

LAND USE COMMISSION

STATE OF HAWAI'I

June 28, 2017

Commencing at 9:30 a.m.

Held at County of Kaua'i Moikeha Building

Conference Room 2A/2B

4444 Rice Street, Lihue, Kaua'i, Hawaii'i 96766

AGENDA:

I. Call to Order

II. Adoption of Minutes

III. Tentative Meeting Schedule

IV. Hearing and Action

A17-802 County of Kaua'i Housing Agency - Lima
Ola HRS 201H Project. Petition of County of
Kaua'i Housing Agency to Amend the Agricultural
land Use District Boundaries into Urban Land
Use District for certain lands situated at
'Ele'ele, Kaua'i, Hawaii, consisting of
approximately 75 acres, Tax Map Key No.
(4) 2-1-001:054.

V. Executive Session

Pursuant to HRS Section 92-5(a)(4) to consult
with the Commissioner's Attorney regarding the
Commission's duties, rights, responsibilities
and obligations with respect to pending
litigation and Pursuant to HRS Section
92-5(a)(2) to consider personnel matters where
considerations of matters affecting privacy
will be involved.

BEFORE: Jean Marie McManus, CSR #156

1 APPEARANCES:

2 EDMUND ACZON, Chair
3 JONATHAN SCHEUER, Vice Chair
4 ARNOLD WONG, Vice Chair

5 COMMISSIONERS:

6 GARY OKUDA
7 LINDA ESTES
8 NANCY CABRAL
9 DAWN CHANG

10 DIANE ERICKSON, ESQ.
11 Deputy Attorney General

12 STAFF:

13 DANIEL ORODENKER, Executive Director
14 RILEY K. HAKODA, Planner/Chief Clerk
15 BERT K. SARUWATARI, Planner

16 DAVID J. MINKIN, ESQ.
17 KELSEY S. YAMAGUCHI, ESQ.
18 Attorneys for Petitioner
19 County of Kaua'i Housing Agency

20 MATTHEW M. BRACKEN, ESQ.
21 MICHAEL DAHILIG, Director of Planning
22 County of Kauai Planning Department

23 DAWN APUNA, ESQ.
24 RODNEY FUNAKOSHI, Planner
25 State Office of Planning

JEAN NISHIDA SOUZA
Intervenor

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1 CHAIRPERSON ACZON: Good morning. This is the
2 June 28, 2017 Land Use Commission.

3 The first order of business is the adoption
4 and May 31, 2017 meeting and June 14, 2017 Maui site
5 visit minutes. Are there any corrections or comments
6 on them? If not, is there a motion to adopt minutes
7 for May 31st, 2017 and June 14th, 2017?

8 COMMISSIONER ESTES: I so move.

9 COMMISSIONER CABRAL: Second it.

10 CHAIRPERSON ACZON: Motion is made by
11 Commissioner Estes and seconded by Commissioner
12 Cabral to adopt the minutes. All in favor say "aye".
13 Any opposed? Minutes are adopted unanimously.

14 Next agenda item is the tentative meeting
15 schedule. Mr. Orodanker

16 EXECUTIVE DIRECTOR: Thank you, Mr. Chair.
17 Tomorrow we will be here for the continued hearing on
18 this matter, if necessary.

19 July 19th we will be adopting the order in
20 this matter, A17-802, Lima Ola here on Kaua'i.

21 On the same day, July 19th, we will also be
22 going to Maui for Kau'ono'ula Ranch FEIS acceptance.

23 July 20th also on Maui.

24 July 26th we will be on Kaua'i once again
25 here for A16-800 and A16-801 Action (Kauai) and

1 A94-706 Honua'ula LUC accepting authority for EIS,
2 both dockets on Kaua'i.

3 On August 9, 2017, we'll be in Honolulu for
4 Oahu Solar Special Permits.

5 And on August 10, 2017, on Kaua'i for
6 adoption and order for A16-800 Island Schools.

7 On August 23rd we will be on Maui for
8 Pukalani Associates' Motion for Extension of Time.

9 September 6th and 7th, we will be all on
10 Maui for Waikapu Town matter and Oahu Solar Special
11 Special Permit Adoption of Order.

12 September 20th through 22nd, HCPO will take
13 place on Oahu. That takes us up to October.

14 CHAIRPERSON ACZON: Commissioners, any
15 questions about our schedule? Thank you.

16 This is a hearing and action meeting Docket
17 No. A17-802 Petition of County of Kaua'i Housing
18 Agency to Amend Agricultural Land Use District
19 Boundaries into the Urban Land Use District for
20 certain lands situated at 'Ele'ele, Kaua'i, Hawai'i,
21 consisting of approximately 75 acres. Tax Map Key
22 (4)2-1-001, lot 54.

23 The Chair would like to note that the
24 starting time for the meeting tomorrow will be
25 9:00 a.m. and not 8:30 a.m. as stated in the Notice

1 of Hearing.

