drive
25 people away. Again, referring to Mr. Dudley's

1 article, he had said, "You know, you can't eat
2 houses." I was thinking about that, shared it with
3 some people. A friend of mine said, "Well, you know,
4 why can't you just split the difference? Why can't
5 you have a house that you can eat?"

6 I shared that with somebody else and they
7 said, "No. No, no, no. The solution is to have a
8 house where you can grow tomatoes on top. That way
9 you can have your house and eat it too."

10 What you guys are looking at in your
11 responsibilities: What is the highest and greatest
12 public good? In my opinion building houses on this
13 land relative to growing tomatoes is a higher public
14 good for a couple reasons. It injects money into the
15 system. It goes directly to people's pockets, the
16 laborers. Housing is probably *the...best* form of
17 investment. It gives laborers money. And it spreads
18 out very nicely.

19 On top of that, besides the injection of
20 money which helps the economy, you build a community.
21 You build cheap houses, or cheaper houses. The houses
22 at Ho'opili will be cheaper than those at Makaiwa and
23 other places. Koa Ridge, the houses will be more
24 expensive because the infrastructure costs more.

25 So the secondary effect is you build

1 communities with affordable prices, not affordable
2 housing prices, but lower prices than would be
3 otherwise.

4 The third thing that happens is that you
5 support local construction business all the way from,
6 you know, the guy that builds the wall to the guy at
7 Schuler Division of Horton. I've seen any number of
8 big companies come and go to Hawai'i: Watt Homes,
9 Centex Homes, Jack Myers. Good developers. They just
10 can't make it work unless they do one of two things:
11 They have land to build on. And they build it wisely.

12 So to end my testimony I'd say in terms of
13 the greater good for the greater public for this
14 acreage that you can grow tomatoes or grow houses on,
15 I think the benefit to the state, to the wider
16 community, to the people, to my children who will have
17 a better chance of a cheaper house and can stay here,
18 would be to let this proceed according to a land plan
19 that was set up back when Dad was a trustee 30 years
20 ago. Thank you very much.

21 CHAIRMAN LEZY: Parties, questions?
22 Commissioners, questions? Thank you.

23 MR. SARUWATARI: Henry Kwok followed by
24 Jason Espero and Phillip Dang.

25 XX

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HENRY KWOK

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

THE WITNESS: Yes.

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

THE WITNESS: My name is Henry Kwok. I reside at 91-1004 Opaehuna Street, 'Ewa Beach. Members of the Land Use Commission, thank you for the opportunity to allow me to share my support for the proposed Ho'opili community in East Kapolei.

During the past few hearings a lot of pros and cons testimonies have been put on record to help you decide today. I attended a few of those hearings and have noticed that most of the people who testify against the development and propose to preserve the land for farmers are not farmers themselves. These people do not understand how the cost of leasing farmlands to produce food for consumption --

CHAIRMAN LEZY: I'm, sorry. Slow down just a little bit for the court reporter.

THE WITNESS: Okay. The fact is that in order to produce reasonable priced produce, cost of the lease and labor has to be low. Statistics shows that many of the O'ahu's farming is done on

1 state-owned ag lands. These state leases are very low
2 rate subsidized by the taxpayers.

3 The other farms are leased through the
4 original big landowners like Campbell Estates. Land
5 from inheritance cost them nothing. They in turn
6 lease the property for a small amount because a little
7 income was better than no income for the idle
8 landlords.

9 Aloun Farms' original 1996 lease with
10 Campbell Estate was at a very low rate due to the fact
11 that the estate had not paid millions to acquire the
12 empty ag land.

13 The county Master Plan defines Urban Growth
14 Boundary which includes the Ho'opili parcel was
15 adopted decades ago. And the value of the lands
16 skyrocketed. That is why in 2006 when D.R. Horton
17 bought the 1,500 acres of land from Campbell the
18 transaction cost over \$70 million. It no longer
19 became economical feasible (sic) for farming from that
20 point on. You just don't grow produce on \$45,000 an
21 acre of land. Perhaps only a big seed company like
22 Monsanto could afford to use it as farmland.

23 I'm here today to remind all the people who
24 oppose the approval and hope that the land will
25 continue to be used for farming. D.R. Horton has no

1 obligation or any law that that requires them to lease
2 the land to farmers for less than what it cost them.

3 Ho'opili will produce many jobs for local
4 people. Can the farming community make that
5 commitment too? Most of O'ahu's current farm laborers
6 that contract recent workers imported from Southeast
7 Asia. They are earning minimum pay and live in farm
8 houses. Would our local children accept minimum pay
9 to work long, hard hours in the hot Leeward sun?

10 If you do not allow this development today
11 you will announce to the world that Honolulu County
12 government make a mistake including the parcel within
13 the county's Urban Growth Boundary.

14 Is the city willing to buy back this parcel
15 from D.R. Horton to make them whole again? It's no
16 wonder Hawai'i's on the bottom five worst states to do
17 business. Without approval today the loser would be
18 the majority of the Hawai'i working class families.
19 Construction jobs from the \$4.6 billion, direct
20 investment in 7,000 permanent jobs from the completion
21 of the entire development will be lost.

22 CHAIRMAN LEZY: Mr. Kwok, you're going to
23 drive the court reporter crazy.

24 THE WITNESS: I have only 2 minutes.
25 (audience laughter)

1 CHAIRMAN LEZY: You don't have to rush.
2 You have plenty of time.

3 THE WITNESS: Thank you. You know, the
4 land may never produce any foods since the landowner
5 may legally leave it empty without farming activities.

6 I respectfully encourage you to approve
7 this Project today. It's not only for West O'ahu
8 where people can work and live, but also for
9 generations of Hawai'i's working families to come.
10 Thank you very much today.

11 CHAIRMAN LEZY: Parties, questions?
12 Commissioners, questions? Thank you.

13 MR. SARUWATARI: Jason Espero followed by
14 Phillip Dang and Linda Young.

15 JASON ESPERO
16 being first duly sworn to tell the truth, was examined
17 and testified as follows:

18 THE WITNESS: Yes, sir.

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

21 THE WITNESS: Jason Espero, 91-944 Waihua
22 Place, 'Ewa Beach, 96706. I have my notes on my
23 iPhone so I'm not on Facebook or text messaging. So
24 I'll be looking on here.

25 Well, I hope to give you guys a different

1 perspective: The view of a young professional, a view
2 of the young adults. I was raised in 'Ewa Beach. My
3 family first bought a house there in 1989. Therefore
4 I guess you could say I'm a keiki, keiki of 'Ewa
5 Beach. I grew up there. I was raised there. And I
6 plan to stay in West O'ahu.

7 The reasons why I support Ho'opili, the
8 reasons why I support the reclassification of ag lands
9 to urban development, I have four points that I want
10 to go over with you.

11 First point is possibility of
12 homeownership. Currently I live in my family's house
13 and I hope one day to move out of there. And I hope
14 to move out and stay in West O'ahu. And I hope to buy
15 a home, a brand new home. And I believe that Ho'opili
16 will provide me with that opportunity, will make that
17 dream come true with homeownership, not only myself.

18 I have neighbors, friends my age, people
19 who live in 'Ewa Beach, 'Ewa, who, you know, we talked
20 about home-ownership. They have families, newly
21 married and they told me, "Oh, Jason what's going on
22 with Ho'opili?" And I tell them, you know, what's
23 happening there and the possibilities that it will
24 provide to us young adults, young professionals, young
25 families.

1 And they like the idea that they might be
2 able to buy a home in the neighborhood where they grew
3 up in West O'ahu. And that's one of my points that I
4 wanted to go over: Homeownership.

5 Second point: professional jobs. Ho'opili
6 will provide businesses an opportunity to open up
7 their business, their professional business in the
8 Ho'opili neighborhood. For example, doctors offices,
9 dentists offices, accounting offices, Enterprise
10 Rent-a-Car could open a business in Ho'opili, or even
11 a recruiting office for the Navy, Marines, Army, Air
12 Force. Who knows?

13 Ho'opili is or will be a mixed-use
14 neighborhood, businesses and residential. And with
15 that, the jobs, the professional jobs that it will
16 bring into the neighborhood is so beneficial that how
17 can you, how can you say that we are, we're against
18 job creations and bringing jobs to our community?

19 The third point I wanted to go over is the
20 usage of rail. I was in San Francisco last month.
21 And the vacation rental that I was staying at, the
22 neighborhood which I was in, the Muni Metro System,
23 which is the light rail system, passed right through
24 that neighborhood.

25 So essentially the light rail station was

1 literally a block away. So we had access to a car,
2 but we rarely took the car places because all we did
3 is we got out of our vacation rental, literally walked
4 two minutes away to the light rail station, hopped on
5 the light rail and we went to the City; went to the
6 City, did the tourist thing.

7 We went out. We had a good time. And it
8 made our life so much easier that we didn't have to
9 drive in traffic. We didn't have to look for parking.
10 We just hopped on the light rail.

11 And I envision Ho'opili being just like
12 that. Where we can hop onto the rail, either go out,
13 go to Ala Moana, go to Aloha Tower, go to Aloha
14 Stadium and watch a football game, hop on there and
15 then hop on back so that we can go home.

16 In addition to that, I would be using the
17 rail to go to work. And a lot of the residents in San
18 Francisco, a lot of them don't have cars. They just
19 use the rail system. So for business and pleasure it
20 will be beneficial for the residents.

21 And the third -- and the last point I
22 wanted to go over is the access to higher education
23 and UH West O'ahu being pretty much in the backyard of
24 Ho'opili and pretty much providing the residents of
25 West O'ahu with that opportunity of higher education.

1 So, so like myself, I'm going back to
2 school to pursue my Master's at Manoa, UH Manoa. If,
3 let's say, Ho'opili was already built I would be going
4 to UH West O'ahu. It's a lot closer, makes my life a
5 lot easier. I don't have to look for parking in Manoa.
6 For anyone who went to Manoa we all know that just
7 parking is a battle.

8 So not only that, you know, it's gonna
9 benefit the residents. It's also gonna benefit the
10 state of Hawai'i.

11 So, again, I support the Ho'opili Project,
12 reclassifying ag lands to urban development. I
13 strongly believe that Ho'opili will be a neighborhood
14 that's one of a kind here in the state of Hawai'i.
15 And really Ho'opili is in a league of its own. Thank
16 you.

17 CHAIRMAN LEZY: Parties, questions?
18 Commissioners, questions? Thank you.

19 THE WITNESS: Thank you.

20 MR. SARUWATARI: Phillip Dang? (pause)
21 Phillip Dang? Linda Young? Pele Yuen followed by Pat
22 Kuniyoshi.

23 THE WITNESS: Good morning, Board.

24 PELE YUEN

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 go ahead.

5 THE WITNESS: Pele Louis Yuen. Pele Louis
6 Yuen. I'm PR for the business rep for the Floor Layers
7 Union. And I'm for the Ho'opili Project. First of
8 all, I live in Kapolei. Second, my job is to get work
9 for my members. And a lot of 'em live down 'Ewa and
10 Kapolei side.

11 So I think what Ho'opili is doing is
12 something good for everyone including the whole state.
13 I mean the guys go out to work, they're paying tax.
14 We don't have to really worry about tax going up you
15 know, sooner.

16 Other than it's a whole new, like the guy
17 before me, it's a whole new thing. I mean it's a
18 league of its own. Second city of Kapolei, Affordable
19 homes for local working families, economic booster for
20 the city and state. And hopefully my kids would go to
21 UH there and even live there and have kids of their
22 own and even stay there.

23 So I think this is a good thing and we
24 really need this Project. Go get the guys out to
25 work. I mean it's not only for my members but all the

1 other trades in the union. I mean construction and
2 that's what I got. Thank you.

3 CHAIRMAN LEZY: Parties, questions?
4 Commissioners, questions? Thank you.

5 MR. SARUWATARI: Pat Kuniyoshi followed by
6 Thomas Schere, Sr. and Elaine Kam.

7 PATRICK KUNIYOSHI
8 being first duly sworn to tell the truth, was examined
9 and testified as follows:

10 THE WITNESS: Yes.

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

13 THE WITNESS: Patrick Kuniyoshi, 94-15000
14 Waipahu. My name is Patrick Kuniyoshi. I'm from
15 Wahiawa, graduated from Leilehua High School, went to
16 University of Hawai'i, graduated as an aggie. So I've
17 been in the field of ag for over 40 years. I grew, I
18 raised, I harvested and I marketed. I did local,
19 local businesses and I did international on a small
20 scale looking for bigger opportunities to try to
21 expand that business.

22 Eventually in 1994 I got my landscape
23 contractor's license. I've been in the beautification
24 business since then. I'm the president of Island
25 Landscape & Maintenance. I do contract landscaping.

1 I do maintenance and I grow flowers or plants.

2 So I been in the business for that long as
3 an adult. I had two jobs, one in the military and one
4 in landscaping and agriculture.

5 I strongly support Horton-Schuler not only
6 because I'm a contractor and I make -- my livelihood
7 is based on their type of work that I do because we do
8 all big jobs. I have no free or handout jobs from
9 them or anybody else. So all our jobs are bid out.
10 If I win I get the job. If I lose I don't get the
11 job.

12 But my big concern is: What is that word
13 "highest and best use"? What does it mean "highest
14 and best use"? In my interpretation being in
15 landscaping for well over 40 years I'm looking at the
16 'Ewa Plain. I'm wondering when are they going to farm
17 it? Who's going to grow anything out there? I
18 haven't seen anything in my lifetime as yet except
19 maybe some weeds, prior to that sugarcane.

20 And if you guys know anything about sugar
21 cane, the 'Ewa Plain had the lowest yields in the
22 island of O'ahu for sugar cane because it was primary
23 fill land and just what they call not that good
24 agriculture land.

25 So I cannot support it in terms of growing

1 anything for agriculture per se. I'm an aggie. I
2 think we can still use it for ornamental, maybe
3 growing orchids, plants or other things that related.
4 We're trying to get into more maybe wood, lumber, oil,
5 growing palms for oil, et cetera. So all these things
6 can be considered. But again I go back to the word
7 "highest and best use".

8 Who's going to benefit from it? Well,
9 everybody who works on it, everybody who lives there,
10 especially the government who collect their fair-share
11 of taxes. So I cannot see anything negative about it
12 as being a development for the future. 'Cause as a
13 Wahiawa boy we used to grow pineapple in Mililani
14 Town. Today it's a big, thriving community. And I
15 still believe that was the right choice at that time
16 'cause I worked in the pineapple field for five years.

17 So for our kids today looking ahead, the
18 definition of "agriculture" has changed dramatically.
19 Let's not think about truck farming. Where are the
20 plantations? Where the pineapple and sugar guys?
21 They're not here anymore.

22 So agriculture has to be redefined. Every
23 year the state puts out an annual report on
24 agricultural products that are grown in Hawai'i. The
25 fastest, and highest growing area is our ornamentals

1 and flowers. So that's the area that we should
2 concentrate on. And it doesn't need big acreage.

3 One of the things that people have to
4 remember about agriculture and why the state has ag
5 parks in various location like Waimanalo, Wai'anae,
6 most of 'em are located away from urban areas or
7 heavily populated areas. Why? Because I spray. I
8 fertilize. I use chicken manure for fertilizer. I
9 don't think people like the smell too well.

10 I just did a job called United States
11 Arizona Memorial in Pearl Harbor. Everybody knows
12 Arizona Memorial. We cannot use organic -- excuse me.
13 We cannot use inorganic fertilizer. Nor can we use
14 any kind of pest control, let alone herbicides. All
15 the weeds had to be pulled out manually.

16 Last summer we had full of white flies.
17 Every white fly had to be removed by hand because
18 that's the rule. We cannot pollute Pearl Harbor.

19 So I'm just saying I think all these
20 considerations have to be met because we're talking
21 about developing a new community, a very urbanized
22 area. And I cannot foresee it being used for any kind
23 of agriculture except smaller units, plants, material
24 that can be utilized today. I cannot see animals. I
25 cannot see truck farming. I cannot see plantation

1 type because all those will require chemical use. In
2 today's world that's a big no, no. Thank you very
3 much.

4 CHAIRMAN LEZY: Parties, questions?
5 Mr. Seitz.

6 MR. SEITZ: Sir, do you know what's grown
7 on this particular parcel of property that's the
8 subject of this proceeding?

9 THE WITNESS: Currently?

10 MR. SEITZ: Yes.

11 THE WITNESS: Weeds.

12 MR. SEITZ: So you don't understand that up
13 to 80 and 90 percent of the fruit and vegetables and
14 various crops are grown on this particular parcel of
15 property today.

16 THE WITNESS: Aloun Farms has leased
17 property there. I drive there every day, pass through
18 there every day.

19 MR. SEITZ: And are you aware that the
20 testimony here, un-rebutted testimony, is that this is
21 the best and most productive land in the state of
22 Hawai'i for growing vegetables and fruits? Are you
23 aware of that?

24 THE WITNESS: Yes and no. Because the land
25 in Hawai'i can always be made fertile to grow just

1 about anything anywhere.

2 MR. SEITZ: Thank you.

3 THE WITNESS: That's my argument.

4 CHAIRMAN LEZY: Any other questions?

5 Commissioners, questions? Thank you.

6 MR. SARUWATARI: Thomas Shirai followed by
7 Elaine Kam. Am I pronouncing our last name correctly?

8 THE WITNESS: My last name is Shirai.

9 MR. SARUWATARI: Shirai.

10 CHAIRMAN LEZY: Good morning.

11 THOMAS SHIRAI

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

14 THE WITNESS: I most certainly do.

15 CHAIRMAN LEZY: Please state your name,
16 your address and proceed.

17 THE WITNESS: My name is Thomas Shirai, Jr.
18 I live at 68-258 Crozier Loop in Waiialua, O'ahu,
19 96791. The specific area where I live from is called
20 Mokuleia. Okay.

21 Before I start my testimony I know this
22 Project's name is called "Ho'opili", yeah? I want to
23 start with where my alma matter is, the year book told
24 is "Ho'omana'o." Okay. My ho'omana'o is a suggestion
25 for consideration in the future. You see how crowded

1 this room is where the people like the Project or they
2 no like the Project?

3 I think in the future for controversial
4 issues or things of this matter you should get better
5 accommodations, a larger room. (Applause). I'm a
6 member of the North Shore Neighborhood Board
7 sub-district 1 Mokuleia to Kaena Point. And I'm here
8 to speak as an individual.

9 And that's why my neighborhood board moved
10 from the Kahili Surf Center at Haleiwa Ali'i Beach
11 Park to Haleiwa Elementary School cafeteria so that
12 there'll be more room for people to come and
13 participate thus also don't violate the Fire Code.
14 Okay.

15 Now, I will start with my testimony.
16 Yesterday I sent my testimony so I don't know if you
17 folks received it. So I'll vaguely touch up on but I
18 will give you an idea of who I am.

19 Agriculture, right? (Indicating T-shirt)
20 That's me. And this is the club I belonged to when I
21 was in school, the Future Farmers of America. When I
22 was in school for a stretch of seven to eight years,
23 my school, my club, was the icon in the state of
24 Hawai'i, the number one in the state of Hawai'i. And
25 nationwide throughout the continent there's over 8,000

1 chapters. And my school ranked within the top 25.

2 I am a two-time state plan identification
3 champion. When I was with this club in school we've
4 had all sort of agricultural things: Agribusiness,
5 taxonomy, parliamentary procedures, create recital and
6 ag demonstration and so on, so forth. So I think I
7 know a little bit about agriculture.

8 Now, I shall show you what I mean by that.
9 My family is a very special family. We come from on
10 the North Shore in Waialua. They were the cultural
11 informants for the Bishop Museum. They were featured
12 in two publications, the first is Archaeology of O'ahu
13 1933. And today's feature, The Hawaiian Planter of
14 1940.

15 They were the original cultural informants
16 for the Bishop Museum. This goes back to my
17 great-great- grandfather. It's a 1900 phone directory
18 page. And his name, if you're inclined to Hawaiian
19 words and stuff, his name is Ka'aimoku Kakululu. He's
20 listed as a taro planter.

21 Okay. I don't have any habitational
22 sharing at 'Ewa or Kalaeloa. However, I do have very
23 direct ancestral ties down there. And I'm also a
24 recognized lineal descendant by the State Historic
25 Preservation Division twice. And also in NAGPRA. I'm

1 the guy that had his bones, ancestors' bones
2 reinterred at Dillingham Air Field on the T.V. And my
3 friend there covered it, Andrew Pereira. Thank you,
4 Andrew.

5 This I say a special aloha to Ms. Makua.
6 Aloha. Your middle name is the name Napua, the
7 ancestor I --

8 CHAIRMAN LEZY: Sir --

9 THE WITNESS: Yes, I know about that. I'm
10 alluding to what I'm saying.

11 CHAIRMAN LEZY: I apologize for
12 interrupting you, but are you going to provide
13 testimony regarding the docket matter?

14 THE WITNESS: Yes, I am. I'm alluding to
15 that if you just let me finish.

16 CHAIRMAN LEZY: If you would please move to
17 your testimony regarding this docket matter.

18 THE WITNESS: It will be. It is. It's
19 very pertinent. The ancestor I put back at Dillingham
20 Airfield is Napuakau. My great-grandmother is
21 Napuakekau. And this is all her land. And how I am
22 related down there is that in Kapolei it's not a
23 person. It's the land itself. And that land,
24 according to this, says, "Number 39 has been disposed
25 of the Kalauoha'aea, Keahilele, and what is called

1 Fort Barrett, Pupuokapolei. That's my ancestor.

2 Now, to sum it up. My testimony, I gave
3 you the excerpt from the Hawaiian Planter. What got
4 me here was how fertile that place is recorded so much
5 that they had their own taro variety called Ka'i.
6 That happens to be my family's No. 1 variety when they
7 cultivated taro. And it was so good they called it Ka
8 Ka'i O 'Ewa.

9 So Hawaiian names means a lot. There's
10 also in the region called Kaloi Gulch. Just at face
11 value that should tell you the agriculture prowess
12 (sic) of that region.

13 So, Mr. Chair, that's all I want to share
14 about that. And that, you know, the real reason why I
15 came here is because of Dr. Dudley. And when I wanted
16 to contact him I went on the neighborhood website and
17 his street name is called Hauone. Hauone in Mokuleia
18 is the name of an ancient fishing shrine that my
19 family used to go to and still do. So that's all I
20 have to say, Mr. Chair. And that's the only point I
21 wanna make. Others will say other things about other
22 things. So thank you.

23 CHAIRMAN LEZY: Parties, questions?
24 Commissioners, questions? Thank you, sir. Let's take
25 a 10 minute break.

1 (Recess was held. 10:15)

2 CHAIRMAN LEZY: (10:36) (Gavel) Next public
3 witness.

4 MR. SARUWATARI: Madori Rampungworn.

5 MADORI RAMPUNGWORN

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: My name in Madori
12 Rampungworn. I live in Pearl City. So 98-114
13 L-i-p-o-a Place, 96701. This is where I proceed,
14 right? I kind of prepared by not really. Good
15 morning and aloha, Petitioners and Commissioners. As
16 you know I grew up in 'Ewa Beach. I live in Pearl
17 City behind two gas stations, a karaoke venue, high
18 density apartments. I'm across the street from a
19 mall, restaurants and several large banks. But in the
20 midst of this immense concrete jungle there's a very
21 small, almost benign watercress conservation farm of
22 what Pearl City used to look like before all that
23 development.

24 But what that does exist there, there's
25 trash continuously being ended up and, ended up and

1 beyond the perimeters of that farm. What I'm saying
2 is that once development starts it kinda doesn't stop.
3 And I think the utilization, the prioritization of our
4 resources, especially our natural ones, aren't really
5 being looked into because we have different
6 priorities.

7 I'm not saying everyone, like one side's
8 good and one side's bad. What I'm saying is that all
9 of our perspectives are really good. I know that all
10 of our intentions are really good, but our approaches
11 are kind of a little bit off.

12 There's a story, a tale about Alexander the
13 Great who when he passed, I believe whom before he
14 passed he asked his people to leave his one hand out
15 leaning over his tomb to show all people in the coming
16 future that truly in the end you have nothing but
17 what's within.

18 And I used to believe that strength,
19 courage, compassion, patience and love is something
20 that you find. But the more I see how society uses
21 these powerful manas the more I see it that these are
22 not things that you find. It's more things that you
23 create. It is a choice.

24 And I guess I'm here to ask you to make
25 those choices. Because these truths are so very hard

1 to find in a world of lies. Thank you.

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

5 MR. SARUWATARI: Last call for Phillip
6 Dang. Linda Young? Elaine Kam?

7 CHAIRMAN LEZY: Is there anybody else in
8 the audience who'd like provide public testimony on
9 this docket matter? If so, step forward please. Good
10 morning.

11 THAD SPREG
12 being first duly sworn to tell the truth, was examined
13 and testified as follows:

14 THE WITNESS: Unlike Maeda Timson did?
15 Yes.

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

18 THE WITNESS: Thad Spreg. I live in
19 Makakilo. Before I get into the main points of my
20 testimony I want to remind everybody that 30 percent
21 affordability is 70 *not* affordability.

22 Horton is not building a community where
23 the average family will be able to live. Again,
24 30 percent affordable is 70 percent not affordable.

25 People have testified this morning about

1 the positives of Horton, but I'd like to cite two
2 small examples of how they are not. They're small
3 examples but represent Horton very well. They show
4 the kinds of decisions Horton would make if the
5 Petition were approved.

6 There were sign wavers on the street
7 holding up "Ho'opili Equals Sustainable" signs
8 standing right next to a cooler filled with plastic
9 water bottles. Plastic water bottles are about as
10 unsustainable as it gets. In addition to all the
11 waste created by those plastic water bottles they
12 generated four bags of trash during just their one
13 hour sign waving on the street.

14 Horton, you claim to be sustainable. You
15 stand on the street and you take out ads saying
16 "Ho'opili equals sustainable," but the truth is the
17 exact opposite.

18 Second, I have here a banner that Horton
19 put up on the street promoting weekend sales special
20 on houses in their Kahiwelo development. Problem is
21 that it's not legal to put up this kind of banner
22 where they put it.

23 Now, as I said these are small examples but
24 they are clear examples of how Horton actually
25 operates. Horton has a great PR machine. They've

1 convinced a lot of people replacing farms with houses
2 is a good idea. They've convinced a lot of people
3 that putting thousands of houses on the hot 'Ewa
4 Plains where people don't want to live makes sense.
5 But it doesn't make sense.

6 If Horton wants to build homes, fine.
7 There are plenty of places where houses could be built
8 without sacrificing farmlands. Union workers would
9 still get the jobs they want. Horton keeps showing
10 the public places where they suggest the farms at
11 Ho'opili could move.

12 Why not just put the houses there? It
13 makes much more sense than Ho'opili, which makes no
14 sense at all. Don't be fooled.

15 CHAIRMAN LEZY: Parties, questions?
16 Commissioners, questions? Thank you for your
17 testimony.

18 THE WITNESS: Thank you.

19 CHAIRMAN LEZY: If there's anybody else who
20 would like provide public testimony please step
21 forward. Good morning.

22 PHILIP DANG
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: My name is Philip Dang. And
4 I live in 91-1064 Makahou Street, Kapolei. "Dear
5 Members of the Land Use Commission. Thank you for
6 letting me to voice my support of the planned
7 community of Ho'opili in East Kapolei.

8 In a recent "Star-Advertiser" article
9 Hawai'i has one of the highest home price and rental
10 cost in the nation. Hawai'i also ranked one of the
11 lowest in home ownership in the country. We
12 definitely need more housing here on this island, but
13 specially housing that is affordable.

14 Some opponent to the Ho'opili Project
15 indicated in previous hearing and in the Honolulu
16 Weekly that they support more housing, and they
17 support building them up as in high rise buildings.
18 As a construction professional for the last 15 years I
19 can testify that building up may provide more housing
20 units, but it will not be affordable.

21 As we build higher all components of the
22 building such as the structural, mechanical and
23 electrical system need to be stronger, more complex
24 and therefore more expensive to build.

25 Another reason building high rise is

1 expensive is because the developer cannot sell any
2 unit until the whole building is done. A typical
3 732-square feet unit in the recently finished
4 condominium Pacifica was sold for \$509,000. That is
5 almost \$700 per square feet. At this price and high
6 monthly maintenance fee not many local people can
7 afford to buy them.

8 In fact most of the high rise condominium
9 units are bought by foreign investors, not Hawai'i
10 people.

11 Housing in Ho'opili Project consists of
12 mainly one- to two-story single-family house and town
13 houses. Due to the low building height structural
14 components are commonly available, wood studs and
15 light gauge steel. Standardized plumbing and
16 electrical system make it economical to build.

17 Another advantage of this type of
18 development is the developer does not have to wait
19 until the whole project is done to sell. A typical
20 1,350 square feet single-family house at Lahiki in the
21 City of Kapolei is listed for \$479,000.

22 That's about \$350 per square feet, which is
23 about half of the 700 square feet you would pay for a
24 highrise condominium.

25 Twenty-one years ago my family was the

1 first family to move into the city of Kapolei. At
2 that time there was just some houses and sugarcane
3 field all around. We were really happy and excited to
4 move to Kapolei because our American dream of owning
5 our own home finally came true. Our house was not big
6 or fancy. It's a three-bedroom, two and-a-half bath
7 for a family of five; two-car garage in the front and
8 a small backyard in the back. But it was brand new
9 and affordable.

10 Eighteen years later I move out from my
11 parents' home, got married and I also bought a home in
12 Kapolei. As a resident of Kapolei for all these years
13 I see how the city of Kapolei grew from a sugarcane
14 fields to what we see today: well-planned communities
15 of houses, townhouses, offices and retail stores. All
16 this growth was based on the continued supply of
17 affordable housing.

18 Although the city of Kapolei is becoming
19 more and more like a city, but we are not there yet.
20 With the addition of Ho'opili to complete the final
21 of city of Kapolei we can finally live, work and play
22 all within the second city.

23 I respectfully ask you to approve D.R.
24 Horton-Schuler Division's Ho'opili Project today.
25 Thank you.

1 CHAIRMAN LEZY: Parties, questions?
2 Commissioners? Good morning.

3 DENNIS EGGE

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

6 THE WITNESS: I do.

7 CHAIRMAN LEZY: Please state your name,
8 your address and proceed.

9 THE WITNESS: My name is Dennis Egge. I
10 live at 2920 Ala'ilima Street. One percent of O'ahu's
11 population lives on that street according to the
12 Census Bureau but I think you already know that 'cause
13 I told you that -- I stated that fact the last time I
14 was here.

15 Yesterday this Commission approved Koa
16 Ridge "Estates". That's what I call it anyway. And
17 today you must choose between Ho'opili farms and
18 Ho'opili homes. Maintaining the status quo at
19 Ho'opili will stop or at least delay our state's
20 deliberate move towards total reliance on food grown
21 in Conex boxes on Sand Island. I'm trying to be funny
22 but nobody's laughing.

23 Since we're never aware of origin of this
24 food or the quality of, some of us would prefer that
25 us locals, and I consider myself to be a local, that

1 we would prefer to eat locally grown food. Now,
2 somebody asked: Why are so few farmers here?
3 There's a simple answer to that. It's an ugly word
4 but they're share croppers. Most of the farmers in
5 the state of Hawai'i serve at the pleasure of their
6 landlords. We already know that the landlords of
7 Ho'opili prefer development. So I think we're getting
8 down to the root, the root issue here.

9 And if we had to have so many homes we got
10 to look right across H-1 towards the north you'll see
11 30,000 acres of Del Monte land growin' weeds. Now, if
12 12,000 homes can be built on 1500 acres, then about
13 240,000 homes can be built on this fallow land, I mean
14 a little at a time, right, to satisfy our needs.

15 Right now the Census Bureau tells us with
16 the family size a little over three we only have about
17 300,000 homes on this island. I think the choice
18 might be pretty easy for you. But at the end of the
19 day if you go with what is real, D.R. Horton will have
20 to look elsewhere for a place to build homes and he
21 already knows where those places are.

22 So I would urge you to strongly consider
23 maintaining the status quo at Ho'opili farms. And
24 Horton has the resources and the energy to build all
25 the homes that the carpenters could possibly ever

1 build elsewhere on the island. And we won't have --
2 we won't take this 1500 acres out of production.
3 Thank you.

4 CHAIRMAN LEZY: Parties, questions?
5 Commissioners, questions? Thank you, sir.

6 THE WITNESS: Morning, Commissioners.

7 LINDA YOUNG

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

10 THE WITNESS: Yes.

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

13 THE WITNESS: My name is Linda Young. My
14 address is 91-1059 Oaniani Street, Kapolei. As I
15 stated my name. I've been a resident of Kapolei for
16 17 years. And I'm an active member of my community
17 including a member of the Friends of the Library of
18 Kapolei and 12-year member of the
19 Makakilo/Kapolei/Honokahale Neighborhood Board.

20 D.R. Horton-Schuler Homes has worked very
21 hard over the last six years to engage the West O'ahu
22 community. And because of this support for Ho'opili
23 continues to grow. Three of the neighborhood boards
24 surrounding Ho'opili all voted unanimously to support
25 the Project. This includes my board in Kapolei.

1 Kapolei, 'Ewa and Waipahu Neighborhood Boards
2 represent an estimated 100,000 members or residents.

3 After decades of planning the vision for
4 the second city is finally becoming a reality. We
5 have so many new and exciting projects in the area
6 including UH West O'ahu, the Kroc Center, the state
7 judiciary building, and the city's Kapolei Hale, and
8 many other private businesses who have invested in the
9 area with the hopes that one day there would be
10 residents to shop at the stores and dine in the
11 restaurants.

12 Yes, I believe that Ho'opili will help to
13 complete the long-planned second city, but more
14 importantly it would provide thousands of homes for
15 your local working families.

16 Not only will those who live in Ho'opili
17 enjoy the benefits from the community, the greatest
18 region will also gain parks, educational facilities,
19 retail stores, a mix of housing options and jobs.

20 The 7,000 quality permanent jobs created
21 over Ho'opili's 20-year buildout will allow West O'ahu
22 residents to work closer to home ultimately giving
23 them more time with their families. At this time I'd
24 like to thank you for this opportunity to share my
25 support for Ho'opili.

1 CHAIRMAN LEZY: Parties, questions?
2 Commissioners, questions? Thank you. Is there
3 anybody else who wishes to provide public testimony?
4 Step forward, please. Good morning.

5 CHOON JAMES
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: Choon James from Kahuku.
12 Several years ago my husband came back from a trip to
13 the island of Tonga. And he had brought home an
14 inflight magazine. And in that magazine there was a
15 very intriguing article on the sinking islands in the
16 Pacific area. And that article talk about a woman who
17 was mining sand.

18 So she was asked, you know, what was she
19 doing mining sands from her island who is already a
20 sinking island, so to speak. And her response to that
21 was, "It's my livelihood."

22 Now, it's a very poignant answer because
23 knowing the situation of her island home she either
24 could not understand or refused to understand that
25 what she was doing at that time is not going to be

1 sustainable because you cannot continue to mine sand
2 from a disappearing beach from a sinking island.

3 Now, I congratulate D.R. Horton for
4 building so many exciting and wonderful subdivisions.
5 I've seen them on the mainland and they are beautiful.
6 But a question that we need to ask ourself today is
7 where are we? Are we in Florida? Are we in Texas?
8 Are we in Arizona? Are we in Utah? The answer is
9 obviously no. We're not.

10 We are in O'ahu, a very teeny island in the
11 middle of the Pacific Ocean. And the closest flight,
12 the fastest flight that we can get to the mainland is
13 at least five hours. And our little island home
14 already imports 92 percent of our food. So when we
15 put that all together we really need to step back.

16 D.R. Horton has many, many other wonderful
17 options that they could use to continue their business
18 model. But I submit to you today that this D.R.
19 Horton business model of putting up wonderful
20 subdivisions cannot continue to be duplicated on our
21 island because how many more subdivisions can we
22 duplicate?

23 And you have gone through this whole, long
24 process. And I need to congratulate the citizens who
25 have put forth their efforts and who have, who have

1 spent so much time because they feel in their na'au
2 that it is their kuleana to protect what little is
3 left of O'ahu.

4 I know that they don't do it for
5 themselves. They could be out golfing. They could be
6 out traveling. But they do it out of a sense of
7 responsibility and kuleana. And they do it out of
8 their own pocket and of their own time and their
9 efforts.

10 And I understand where they're coming from
11 because I feel that way. You know, this is not about
12 you versus us or who's going to win or who's going to
13 lose. This is about us living in this same canoe. At
14 the end of the day we are all human beings. We have
15 our families. We have our children. And we want the
16 best for them.

17 And so it cannot be on this little island
18 that you're going to say, "Well, I want this so I'm
19 going to fight tooth and nail to get what I want."
20 Because it can't work. We're all in a little canoe
21 together.

22 And what is going to happen today is going
23 to honestly reflect what the consequences are going to
24 be for us tomorrow. If nothing else in terms of food
25 security let's not even talk about impacts of traffic

1 or increased property taxes and multiplier effects
2 like it has on the society with such big, big
3 projects.

4 And may I also, also add, you know, again,
5 this is not about who wins and who lose. This is
6 about how can we work together to produce a vision of
7 what we think Hawai'i should be. And how we can, we
8 can make life easier for our children and for our
9 grandchildren because I know that each one of you work
10 very hard. You work very hard to put food on the
11 table. And you work very hard so that your children
12 would have a better life.

13 And this is one of those instance where a
14 decision that is made today is going to set the
15 direction of whether we are going to be
16 self-sustaining on this island in many aspects. And
17 may I add I was reading in the Facebook yesterday.
18 Someone said, "Hey, Kirk Caldwell, who is the mayor's
19 candidate, has already said that Ho'opili, D.R. Horton
20 has the votes in the Land Commission to pass this
21 through."

22 And may I respectfully say that, again,
23 Land Commission is not about who you work for or who
24 you're affiliated with. I know that many of you are
25 attorneys and work for company or who are related to

1 developers, but that's to me is, should never be the
2 point. Because if we look at the way that many boards
3 and commissions are made up, a lot of it are already
4 stack up.

5 So it's a very, very tough uphill battle
6 for the public to go against the status quo, if that
7 is how it's going to be voted. And I certainly hope
8 that that is not the case.

9 Because if that is the case then we, the
10 people, the public, may as well tell our governor that
11 we shouldn't even go through the process of vetting
12 and choosing or appointing. We should just open up
13 the telephone book, close our eyes and just pick up
14 five names from it. You know, that would certainly
15 better represent the main stream society out there.

16 So once again, thank you for giving me this
17 time. And, again, at the end of the day we are all in
18 this canoe together. We can all disagree, but we can
19 be friends. But we must, we must remember that we are
20 an island home and D.R. Horton needs to know that.