2 Will the parties identify themselves for
3 the record?

4 MR. MINKIN: Good morning, Chair, council
5 members and staff, David Minkin, along with Kelsey
6 Yamaguchi on behalf of the Petitioner County of
7 Kaua'i Housing. With me is Kanani Fu, the Director.

8 MR. BRACKEN: Good morning, Commissioners,
9 Matt Bracken, on behalf of the County of Kaua'i
10 Planning Department, and with me is the Director of
11 Planning Michael Dahilig.

12 MS APUNA: Dawn Apuna on behalf of OP.
13 Here with me today is Rodney Funakoshi.

14 MS. SOUZA: Intervenor Jean Nishida Souza.

15 CHAIRPERSON ACZON: Good morning,
16 everybody.

17 Let me update record.

18 On December 7, 2016 the Land Use Commission
19 received initial Notice of Intent to File a District
20 Boundary Amendment with Affidavit of James K. Mee
21 Attesting to Publication of Notice of Intent to File
22 a District Boundary Amendment Petition and Exhibit A;
23 and an Affidavit of James K. Mee Attesting to Service
24 of Notice on Intent to File a District Boundary
25 Amendment, Exhibits A and B.

1 On December 27, 2016, the Commission
2 received Intervenor Jean Nishida Souza's Petition to
3 Intervene.

4 On December 29, 2016, the Commission
5 received County of Kauai Housing Agency's Opposition
6 to Jean Nishida Souza's Petition to Intervene.

7 On January 5, 2017, a prehearing notice for
8 a January 19, 2017 meeting of the Parties was sent.

9 January 6, 2017, Commission received County
10 of Kaua'i Planning Department's Joinder to County of
11 Kaua'i Housing Agency's Opposition to Jean Nishida
12 Souza's Petition to Intervene.

13 On January 9, 2017, the Commission received
14 Affidavit of James K. Mee Attesting to Publication of
15 Notice of Hearing and Exhibit A; and an Affidavit of
16 James K. Mee Attesting to Service of Petitioner's
17 Notice of Hearing, Exhibits A through D.

18 On January 10th, 2017, the Commission
19 mailed the January 18-19, 2017 agenda meeting notice
20 to the Parties, Kaua'i, Maui, and Statewide mailing
21 lists.

22 On January 11th, 2017, the Commission
23 received OP's Statement of No Objection to Jean
24 Nishida Souza's Petition to Intervene and mailed an
25 amended January 18th to 19, 2017 agenda meeting

1 notice to the Parties, Kauai, Maui and Statewide
2 mailing lists.

3 On January 13th, 2017, the Commission
4 received Department of Health's correspondence
5 regarding the proposed project.

6 January 18th, 2017, the Commission received
7 Petitioner's Affidavit of Publication in the Garden
8 Island News and the Honolulu Star-Advertiser.

9 On January 19, 2017, the Commission
10 received Intervenor Souza's responses to Parties
11 Positions on her Petition to Intervene and met on the
12 Island of Kaua'i to consider Proposed Intervenor
13 Souza's Petition to Intervene.

14 On January 23rd, 2017, the Commission
15 received Petitioner's Affidavit of Publication in the
16 Garden Island News, the Honolulu Star-Advertiser,
17 West Hawaii Today, and Hawaii Tribune Herald.

18 On January 24, 2017, the Commission mailed
19 the Order Accepting Oral Stipulation to Admit Jean
20 Nishida Souza as an Intervenor in the District
21 Boundary Amendment Proceedings.

22 On January 31st, 2017, the Commissioner
23 received Petitioner's Affidavit of Publication of
24 Notice of Hearing in The Maui News.

25 On April 13, 2017, Commission received

1 County of Kaua'i Housing Agency's Notice of Intent to
2 File a Land Use District Boundary Amendment,
3 Affidavit of Kanani Fu Attesting to Service of Notice
4 of Intent to File a Land Use District Boundary
5 Amendment Petition, Exhibits A and B, Affidavit of
6 Kanani Fu Attesting to Publication of Notice of
7 Intent to File a Land Use District Boundary Amendment
8 Petition, Exhibit A.

9 On April 26, 2017 Commission received
10 Notice of Withdrawal and Substitution of counsel from
11 James Mee.

12 On May 1, 2017, Commission mailed a copy of
13 its Pre-Application Order to the Parties.

14 On May 4th, 2017, Commission received
15 Affidavits of Publication of Notice of Intent for
16 Garden Island News, the Honolulu Star-Advertiser,
17 West Hawaii Today, Hawaii Tribune Herald and Maui
18 News.

19 On May 10, 2017, the Commission received
20 Petitioner's Pre-Application Draft Petition,
21 Petitioner's Exhibit List, Petitioner's Exhibits 1
22 through 25, Petitioner's Witness List and Written
23 Direct Testimonies.

24 On May 15, 2017, the Commission received
25 correspondence from Petitioner certifying that the

1 proposed project had been reviewed and accepted as an
2 eligible affordable housing project by County of
3 Kaua'i and Petitioner's Binder with Witness List and
4 Witness Exhibits 1 through 16 (including Travis
5 Braswell), a hard copy of Executed Statement of
6 Travis Braswell, and CD containing corrected Exhibit
7 25 and executed testimony for Travis Braswell.

8 On May 18, 2017, the Commission received
9 County of Kaua'i Planning Department's Witness List
10 and Exhibit List, Exhibits 1 and 2, Position
11 Statement and Intervenor Souza's Statement of
12 Position.

13 On May 19, 2017, the Commission received
14 OP's Statement of Position.

15 On May 25, 2017, the Commission received
16 Intervenor Souza's Witness and Exhibit Lists, Written
17 Testimony and Exhibit 1-PowerPoint Presentation.

18 On May 26, the Commission received OP's
19 List of Witnesses, List of Exhibits and Exhibits 1
20 through 13.

21 On May 31, 2017, the Commission received
22 Affidavit of David J. Minkin Attesting to Service of
23 Petitioner's Notice of Hearing, Exhibits A through D.

24 On June 2, 2017, the Commission received
25 Intervenor Souza's Errata Corrections to Written

1 Testimony, Petitioner's Response to OP's Statement of
2 Position, Petitioner's Rebuttal Exhibit List,
3 Petitioner's Rebuttal Exhibits 26 through 32.

4 On June 5th, 2017, the Commission received
5 a digital version of Affidavit of David J. Minkin
6 Attesting to Service of Petitioner's Notice of
7 Hearing, and Affidavit of Kanani Fu Attesting to
8 Publication of Notice of Hearing, Exhibit A.

9 On June 6, 2017, the Commission mailed
10 notice of a June 14, 2017 site visit to the Parties,
11 Kaua'i and Statewide mailing lists.

12 On June 13, 2017, the Commission received
13 Petitioner's Petition for Land Use District Boundary
14 Amendment, Affidavits of Publication of Notice of
15 Hearing in the Garden Island News, the Honolulu
16 Star-Advertiser, West Hawaii Today, Hawaii Tribune
17 Herald and Maui News; and Petitioner's clarification
18 as to its Exhibits 1 through 25, Rebuttal Exhibits 26
19 through 32, and Exhibits 33 through 50 in support of
20 County of Kaua'i Housing Agency's Petition. On the
21 same day, the LUC mailed a letter to Petitioner
22 deeming that its filing was complete.

23 On June 20, 2017, the Commission mailed
24 notice of a June 28-29, 2017 meeting agenda to the
25 Parties, Kaua'i and Statewide mailing lists.

1 June 23rd, 2017, Commission received OP's
2 Amended Testimony in Support of Petition with
3 Conditions, Amended List of Exhibits, Exhibits 14
4 through 17.

5 On June 26th, 2017, the Commission received
6 testimony from Kaua'i Councilmember Joann Yukimura.

7 On June 27, 2017, Commission received
8 testimony from State Senator Ronald Kouchi and
9 testimony from Juan Wilson.

10 Is there any comments or objections on the
11 record?

12 MR. MINKIN: No objections.

13 MR. BRACKEN: No.

14 MS. APUNA: No objection.

15 MS. SOUZA: No objection.

16 CHAIRPERSON ACZON: Thank you.

17 Let me describe the procedure.

18 First, I will call for those individuals
19 desiring to provide public testimony on this matter
20 to identify themselves. All such individuals will be
21 called in turn to our witness box where they will be
22 sworn in. A three-minute time limit on testimony
23 will be enforced.

24 The Commission will then consider the
25 exhibits the Parties wish to offer into evidence,

1 starting with the Petitioner, followed by County
2 Planning Department, State Office of Planning, and
3 Intervenor Souza.

4 The Commission will then begin proceedings
5 on Docket A17-802 and the parties will present their
6 cases in the same order.

7 It is the Chair's hope to close the
8 evidence and take action on this docket by the end of
9 meeting tomorrow.

10 The Chair will also note for the parties
11 and the public that from time to time I'll be calling
12 for short breaks.

13 Are there any questions on the procedures
14 today? Parties, any questions? Thank you.

15 Are there any individuals desiring to
16 provide public testimony on this docket? Mr.
17 Orodénker.

18 EXECUTIVE DIRECTOR: Mr. Chair, our first
19 testifier is Mayor Bernard Carvalho.

20 THE WITNESS: Good morning and --

21 CHAIRPERSON ACZON: Let me swear you in.

22 Do you affirm that the testimony that
23 you're about to give is the truth?

24 THE WITNESS: Yes.

25 CHAIRPERSON ACZON: Thank you, please state

1 your name and address for the record and you may
2 proceed.