21 And D.R. Horton has a very bright future.
22 They can move anywhere else on the continental
23 mainland to carry on their profitable ventures. And I
24 wish them the best. Thank you.

25 CHAIRMAN LEZY: Parties, questions?

1 Commissioners, questions. Thank you. Morning.

2 DANA PATRIA

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

5 THE WITNESS: Yes.

6 CHAIRMAN LEZY: Please state your name,
7 your address and go ahead.

8 THE WITNESS: My name is Dana Patria,
9 98-352 Pono Street. I'm just an independent Hawaiian.
10 All I want to ask is is Ho'opili gonna feed me? And
11 stop the hunger. Save all farmland. Stop Ho'opili.
12 Thank you.

13 CHAIRMAN LEZY: Parties, questions?
14 Commissioners, questions? Thank you for your
15 testimony, sir.

16 THE WITNESS: Thank you.

17 PATRICIA PATTERSON

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

20 THE WITNESS: I do.

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

23 THE WITNESS: My name is Patricia
24 Patterson. I live at 84-755 Ala Mahiku. That's
25 Makaha Valley Plantation. And I live where there used

1 to be lots of farmland, lots of food that we could
2 eat. I'm here to say don't let Horton do it, please.
3 I go to the Waianae Farmers Market for my fresh fruits
4 and vegetables. I would like the people in Kapolei to
5 continue to have that potentiality. Kapolei was
6 supposed to be a real city now. It's just almost all
7 homes. Why do we need more homes before we build that
8 as a city?

9 Please keep it as farmland. Remember that
10 that piece of farmland can grow four crops every year.
11 There's hardly anyplace else in the world that gets
12 more than one. So please save it so that the people
13 in Kapolei can have opportunities to go to *their*
14 farmers market. Mahalo.

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

17 THE WITNESS: Thank you.

18 CHAIRMAN LEZY: That concludes public
19 testimony on this. Is there anybody else who wants to
20 provide public testimony on this docket matter?
21 Please, anybody else that wants to provide public
22 testimony please step forward now. Thank you.

23 KIKA BUKOSKI
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: Kika Bukoski, 560 North
5 Nimitz Highway, Honolulu, Hawai'i 96817. Thank you
6 for this opportunity to testify, Chair and Commission
7 members. Just for clarification this is a plastic
8 bottle and I will recycle it, reuse it so that is
9 sustainability.

10 I want to start off by saying I
11 respectfully disagree with the gentleman that
12 represented himself as the president of the 'Ewa Beach
13 Neighborhood Board. I'm going to paraphrase him, but
14 basically stating that this Project is not fulfilling
15 the vision of a second city. In other words, it's not
16 building the infrastructure and what is needed for the
17 second city to sustain itself.

18 You know, there's a lot of good things
19 happening on the west side. If you take a ride out
20 there you'll see the first pillars of the rail project
21 that are going up on the proposed Ho'opili site.

22 You'll see UH West O'ahu that's currently
23 completing construction and getting ready for the fall
24 semester to begin.

25 You'll see the East Kapolei Regional Fire

1 Station and training facility that's being built just
2 down the road from the Ho'opili site, the FBI building
3 that's nearing its completion in Kapolei; the recent
4 opening of the Kroc Center, one of the state's
5 largest, if not *the* largest community centers in the
6 state that's going to service the Kapolei community.

7 And more recently in the last couple days
8 four bills that passed through city council which are
9 critical to the rail project moving forward.

10 There's a lot of good things happening in
11 Kapolei. Things are coming together. Ho'opili is a
12 piece of that Master Plan, that vision that was put
13 together decades ago. Is Ho'opili about jobs? Sure.

14 My organization represents the construction
15 workers. And it *is* about jobs for us. We have an
16 obligation to promote and protect the health and
17 well-being of our members. But we as a society, we as
18 community leaders have an equal responsibility
19 constitutionally to protect them and promote that
20 health and well-being.

21 Ho'opili provides opportunity for those who
22 are dependent on an economy to live and to survive and
23 to enjoy the kind of quality of life that everybody
24 should be able to enjoy. Ho'opili again provides that
25 opportunity.

1 There is a broad base, you know. There may
2 be a misperception that there's just union
3 construction workers here. But that's not true.
4 There's a lot of different representation from all
5 walks of life. There's not just construction workers,
6 but families young and old who hope to maybe have an
7 opportunity to purchase a home at Ho'opili, and maybe
8 have a little small yard where they may be able to
9 grow some fruits and vegetables, and barter with their
10 neighbors and reach across the fence and talk story
11 like we used to in the old days.

12 Ho'opili is not just about building,
13 construction or constructing physical homes. It's
14 about building a community. You know, someone once
15 told me that there's two types of people. There's
16 people that divide and there's people that bridge.
17 There's people that destroy and there's people that
18 build.

19 Some may say that Ho'opili is gonna destroy
20 prime ag land that's currently being farmed. And I
21 respectfully disagree. I think what Ho'opili is going
22 to do is it's going to build. It's going to build
23 homes. It's going to build opportunities. It's going
24 to build security. It's going to build stability.
25 It's going to build hope for people and the young

1 gentleman who just came up. You know, Brother, is
2 Ho'opili going to feed? Yes, Ho'opili is going to
3 feed.

4 Because although the jobs may be temporary
5 for the construction workers what's going to remain is
6 a community that's being built that will last for
7 generations to come and provide jobs to the community,
8 provide homes, provide shelter, provide opportunities.

9 You know, there's other projects. When we
10 talk about the second city versus the first city it's
11 not about dividing. It's about bridging.

12 That's what other projects are intended to
13 do, to bridge the first and the second, to provide
14 opportunities out in the second city to relieve some
15 of the traffic infrastructure concerns that we have,
16 but also to bridge the first and the second city so
17 that people can move and be mobile between the two and
18 have a choice and have alternatives.

19 And that's what Ho'opili represents to us.
20 Not just jobs, but opportunities for everybody to
21 enjoy, not just the construction workers but for
22 everybody.

23 So we humbly ask and we appreciate this
24 opportunity to testify and to participate in this
25 process. And we humbly ask for your support and your

1 approval of this Ho'opili Project. Thank you.
2 (Applause).

3 CHAIRMAN LEZY: Parties, questions?
4 Commissioners, questions? Thank you. Morning.

5 THE WITNESS: Morning.

6 BURKE DUNLAP

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

9 THE WITNESS: Yes, sir.

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

12 THE WITNESS: My name is -- I'm a little
13 nervous. I'm a farmer and a landscape contractor. My
14 name is Burke Dunlap. And I live at 41-555
15 Waikupana'ha Street in Waimanalo, Hawai'i. I was
16 hesitant to come up here, but I wanted to because I
17 have been -- I've seen Kapolei built.

18 I grew -- I had a contract to grow all the
19 trees with Campbell Estate for Kamakila Boulevard, for
20 the regional park and the shopping center. And for
21 the past, since 1989 I have been driving from
22 beautiful Waimanalo to Kapolei doing a lot of work out
23 there.

24 And I lived here since 1971. And I have
25 really been impressed by the beauty of Hawai'i when I

1 came here, the beautiful blue ocean. And I am
2 impressed with the beauty of Kapolei, how it has been
3 developed. It has so much landscaping, trees. The
4 way it has been designed is impressive compared to
5 where I have been in other places on the mainland.

6 Also I think of my son. And I think of all
7 the people here who have children who are growing up
8 in Hawai'i who want to stay here and have a place to
9 live and a place to work.

10 And I think that the Project at Ho'opili
11 will be a positive. Because I've worked on D.R.
12 Horton projects as a landscape contractor. I've seen
13 the landscaping and the overall design beautify the
14 environment.

15 Of course we want to preserve land but we
16 also want a place for all of us to live and to grow.
17 We also want a place where our children and your
18 grandchildren to grow and have a place to live like we
19 have had.

20 And I just wanted to say for the past 21
21 years that I've been there, I have a nursery there. I
22 lease land from Campbell Estate. I have a tree
23 nursery out there. I have about 11 acres that's right
24 near the water park that I lease. And I see immense
25 opportunities for other places to live.

1 I will have to move from that site
2 eventually because it's gonna have houses. But
3 there's other places I can move to. Easily. And move
4 all my trees. And I feel like our children, my son,
5 need to have a place to live.

6 And I've seen the quality, as that lady had
7 spoken to, about projects on the mainland where
8 children, where D.R. Horton has developed and they've
9 done a good job. They've done a great job here, but
10 in the end this canoe we live on, as she said, we need
11 to have houses and also have places to work perhaps
12 like in Honolulu. And also Honolulu is growing and
13 there's only so much land.

14 We also need a place like Kapolei which has
15 been designated as a place for our children and future
16 generations to have as their place to work.

17 So I just don't want to take up any more of
18 your valuable time. But I wanted to come down here
19 and just state in being honest that if we look at what
20 D.R. Horton has done to date, the quality of projects,
21 and how nicely landscaped and green they are, that we
22 need a Project like that. So thank you for your time.

23 CHAIRMAN LEZY: Parties, questions?
24 Commissioners, questions? Thank you, sir. That
25 concludes public testimony on this docket matter. The

1 Commission has received the parties' briefing on the
2 constitutional issue. I thank you for that. All the
3 briefing was very thorough. We won't take separate
4 argument on that issue. We will move into closing
5 arguments. Mr. Kudo, are you prepared to proceed?

6 MR. KUDO: Yes, I am.

7 CHAIRMAN LEZY: Please do.

8 MR. KUDO: Before I start my closing I
9 would like to ask the Commission leave to reserve some
10 of my closing argument time to at the conclusion of
11 everyone else's argument just a few minutes. As
12 Petitioner has the burden of proof I'd like to be able
13 to respond to anything that might come up in the
14 closing arguments raised by the other parties, if it's
15 okay with the Commission.

16 CHAIRMAN LEZY: Sure. You can keep time
17 for rebuttal.

18 MR. KUDO: Ladies and gentlemen of the
19 Commission, today is a very important and historical
20 day for the future of our island and our state. The
21 efforts to plan the Secondary Urban Center in the 'Ewa
22 region began in the 1970s.

23 It was the product of lengthy and
24 continuous debate for several years as the city
25 embarked on its process of formulating a directed

1 growth policy and set the path for Honolulu's growth.

2 In 1977 the city council approved the new
3 General Plan that designated 'Ewa as the location of
4 the new Secondary Urban Center for the island of
5 O'ahu. The development of the 'Ewa region in Kapolei
6 was accelerated once O'ahu Sugar, which occupied much
7 of 'Ewa lands, closed its doors and stopped farming
8 the 20,000 acres of agricultural lands in the 'Ewa
9 region. This occurred in the mid 1990's.

10 O'ahu Sugar's demise marked the end of an
11 era of large plantation farms in Hawai'i. The closure
12 of plantations throughout the state would have
13 wide-ranging ramifications.

14 For one, it released thousands of acres of
15 agricultural lands that lay fallow for decades. The
16 state and city recognized that this was a major
17 problem. But it also presented a significant
18 opportunity to diversify our island's economy in other
19 directions.

20 We should also bear in mind that during
21 this time military spending was on a decline. Only
22 tourism remained as the state's chief economic engine.

23 Diversification was pursued and needed to
24 keep our island's economy and communities viable and
25 healthy. During the plantation days the waving fields

1 of green sugarcane, pineapple presented to our
2 island's vast open spaces that also provided an
3 underlying economic value. Unfortunately, the global
4 and local economics of maintaining and operating the
5 large commercial farm plantations in Hawai'i could not
6 sustain itself.

7 It was then recognized that decisions
8 needed to be made regarding the future direction,
9 growth and prosperity of our island. Land use
10 decisions were part of that decision making process.
11 These decisions were not a panacea to resolving all of
12 the problems facing our community and addressing all
13 of its needs.

14 However, the planning process that brought
15 the city, state and the general community together
16 would provide a basis to explore the various options
17 available.

18 Each of us were stakeholders in that
19 process. Debate, discussions and compromise over a
20 lengthy, trying process got us to where we are today.

21 Decision-makers, planners, stakeholders and
22 political leaders made the best decisions they could
23 based on the information they had before them to adopt
24 a directed growth policy rather than promote urban
25 sprawl into areas like the Windward side of the

1 island, North Shore or the Wai'anāe Coast.

2 The planning process brought predictability
3 and reduced uncertainty as a course and direction was
4 set and is being carried out even today. Those 40
5 years of planning are at the heart of this
6 Commission's decision on this Petition: To implement
7 or not those decisions made to continue to complete
8 the last component of the Secondary Urban Center's
9 success. Ho'opili is the last component to make 'Ewa
10 into the Secondary Urban Center.

11 So what happens if this Project is unable
12 to move forward and this Petition is denied? Will it
13 be leased to small family-owned truck farmers at
14 nominal or subsidized rents? Unfortunately I don't
15 believe so. These lands would probably be sold or
16 leased to the large commercial seed companies who can
17 afford to pay market rents. You will recall that our
18 existing tenant farmers are paid -- pay us subsidized
19 rents, rents below market.

20 What will happen to the viability of the
21 Secondary Urban Center to those waiting to enter the
22 housing market, and most importantly, to those
23 thousand who value working to support themselves and
24 their families?

25 What happens to their families, to their

1 children, to this community? Will truck farming truly
2 create thousands of quality jobs for our Hawai'i
3 residents into the future? Unfortunately, I don't
4 believe so.

5 The directed growth policies of the city
6 have resulted in significant state and county
7 investment in this particular region. Some of those
8 investments already include Barbers Point Deep Draft
9 Harbor, the Villages of Kapolei, 'Ewa Villages, West
10 Loch, the state office building such as the Department
11 of Hawaiian Home Lands, the county's Kapolei Hale, the
12 Honouliuli Wastewater Treatment Facility. In
13 addition, millions of dollars of roads and public
14 services were also completed.

15 Today more investments are coming in such
16 as the Disney Hotel Resorts at Ko Olina, the state
17 judiciary building, UH West O'ahu, the FBI building,
18 the Longs Distribution and Warehouse Center,
19 Department of Hawaiian Home Lands residential
20 development, the DeBartolo Shopping Center, the Kroc
21 Center, not to mention the concomitant improvements to
22 roadways, parks and public services, a recent
23 investment of over \$1.5 billion to make the Secondary
24 Urban Center a true city.

25 The commitment of D.R. Horton-Schuler, the

1 Petitioner in this case, to this Project and to the
2 'Ewa community should not be in doubt. Their
3 reputation in Hawai'i since they began work here in
4 1973 has produced over 10,000 residential homes in
5 Hawai'i.

6 They have built communities. They have a
7 proven track record since 1973 of providing affordable
8 first-time buyer or first-time move-up homes. That is
9 their true market. That is their expertise.

10 This Project is not about expensive resort
11 or high-end luxury market units. We do not believe
12 that the reputation, economic capacity or know-how of
13 Horton-Schuler is at issue here.

14 D.R. Horton-Schuler has proven itself over
15 the last 30 years or more to deliver on its promises
16 and has the financial strength to carry out its
17 commitments to you.

18 Public testimony in these hearings has
19 evidenced a great deal of support for Ho'opili from a
20 wide and broad spectrum of the community. This
21 support has come from three neighborhood boards that
22 are affected by this Project: The 'Ewa Neighborhood
23 Board, the Waipahu Neighborhood Board, the
24 Makakilo-Kapolei-Honokai Hale Neighborhood Boards, all
25 of which unanimously, unanimously approved this

1 Project and this reclassification effort to the Urban
2 District.

3 Other members of the community have also
4 testified in support of this Project: educators like
5 Chancellor Gene Awakuni who is now developing the
6 University of Hawai'i West O'ahu Campus which I
7 understand is scheduled to open this August.

8 Social service leaders such as Major Phil
9 Lum of the Salvation Army's Kroc Center, former
10 president of the Waikele Community Association Phyllis
11 Katcher. Religious leaders like Pastor Michael Lwin
12 of the New Hope Leeward Church. And political leaders
13 like Senator Will Espero. And community leaders like
14 Maeda Timson and others.

15 Public testimony in support of Ho'opili
16 also came from the hard working individuals who have
17 been out of work for the last few years. Members of
18 various trade organizations, the Hawai'i Carpenters,
19 Plumbers and Fitters, Operating Engineers, the Hawai'i
20 Laborer's Union, Building and Trades Council.

21 It goes without saying that our island's
22 economy has not been very good since 2008. It has
23 been four years and many are still out of work. It is
24 a scary proposition to be without a job.

25 Yet as these individuals maintain hope and

1 a deep and sincere desire to provide for their
2 families, we the Petitioner, are committed to
3 providing those jobs as soon as possible. This
4 Project will provide 10,000 jobs both direct and
5 indirect.

6 Now, there has been public testimony
7 against the Project focused on the quality and nature
8 of the lands and soil located within the Petition
9 Area. We admit that these lands are good and viable
10 agricultural lands. We do not admit that these lands
11 are the best agricultural lands in the state. That
12 was refuted by our expert Dr. Bruce Plasch in his
13 testimony on November 11, 2011.

14 At that time when the O'ahu Sugar Company
15 closed its doors, a decision was made for the best
16 interest of our community to keep and maintain the
17 agricultural lands in Central O'ahu, North Shore and
18 the Kunia region and to move the Urban Growth Boundary
19 above the H-1 Freeway. The merits of the agricultural
20 issue have been debated on both sides during these
21 very lengthy proceedings.

22 Public testimony against this Project has
23 also come from public and Intervenors' witnesses who
24 are recognized leaders in the anti-rail movement. As
25 you know two stations of the city's rail project will

1 be situated within Ho'opili or near it. And that the
2 foundations for that rail system started construction
3 last month. Individuals such as Dr. Panos
4 Prevedouros, Cliff Slater, former Governor Ben
5 Cayetano, Michael Lee, Donna Wong, Sandra Aki, and Tom
6 Coffman to name some, have all been very active in
7 leadership roles in the anti-rail movement.

8 We ask do their motives lie in the merits
9 of Ho'opili or using Ho'opili as a means to defeat the
10 city's rail project from moving forward? This could
11 explain why many of these same individuals and others
12 on the agricultural issue did not testify at a hearing
13 involving agricultural lands in Central O'ahu on a
14 recent Petition before this Commission.

15 Ho'opili is a truly unique and first of its
16 kind Project. You've heard that repeatedly stated by
17 others. The Project implements the city's 'Ewa
18 Development Plan, and incorporates the western
19 terminus of the city's rail transit system. Although
20 Ho'opili is rail ready it is not rail dependent.

21 However, we believe that the element of
22 rail in this Project will mitigate transportation
23 impacts and present Transit-Oriented Development
24 opportunities for the residents of Ho'opili and the
25 community at large.

1 The planned community of Ho'opili will be a
2 pedestrian-oriented place where people can live, work,
3 play, shop and learn. It was intentionally designed
4 that way through the efforts of our land planners, our
5 transportation planners and to mitigate against the
6 need for people to commute to the Primary Urban
7 Center.

8 Ho'opili was *not* intended to be a suburb of
9 Honolulu but rather a critical component of the second
10 city. That's absolutely a critical element of this
11 Project. As far back as 1997 the 'Ewa Development
12 Plan targeted the Petition Area for residential
13 development. In addition, as far back as 1997 the
14 city also planned for rail transit stations and
15 Transit-Oriented Development to be included within
16 the 'Ewa Development Plan.