3 MAYOR BERNARD CARVALHO, JR.

4 Was called as a public witness, was sworn to tell the
5 truth, was examined and testified as follows:

6 THE WITNESS: Bernard Carvalho, Jr., Mayor,
7 County of Kauai and happy to be with you all this
8 morning.

9 MAYOR BERNARD CARVALHO, JR.

10 Was called as a public witness, was sworn to tell the
11 truth, was examined and testified as follows:

12 DIRECT EXAMINATION

13 Aloha. Lima Ola is a very important
14 project for all of us, our administration. I became
15 Mayor in 2008. Prior to that I was the Office of
16 Community Assistance Director under Mayor Baptiste.
17 We purchased the 75 acres with a vision that this
18 would be a planned community that would promote a
19 healthy lifestyle, environmentally safe and, of
20 course, offer opportunities for our West side of the
21 island.

22 At this time when housing costs continue to
23 rise, creating opportunities for local families are
24 very important to me, our administration and, of
25 course, the people of Kaua'i.

1 Kaua'i is a shared and priority -- we share
2 this priority for administration, our County Council,
3 our administration, like I said, our federal
4 government. This truly is a team effort.

5 Since 2010 our county has held over 50
6 community meetings. It is important to me that we do
7 outreach, we take care of the emotional side, we talk
8 to our people to encourage and understand their
9 concerns if there was any.

10 Our County Council, of course, has been
11 very supportive, unanimously supporting our 201H
12 process, which, by the way, was the first time that
13 affordable housing process has gone through this 201H
14 process.

15 And, unanimously, again, our County Council
16 supported that. I have every confidence in our
17 housing team Kanani and the team members that have
18 gone over and beyond to ensure that this project is
19 successful so that we can create affordable housing.
20 It's about providing housing, affordable housing, and
21 opportunities for local families, not only for today,
22 but for the future.

23 And this is like offering the opportunity
24 for land banking for the future. Phase I of 4, four
25 phases. The vision of Lima Ola is to create, like I

1 said, a land bank to address Kaua'i's future housing
2 needs.

3 We all know that the land entitlement and
4 permitting process is the most time-consuming part of
5 housing development projects. By setting up the next
6 phase with Lima Ola, we have paved the way for those
7 who come after us. I want to make sure you
8 understand that. This is not only for today, this is
9 for tomorrow and beyond.

10 We have the responsibility to ensure that
11 our keiki have an opportunity to own a home here on
12 Kaua'i, and this project will offer that opportunity.
13 We have created partnerships. I want to make it
14 important that you understand from the federal, the
15 state, the county, the business, our County Council,
16 of course, all of us working hand in hand.

17 We've worked collaboratively within our
18 departments, Planning, Public Works, Parks, Housing,
19 everybody working together, because this project is
20 very important to all of us.

21 I say it again, that this particular
22 project started back of the purchase of the 75 acres,
23 and that was in 2006 -- 10, and then from that point
24 on we sit here today with the opportunity to provide
25 more homes for our families.

1 I want you to understand that we have done
2 our homework. We've reached out into community. We
3 vetted it out at all levels of government. We have
4 the support. I feel very confident in where we at as
5 of today, and I appreciate the opportunity to speak
6 with you the passion that I have, because this is
7 something that is so important, housing.

8 I can tell you many more things, but I
9 don't have enough time. In this particular case, I'm
10 very passionate and supportive of all the team
11 members that have made this happen. So I appreciate
12 the opportunity to speak. Be assured that the
13 support is there, and I'm telling you folks, this is
14 going to take Kaua'i at different level.

15 It's surrounded by Habitat for Humanity and
16 other projects, as well, that we have supported as
17 well.

18 So thank you for the opportunity to speak,
19 and just know that the heart and soul is on this
20 project. Lima Ola is the future of Kaua'i. Thank
21 you.

22 CHAIRPERSON ACZON: Thank you, Mayor. Any
23 questions, Mr. Minkin?

24 MR. MINKIN: No.

25 MR. BRACKEN: No.

1 MS. APUNA: No.

2 MS. SOUZA: No questions.

3 CHAIRPERSON ACZON: Thank you, Mayor.

4 THE WITNESS: Mahalo.

5 CHAIRPERSON ACZON: Next witness, please.

6 EXECUTIVE DIRECTOR: Our next witness is
7 Milani Pimentol (phonetic).

8 CHAIRPERSON ACZON: Do you affirm that the
9 testimony that you're about to give is the truth?

10 THE WITNESS: Yes.

11 CHAIRPERSON ACZON: Please state your name
12 and address.

13 MILANI PIMENTOL

14 Was called as a public witness, was sworn to tell the
15 truth, was examined and testified as follows:

16 DIRECT EXAMINATION

17 THE WITNESS: Milani Pimantol representing
18 Kaua'i Habitat, P.O. Box 28, Ele'ele, Kaua'i 96705.

19 CHAIRPERSON ACZON: You may proceed.

20 THE WITNESS: I am the Deputy Director at
21 the Kaua'i Habitat for Humanity, and the county has
22 been -- County Housing Agency has been a long time
23 supporter of Habitat and our affordable housing
24 programs here, and also really the needs of our
25 greater community.