17 The Petitioner considered community input
18 to be significant to its development and its design.
19 It created the Ho'opili Task Force from various
20 members of the community. Approximately 31 residents
21 participated in the Task Force meetings which began in
22 2005 and continues to this day.

23 The ideas, concerns expressed by those
24 members who participated in those meetings helped to
25 formulate Ho'opili's vision statement and was compiled

1 into a brochure published in 2006. The brochure
2 represented the community members' vision for the
3 future and a reflection of their hard work.

4 A featured element of the vision statement
5 was a Ho'opili Conceptual Land Use Plan which was used
6 in the Project's EIS, approved by this Commission in
7 August of 2008.

8 The Task Force envisioned that Ho'opili
9 would serve as a Master Planned community providing
10 residential, commercial and industrial uses. Yes,
11 even agricultural uses.

12 The Project will provide a mix of housing
13 opportunities focused at affordable home buyers, first
14 time buyers and first time move-up homeowners. Some
15 3,000 residents will be in the affordable housing
16 range in conforming to the city's affordable housing
17 regulations.

18 After the Ho'opili Conceptual Master Plan
19 was completed by the Task Force its members continued
20 to meet and shifted their attention to one of the
21 largest and the most significant concerns we faced.
22 And that was traffic. They recognized that the need
23 for infrastructure to support the development of
24 Ho'opili and to mitigate its impact. The Task Force
25 conducted extensive research into inventorying and

1 mapping the current proposed transportation
2 improvements in the 'Ewa region.

3 This study included the Oahu Regional
4 Transportation Plan, the Kapolei Long-Range Master
5 Plan, the Kalaeloa Master Plan and various external
6 services and sources to compile a regional overview of
7 planned transportation improvements.

8 This engendered the publication of the 'Ewa
9 Regional Transportation Plan which serves as the
10 resource for all regional roadway projects either
11 under construction or planned to be completed prior
12 to the development of Ho'opili during its eventual
13 buildout.

14 This plan provided the Task Force members
15 with a solid background to make educated decisions in
16 regard to what was necessary to alleviate the traffic
17 congestion in 'Ewa. Petitioner's commitment toward
18 resolving and mitigating these traffic impacts were
19 based on this effort.

20 As brought out by the direct examination of
21 Mr. Michael Jones, division president of the
22 Petitioner, the Petitioner's committed to making
23 substantial contributions in land and cash toward
24 traffic and roadway improvements.

25 These include: No. 1. The Ho'opili

1 Project will need to contribute \$30 million to the
2 city's 'Ewa Impact Ordinance Fee Program. The city
3 has been very proactive in 'Ewa by having enacted a
4 transportation impact fee law for this region. It is
5 and covers all present and future projects which are
6 required to contribute their fair-share to address
7 traffic impacts.

8 I would like to add that this particular
9 ordinance is unique because as I understand this is
10 the only ordinance in the only area of the 'Ewa region
11 in the entire island.

12 Secondly, Petitioner will be participating
13 in improvements to Farrington Highway which is
14 estimated to cost \$50 million.

15 Third. Petitioner will contribute 20 acres
16 of land along Farrington Highway for the widening of
17 that highway which is estimated at \$8 million.

18 Fourth. The Petitioner will contribute
19 land to the state Department of Transportation for the
20 East-West Road connector which has an estimated value
21 of \$22 million.

22 Five. The Petitioner will be contributing
23 lands in the Petition Area necessary for the city's
24 rail transit system estimated at \$4 million.

25 Sixth. The Petitioner will contribute land

1 for the park 'n ride areas. Value estimated
2 2 million.

3 Seventh. The state Department of
4 Transportation has requested from the Petitioner a
5 contribution of additional lands for the Kunia
6 Interchange. Estimated value \$4 million.

7 Petitioner, No. 8, will be working with the
8 state Department of Transportation to create
9 additional capacity on the H-1 Freeway from Kunia to
10 Wahiawa. I don't have the estimated value of that.

11 In addition to the above to date,
12 Petitioner has already contributed 40 acres for the
13 new South Road which has an estimated value of 16
14 million. This has already been contributed.

15 The total cash in transportation
16 contributions made by Petitioner in its commitment to
17 mitigate the traffic impacts will amount to
18 approximately \$136 million. This, however, does not
19 include future contributions and requirements by the
20 state Department of Transportation which are yet to be
21 determined. Wait. We're not finished.

22 The 136 million contribution is not all.
23 This amount does not include several hundreds of
24 millions of dollars that Petitioner will be spending
25 for road and traffic improvements within the Petition

1 Area such as the North-South spine road, East-West
2 connectors, internal bikeways and walkways.

3 We recognize that traffic and traffic
4 congestion is a serious concern to residents of the
5 area. We believe, however, that the best way and the
6 most effective way to counter and mitigate traffic
7 congestion is to create a true city, a place where
8 people live and work and play. By doing so people
9 need not commute to central Honolulu.

10 This is not a fiction but is at the heart
11 of creating the Secondary Urban Center. Along these
12 lines our Project is anticipated to create more than
13 10,000 indirect and direct jobs. It is projected by
14 2025 there will be 40,000 new jobs in the Kapolei
15 region.

16 A critical mass of jobs needs to be created
17 in order to create a city and to reduce traffic. We
18 are on a journey that started in 1970 that is about to
19 be successfully completed if this Project moves
20 forward.

21 If this Project is denied because of
22 concerns over traffic, who will provide the solution?
23 Without this Project a critical mass of jobs may never
24 be reached. Without this Project, traffic congestion
25 will only worsen as people travel from 'Ewa to the

1 Central Honolulu area to reach places of employment.

2 With this Project a significant number of
3 jobs will be created along with other jobs created in
4 the region to provide a place for our community to
5 live and work. We must give the solution to traffic a
6 chance. Without it there will be no other solution
7 available, we fear, for many years.

8 We ask at this time that this Commission
9 favorably consider this particular Petition. We
10 believe that we have addressed to the evidence
11 submitted since 2008 when these hearings began, both
12 written and oral testimony that supports and addresses
13 the criteria that are in the state law Chapter 205 as
14 well as the Hawaii Administrative Rules that provide
15 for this land to be reclassified from the Agricultural
16 to the Urban District. And we ask for your favorable
17 consideration. And I thank you very much.

18 CHAIRMAN LEZY: I think it probably makes
19 sense to take a break for lunch at this point. Let's
20 reconvene at 12:15. Forty-five minutes. Thank you.

21 (Recess was held.)

22 CHAIRMAN LEZY: Mr. Kitaoka, you're
23 prepared to proceed?

24 MR. KITAOKA: Yes, I am.

25 CHAIRMAN LEZY: Please do.

1 MR. KITAOKA: Thank you. Good afternoon,
2 Mr. Chairman, Members of the Commission. Much of what
3 I have to say today I've already said yesterday before
4 this Commission. But for the benefit of those
5 Commissioners that weren't here yesterday and for the
6 record in today's proceedings I'll repeat myself.

7 The City supports the Ho'opili Project
8 because it's consistent with city plans and policies.
9 It's consistent with the city's General Plan. It's
10 consistent with the 'Ewa Development Plan and it's
11 consistent with the Urban Growth Boundary found in the
12 'Ewa Development Plan.

13 It is also consistent with the city's
14 policy of directing urban growth to the 'Ewa Plain.
15 Now, this consistency is significant. Because as you
16 know the City has comprehensive plans and processes
17 for land use planning and approvals.

18 The General Plan and Development Plan are
19 part of this process, but also if, in fact, if the
20 Petitioners are successful at this Commission they
21 would have to go through an arduous and thorough
22 examination in the rezoning process, the subdivision
23 process, and all of the permits that go along with
24 entitlements for development.

25 It is during this process of the city that

1 the city will be able to address concerns about
2 traffic, concerns about housing. And the city will,
3 in fact, require updated traffic reports, TIARs, so to
4 speak, and other reports to make sure that all of the
5 available information is current in processing these
6 land use approvals.

7 So the city will be mindful of protecting
8 the public health and safety in processing these
9 permits. And the reason I say that it's significant
10 that this Project is consistent with the city's plans
11 and policies is because the adoption and the revision
12 of these plans go through a very arduous and public
13 process.

14 As you may know, just to adopt or revise
15 development plans the procedure has to go through the
16 planning commission and the city council.

17 And the development plans, and basically
18 the regional development plans are the product of
19 thorough investigation, public outreach and
20 consideration by planning professionals and
21 consultants both at the Department of Planning and
22 Permitting and in the private sector. And their
23 expertise in developing these plans are unquestioned.

24 The opponents wish to limit conversion of
25 prime agricultural lands. And they also wish to

1 preserve open space. The City Development Plan also
2 has these goals. To paraphrase from the 'Ewa
3 Development Plan, "the Urban Growth Boundary for 'Ewa
4 was drawn to give long-range protection from
5 urbanization for prime agricultural land and for
6 preservation of open space while providing adequate
7 land for urban development in 'Ewa for the foreseeable
8 future."

9 I was very encouraged yesterday by the
10 comments of Commissioner Judge when she mentioned the
11 significance and recognized the significance of county
12 plans when you consider these petitions. So I would
13 ask that this Commission basically give the
14 significance to the county plans that the plans
15 deserve. Thank you.

16 CHAIRMAN LEZY: Thank you. Mr. Yee.

17 MR. YEE: Thank you. Good afternoon. The
18 Office of Planning supports reclassification of this
19 Petition Area. We have reached a stipulated agreement
20 with the Petitioner and the city and county of
21 Honolulu with respect to the conditions in this case.
22 And we support the Petition because it meets the
23 requirements of the statutes and rules.

24 The Petition Area is surrounded on three
25 sides by urban development, will provide workforce

1 housing with additional multi-family housing and lot
2 sizes which are primarily consistent with an average
3 single-family home rather than resort housing.

4 They will foster economic development and
5 create jobs. And it is in compliance with the 'Ewa
6 Development Plan and with the Urban Growth Boundaries
7 established by the city and county of Honolulu.

8 In short, it is in compliance with HRS
9 sections 205-16 and 17, the Hawai'i State Plan and
10 chapter 205A Hawaii Revised Statutes.

11 The Office of Planning has set forth its
12 arguments and positions in this case, its comments to
13 the Petitioner's proposed D&O as well as in its
14 comments to the Intervenors' proposed D&O.

15 Although there are a number of findings in
16 which the Office of Planning and Petitioner have not
17 reached full agreement, we recognize that much of the
18 disagreement in this case is really between Petitioner
19 and Intervenors. So we will affirm our positions in
20 these documents, but will try not to repeat too many
21 of our arguments here today. We will just briefly
22 highlight eight of the issues in this case.

23 First, agriculture; second, traffic and
24 third, water. This does not mean that the other
25 issues like sustainability or archaeology are

1 unimportant, but we simply feel they have been
2 adequately addressed in our pleadings.

3 First, agriculture. Although we ultimately
4 agree with Petitioner that the issue of agriculture
5 has been adequately addressed, OP does not completely
6 agree with the Petitioner on their analysis.

7 Petitioner argues in part, or at least
8 appears to argue, that hydroponics offers a solution
9 by which good agricultural land, at least for many
10 purposes, will no longer be needed; that you could
11 grow on parking lots, roof tops, lava fields,
12 agricultural produce in many commercial -- for most
13 commercial markets purely on the basis of hydroponics.

14 Although OP acknowledges Dr. Plasch's
15 testimony, we believe the record is insufficient to
16 prove that hydroponics will be commercially successful
17 at least on as wide a scale as claimed.

18 Or the Petitioners could argue that because
19 hydroponics does not require good agricultural land,
20 one may then develop all of the good agricultural land
21 in Hawai'i. We don't believe the record is sufficient
22 to make that statement.

23 OP believes this portion of the
24 Petitioner's argument is not supported by the record
25 and is unnecessary for the LUC's decision for

1 reclassification. This is reflected in our proposed
2 changes to Petitioner's findings of fact in which
3 various representations regarding hydroponics were
4 either deleted or modified.

5 OP's analysis in agriculture begins with
6 the Urban Growth Boundary established by the city and
7 county of Honolulu and the urban development
8 designations in both the 'Ewa Development Plan as well
9 as proposed revision currently pending.

10 The purpose of the Urban Growth Boundary,
11 as we have described in the past, is to direct urban
12 use in particular areas to certain areas with the
13 related purpose of preserving agricultural use in
14 other areas.

15 Allowing some agricultural lands to be
16 urbanized in order to accommodate population and
17 economic development results in the preservation of
18 other agricultural lands in other areas on the island.

19 So from an islandwide perspective
20 agricultural lands are protected by a careful
21 observance of the Urban Growth Boundaries. This does
22 not mean that the availability of agricultural lands
23 is unimportant. But we do note that the Petitioner's
24 urban ag initiative will minimize some of the impacts.

25 In addition to the community and steward

1 farms the Petitioner has proposed a unique land and
2 agricultural and urban uses through its civic farm
3 program. The lands ultimately chosen for the civic
4 farm program will have to be approved by DOA and its
5 determination that those lands can be practicably used
6 for economically successful commercial farming
7 operation.

8 We also note that the DOA is working to
9 expand opportunities for agricultural growth in other
10 geographic areas.

11 Just as OP would not agree with any
12 petitioner who would argue that agricultural lands are
13 no longer required because -- no longer require
14 protection because of hydroponics, we also do not
15 agree with any intervenor who would say that every
16 single acre of agricultural land must be preserved.

17 As OP has said there is a balance to be
18 made. And for OP that balance begins with the
19 county's Urban Growth Boundaries.

20 With respect to traffic, Petitioner will
21 mitigate the traffic impacts from this Project to the
22 satisfaction of the Department of Transportation as
23 substantiated by an updated Traffic Impact Analysis
24 Report which is accepted by DOT prior to Petitioner's
25 submission of a zone change application pursuant to a

1 condition agreed to by both Petitioner and the Office
2 of Planning.

3 Although a final TIAR has not been
4 accepted, as you know a final TIAR has never been
5 finally accepted by the Department of Transportation
6 prior to the conclusion of an LUC hearing. It has
7 always been done by way of a condition and a
8 requirement.

9 Department of Transportation is satisfied
10 with the progress to date. So although Intervenors
11 raise concerns about traffic, we believe there's a
12 sufficient basis by which the LUC can be assured that
13 the impacts to state facilities will be addressed.

14 The last issue is water. Potable water is
15 always an issue of any land use matter. The Office of
16 Planning's analysis asks whether there is a sufficient
17 resource, whether the amount of water used can be
18 reasonably minimized.

19 The Commission on Water Resource Management
20 has ultimate authority over water permits. They do a
21 detailed in-depth numerical analysis for each water
22 permit that's issued. The LUC is not expected to
23 duplicate the work of the Commission on Water Resource
24 Management.

25 The LUC looks more generally at the needs

1 of the development and the availability of the
2 resource.

3 In this case the Board of Water Supply has
4 testified that there is enough water to provide for
5 this Project and has given its reasons for this. For
6 the analysis at the LUC level the Board of Water
7 Supply's testimony should be sufficient to determine
8 that there's enough water.

9 Intervenors cite to a variety of
10 generalized concerns about the state's water
11 resources. But the LUC cannot deal in speculative
12 concerns. It must deal with the evidence in the
13 record it has before it. Intervenors' concerns raise
14 legitimate arguments for minimizing the amount of
15 potable water used as a logical and precautionary
16 step.

17 But especially in light of the Board of
18 Water Supply's testimony, these concerns do not rise
19 to the level of demonstrating there's an insufficient
20 resource or that all development in West O'ahu should
21 stop.

22 We do think the LUC should look at whether
23 a development can minimize in a reasonable and
24 feasible manner the amount of potable water used.
25 This is not necessarily part of the Commission on

1 Water Resource Management permit review.

2 So it does fall to planning agencies such
3 as the LUC to review items such as non-potable water
4 use and other sustainability measures to determine
5 whether a development has taken reasonable precautions
6 or reasonable steps to preserve our natural resources.

7 In this case, as in others, the Office of
8 Planning has asked for a sustainability plan and an
9 explanation of what mitigation measures will be used
10 to reduce the need for potable water.

11 Petitioner has included a commitment to
12 substantially comply with its sustainability plan, and
13 is specifically committed to installing a dual water
14 system to use 1.7 mgd non-potable water.

15 Low impact development to the extent
16 feasible will also assist in allowing for greater
17 preservation of our resource.

18 For all these reasons the Office of
19 Planning respectfully recommends that the Petition be
20 granted subject to the conditions stipulated to by the
21 Office of Planning, the Petitioner and the city and
22 county of Honolulu. Thank you.

23 CHAIRMAN LEZY: Thank you. Dr. Dudley.

24 MR. DUDLEY: Good afternoon. The question
25 before this Commission is whether or not to completely

1 destroy highly productive agricultural land to make
2 way for yet another unneeded suburb. I want to start
3 my -- first of all, I'm going to discuss three things.
4 I'm going to discuss agriculture. I'm going to
5 discuss traffic. Then I'm going to discuss the lack
6 of need for houses.

7 So to begin my discussion on agriculture
8 I'd like to start by quoting Bruce Plasch. You all
9 remember this. We all got it. It's not very far that
10 you have to look for this quote. It's on Page 1 of
11 Page 1 of Page 1. This comes from Bruce Plasch
12 himself who says, "The Petition has favorable
13 agronomic conditions for crop production. This area
14 has high quality soils, flat or gently sloping
15 terrain, high solar radiation, low pumping costs for
16 irrigation waters and good access to market. Because
17 of the sunny conditions the fields are well suited for
18 growing crops during the winter months."

19 He's saying the same thing we are, you
20 know. This is, this is Bruce Plasch speaking for the
21 Petitioner. Why is he saying the same thing we are?
22 Because it cannot be denied.

23 Plasch later writes, "The Petition Area
24 constitutes one-fourth of what is called the 'golden
25 triangle' and is the only part of the 'golden

1 triangle' which is still remaining in agriculture." I
2 want to repeat that. "The Petition Area constitutes
3 about one-fourth of what was called the 'golden
4 triangle'." The 'golden triangle'. Why is it called
5 that? Because as another of our exhibits states for
6 vegetable crops the Ho'opili lands are among the most
7 sustainably productive in the world.

8 Most places in the world because of their
9 winters have only one growing season, as we've heard
10 many times. Hawai'i can grow year 'round though some
11 areas are limited in the number of crops they produce
12 because of the cloud cover and the rain.

13 Because of the abundant sunshine in the
14 low-lying Ho'opili area, yields of crops like sweet
15 corn are at least 55 percent higher than they are on
16 the north slopes below Wahiawa. Well, what does this
17 land grow?

18 In 2007, the last year records were kept,
19 Ho'opili land produced more than 40 percent of O'ahu's
20 fresh broccoli, 40 percent of its fresh beans, romaine
21 lettuce and zucchini and more than 70 percent of
22 O'ahu's fresh corn, cantaloupe, pumpkin, and honey
23 dew, along with small percentages of a number of other
24 crops.

25 Ho'opili also constitutes a huge chunk of

1 our ag land on O'ahu. When pineapple and coffee and
2 flowers and other exports are excluded, there are just
3 less than 5,000 acres on O'ahu currently producing
4 food for our local people. Ho'opili accounts for
5 1500+ of those acres. And all of this is 32 percent
6 of the active farm acreage on O'ahu producing food for
7 the local market.