1 I'm here to express our full support in
2 favor of Lima Ola project today.

3 Currently at Habitat we're midway through
4 development and our subdivision Ele'ele Iluna. It's
5 125 lot subdivision adjacent to the Lima Ola parcel.

6 We found that the interest in affordable
7 housing has been overwhelming. Our mailing list
8 consists of over 2300 households who have expressed
9 interest in affordable housing through our Self-Help
10 Program.

11 At Habitat our project is limited to
12 households who are less than 80 percent of Kaua'i's
13 median income. At one of our last offerings to
14 households to comprise a group of 30 homes, we had
15 over 450 households in attendance at our information
16 meetings. From this group, 257 submitted
17 applications.

18 Another recent offering was only for six
19 very low income spots in our subdivision. We held
20 our information meetings at Chiefess Kamakahele
21 Middle School and Waimea Canyon Middle School. Both
22 information sessions were standing room only.

23 The majority of folks that attended these
24 information meetings were indeed from the west side
25 of Kaua'i.

1 Some reasons that we support the Lima Ola
2 project. One, Lima Ola, being an adjacent project,
3 it compliments the existing Habitat housing, as Lima
4 Ola will be an inclusive community with a community
5 center that will benefit all our residents, including
6 the Habitat residents as well.

7 Two, the great need shown by our very large
8 list of over 2300 families that have expressed
9 interest in affordable housing in the Ele'ele area --
10 this is a need that we would love for our list to be
11 zero, but we and other housing providers like the
12 county have many more years ahead of us before we can
13 achieve that goal.

14 This need is often hidden because many of
15 our applying households are living in three or four
16 bedroom houses with three or four families in each of
17 those houses. Due to the high cost of housing, we
18 find often that 16 people live in the same house.

19 The majority of families are already living
20 in the Ele'ele area. The addition of affordable
21 housing will have a very minimal impact on traffic as
22 we see it. This is based on the fact that out of the
23 first 45 families in our Ele'ele subdivision, 43 were
24 already from the area. Only two were out of the area
25 specifically from Kapaa.

1 With our program at Habitat, we are limited
2 to servicing households that are under 80 percent of
3 the median income. We find that out of the families
4 who have applied for our project, about 15 to
5 20 percent are over that limit.

6 CHAIRPERSON ACZON: Please summarize.

7 THE WITNESS: So summarizing, then our
8 support really is -- this is -- the Lima Ola project
9 is covering a huge need on Kaua'i that we cannot
10 service. So we strongly support everybody's support
11 on that.

12 CHAIRPERSON ACZON: Any questions for the
13 witness?

14 MR. MINKIN: None, Chair.

15 MR. BRACKEN: No.

16 MS. APUNA: No.

17 MS. SOUZA: No.

18 VICE CHAIR WONG: The question I have is
19 when you had these meetings, were they mostly from
20 the Island of Kaua'i, or other people from outside
21 the islands or mainland?

22 THE WITNESS: I don't think we had anyone
23 from off island. I believe it was 100 percent
24 Kaua'i, and I can double check that to be sure,
25 primarily from the west side.

1 CHAIRPERSON ACZON: Thank you.
2 Commissioner Cabral.

3 COMMISSIONER CABRAL: You reference the
4 percentage of median income, and in that regard, how
5 do you determine -- I know once applications are
6 made, you know quite a bit more about the people.
7 But when people attend, or when you're saying -- how
8 do you determine roughly what the median income of
9 this island is to say that those that you're going to
10 limit the ability to buy are 80 percent of that?

11 THE WITNESS: Perhaps Kanani can correct me
12 if I'm wrong, but those standards come from HUD, and
13 are customized per locality, so just Kaua'i. So we
14 receive those from the county each year.

15 CHAIRPERSON ACZON: Anybody else,
16 Commissioners? Thank you.

17 EXECUTIVE DIRECTOR: The next is Mahina --
18 I can't read your last name.

19 CHAIRPERSON ACZON: Let me swear you in.
20 Do you affirm that the testimony that you're about to
21 give is the truth?

22 THE WITNESS: Yes.

23 CHAIRPERSON ACZON: Please state your name
24 and address.

25 THE WITNESS: My name is Mahina Anguay,

1 P.O. Box 464, Waimea 96796.

2 MAHINA ANGUAY

3 Was called as a public witness, was sworn to tell the
4 truth, was examined and testified as follows:

5 DIRECT EXAMINATION

6 Good morning. My name is Mahina Anguay. I
7 am the Principal at Waimea High School, which is the
8 only high school on the west side of this island.

9 I'm speaking in support of this program
10 because I believe Lima Ola is the center for our west
11 side community. Every single one of our west side
12 schools are Title 1 eligible. Meaning that close to
13 at least 50 percent of our students are families who
14 receive free or reduced lunches, every single one.

15 We just completed our WASC accreditation
16 process, so we had to go through all of our school
17 and student data. Our demographics show that our
18 families' median income is \$10,000 below the state
19 average. All schools, public schools, are funded by
20 a weighted student formula, meaning each school gets
21 a certain number, certain amount of dollars, little
22 over 5,000 for each student projected to enroll in
23 the year, in their coming school year.