8 Again, let me repeat. Ho'opili constitutes
9 one-third of our O'ahu farmland producing food for the
10 local market.

11 Let's talk about the soil. Professor
12 Jonathan Deenik testified that close to 90 percent of
13 the Petition Area is composed of high activity clays.
14 These clays are characterized by very high nutrient
15 retention capacity and by high fertility. He said,
16 "Fifty percent of the soils come from two groupings:
17 molosoils and vertisols." He says, "Of the 12 soils
18 on the planet these two fall at the very top in terms
19 of fertility and agricultural productivity."

20 This is pretty precious farmland. And we
21 all need to be aware of what is going to happen to
22 this farmland. Because a thousand of the acres are
23 clay and clay contracts and expands and it cracks
24 foundations, that thousand acres out of 1497 or
25 whatever, that thousand acres they're going to come in

1 and clear off, dig up, take out three or four feet of
2 that precious farmland and take it away and dump it
3 places.

4 Then they're going to bring in three or
5 four feet of coral and replace it. And then they're
6 going to bring in about a foot of topsoil and put over
7 top, a nice Oreo sandwich. Now, that Oreo sandwich is
8 going to destroy that property forever.

9 "As long as human kind lives on these
10 islands and inhabits the earth, the earth will not be
11 able to replenish itself." That's direct testimony
12 from Dr. Deenik. That's pretty powerful stuff.

13 Can we afford to let them do this? The
14 answer is no. And why can't we? Because we import
15 90 percent of our food. We have less than a two week
16 supply of food on the islands. And if the ships don't
17 arrive we don't eat. You know it's a fact.

18 We need to be aware the many things that
19 could cut off our food supply: A spike in oil price.
20 The last time what did it do? It caused the price of
21 food to rise. It can rise so high we can't afford to
22 import it anymore.

23 A tsunami. A tsunami can come in and
24 destroy our ports and our airports. They're in the
25 low-lying areas. We couldn't get food.

1 A pandemic. A pandemic could strike. And
2 all of a sudden we'd close off the islands to protect
3 our lives.

4 You know, an earthquake in California could
5 destroy the ports there and could destroy all the
6 roads going to them so that it would be months and
7 months and months before we could get food again.

8 A war could happen. A war could cut us off
9 for years. These things may not happen soon, but your
10 descendants will live here for centuries. Your
11 descendants will live here for centuries along with
12 mine. We need to protect them. We need to look out
13 for their survival. We cannot -- we cannot give up
14 this land.

15 So let's take a look at some better
16 alternatives for the future. This fall semester 2012
17 MA'O Farms will initiate an agricultural program of
18 studies at the new UH West O'ahu Campus. Where is UH
19 West O'ahu? Right across the road. Right across the
20 road. Matter of fact Aloun Farms farms part of that
21 land. Okay? All right.

22 And they're going to graduate 75 students a
23 year. Now, those graduates are going to need
24 farmland. Huh? And many witnesses have told us there
25 is no farmland. There's no farmland available

1 anywhere they tell us. And so what are we going to
2 do?

3 Well, this Ho'opili land is the perfect
4 solution. If you keep the land in ag and if Aloun
5 Farms slowly moves up to Galbraith Estate like they
6 said they're going to, over the years that will slowly
7 open up the land for these graduates and for the other
8 people who are looking for farmland.

9 With that, with both properties being
10 farmed we can double the production, almost, of the
11 low-lying Ho'opili lands. And the timing couldn't be
12 better. The lands would become available just as new
13 pro-farm consciousness is sweeping across America and
14 across Hawai'i.

15 We have seen such major changes in the last
16 few years. You remember in 2009 when we began these
17 hearings I sat here alone, just one person standing up
18 for the farms.

19 In these last three and-a-half years we
20 have seen a mushrooming, absolute mushrooming of
21 public consciousness about fresh fruits and
22 vegetables. People are concerned about nutrition.
23 They want organically grown food. They feel strong
24 about food security and the need to protect our farms.
25 All of these concepts are new.

1 Kanu Hawai'i has 30,000 people they
2 communicate with telling them to eat right and eat
3 local. It's everywhere. Honolulu Weekly each week
4 article after article. Civil Beat. Hawai'i Reporter.
5 The Star-Advertiser has articles. Hawai'i Public
6 Radio, 'Olelo, all over 'Olelo. Talk radio. People
7 are talking food. They're talking save the farms.

8 We have 50 farmers' markets now in the last
9 three years, 50 farmers' markets. People are really,
10 really interested. Surveys say the people are willing
11 to pay more for locally grown food and they are right.
12 The change has also affected the city council. Let's
13 come down and talk about it. Huh? With Ho'opili and
14 Koa Ridge clearly in mind and with full awareness that
15 both Ho'opili and Koa Ridge were within the Urban
16 Growth Boundary, and were designated by the city
17 itself for development, the entire city council voted
18 unanimously for Resolution 1223.

19 I want to read just two sections out of
20 here: "Be it resolved by the council in the city and
21 county of Honolulu that the city's agricultural
22 liaison is urged to expedite the identification and
23 mapping of Important Agricultural Lands to insure that
24 all IAL maps support and protect farming by
25 stabilizing the agricultural land base." All right.

1 That was the initial statement.

2 After Councilman Tom Berg talked to the
3 council and got them workin' on it, they added this:
4 "Be it resolved that the process of identification and
5 mapping of Important Agricultural Lands also consider
6 agriculturally productive lands within the Urban
7 Growth Boundaries that are classified as prime
8 agricultural lands provided adequate water, adequate
9 water supply is available." The city changed their
10 position.

11 They're saying even though we have the
12 Urban Growth Boundary, even though we've designated
13 these lands as for development, if you -- and they're
14 not trying to force you to do anything. They're not
15 trying to sway you.

16 They're just saying, "If you guys change
17 we're going to change. We're keeping open the option
18 here. We're asking for those lands within the Urban
19 Growth Boundary to be included so that we can consider
20 them."

21 Give them the opportunity. Let's move on.
22 This is a city, the city council. What about the
23 state Legislature? Now, we're trying to show the
24 change that's going on. In this last session there
25 was a bill, House Bill 2703, which would have doubled

1 local agriculture by the year 2020. Thirty-seven of
2 the 50 representatives signed that bill, co-authored
3 that bill, 37. That's more than two-thirds of the
4 representatives in the House of Representatives and
5 four Senators.

6 It sailed through the House. And it sailed
7 through the Senate before being killed in the
8 conference committee because of outside pressures.

9 I need not tell you where the outside
10 pressures came from. The bill getting that far,
11 though, shows that the world has, indeed, changed.
12 Demand for food security and for fresh locally grown
13 produce really is the wave of the future. And we need
14 to ride that wave.

15 I want to talk next about traffic. During
16 the Lingle Administration the Commission received a
17 very grave warning about freeway stand still from the
18 state Director of Transportation, Brennon Morioka.

19 In his written testimony he wrote, "Even
20 with all assumed mitigation measures the H-1 Freeway
21 will quickly degrade to Level of Service F due to the
22 Ho'opili Project. At LOS F there's gridlock on the
23 freeway, gridlock on the freeway."

24 He continued, "Knowing that we would not
25 accept the Petitioner's proposed TIAR or any

1 modification thereof, the Department of Transportation
2 has proposed no conditions for the Decision and
3 Order."

4 "Knowing that we would not accept the
5 Petitioner's proposed TIAR or any modification
6 thereof." How much stronger can you get? Okay.

7 The Final Environmental Impact Statement
8 for the Project -- the Final Impact -- this job he has
9 got to be later. Okay. We find table 413 in the
10 final version of it.

11 It shows that in 2030 when the Project is
12 fully built out, even with rail in place, all the
13 intersections on H-1 Freeway will mostly have Level of
14 Service F at rush hour.

15 Let's go through them. We're going to
16 start at Makakilo Drive where I live. This is
17 seven miles before you get to the merge, folks. It's
18 A right now. What is that? That's free-flowing
19 traffic. That's going to be an E when you head out in
20 the morning.

21 First big road you come across to, it's
22 Kunia Road. That's the first one they have in their
23 thing. What's it going to be there? F. Gridlock.
24 We're going to go on down to Paiwa Street, Waikele.
25 What is it there? F. We're going to go down to the

1 H-1/H-2 merge. What is it there? F.

2 Okay. Let's turn around the other way and
3 come back home. We know as you go up that way in the
4 afternoon what is it like? It's torture until you get
5 to the H-1/H-2 merge. What are they going to have at
6 the H-1/H-2 merge? F. What are they going to have at
7 that Paiwa Street at Waikele? Well, they have an
8 extra lane there so that's going to be D.

9 But go a little bit farther, Kunia Road,
10 what's it gonna be? F. Let's go all seven miles out
11 and get to Makakilo Drive. What is it going to be?
12 F. This is....with.... rail. With rail and with the
13 Project.

14 Folks, it's already been decided, you know.
15 There's no changes on this. You can't say, oh, rail's
16 going to make the differences. Rail is figured in.

17 Let's talk about morning traffic. To solve
18 the problem the Petitioner has come up with a
19 preposterous plan of narrowing the existing lanes so
20 that they can stripe in another lane, a lane that will
21 end before the H-1/H-2 merge which, as you know, can't
22 be widened. Okay. So Professor Panos Prevedouros
23 testified the H-1/H-2 merge is a three-lane choker.
24 You remember that word. A choke point on the freeway.

25 He testified it doesn't matter if you add

1 10 lanes upstream if they all come down to three lanes
2 at the H-1/H-2 merge. It doesn't take a civil
3 engineer to tell you it's a choker. And his famous
4 words, "A choker is a choker is a choker." Okay.
5 Adding another lane that ends at the H-1/H-2 merge
6 can only make a far, far worse jam at the merge and
7 for the seven miles upstream.

8 I want to impress upon you that every
9 single person who now lives in Makakilo and every
10 person who lives in Kapolei, and every single person
11 who lives up the Waianae Coast, and every single
12 person who lives in 'Ewa Beach, and every single
13 person who lives in 'Ewa we're all going to be behind
14 these guys: 12,000 cars on the freeway.

15 We already have the worst traffic in the
16 United States. We know we've got 34,805 houses zoned
17 in our area, another 12,000 up in Waiawa, another
18 3,500 in Royal Kunia and Waikele and Launani Valley.
19 That's another -- 50,305 homes are already zoned.
20 Already zoned. We added 5,000 more yesterday.

21 Okay. So what are we at? We're at 55,000
22 cars more going to be on the freeway. Just with what
23 we've got. You've got to protect us. You really
24 honest to God have got to protect us.

25 Let's go back and talk about houses. What

1 I want to go to with houses it's simply Bob
2 Stanfield's testimony. Bob Stanfield came and he
3 talked and he testified for the city. And he's a
4 bureaucrat and he has testified for the city. But he
5 gave us two things, you know.

6 In 2009 he gave us one and he gave us an
7 identical copy in 2011. And this is the written
8 testimony of Bob Stanfield. And Bob Stanfield says
9 here in his very first paragraph, he says, "The demand
10 for new houses on O'ahu in any given year will depend
11 on the state of O'ahu's economy. But our long-range
12 projection is that the demand through 2035 for homes
13 in Central O'ahu and 'Ewa will average 1800 units a
14 year."

15 Again, between now and 2035, 1800 units.
16 Let's go back to 2009 and say how many years is there
17 between 2009 and 2035 we come up with 26 years. And
18 let's times that by the 1800 units. How many houses
19 do we need? 46,800. But didn't we just hear and
20 haven't we just added 5,000 more yesterday? And don't
21 we have more than 55,000 houses already approved by
22 this group? You know, 55,000 houses already going.
23 Do we really need another 12,000 here?

24 I think I've just about made that point.
25 So let me move to wrap up the things that I wanted to

1 go through. I want to say just a couple of things
2 about this property in addition.

3 One is that, you know, this was supposed to
4 be the last piece of green spot. We've had Governor
5 Waihe'e come and tell you about his experiences with
6 people at Campbell Estate in the early days when they
7 started talking about the second city.

8 We've had Tom Coffman come and tell you
9 about his experience in the early days when they
10 working on the second city. And the idea was they
11 were going to start down at the ocean. As you get
12 farther away from the mountains the land gets thinner
13 and thinner.

14 So they were going to start with the scrub
15 land and then move back up, do the somewhat more good
16 lands, then the somewhat more good lands. But they
17 were always going to keep this land separate, you
18 know. This was always not going to be used. This was
19 going to be the special land.

20 I want to tell you that it's important for
21 tourism. Now, we know that these guys are out of
22 work. And the thing is, though, that houses aren't
23 going to help them. We got, we've got 34,000 houses
24 out in our area alone already zoned. If those haven't
25 brought jobs, adding 12,000 to it isn't going to make

1 jobs. It's the economy. It's not jobs. It's not
2 houses, lack of houses. We don't need houses.

3 What is this going to do to tourism? You
4 know, tourism is the thing that's right now driving
5 our recovery. This is the healthy thing in Hawai'i.
6 And we need to think about the tourists.

7 Tourists don't come here to see houses,
8 folks. They don't come here to get to Waipahu and
9 they get out to the wide open expanse and they want to
10 see 12,000 houses down below the freeway and a great
11 big wall going along that reminds them of the San
12 Fernando Valley.

13 They want to see beauty. We've got to
14 consider what we're doing here. Somebody this morning
15 was talking about it, a lady, about killing the golden
16 goose. We really, really have to be careful.

17 Tourism is so important. And what it's
18 about is beauty and wide open spaces and Hawai'i as
19 the Hawai'i they expected to come and see. And are we
20 really honest to God really going to destroy that? I
21 beg you not to. Thank you very much. (applause)

22 CHAIRMAN LEZY: Thank you. Ms. Dunne.

23 MS. DUNNE: Good afternoon, Chair, Vice-
24 Chair, Members of the Commission. As you know we are
25 here today in a matter of critical importance and in a

1 critical time for Hawai'i. Now is the time for you to
2 say 'enough'. Paving over highly productive farmlands
3 is not Smart Growth. The people have a different
4 vision for O'ahu's future. It's in the Hawai'i State
5 Constitution, the Hawai'i State Plan and the Hawai'i
6 2050 Sustainability Plan.

7 People want locally grown food. They want
8 food self-sufficiency, cleaner water, cleaner air,
9 less traffic congestion, redevelopment within the
10 Primary Urban Core and more truly affordable homes.

11 Keeping these lands in agriculture is a
12 critical step towards turning that vision into a
13 reality.

14 You've heard the plea of many witnesses
15 that paving over this land is irreversible. D.R.
16 Horton wants you to believe this is some kind of
17 revolutionary Transit-Oriented Development when it's
18 suburban sprawl. The majority of the Project is more
19 strip malls and single-family homes.

20 D.R. Horton wants you to believe that it
21 has somehow mitigated the severe consequences of
22 paving over this unique agricultural land by
23 relocating farmers and by what is labeled its Urban
24 Agricultural Initiative. This is not a solution to
25 increasing our local food production.

1 The idea that we can replace 1500 acres of
2 some of the best soils in the state, if not the world,
3 by setting aside 159 acres which currently consist of
4 gullies and buffer zones is, quite frankly, insulting.

5 D.R. Horton is telling you that you should
6 follow a 30-year old Urban Growth Boundary established
7 by the city which is long overdue for update and
8 currently under review, when you have overarching
9 constitutional obligations and a duty to follow the
10 State Plan.

11 There is no updated 'Ewa Development Plan
12 as required by statute. Planning documents are
13 updated for a reason because circumstances change, oil
14 prices rise and the need for food self-sufficiency
15 becomes ever more apparent.

16 If you abide by the Hawai'i constitution
17 and follow the criteria you're obligated to consider,
18 you have no choice but to deny the Petition. To do
19 otherwise would be arbitrary and clearly erroneous in
20 light of the record of evidence.

21 As you well know two key constitutional
22 provisions are at issue. Article XI, section 3
23 regarding the state's obligation to preserve prime
24 agricultural lands and Article XII, section 7
25 regarding the state's obligation to protect Hawaiian

1 cultural practices.

2 You've heard a lot about your
3 constitutional obligation to conserve agricultural
4 lands. I want to highlight a point made in our recent
5 filings. And that is that you must make specific
6 findings as to the development's impact on the
7 conservation of agricultural lands, on diversified
8 agriculture, and on the state's obligation to increase
9 agricultural self-sufficiency and assure the
10 availability of suitable lands.

11 The only logical conclusion that you can
12 draw from the specific findings that you must make is
13 to deny the Petition.

14 I'll next point you to section
15 15-15-77(b) (6) because that provision also leaves no
16 doubt that you must deny the Petition. You cannot
17 take lands out of agriculture if they have been in
18 intensive agricultural use for two years unless you
19 find that reclassifying the lands will not
20 substantially impair agricultural production, or is
21 reasonably necessary for urban growth.

22 It is undisputed that the lands have been
23 and are in intensive agricultural production. You
24 cannot find that either of these two exceptions apply
25 without acting arbitrarily. As Dr. Valenzuela,

1 Dr. Deenik, Mr. Maunakea-Forth, Mr. Stollenberger, and
2 countless public witnesses testified reclassifying
3 these lands *will* substantially impair agricultural
4 production not only in 'Ewa but in the state.

5 You've heard statistics on how productive
6 this land is. Paving over these lands will decrease
7 the land available for agricultural production on
8 O'ahu by 50 percent. As Sandra Kunimoto, former
9 chairperson of the Board of Agriculture testified, I
10 quote, "This Petition, if approved, will result in the
11 loss of productive high quality agricultural land on
12 O'ahu equal to 42 percent of the amount lost over the
13 last 18 years. The Petition Area land is of
14 particular significance and value."

15 Reclassification will, without a doubt,
16 substantially impair agricultural production.

17 Second. You cannot find that taking these
18 particular lands out of agriculture is reasonably
19 necessary for urban growth. It is not. It is
20 undisputed that there are thousands of homes already
21 entitled but not yet built. There are urban infill
22 projects such as Kaka'ako. And as Dr. Paul Brewbaker
23 testified growth within the primary urban core is not
24 only economically feasible, it is economically
25 desirable and in accordance with the objectives of the

1 Hawai'i State Plan.

2 Regardless of the exact number of homes
3 already approved, there's no present or pressing need
4 to build homes, more homes in the 'Ewa region and on
5 this particular prime farmland. The development is
6 not necessary for Urban Growth.

7 I'd next like to turn your attention to
8 section 205-16, 205-17(1) and 15-15-77(b)(1). These
9 provisions provide that the reclassification must
10 conform to the Hawai'i State Plan and require you to
11 consider the extent that it does so.

12 Reclassification does not conform to the
13 applicable goals of the Hawai'i State Plan. In
14 particular sections 226-7, section 226-10 and
15 226-103(d)(7) each set goals for the growth and
16 development of diversified agriculture. As
17 Dr. Valenzuela, Mr. Maunakea-Forth, Mr. Stollenberger;
18 Mr. Glenn Martinez, president of the Hawai'i Farmers
19 Union; Dr. Deenik, and Dr. Cox testified these prime
20 agricultural lands are essential to meet the
21 increasing demand for locally grown food and for food
22 self-sufficiency.

23 They're essential if we're serious about
24 the development of diversified agriculture. In fact,
25 as the Department of Agriculture previously

1 recognized, there are no other comparable lands.

2 Allowing this development is also
3 inconsistent with the goals set forth in the sections
4 226-104 and 226-19 which pertain to encouraging infill
5 development and urban growth within Honolulu as the
6 primary urban core.

7 Now, even though we are talking about a
8 proposed development on prime agricultural lands, D.R.
9 Horton argues that the Hawai'i State Plan agricultural
10 policies are not even applicable to the Project. This
11 is outrageous.