24 Over the last 15 years Waimea High School's
25 enrollment has declined by over a third due to

1 economics, people moving, and because of that the
2 school has lost counseling positions, teacher
3 positions. They've lost school security, and they've
4 lost courses in classes that had been able to be
5 offered to our students.

6 Every year when the WSF projections are
7 given to schools, for the last four years that I've
8 been principal at Waimea, I've had to disagree with
9 those numbers. Because if I were to agree with those
10 numbers, I would have to cut at least two teacher
11 positions each year.

12 So basically we become grant writing
13 machines. We survive on soft money to bridge the gap
14 between what WSF offers us, between what the Title 1
15 offers us, and between what I need to provide for my
16 students.

17 We really need this project Lima Ola to
18 encourage our families who are doubling up, as Ms. --
19 the person before me spoke about. In my own family
20 we have four generations living under my roof. We
21 need this project to encourage more families to
22 remain on the west side to have their own homes, or
23 to also encourage more families to come back to the
24 west side because it would be an affordable place for
25 them to live.

1 We work really hard at our school to create
2 students who are college and career and community
3 ready. We're trying to create these young citizens
4 and send them off, but we would love to have them
5 have a place to come back to that they can afford,
6 and come back and contribute to our community, to
7 create, revive and sustain our west side community,
8 because it is a special place.

9 So I really hope that you consider and
10 support this project, because it's essential for our
11 community on our west side. Thank you.

12 CHAIRPERSON ACZON: Thank you. Any
13 question for the witness?

14 MR. MINKIN: Just briefly.

15 CROSS-EXAMINATION

16 BY MR. MINKIN:

17 Q Is your position also supported by the
18 principals of the other schools on the west side?

19 A Yes, definitely.

20 Q You know that from personal conversations
21 with them?

22 A Yes, and Mr. Zina is going to speaking
23 right after me.

24 MR. BRACKEN: No questions.

25 MS. APUNA: No questions.

1 MS. SOUZA: No, sir.

2 CHAIRPERSON ACZON: Commissioners?

3 COMMISSIONER ESTES: Just a comment.

4 Did I read recently that Waimea High School
5 got a six-year accreditation? I just want to say
6 congratulations. I think that's wonderful.

7 THE WITNESS: Thank you. We got a six-year
8 with a -- we just have a two-day mid-term, which is
9 pretty awesome. But it took us a year-and-a-half,
10 and because we have had over the last ten to
11 15 years, because so many programs have been cut,
12 it's taken time and taken a lot of effort to try and
13 rebuild the systems that will allow me to put into
14 place at our schools, so I can provide an equitable
15 opportunity for my students to compete.

16 When I first got there I couldn't even have
17 AP classes, but now because of grants that have been
18 written between us and the P20 organization at
19 university, we now offer early college classes. And
20 I'm going to have students graduating this coming
21 year who have 26 credits that they have earned in
22 high school, and that's completing up to calculus.

23 But it's soft money that we have been able
24 to do this grant writing, because we cannot depend
25 just on the WSF money or the Title 1. There is a gap

1 because we have to depend on this money every year as
2 people move. We are not sure this year. Right now
3 I'm short 15.

4 So as I said, this project is essential to
5 keep families on the west side who are already
6 doubling and tripling up so they can have their own
7 home and continue to grow.

8 CHAIRPERSON ACZON: Congratulations, a job
9 well done.

10 COMMISSIONER OKUDA: My wife is a retired
11 special ed teacher. She taught for many years at
12 Kahaluu Elementary Title 1 School, which also is a
13 Blue Ribbon school. So it shows that leadership of
14 the principal is really an important thing, and maybe
15 sometimes outweighs money, but that's important.

16 But let me follow up with what Mr. Minkin
17 asked.

18 In your speaking personally with other
19 educators in your complex, has anyone raised any
20 concern that somehow this development would create a
21 capacity problem?

22 In other words, you'll have too many
23 students, or the student enrollment would increase
24 notwithstanding the way that student formula
25 compensation or anything like that.

1 THE WITNESS: I don't think we've had that
2 conversation, but I would think that maybe -- because
3 we haven't gone that far, but I can tell you that at
4 Waimea High School, when I was there, was just under
5 a thousand. Right now I'm not even at 600. I have
6 room to grow, I can say that for sure.

7 COMMISSIONER OKUDA: So you don't foresee
8 any capacity issues at your institution?

9 THE WITNESS: I can say that for my own
10 school -- I would not want to speak for anybody else
11 and I don't think I can -- but I know at my own
12 school at Waimea, when I graduated from there a
13 million years ago, we still have the same number of
14 buildings, and I have a few more portables. But I
15 would support getting back up to a higher number.

16 COMMISSIONER OKUDA: Thank you. We are not
17 Board of Education, but hopefully you can stay for
18 many, many years at the school.