12 D.R. Horton directs your attention to other
13 provisions of the Hawai'i State Plan, but these
14 provisions also show how reclassification is
15 inconsistent with the Hawai'i State Plan.

16 Leaving the land in agriculture will, for
17 instance, advance the policies set forth in sections
18 226-12 and 226-13 because it will preserve open space,
19 viewplanes, and natural and cultural resources.

20 Sections 205-17(3) and 15-15-77(b) (3) also
21 show that you must deny the Petition. Under
22 15-15-77(b) (3) you must consider the impact on the
23 preservation or maintenance of cultural, historical,
24 and natural resources.

25 I'd like to turn your attention to water

1 resources and cultural resources. With regard water
2 to water resources D.R. Horton has failed to
3 adequately assess the development's impact and has
4 failed to show that there's an adequate water supply
5 for the development.

6 D.R. Horton would like you to forget that
7 you have an independent obligation to determine the
8 development's impact on natural water resources as
9 required by 15-15-77(b)(3), and an independent
10 obligation to determine whether it has shown a
11 sufficient water supply under section 15-15-50(c)(11).

12 D.R. Horton, instead, argues that you
13 should defer to other government agencies such as the
14 Board of Water Supply. But this is not what the law
15 requires. The evidence before you shows that the
16 development will detrimentally impact our natural
17 resources, and there's not a sufficient supply of
18 water.

19 As Mr. Bill Tam testified, D.R. Horton's
20 water analysis is overly simplistic. You can't simply
21 say there's X million gallons of water per day. We
22 get Y amount so there's Z amount remaining, and
23 therefore there's enough water.

24 There are many other factors to consider:
25 The actual sustainable yield of the aquifer, which is

1 currently being studied, climate change impacts and
2 other competing uses.

3 D.R. Horton argues that there's enough
4 water available for the development if it were fully
5 built out today. But this means nothing. The
6 development won't be fully built out for 20 or more
7 years.

8 As Mr. Tam, Mr. Nance and Mr. Usugawa
9 testified there's a good chance we're facing the need
10 for desalination in 15 years or maybe even sooner.

11 According to Mr. Usugawa, as it is new and
12 upcoming, development currently planned for the 'Ewa
13 region will more than double the water demand.
14 Desalinization is not the answer. It's not economical
15 and it's not sustainable.

16 It is true that water's also needed for
17 agriculture. But agriculture, as Mr. Tam and
18 Mr. Giambelluca testified, allows for resiliency and
19 flexibility as well as groundwater recharge. Mr. Tam
20 made clear water and land use planning must be
21 integrated. Indeed, you just heard the Office of
22 Planning say the same thing.

23 Hawai'i has fallen far behind the mainland
24 in implementing the concept known as wet growth.
25 Large developments spanning over 20 years cannot be

1 approved in the face of future uncertainty regarding
2 our water resources.

3 Finally, I wanted to turn your attention to
4 cultural resources which is a very significant issue
5 in this case. As you're well aware not only does
6 section 15-15-77(b) (3) require that you consider the
7 proposed development's impact on cultural resources,
8 but Article XII, section 7 of the Hawai'i Constitution
9 obligates you to protect the reasonable exercise of
10 Native Hawaiian customary and traditional practices.

11 In Ka Pa'akai vs. the Land Use Commission
12 the Hawai'i Supreme Court held that in order to
13 fulfill your duty to preserve and protect customary
14 and traditional Native Hawaiian rights, you must at a
15 minimum make specific findings and conclusions as to
16 the impairment of valued cultural resources.

17 Here D.R. Horton does not even acknowledge,
18 much less assess, the development's impact on
19 customary and traditional practices. D.R. Horton has
20 failed to provide you with sufficient information so
21 that you can fulfill your obligations under Article
22 XII, section 7.

23 Although D.R. Horton claims there are no
24 traditional and customary practices that would be
25 impacted by the development, the testimony you heard

1 from cultural expert Mr. Michael Lee, directly
2 contradicts this assertion.

3 As Sierra Club Exhibits 53b and 54b detail,
4 Mr. Lee is a well recognized cultural practitioner for
5 the Petition Area and the Honouliuli ahupua'a in
6 general. Yet D.R. Horton did not consult with Mr. Lee
7 in preparing its Cultural or Archaeological Inventory
8 Surveys.

9 The record of evidence shows that there are
10 cultural resources in the area. The karst system,
11 underlying burial caves, the rich soils of the
12 Honouliuli lands and traditional Native Hawaiian limu
13 gathering rights that will be impacted by the proposed
14 development.

15 Despite the evidence of the karst system in
16 and around the Petition Area, D.R. Horton has not made
17 an effort to determine its location or the proposed
18 development's impact on it. Despite the evidence of
19 burials in and around the Petition Area D.R. Horton
20 has not conducted an adequate survey.

21 Limu gathering has taken place for hundreds
22 of years, but D.R. Horton has not made an effort to
23 determine the development's impact on limu gathering.
24 Instead, it argues that because it takes place along
25 the shore and not within the physical boundaries of

1 the proposed development, it will not be impacted.

2 This narrow view underscores D.R. Horton's
3 lack of understanding of cultural practices. In fact,
4 attempting to horizontally isolate a piece of land
5 runs directly contrary to the ahupua'a and konohiki
6 land use planning systems. These systems respect what
7 should be obvious. The islands are an integrated
8 ecological system.

9 Consistent with the view, Mr. Lee, Dr.
10 Giambelluca, and Mr. Tam testified that increases in
11 stormwater and surface runoff impact water quality.
12 It is undisputed that there's a direct link between
13 water quality and health of limu.

14 The connection between water quality and
15 traditional limu gathering elevates the issue of how
16 D.R. Horton will deal with the impacts on water
17 quality to one of constitutional proportions and
18 implicates provisions of the Coastal Zone Management
19 Act.

20 Mr. Nance's rebuttal testimony that
21 retention ponds will alleviate all concerns regarding
22 the impacts on water and limu health is not credible.
23 Mr. Nance did not conduct or point to any studies to
24 support this speculative conclusion.

25 As made clear in the Ka Pa'akai decision

1 you cannot delegate the protection of cultural
2 resources to D.R. Horton. Allowing D.R. Horton to
3 proceed with the development when it has completely
4 ignored the very existence of certain cultural sites
5 and practices, and has otherwise said it will address
6 the impact on cultural resources by uncertain means at
7 some undetermined point in the future, is a violation
8 of your constitutional obligations under Article XII,
9 section 7.

10 Instead of providing you with the studies
11 it is legally required to provide, and because it has
12 no real justification for developing on prime
13 agricultural land, D.R. Horton wants you to believe
14 that this case is about jobs and housing versus prime
15 agriculture land.

16 The good news is that this is a false
17 dilemma. You can deny the Petition, preserve prime
18 agricultural land and there won't be less housing
19 deficiency.

20 When considering opportunities for
21 employment, economic development and housing you
22 should be reassured by the expert testimony of Dr. Cox
23 and Dr. Brewbaker and by other record evidence there
24 are plenty of homes already entitled. There are
25 countless opportunities for urban infill development;

1 that other projects *will* provide construction jobs.

2 In fact, increasing diversified agriculture
3 will provide long-term jobs in accordance with the
4 Hawai'i Constitution and the Hawai'i State Plan.

5 Even more fundamental is the fact it is
6 time for a change. We don't have a choice and times
7 are changing. You've heard this repeatedly from
8 Mr. Tam, Dr. Giambelluca, Dr. Cox, Governors Cayetano
9 and Waihe'e and Senator Hee, cannot go on with
10 business as usual rubber stamping developments,
11 gobbling up our farmlands, sucking up our water
12 resources and harming traditional and cultural
13 practices.

14 As you heard Dr. Cox and Mr. Maunakea-Forth
15 and many public witnesses testify, more young people
16 want to farm. Dr. Brewbaker, who's without a doubt
17 one of the most credible advisors in the state on
18 economic issues, painted a picture for you of a more
19 resilient economy and a better quality of life with
20 these lands preserved.

21 You must rise above the political whims of
22 whoever is currently in state office. You also cannot
23 rely on the city. The city is driven by property tax
24 revenues. You cannot rely on D.R. Horton. By its
25 corporate nature it's driven by profit motives.

1 It's left up to you. In your position
2 you're the guardians of the lands of the state. The
3 Legislature's primary goal in creating the Land Use
4 Commission was to protect productive agricultural
5 lands. Do not violate your constitutional obligations
6 to Native Hawaiians and to preserve agricultural
7 lands.

8 Think about what it means to work towards
9 food self-sufficiency. This is a goal that requires
10 action. In this case all you have to do to advance
11 this goal to uphold the state Constitution and to act
12 in accordance with your obligations under state law,
13 is to deny the Petition. Thank you. (applause)

14 CHAIRMAN LEZY: Thank you. Mr. Seitz.

15 MR. SEITZ: As I said yesterday I find
16 myself at the end of a long line of people who have
17 spoken and who said many of the things that I would
18 say. And I don't intend to repeat them.

19 However, I'm troubled by what somebody
20 testified to earlier in purporting to quote a mayoral
21 candidate, Mr. Caldwell, who says the votes are
22 already in, have been counted, and this matter has
23 already been decided.

24 I'm not quite that cynical. But I hope I'm
25 not just speaking to the wind here. And I will assure

1 you that if I am that this matter is not going to be
2 done today; that we will take it into the courts.
3 Because we certainly consider the arguments and the
4 evidence that's been presented here is virtually one
5 sided. And it all lines up. The credible evidence,
6 the credible testimony all lines up to require that
7 you deny this Petition.

8 You've already heard the prior speaker
9 refer to your obligations under the Administrative
10 Rules section 15-15-77, but I want to reiterate that.

11 Your process here is if you find, as you
12 must, that the lands in question have been in
13 intensive agricultural use for two years with a
14 high-capacity for intensive agricultural production,
15 you cannot approve this Petition unless you find
16 either that approval of the Petition will not
17 substantially impair actual or potential agricultural
18 production in the vicinity of the subject property or
19 in the county or state, which clearly is going to
20 occur, or (B) is reasonably necessary for urban
21 growth.

22 So, in other words, what we're talking
23 about here is that last clause. Is this Petition and
24 the granting of this Petition reasonably necessary for
25 urban growth? And that is basically the task that you

1 must find to such a degree that it overcomes the
2 presumption that you would take the best agricultural
3 land and destroy it.

4 Frankly, in all the years I've lived here,
5 and I've been here many, many years, I can never
6 imagine a case like this where you would take the best
7 and most productive agricultural land and build houses
8 on it, especially when there are so many other
9 options.

10 You are the state of Hawai'i Land Use
11 Commission. When you were confirmed and sworn in as
12 members, each of you swore an oath and pledged to
13 uphold the constitution and laws of the state of
14 Hawai'i. We've presented to you our arguments as to
15 what that means in terms of the legal obligations that
16 you face.

17 But it is clear that your obligation here
18 is to serve all of the people of Hawai'i, not just
19 simply people in the city and county of Honolulu, not
20 the narrow, proprietary or business interest of the
21 Petitioner, not the regional interests of 'Ewa
22 residents who have been recruited by Horton for its
23 self-serving Ho'opili Task Force, and not the
24 short-sighted interests of some construction workers
25 who would build homes on parks and beaches if that

1 would get them jobs.

2 Your duty is to serve all of us including:
3 The many thousands of people statewide who flock to
4 the farmers' markets each week, who increasingly are
5 growing their own food, who are training to become
6 farmers and food producers, or who feature locally
7 grown produce in their stores and restaurants; the
8 people in Hawai'i who urgently want to expand, not
9 decrease local food production and increase food
10 self-sufficiency; viable entities and institutions
11 which we never had before such as MA'O Farms, Aloun
12 Farms, Whole Foods, Alan Wong's and Roy's Restaurants,
13 Kapiolani and Leeward Community College culinary
14 programs, all in the forefront of a statewide,
15 national and international movement to protect and
16 preserve agricultural lands and increase the
17 production of healthy, locally grown food products.

18 You are not obligated to follow decades old
19 county plans that cannot bind the state of Hawai'i.
20 In your sifting and consideration of the evidence and
21 all of the competing demands that you've heard, you
22 have a duty and a clear obligation to keep your focus
23 on the larger, long-term issues: Preservation of
24 agricultural lands sufficient to feed future
25 generations of Hawai'i's people; water capacity, not

1 just now or next year or 10 years from now but 20 or
2 30 years from now or 50 years as Bill Tam suggested.

3 And, yes, to provide real affordable
4 housing for our children and grandchildren with easy
5 access to schools, jobs and stores.

6 This is one of the few cases that has
7 occurred since, I'm aware, in the early 1970's when
8 the Waiahole-Waikane proposal was before the Land Use
9 Board where a developer wanted to shut down productive
10 farming operations to build homes that we didn't need
11 then and couldn't afford.

12 And if you remember in Waiahole-Waikane,
13 the people of Hawai'i blocked the road -- and I was
14 one of them -- occupied the valleys until Governor
15 Ariyoshi agreed to step in and negotiate a land
16 purchase and swap so that the farmers ultimately were
17 not evicted. And the so-called agricultural estates
18 that were planned for these valleys were never built.

19 In our view, in my interpretation of the
20 constitution and the statutory mandates that apply in
21 this case, it would be a clear violation of existing
22 law to grant Horton's Petition and reclassify these
23 valuable agricultural lands that comprise Ho'opili.

24 And that is because the constitution and
25 laws require primary agricultural lands, Important

1 Agricultural Lands, productive agricultural lands, to
2 be productive and not paved over for urban
3 development.

4 And the persons and entities using those
5 lands to produce crops sold and consumed in Hawai'i,
6 cannot be compelled to shut down their farms and just
7 simply move elsewhere to less productive, untested
8 lands which may or may not have the infrastructure and
9 climate and soil conditions to replicate what they are
10 now doing on the best agricultural lands in Hawai'i.

11 Although the mandate to protect
12 agricultural lands certainly is not absolute, although
13 perhaps some of us would argue it should be, there is
14 at least a heavy burden upon the Petitioner to
15 demonstrate the necessity, not a mere desirability,
16 before a Project such as Ho'opili is allowed to
17 proceed.

18 Here I submit to you it is at least
19 arguable whether other agricultural lands exist to
20 replace the Ho'opili lands that will be lost. It is
21 at least arguable whether the housing units to be
22 built at Ho'opili are actually needed; will actually
23 be affordable to Hawai'i residents or will ever be
24 built at all.

25 Here it is at least arguable that the

1 increased traffic, water demands, drainage and runoff
2 problems resulting from the construction of Ho'opili
3 will have dramatic impacts upon the environment and
4 the quality of life for many Hawai'i residents.

5 Here is a pure fantasy, a myth, an outright
6 fabrication that Horton's urban agriculture proposals
7 would by any stretch of the imagination replace even a
8 small portion of the crops currently produced on the
9 lands at Ho'opili.

10 In attempting to sell its proposed Ho'opili
11 development, in the face of huge constitutional and
12 legal impediments, Horton has resorted to the worst
13 kind of pandering and public relations that call into
14 question its credibility and integrity.

15 They've spent millions of dollars in this
16 case on their lawyers, on their so-called experts like
17 Bruce Plasch who has no farming experience and no
18 agricultural expertise whatsoever.

19 In comparison, none of the lawyers here
20 have been paid, none of our witnesses were paid. They
21 came here because they firmly believe based on life
22 experiences, research and scholarship that the
23 opinions they were stating were valid and needed to be
24 heard.

25 Horton spent money creating a so-called

1 Intervenor in their closing arguments presented an
2 initial issue to the Commission. And that is whether
3 there's enough evidence in the record to make findings
4 and conclusions that we have met the statutory
5 requirements under Chapter 205, 205-17 and the Hawaii
6 Administrative Rules 15-15-18, 15-15-77. They have
7 several specific requirements in there.

8 It is the position of the Petitioner that
9 we have. And we have set forth in our proposed
10 findings of fact, conclusions of law and decision and
11 order which has been stipulated to by the City and The
12 state with some exceptions by the State on some
13 findings of fact, that we have met those.

14 That is that we've referenced the
15 testimony, both oral and written, that has been
16 presented to this Commission since 2008.

17 And in a matter such as this, in a case
18 such as this before you this is considered to be a
19 discretionary approval. It is not considered a
20 ministerial approval such as a subdivision approval
21 process where if you meet certain requirements
22 government must give you the permit or approval.

23 This is a permit approval process in which
24 all of you have the power and authority to use your
25 individual discretions to find whether the evidence is

1 sufficient for you to make a finding, conclusion that
2 we have met each of the individual requirements that
3 is necessary.

4 Our burden is to prove by the preponderance
5 of the evidence 51 percent, so to speak, 49, 51, that
6 we have done so.

7 I just want to address a few issues that
8 were raised by Sierra Club. We disagree with the
9 position of the Sierra Club. They raise the
10 constitution, the State Plan.

11 We disagree with the position of the Sierra
12 Club that acting favorably on this Petition violates
13 the state Constitution and in particular Article XI,
14 section 3. And she also mentioned Article VII which
15 deals with Native Hawaiian rights.

16 I think their position rests on the
17 assumption that the evidence, both oral and written,
18 as presented to this Commission during the months and
19 months of hearings, do not rise to the level whereby
20 the evidentiary findings of fact can be made to
21 justify a decision by this Commission to urbanize
22 these lands. We believe this to be absolutely not
23 true.

24 Petitioner's proposed findings of fact,
25 conclusions of law and D&O contain many of these

1 findings of fact and conclusions which are supported
2 by the evidentiary record and justify the
3 reclassification.

4 The findings support this Commission's
5 findings and conclusion that, No. 1 there is ample
6 good agricultural lands available on this island which
7 are suitable for truck farming. Therefore taking this
8 agricultural land out of production will *not*
9 substantially impair agricultural production in the
10 county or the state.

11 And 2. That the current tenant farmers of
12 Ho'opili lands have found suitable agricultural lands
13 in Kunia, Central O'ahu and North Shore to continue
14 their respective crop production.

15 3. That from a land planning standpoint
16 the Urban Growth Boundary was developed by the city
17 and incorporated into the 'Ewa Development Plan to set
18 aside and protect 3500 acres of very valuable
19 agricultural lands.

20 The Urban Growth Boundary protects
21 agricultural lands from urbanization. These include
22 lands located in Central O'ahu and Kunia.

23 And, finally, 4. That the urbanization of
24 Ho'opili Petition is within the Urban Growth Boundary
25 and therefore *is* reasonably necessary for the urban

1 growth as called out by the 'Ewa Development Plan and
2 the city's General Plan. These findings and
3 conclusions are based on the evidentiary record.

4 I'd like to also address Article VII, which
5 was raised by Sierra Club. This pertains to the
6 testimony of Native Hawaiian practitioner Michael Lee.
7 Our findings of fact and our proposed findings of fact
8 Nos. 297 through 314 outline the various findings of
9 fact and conclusions that we believe the evidentiary
10 record presents to this Commission to make a finding
11 that the Native Hawaiian practices at Oneula Beach,
12 which Mr. Lee described, would not be impacted by this
13 Project.

14 First of all, we did a Cultural Impact
15 Assessment for the Ho'opili Project. Secondly, that
16 Cultural Impact Study included the consultation with
17 not only the state Historic Preservation Division,
18 the Office of Hawaiian Affairs, members of the O'ahu
19 Island Burial Council, kama'aina and kupuna of the
20 area including some 22 parties.