19 THE WITNESS: I would like to.

20 CHAIRPERSON ACZON: Commissioner Scheuer.

21 VICE CHAIR SCHEUER: Aloha, Principal
22 Anguay. Just to join in the course of praise first.

23 I had the opportunity to meet a couple of
24 your teachers since I was working on the Waimea River
25 project a month-and-a-half ago, and they were very

1 impressive.

2 In this docket some of the concerns that
3 have been raised, and that we'll be looking at over
4 the next couple days, some people are saying they're
5 not opposed to the Lima Ola project in entirety, but
6 rather to the approval of redistricting the entire
7 75 acres when only Phase I is approved, is planned
8 right now.

9 Does your testimony speak towards in favor
10 of complete rezoning, or simply take steps towards at
11 least getting Phase I going?

12 THE WITNESS: To be completely honest, I
13 just speak in favor of the project in general terms.

14 VICE CHAIR SCHEUER: Thank you very much.

15 CHAIRPERSON ACZON: Anybody else?

16 COMMISSIONER CHANG: Good morning. Thank
17 you so much for your testimony. I just wanted to ask
18 a question.

19 Are many of your students from Niihau and
20 Department of Hawaiian Homelands?

21 THE WITNESS: I have many students from
22 Department of Homelands. I do not have a lot of
23 students from Niihau.

24 COMMISSIONER CHANG: Thank you very much.

25 CHAIRPERSON ACZON: Do you affirm that the

1 testimony that you're about to give is the truth?

2 THE WITNESS: Absolutely.

3 CHAIRPERSON ACZON: Please state your name
4 and address.

5 THE WITNESS: My name is Paul Zina. I'm
6 the Principal at Ele'ele Elementary School, and my
7 address is P.O. 392, Kalaheo.

8 PAUL ZINA

9 Was called as a public witness, was sworn to tell the
10 truth, was examined and testified as follows:

11 DIRECT EXAMINATION

12 I want to also echo my support of the
13 program, specifically to a question I just heard
14 about the full capacity of the program.

15 Being the Principal at Ele'ele Elementary I
16 want to echo all of Principal Anguay's comments and
17 support everything she said.

18 I wanted to add a couple of details that
19 might assist in understanding the specific numbers
20 that are involved with what Ms. Anguay mentioned.
21 She mentioned Title 1 condition for the west side.
22 We're the only K-12 complex on Kaua'i, that is every
23 single school is a Title 1 school.

24 On the other side of the island there are
25 mixtures of schools that get to reap the benefits of

1 having a broader mix of socioeconomic backgrounds for
2 their families. But because of that one condition,
3 there is a great deal of financial need that our
4 families encounter, and the biggest is always
5 housing, whereas, the multi-generational living
6 arrangements that happen very often in that type of a
7 family is just as present in Ele'ele as it is in
8 Waimea.

9 The number that we're really talking about
10 when we say something like a small increase of
11 students that might come from a housing project like
12 this when the housing is available to their families,
13 we're conservatively saying \$5,000 per student. So
14 even if it was one classroom's worth of students,
15 that's \$100,000 for a school. It's a very real
16 number for us.

17 Without it, there are programs and services
18 that we would be able to just not offer. A very
19 personal connection to what Ms. Anguay mentioned
20 about the benefit of having that income and not
21 having to police out the money for grants and things
22 like that to support programs -- my son's a 9th
23 grader at Waimea High School, and he wouldn't have
24 been able to start on track of an academic
25 acceleration without those college readiness courses

1 that Mrs. Anguay has funded through these grant
2 programs.

3 He started a math course that wouldn't
4 normally have happened in the past at Waimea High
5 School's academic program until maybe sophomore or
6 junior year, but as a freshman he was able to start
7 in an advanced math class that will put him on an
8 engineering track for when he enters college to reach
9 the proper level when he becomes a freshman in
10 college.

11 So I have a very real and vested interest
12 in not just the high school programs, but being able
13 to now feed my elementary students through a program
14 that will put them on the right foot to get into 9th
15 grade and reach that high level of academic
16 performance, and that can only happen with income.

17 That can only happen with more students,
18 because that's where our money comes from as a
19 school.

20 Again, every student -- it's about \$5,000.
21 It's a little bit more than that right now.

22 I want to speak to one other piece about
23 this in terms of resources, not just the money that's
24 incurred by students, but in a large housing
25 development like this, we get intended -- I want to

1 call it -- consequence of resources from families.
2 In an elementary level school we tend to have a lot
3 of volunteers come in, because families tend to be
4 more engaged in the kind of learning their children
5 are experiencing at the early levels of schooling,
6 where they still have a lot of interest in the youth
7 and the kinds of programs and other adults that might
8 be helping --

9 CHAIRPERSON ACZON: Please summarize.

10 THE WITNESS: Summarizing. The support I
11 want to provide is for increased numbers of students
12 to increase the program capacity we have from K to 12
13 in the west side of Kaua'i. And the affordable
14 housing that is going to be offered through this
15 project is, I believe, a primary way we can do it.