21 In the consultation process Mr. Lee's name
22 did not come up as a practitioner that was deemed to
23 be someone that those people recommended that we talk
24 to. No burials were ever identified in the Petition
25 Area.

1 In addition, Mr. Lee alleged that there was
2 a karst system, an underground cave system that ran
3 under the Waiahole-Waikane Valley area, under the
4 Ko'olau Mountains to reach the 'Ewa Plains.

5 Our experts believe that this karst system
6 does not exist. Why? Because there's no evidence of
7 it. There are deep gulches that transect our property
8 some 60 feet deep. If the karst system existed
9 evidence of the karst system would appear on the edges
10 of these gulch systems.

11 The testimony of our witnesses evidenced
12 that no one has ever seen any evidence of a karst
13 system. The karst system was not brought out through
14 the Cultural Impact Assessment study with the Native
15 Hawaiian people that we consulted with.

16 Secondly, Oneula Beach is not next to our
17 property or on our property. It is several miles
18 away. Between the Oneula Beach and our property, if
19 you assume that the limu gathering at Oneula Beach
20 would be impacted, our various drainage and retention
21 basins that would stop any surface flow or other kinds
22 of water reaching that area.

23 The testimony of Tom Nance, a
24 hydrogeologist who had drilled over 60 wells in that
25 area, his testimony revealed that there was never any

1 evidence of a karst system or underground water system
2 that reached this area.

3 So I believe that the evidence does show
4 that we did address Mr. Lee's comments seriously; that
5 we did look at whether a karst system existed or not.
6 We could find no evidence of that karst system or
7 burials on our site.

8 But that being said, we are governed by
9 Chapter 6E which requires that during construction if
10 we do run into those we must stop and go through the
11 procedures set out by the state Historic Sites
12 Division to make sure that these burials are treated
13 properly, and to go before the O'ahu Island Burial
14 Council for their proper treatment and preservation.

15 We have presented a case since 2008 which
16 has addressed the constitutional requirements of
17 Article XI, Article VII, state Plan, and the various
18 relevant statutes and Hawaii Administrative Rules.

19 We have presented findings of fact and
20 conclusions of law that are substantiated by the
21 record and meet the requirements of these laws and
22 statutes.

23 If this Commission is inclined to approve
24 the Ho'opili Petition, we urge this Commission to
25 adopt our proposed findings of fact and conclusions of

1 law which addresses these criteria.

2 We thank this Commission for its diligence
3 and patience, especially those members of the
4 Commission that have been with this Commission since
5 2008, in helping the parties before you to keep on
6 course, to be on time and in keeping with the spirit
7 of this public process. Thank you very much.

8 CHAIRMAN LEZY: Thank you. Commissioners,
9 any questions for the parties? The Commission will
10 now conduct formal deliberations on whether to grant
11 the Petition whether in whole or in part or to deny
12 the Petition.

13 If the Commission grants the Petition in
14 whole or in part it will determine what conditions of
15 approval to impose. I note for the parties and the
16 public that during the Commission's deliberations
17 there will be no additional input from either the
18 parties or the public unless the Commission makes a
19 specific request.

20 The Commission held hearings on the merits
21 of this Petition on October 20-21, 2011; November
22 17-18, 2011; January 5, 2012; January 19, 2012;
23 March 15-16, 2012, and May 22, 2012. Oral argument
24 was concluded today.

25 Commissioners, allow me to confirm that

1 each of you have reviewed the record, read the
2 transcripts for any meeting that you may have missed
3 and that you are prepared to deliberate on the subject
4 docket. After I call your name please signify
5 whether you are prepared to deliberate on this matter.
6 Commissioner Chock?

7 COMMISSIONER CHOCK: Yes.

8 CHAIRMAN LEZY: Commissioner Contrades?

9 COMMISSIONER CONTRADES: Yes.

10 CHAIRMAN LEZY: Commissioner Makua?

11 COMMISSIONER MAKUA: Aye.

12 CHAIRMAN LEZY: Commissioner Judge?

13 COMMISSIONER JUDGE: Yes.

14 CHAIRMAN LEZY: Commissioner McDonald?

15 COMMISSIONER McDONALD: Yes.

16 CHAIRMAN LEZY: Commissioner Heller?

17 COMMISSIONER HELLER: Yes.

18 CHAIRMAN LEZY: Commissioner Teves?

19 COMMISSIONER TEVES: Yes.

20 CHAIRMAN LEZY: Commissioner Matsumura?

21 COMMISSIONER MATSUMURA: Yes.

22 CHAIRMAN LEZY: I'm also prepared to
23 deliberate on this matter. The Commission will render
24 a decision by way of motion on whether to grant in
25 whole or in part, or to deny Petitioner's request to

1 reclassify the subject Petition Area. If a decision
2 is rendered, staff, with the Commission's guidance,
3 will be directed to draft appropriate findings of
4 fact, conclusions of law and decision and order
5 reflecting the Commission's decision.

6 That in mind, Commissioners, what is your
7 pleasure on this matter?

8 COMMISSIONER CHOCK: Chair, I'd like to
9 move to go into executive session to consult with our
10 attorney.

11 COMMISSIONER CONTRADES: Second.

12 CHAIRMAN LEZY: There's a motion. All in
13 favor? (Voting): Aye. All opposed? Folks, you can
14 stay put. We will leave.

15 (Executive session was held. 1:55)

16 CHAIRMAN LEZY: Thank you for your
17 patience. Again, Commissioners, what is your pleasure
18 on this matter?

19 COMMISSIONER TEVES: Mr. Chairman.

20 CHAIRMAN LEZY: Commissioner Teves.

21 COMMISSIONER TEVES: Before proceeding
22 further I would first like to acknowledge the
23 Petitioner, the city and state Office of Plannings,
24 Intervenor Senator Clayton Hee, Dr. Dudley and the
25 Sierra Club all of whom provided the Board sufficient

1 detailed information to allow this Commission an
2 opportunity to make a complete and fair decision. I
3 would also like to thank the many public witnesses who
4 testified at these hearings. Your input is always
5 appreciated.

6 With this now said, regarding Land Use
7 Commission Docket No. A06-771 in the Matter of the
8 Petition of D.R. Horton-Schuler Homes, LLC to amend
9 the Agricultural Land Use District Boundaries into the
10 Urban Land Use District for approximately
11 1,553.844 acres in 'Ewa District, Island of O'ahu, I
12 would like to make a motion to approve this Petition.
13 I'm also open to accept any friendly amendments from
14 my fellow Commissioners.

15 CHAIRMAN LEZY: Commissioner Heller.

16 COMMISSIONER HELLER: Yes. I will second
17 the motion. And I have some comments and some
18 proposed amendments in terms of conditions. First, I
19 want to join in thanking all of the parties and their
20 respective representatives, all the public witnesses
21 for all the work that's been done to present
22 information to us.

23 A lot of information has been presented and
24 I appreciate all the effort that it took. I think at
25 this point we have the information we need to make a

1 decision. That does not mean that it's an easy
2 decision. There are strong arguments on both sides.
3 And this is not a matter where the right answer is
4 clear and easy to determine.

5 I want to stress that my personal vote on
6 this matter is not based on what I like or don't like.
7 The question here is not how I feel about the Project.
8 There are specific statutory provisions that govern
9 the decision that we're supposed to make here. And my
10 job is to apply those statutory criteria to the
11 evidence. My personal gut level reaction is not one
12 of the criterion.

13 Now, there are a lot of different issues
14 and subissues that we need to look at in this case.
15 I'm not going to try to discuss all of them, but there
16 are several points I think are important.

17 First, with respect to constitutional
18 argument, I do not believe that Article XI, section 3
19 bars this Commission from reclassifying land from
20 Agricultural to Urban. Article XI, section 3 says
21 that the state shall protect agricultural land, but it
22 doesn't spell out in the constitution how that is to
23 be done. In fact it basically says that the
24 Legislature shall spell out the details.

25 If the intent had been to simply say that

1 no agricultural land may be reclassified to urban, it
2 would have been a lot easier to just say that. But
3 that's not what Article XI, section 3 says. The rule
4 says that if land is identified as Important
5 Agricultural Land, then it cannot be reclassified
6 without No. 1: Meeting the standards and criteria
7 established by the Legislature.

8 And No. 2: Being approved by a two-thirds
9 vote of the body responsible for making the decision.

10 In this case, even if the latter provision
11 applied that wouldn't make any difference because
12 under our rules it takes six affirmative votes to
13 approve a Petition anyway. And since we are a
14 nine-member Commission by definition if we approve
15 we're doing it by two-thirds majority.

16 So in terms of the constitutional provision
17 the question comes down to whether the land is
18 identified by the state as Important Agricultural
19 Land, and if so, whether reclassification to urban
20 meets the standards and criteria established by the
21 Legislature.

22 Now it has been suggested that the land in
23 question here could be, and perhaps should be,
24 officially designated as Important Agricultural Land
25 pursuant to HRS section 205-47. However, as we sit

1 here today that has not been done.

2 I think we have to base our decision on the
3 facts that actually exist right now and not on things
4 that the city and county could potentially choose to
5 do. I also note that the city and county is not
6 asking us to deny the Petition or to delay any action
7 while the city completes its process with respect to
8 designating Important Agricultural Lands.

9 Other parties have suggested that we should
10 wait. But this is a city and county process. And the
11 city and county itself has not requested that we wait.

12 Now, with respect to the statutory criteria
13 obviously preserving agricultural land is a key goal
14 that we are required to consider. In fact, preserving
15 agricultural land is probably the primary element of
16 our overall mission.

17 However, under HRS section 205-17 we are
18 also required to consider employment opportunities and
19 economic development and the availability of housing
20 to all income groups.

21 In terms of conformity to the State Plan,
22 there are multiple goals and objectives that we need
23 to consider. The State Plan recognizes a number of
24 different policies and priorities including economic
25 growth and the creation of jobs as well as the

1 protection of agriculture.

2 In the real world every proposed project
3 has some advantages and some disadvantages. And we
4 have to consider the balance. Determining whether or
5 not a project is consistent with the State Plan is not
6 a mechanical process. It's a process that requires
7 the exercise of judgment, weighing of the pluses and
8 minuses.

9 While I recognize that there are arguments
10 both ways, considering the overall balance of all the
11 factors I think the proposed Project is consistent
12 with the State Plan.

13 Of course, we also have to look at the City
14 and County General Plan and the 'Ewa Development Plan.
15 Those factors may actually a little easier to
16 consider.

17 First, I think it's clear that the proposed
18 development *is* consistent with the City and County
19 General Plan and with the 'Ewa Development Plan as
20 those plans exist today. Now, the opponents of this
21 Project are basically arguing that the city and county
22 should update and revise the 'Ewa Development Plan.

23 Personally, I'm inclined to agree that the
24 city ought to take another look at the 'Ewa
25 Development Plan. But I think we have to base our

1 decision on the actual 'Ewa Development Plan that
2 exists today, and not on some hypothetical revised
3 version that could potentially come out of an updating
4 process.

5 It's not our job to rewrite the City and
6 County's Plan. It's certainly not appropriate for me
7 to decide this case based on my own view of what the
8 City and County's Plan ought to say rather than what
9 it does say.

10 Now, that doesn't mean we should disregard
11 the agricultural use or agricultural potential of this
12 land. That's clearly the toughest factor in this
13 decision is the loss of agricultural land.

14 In looking at that we should be aware of
15 the potential impact of this decision on other
16 landowners and other lands in terms of promoting and
17 protecting agriculture. I think we want to encourage
18 landowners to make their land available for farming.

19 In this case the land is being used for
20 agriculture right now because the landowner agreed to
21 lease that land to farmers.

22 If we say that the existence of the current
23 farming activity is a reason to deny the Petition, we
24 could be sending a message to other landowners. That
25 message would say basically: If you have any hope of

1 ever developing your land you better not lease it to a
2 farmer because the existence of a farming lease will
3 be held against you.

4 There could be unintended consequences,
5 potentially serious, negative consequences for
6 agriculture if we say that allowing farming on your
7 land will prevent you from being able to get that land
8 reclassified.

9 I also want to note that the Department of
10 Agriculture basically said it does not oppose the
11 Petition, given the Petitioner's plans for an
12 agricultural component within the development.

13 Now, I'm not suggesting that we should just
14 blindly agree with whatever the Department of
15 Agriculture says. But I do think we should take note
16 of and give some weight to the position of the primary
17 state agency responsible for agriculture.

18 Finally, on the subject of agriculture, the
19 proposed development does have a significant
20 agricultural component: The community farms, the
21 steward farms.

22 I have some doubts about how those programs
23 are actually going to work in reality. But regardless
24 of those doubts I think the agricultural component of
25 this proposal is the type of innovation that we

1 probably ought to be encouraging going back to the
2 State Plan, development that includes an agricultural
3 component achieves more of the goals of that Plan.

4 Also I note that the Department of
5 Agriculture seems to believe that the agricultural
6 component of the Project is a significant positive
7 factor.

8 One of my other concerns is traffic and
9 transportation issues. I have very serious doubts
10 about the adequacy of the traffic studies that have
11 been completed and the sufficiency of the mitigation
12 measures that are being proposed.

13 In particular the proposed Project will
14 clearly affect traffic on the H-1 Freeway. And the
15 concept of fixing that by repainting the lane lines
16 raises a lot of questions.

17 I'm not a traffic engineer and I don't
18 claim to be an expert on traffic mitigation. But it
19 seems to me that having more cars on the same physical
20 pavement has to result in more traffic problems
21 regardless of whether or how you repaint the stripes.

22 Now, since I'm not a traffic engineer I
23 don't want to try to micromanage the traffic
24 solutions, but I do want to make sure those issues are
25 adequately addressed. Therefore, one of the

1 conditions that I would like to suggest as an
2 amendment is the specific requirement of a new TIAR
3 based on reasonably current data addressing the
4 proposed phasing of the development, and proposing
5 mitigation measures that are acceptable to the state
6 Department of Transportation and the city Department
7 of Transportation Services.

8 With respect to the specific terms of that
9 condition I think the Petitioner's proposed Condition
10 No. 10 as amended by the stipulations between the
11 Petitioner and the City and the between the Petitioner
12 and the Office of Planning is basically acceptable.

13 But I would like to see a specific
14 statement added that the new TIAR and all updates to
15 the new TIAR will set forth whatever assumptions are
16 being made about the construction schedule for the
17 Honolulu Rail Transit project and will address the
18 question of what happens if there are significant
19 changes to that schedule.

20 I'm not saying what the specific answer has
21 to be in terms of mitigation. I'm just saying that
22 the question of what happens if the rail plan changes
23 should be specifically addressed.

24 Finally, I want to raise the issue of
25 drainage and stormwater runoff. At this point that's

1 partially an unresolved question. As I understand it
2 the Navy will not allow any solution that increases
3 the runoff onto Navy lands.

4 The Petitioner has a plan that involves
5 drainage from the West Loch basin going across Navy
6 land, thus they may need to implement an alternative
7 plan if they cannot get the Navy's consent.

8 I think we need to modify proposed
9 Condition 11 to have a specific requirement that the
10 Petitioner submit a drainage plan either attaching a
11 written consent from the Navy or explaining why the
12 Navy's consent is not required to be submitted to the
13 City prior to final subdivision approval, or if
14 subdivision approval is in phases, prior to
15 subdivision approval for any phase that includes the
16 West Loch basin drainage area.

17 Therefore, to wrap all this up I'm
18 proposing two amendments to the motion. The two
19 conditions would be that: Proposed Condition No. 10
20 include a specific requirement in the TIAR, as I
21 described, regarding what happens if the schedule for
22 the rail changes.

23 And proposed Condition No. 11 would have a
24 specific modification dealing with stormwater runoff
25 as I just described. Thank you.

1 CHAIRMAN LEZY: Commissioner Teves, do you
2 accept the amendments as proposed?

3 COMMISSIONER TEVES: Yes, I do.

4 CHAIRMAN LEZY: There's a pending motion.
5 Discussion? Commissioner Makua.

6 COMMISSIONER MAKUA: Aloha. I would like
7 to also echo my mahalo to all the parties here for
8 your time and effort for everyone that came out to
9 give testimony. I know the sacrifice it took for you
10 to be here. And some of you we saw here at each
11 meeting all these months. And I hear all of you and
12 I'm very grateful for the time you spent here.

13 I'm also grateful that we have these laws
14 that govern our decisions. And for me when I read HAR
15 15-15-77 that requires that agricultural lands in
16 production two years prior to the filing of a Petition
17 shall not be reclassified unless the development is
18 needed for urban growth or if reclassification will
19 not impair agriculture production in the state, for me
20 my decision is based on what will be impacted greater.

21 Will the production of agriculture be
22 impacted greater than the fulfillment of those homes
23 for urban growth? And for me with that land
24 representing 32 percent of the land in production of
25 all of Hawai'i in ag, that is a greater impact.

1 I would also like to trust in the state
2 agencies to make those decisions, but I don't have --
3 I was not convinced by the testimony of Russell
4 Kokubun and those details that he didn't know about:
5 Can we grow duplicate crops in those other lands?
6 What is the cost of infrastructure? We've also heard
7 debates on: Is this land the most productive in the
8 state?

9 And for me for the people subleasing the
10 land at double prices that the land is worth
11 preserving.

12 The traffic is also a concern of mine.
13 Alvin Takeshita said that D service level is
14 considered acceptable. Right now there are many
15 areas that are already F. I just heard on the radio
16 the other day that we were just, Honolulu was just
17 rated the worst city in the nation as far as traffic.

18 He also said that quality of life is
19 considered when making these decisions to support a
20 Petition. But it was also confirmed that they never
21 surveyed -- there was no survey done of the residents
22 in the area.

23 When asked by Commissioner Heller if there
24 was contingency plans if the rail does not proceed, he
25 answered that would have to be worked out later.

1 For me there's just a lot of pukas, for
2 lack of a better term. And we're asked to make a leap
3 of faith that all these things will be worked out and
4 that, you know, 12, almost 12,000 homes which have the
5 average of three people, so 30,000 people won't be
6 driving on that road and that won't impact, negatively
7 impact these highways. For me that's a huge leap of
8 faith and one that I'm in conscience cannot make
9 today.

10 CHAIRMAN LEZY: Further discussion?
11 Commissioners? Commissioner Contrades.

12 COMMISSIONER CONTRADES: Thank you,
13 Mr. Chairman. I also would like to thank everybody
14 for the many, many hours that you've spent here
15 testifying and being part of this docket. You know, I
16 was born here in Hawai'i many, many years ago. I'm
17 not ashamed to say I'm 62 years old.

18 I've spent a great deal of my adult life as
19 a volunteer, seven years as a Planning Commissioner on
20 Kaua'i, eight years as a Hawaiian Homes Commissioner
21 and now seven years as a Land Use Commissioner.

22 I've seen our state change. I once went to
23 Canada and when I showed them my birth certificate the
24 Canadian official started laughing because he said,
25 "You were born in the Territory of Hawai'i?" And I

1 said, Yes, I was and I'm proud of it."

2 As a young boy I grew up in a family of 10
3 children. The place that I lived at was owned by a
4 family known as the Stacin (phonetic) family. They
5 were a large landowner. Their father died and the
6 family was left with a huge tax bill. So they
7 subdivided their land and sold it because they could
8 not pay the taxes. The lots were 18,000 square feet.

9 My dad bought two of them. They were
10 selling for \$400 a lot. Because he bought two they
11 gave him a discount. He paid \$750. He built a home
12 on that, sold that home and then built the house that
13 I grew up in and it's still standing today.

14 We grew mangos, papayas, avocados, bananas.
15 We had a little farm. Because there are 10 of us we
16 had chickens, rabbits, ducks. We did not go to a
17 start because we could not afford it. We ate fish.
18 We collected limu. We did many of those things that
19 Senator Hee talked about that we can no longer do
20 today because when I was born on Kauai there were only
21 19,000 people living there. There are now 70,000.

22 The state of Hawai'i had less than a half a
23 million people. We now have over a million. So
24 things change. There's constant change. There's been
25 constant change in my life. It's not easy to accept

1 some of these things.

2 The home that I grew up in where I once
3 raised papayas and bananas and mangos and everything
4 is still there. But in back of the home my sister
5 lives. There is no more mango trees, there are no
6 more papayas because she needed a place to live.

7 You can drive up five -- well, on Kawaihāo
8 Road where I grew up and every family I knew. Today
9 every lot has at least two homes on it because the
10 families could not afford it. They had to use their
11 land to build more homes. To say that we do not need
12 homes anywhere is ridiculous. There is a need.
13 There's no doubt about it.

14 Many of the homes that have been talked
15 about that are slated to be built probably never will
16 be built because of the economic problems. But we do
17 know that D.R. Horton has built many, many homes in
18 Hawai'i. And I do believe that they will build this.

19 When we talk about agriculture, I sat here
20 all these months and never said a word. You have no
21 idea how hard it was for me not to stand up and tell
22 everybody, "Everybody, the best agricultural land in
23 the state of Hawai'i is not at Ho'opili. It is on *my*
24 island!" No two ways about it. It's been stated in
25 many agricultural articles all over the world. If you

1 go to the west side of Kaua'i you can grow anything.
2 It is so good it is unbelievable.

3 We had a farmer who was my personal friend
4 because I used to help him, who raised many different
5 kinds of crops there. But because he could not sell
6 them he lost his business. And the land is in weeds
7 today. There's plenty of land, plenty of land.

8 And I'm going to read something to you that
9 we all have ignored. A letter from Alec Sou,
10 principal and general manager of Aloun Farm who said,
11 "We do not view the plans by D.R. Horton as the end of
12 all farming in Honolulu, much less Hawai'i.

13 In fact, we at Aloun Farms believe our
14 future is bright for farming in Honolulu especially
15 with the strong, growing interest in the public and
16 elected officials with supporting sustainable
17 agriculture.

18 "We believe, we believe there's more than
19 sufficient land on O'ahu to support our farming
20 operations. And with continued support by enlightened
21 landowners, government agencies and elected officials
22 we will continue to expand our ability to provide
23 vegetables and produce to local residents."

24 The man that we are talking about that has
25 been farming this land, that was his own personal

1 statement signed by his own hand. There's much land
2 available. I do not base my decision on the city and
3 county of Honolulu and their plans. That's not what I
4 base it on. I base it upon my personal belief that we
5 are doing the correct thing.

6 I thank Commissioner Heller because I
7 wanted to raise some of the issues that he did. So
8 now I don't have to say them. But there are issues
9 and we are all concerned. But we have the right to
10 make this decision. I believe we are doing it for
11 the right reasons. And I believe we're following the
12 Constitution of the state of Hawai'i.

13 But there is one more thing that I would
14 like to suggest. Condition No. 15 on civil defense.
15 I want to make sure that this is done. I grew up in
16 an area next to the ocean for a long, long time.

17 Whenever there was a warning and
18 everything, oftentimes we did not have a siren. You
19 watch the ocean. And my daddy used to tell me, "When
20 the ocean starts going out you run to the highlands."
21 There was no Civil Defense system at that time. *That*
22 was our defense system. It says here, "the Petitioner
23 shall on a fair-share basis..." I want to change that
24 to read this way: "The Petitioner shall pay for and
25 construct adequate Civil Defense measures serving the

1 Petition Area as determined by the state of Hawai'i
2 Department of Defense, the state Civil Defense, SCD.
3 The Civil Defense measures shall be operational prior
4 to occupancy in homes or businesses."

5 And that is my friendly offer for an
6 amendment.

7 CHAIRMAN LEZY: Commissioner Teves, do you
8 accept the amendment?

9 COMMISSIONER TEVES: Yes, I do.

10 CHAIRMAN LEZY: Commissioners, further
11 discussion? Commissioner Judge.

12 COMMISSIONER JUDGE: Thank you, Chair. I
13 will echo the sentiments of my fellow Commissioners in
14 thanking all the parties and all of the people who
15 have come time after time to give us testimony. I
16 realize it's not easy because I sit here after eight
17 years and I'm still nervous speaking right now.

18 Thank you to Commissioner Heller for
19 bringing up all those excellent points. And in my
20 eight years we had to make a lot of decisions but I
21 think this is the hardest. It's probably the largest.
22 It is the largest. But it's also been the hardest
23 because we've had a lot of testimony. We've had a lot
24 of adversarial testimony.

25 There's nothing simple or straight forward,

1 black or white about this case. I would say it's a
2 million shades of gray. And that's why it's been a
3 very difficult discussion and decision. There was
4 reference before that the votes have been counted, and
5 I think that's very unfair to this Commission because
6 I think we take this very seriously.

7 Regarding the ag production and the food
8 sustainability issue, I thank everybody for bringing
9 that up because that's something that we never had
10 talked about in front of this Commission. And it's
11 very important.

12 And I think it's also important to know
13 that -- and it was brought up by the Petitioner --
14 that a "no" vote here today doesn't mean that this
15 land will stay in agricultural production. I mean I
16 think they were very clear in saying that in fact it
17 won't.

18 It will lead to -- it will lead to seed
19 corn, it doesn't assure that this will remain in
20 agricultural production or food production or add to
21 the food sustainability or increase the food supply.
22 So I think that's important.

23 I also believe that there is a need for
24 urban growth. I think the record shows that they're
25 going forward, the population of Honolulu is going to

1 continue to grow. And there's definitely a need for
2 new homes and new affordable homes. Then the question
3 becomes where should that go.

4 And I do believe in the planning process.
5 I believe in the idea of having directed growth plans
6 so that you have an idea of where that growth is going
7 to go so you can protect your open space. I do
8 believe in that community plan process. And this land
9 is slated for that growth.

10 I am deeply, deeply troubled by the traffic
11 issue as you've heard from all of our Commissioners.
12 I'm not a resident of O'ahu. But from the testimony
13 and just from watching the television and watching the
14 jams, the traffic is very bad on H-1.

15 And I can say that I was very disappointed
16 in the state DOT's testimony in really not giving us
17 any answers or any mitigation of how they intend to
18 solve that.

19 I think Commissioner Heller's amendment
20 regarding the TIAR is a very good one. I was also
21 encouraged to hear in Mr. Kudo's opening statement a
22 very clear list of improvements that the Petitioner is
23 going to commit to. So I would like to make a
24 friendly amendment based on that that in the traffic
25 condition we add a subletter or however, category, and

1 we list those items that Mr. Kudo listed in his
2 opening statement as something that the Petitioner
3 shall do at a minimum, the list that Mr. Kudo stated.

4 And, again, this has been a very difficult
5 decision. I've debated with myself for several months
6 now on a daily basis which way to go. But I echo
7 Commissioner Heller's statement in that this is not a
8 personal decision.

9 We don't get to -- I don't get to do what
10 Lisa Judge wants to do. It's, you know, this is a
11 decision that's based upon statutory requirements and
12 in looking at the record. That's why I'm going to
13 support this Petition today.

14 CHAIRMAN LEZY: Further discussion,
15 Commissioners? Commissioner Chock.

16 COMMISSIONER CHOCK: Thank you, Chair. I'd
17 also like to start by recognizing all of the parties,
18 the public and especially the staff who assisted us
19 through this matter. And also to point out in
20 specific the participation of the Intervenors in this
21 process that we've had from start to finish. And
22 would specifically like to express my appreciation to
23 Senator Hee who's been a champion of many causes.
24 He's a kanaka. He supports and leads with many
25 traditional Hawaiian leadership values that I try to

1 emulate in my life. His 'ike, his kia'i and his
2 mana'o have been invaluable to this process.

3 And although we agree on some points, we
4 disagree on others, I always respect what he brings to
5 the table.

6 Dr. Dudley, thank you for standing up and
7 standing for something. You have been here from day
8 one when you were the only voice here. And I respect
9 and appreciate that. I remember being a student at
10 the university in political science reading your book
11 Call to Hawaiian Sovereignty. And even before the
12 whole issue of sovereignty and Native Hawaiian rights
13 were on anybody's radar, you were there as you are
14 now.

15 And I appreciate your presence here, Sierra
16 Club. Thank you as well for being here. There's also
17 a fourth intervenor who doesn't have a seat at the
18 table who I felt was very instrumental also in this
19 process. They sat here at every hearing and conducted
20 themselves with a lot of respect. That's the house of
21 labor that has stood up and stood for jobs.

22 And I think at the end of the day, as I
23 listened to a lot of the arguments that are expressed
24 on both sides of the table between the proponents of
25 agriculture and the proponents of jobs, at the end of

1 the day they all want the same thing. They want to
2 feed their family.

3 The question is how we go about doing that.
4 Just taking off on some of the exhibits that were
5 cited in this particular docket by Senator Hee. He
6 cited a pamphlet that was authored by Governor
7 Ariyoshi that was at times critical of the public's
8 role in the Land Use Commission process.

9 I just wanted to point to, since I've been
10 on the Commission, a number of petitions in which
11 we've had intervenors participate that I have felt,
12 and I said this during my confirmation proceedings,
13 have added to the value, and the outcomes that we've
14 reached here.

15 And I can count on as many as a dozen plus
16 interventions going back for several years now ranging
17 from the petition we heard yesterday, Castle & Cooke
18 Koa Ridge I think as many as three times, Forest City,
19 Tropic Land, LLC, Waimanalo Gulch, Hawaiian Memorial
20 Life Plan, 'O'oma Beachside Village and on and on.
21 We've had intervenors as a regular part of our
22 process.

23 And the public's voice and role in all of
24 our proceedings has been very well represented. And I
25 believe we've done more than our share to accommodate

1 the public's voice as part of these proceedings.

2 In overall when we look at what our mandate
3 is as a Commission, it is to look at a number of
4 criteria, not one single criteria. But the one
5 criteria that I think we've come under and that has
6 been the major source of this Petition has been the
7 importance and protection of Important Ag Land.

8 Again, I'd like to point out that if you
9 look at the total body of work in terms of the
10 deliberations of the Land Use Commission and some of
11 the proceedings that I personally have been involved
12 in with respect to Important Ag Land petitions, we've
13 reclassified over 90,000 acres of Important Ag Land on
14 all islands -- not on all islands but on all major
15 islands, Kauai, Maui, O'ahu, Hawai'i Island, Alexander
16 & Baldwin, Castle & Cooke, Maha'uilepu Farms, Kauai;
17 Parker Ranch, total of over 90,000 acres of Important
18 Ag Lands that will be dedicated not just for five
19 years or for 10 years or 20 years but in perpetuity.

20 I've also been privileged to be part of a
21 vote to reclassify the Ka Iwi shoreline from Urban to
22 Conservation.

23 And I've also been a part of a decision
24 that has been not covered adequately enough with
25 respect to the first case in which the Land Use

1 Commission has reverted land for lack of performance
2 by a developer for failure to meet conditions.

3 So when you look at the body of work and
4 the body of criteria that's in front of us, I just
5 want to point that out.

6 You know, one of the quotes that I wanted
7 to share from Governor Ariyoshi's pamphlet comes under
8 a section where he talks about re-examining the state
9 of Hawai'i. And I'd like to quote from it.

10 "Let's be honest. As we observe 50 years
11 of Hawai'i statehood, the tradition I'm describing,
12 the core belief in the power of government to address
13 problems has declined.

14 "The traditional leadership in not only
15 government but also in business and labor has
16 weakened. Key institutions have deteriorated. Our
17 planning processes have been undercut. We are still
18 thought of as special, but Hawai'i occupies a less
19 distinctive niche in the national and world stage than
20 it did. We are less sure of what Hawai'i has to
21 offer. We are less in touch with what makes us
22 different."

23 And yesterday I believe it was Attorney
24 Seitz who cited breaches. And breaches to the public
25 interest in my opinion has been a direct result in

1 terms of breaches of leadership that has happened,
2 that we have fallen victim to in our state for several
3 decades now where now the decision that is before us
4 today we're trying to hold the Land Use Commission
5 responsible for basically a dereliction of duty that
6 has occurred for a long time, that could have
7 positioned our state to deal with the housing shortage
8 that we currently face, where Hawai'i ranks on the
9 bottom, I believe 49th or 50th, last in the entire
10 state in terms of homeownership, last in terms of the
11 highest percentage of families living under the same
12 roof.

13 And we've done nothing to turn the tide on
14 that. And we've done nothing also to turn the tide in
15 terms of food security and energy independence. But
16 yet that's not the exclusive role and responsibility
17 of the state Land Use Commission.

18 You know, to sum up where I'm coming from,
19 Hawai'i has done a really good job in exporting one
20 crop in all the time that I've lived here. And I've
21 lived here my entire life and I'll never live anywhere
22 else. And we've done a good job growing and exporting
23 our kids. That's our number one export crop. That's
24 our future that we've sent away.

25 That's all I've got to say, Chair.

1 CHAIRMAN LEZY: Further discussion?
2 Commissioner McDonald.

3 COMMISSIONER McDONALD: I'd like to again
4 thank all the parties, Intervenors as well as the
5 public for their participation in these hearings. As
6 my fellow Commissioners have noted this is never an
7 easy decision. And we do take it very seriously.

8 For me it comes down to a balance of
9 development versus preservation. And what
10 Commissioner Heller had stated as far as meeting the
11 statutes in our decision making criteria, I'll leave
12 it at that. I think he spoke clearly as far as our
13 duties and responsibilities.

14 For me I believe we need to stay committed
15 to the vision of the second city of Kapolei in which
16 decades of planning and collaboration was afforded by
17 all levels of state, county, but more importantly our
18 communities.

19 This vision, which includes Ho'opili,
20 consists of the state's goals to ensure economic
21 stability, diversity growth for future generations
22 whereby directing growth to the 'Ewa Plain. And for
23 me this is important.

24 It's relieving those development pressures
25 from the rural areas such as Wai'anae, North Shore,

1 Ko'olauloa and Ko'olaupoko. Therefore, I will support
2 this Petition.

3 CHAIRMAN LEZY: Thank you. Commissioners,
4 further discussion? Commissioner Matsumura.

5 COMMISSIONER MATSUMURA: Good afternoon. I
6 too want to thank all of the people that participated
7 in this process. I think that it's wonderful that we
8 have an organization as such that we can participate.

9 My concern, I think, was as I looked back
10 in history, and I'm older than Thomas, is that when I
11 grew up the majority of the land was owned by either
12 the state or private sector big businesses:
13 Plantations.

14 How in the world I always thought that you
15 can divide the property and have that to the majority
16 of the people? One is through what Horton is trying
17 to do.

18 We talk about agriculture. And I've seen
19 on the Big Island, always talking about agriculture
20 but have not seen them to be successful. There's, I
21 think, a lot of work to be done.

22 One of the things I think that needs to be
23 done is the subdivision of -- in a realistic scale and
24 identify those properties as Important Agricultural
25 Lands that there's no speculation. They need to have

1 ownership on the property. You need to have some
2 economic value for that.

3 If you're going to have speculation then
4 you're going to have high agriculture values, then the
5 farmers can't own the properties.

6 So I think there's a lot of turmoil in me
7 when I see this, the issues that we're going through.
8 We talk about agriculture, but I have not heard a
9 solution on how in the world that you're going to do
10 agriculture.

11 And simplistically saying, "We're gonna
12 grow more things," is not a solution. I've been in
13 the industry for many years. I was wholesaler, I was
14 distributor, I was a manufacturer. So I dealt with
15 the farmers. And I've seen a lot of my friends that
16 are farmers go bankrupt almost.

17 So they need to have another solution. And
18 I think that we all have to work together, come out
19 with some kind of a, some kind of a realistic solution
20 that it *can* become economically successful. I don't
21 think the answers are here yet. I have not heard that.

22 So I think, as I make my decisions today,
23 I'm weighing this, the pros of what the developer's
24 trying to do. This way at least the individual person
25 will own land. How, on the other side we talk about

1 agriculture, how is the farmers going to own land so
2 they can become farmers? Thank you.

3 CHAIRMAN LEZY: Thank you. Commissioner
4 Teves, just a couple housekeeping items regarding your
5 motion. Do you accept Commissioner Judge's amendment?

6 COMMISSIONER TEVES: Yes.

7 CHAIRMAN LEZY: And then for clarification
8 purposes does your motion seek to approve the
9 stipulated conditions between the Petitioner and the
10 county and state?

11 COMMISSIONER TEVES: Yes.

12 CHAIRMAN LEZY: Okay. All right. Before
13 we move to the vote, the comments and discussion by
14 the Commissioners preceding me I think was far more
15 eloquent and insightful than anything I could probably
16 add to this.

17 I would like to say one thing, though.
18 This suggestion that the Commission's vote, if in fact
19 it was said, was lined up in advance of this hearing,
20 frankly to me is very disappointing. Disappointing
21 and irresponsible by whomever said it. And I think, I
22 think it is reflective of a lack of respect for the
23 process and for the folks who sit on this Commission.

24 I'm not here to pat myself on the back.
25 But it's been said before everybody that sits on this

1 Commission does so as a volunteer. We're lucky if we
2 get reimbursed for our out-of-pocket expenses. I
3 think everybody here, as evidenced by the comments
4 they made today, takes this job very seriously.

5 And I think that everyone here deserves
6 respect for what they do and the decisions that they
7 make, even if you may not agree with the decision that
8 they make either way.

9 With that, Mr. Saruwatari.

10 MR. SARUWATARI: On the Motion to Grant the
11 Petition subject to the conditions agreed to by
12 Petitioner Ho'opili and the City and the amendments to
13 the conditions as described by Commissioners Heller,
14 Contrades and Judge, on that motion: Commissioner
15 Teves?

16 COMMISSIONER TEVES: Yes.

17 MR. SARUWATARI: Commissioner Heller?

18 COMMISSIONER HELLER: Yes.

19 MR. SARUWATARI: Commissioner Matsumura?

20 COMMISSIONER MATSUMURA: Yes.

21 MR. SARUWATARI: Commissioner Chock?

22 COMMISSIONER CHOCK: Yes.

23 MR. SARUWATARI: Commissioner McDonald?

24 COMMISSIONER McDONALD: Yes.

25 MR. SARUWATARI: Commissioner Contrades?

1 COMMISSIONER CONTRADES: Yes.

2 MR. SARUWATARI: Commissioner Makua?

3 COMMISSIONER MAKUA: No.

4 MR. SARUWATARI: Commissioner Judge?

5 COMMISSIONER JUDGE: Yes.

6 MR. SARUWATARI: And, Chair Lezy?

7 CHAIRMAN LEZY: Yes.

8 MR. SARUWATARI: Chair, we have eight votes
9 in support of the motion.

10 (Applause)

11 CHAIRMAN LEZY: I'd like to, again, thank
12 the parties for their hard work on this and the
13 public, again, for their input. With that this matter
14 stands adjourned. Further scheduling will be
15 communicated to you by staff.

16 MR. KUDO: We'd also like to thank all the
17 Commission members as well as the staff.

18 (The proceedings were adjourned at 2:40 p.m.)

19

20 --o00o--

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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 8th day of June 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

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

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25