16 CHAIRPERSON ACZON: Thank you. Any
17 questions for the witness?

18 MR. MINKIN: Yes, please.

19 CROSS-EXAMINATION

20 BY MR. MINKIN:

21 Q Thank you for your testimony today.

22 There has been talk about Ele'ele
23 Elementary is only able to handle Phase I.

24 Are you here to say you're in support of
25 the entire project for all four phases, because of

1 the land that you have available, that if
2 requirements are made on the county to help build
3 additional classrooms, you can take care of those
4 students?

5 A Absolutely, yes. Support the additional
6 phases following to beginning that process of making
7 sure DOE is ready.

8 I was included on a panel to discuss
9 matters like this with the entire collection of state
10 workers from the state offices, including facilities.
11 And I begun the conversation with Dan Carlson, our
12 CFO for the State of Hawaii Department of Education,
13 who is very interested in becoming involved in the
14 community engagement process with us.

15 Q Do you have any concerns -- Lima Ola is
16 across the highway, and there's been talk about a
17 traffic light going in.

18 Do you have any concerns about students
19 utilizing that, or pedestrian access across the
20 highway if there is a traffic light?

21 A Thank you for asking that question. The
22 housing project folks who are in charge of this
23 entire project have taken great pains and gone
24 through great effort include the school in a
25 multi-agency discussion about how that could be

1 provided safely. And they've gone as far as to
2 provide the school with a plan through the program
3 that addresses all those needs to keep our kids safe,
4 including a full day's worth of meetings at the
5 school, where these agencies all had a chance to meet
6 and leave the school with that plan.

7 Q Just following up on that. Habitat is
8 already across the highway; correct?

9 A Yes. A lot of similar concerns that we've
10 been handling with that housing project, it would
11 just be on a much larger scale.

12 Q Thank you. I have no further questions.
13 Thank you, Chair.

14 CHAIRPERSON ACZON: Mr. Bracken?

15 MR. BRACKEN: No questions.

16 MS. APUNA: No questions.

17 MS. SOUZA: Thank you.

18 CROSS-EXAMINATION

19 BY MS. SOUZA:

20 Q I have a couple of questions related to the
21 capacity the Ele'ele school.

22 So many years ago when Cliffside and
23 Hanapepe was being developed, I understand there were
24 quite a few students that started to attend your
25 school as a result of new families moving in, and

1 there was quite a bit of adjustment that needed to
2 happen at that time, including the building of more
3 portable classrooms, which I was just there about a
4 month ago and those portable classrooms are still
5 there.

6 Can you address specifically at your school
7 how you would deal with the capacity issue, because
8 your Department of Education Honolulu folks that look
9 at these things, and their comments have indicated
10 that with full build-out, and considering other
11 projects into the area, that your school will be over
12 capacity.

13 So how would you deal with that
14 specifically?

15 A Thank you for the question.

16 It is a very complicated part of the
17 process, but I think to simplify it, I would say that
18 while the current level of classroom space might be
19 very close to capacity, very close. I have two total
20 classrooms that aren't being used for full homeroom
21 instruction, which means there's a clutch of 20 or
22 more students or more that might be in that
23 particular space.

24 My answer is we have a lot of land on our
25 campus. If the project is in its full capacity at

1 the end of the duration -- like if we were to have a
2 full set of homes that are planned according to the
3 way the project's design is, I most certainly would
4 need to put a few more portables, or perhaps a
5 classroom building.

6 I'm very fortunate in that the past
7 principals had addressed different issues and have
8 different sites on the campus that have been
9 identified with the help of the facilities office and
10 the DOE. That would be more prime locations for
11 those types of buildings.

12 Now, to ask how those facilities -- in the
13 process to get those facilities built, would be kind
14 of beyond me. I would definitely have to include
15 other folks in that conversation, like Dan Carlson,
16 the CFO for the facilities office.

17 But as far as space right now, if I had to
18 deal with 500 more homes across the street, of course
19 my classrooms would be over capacity, but fortunately
20 we have included the right people in the planning of
21 this, at this stage in the process.

22 So the State Office for Facilities is aware
23 of that need going to increase if this project were
24 to move to its fruition.

25 Q The Oahu folks at DOE have suggested that

1 an impact fee could be assessed for projects such as
2 this in which the need is there to accommodate more
3 students. I believe on Oahu the impact of these are
4 established.

5 Would you be opposed to the assessing of
6 impact fees or similar policy applied to the
7 situation?

8 A If you are talking impact fees assessed to
9 students when they enroll --

10 Q No, impact fees are assessed to projects,
11 development projects to help offset the school
12 facility cost.

13 A So I would think that I might not be the
14 best person to answer that question. I think you
15 want to speak to somebody at the director's level
16 that might be in charge of that conversation between
17 the housing project folks and the DOE.

18 Q Thank you.

19 CHAIRPERSON ACZON: Commissioners, any
20 questions for the witness?

21 COMMISSIONER CABRAL: I just want
22 verification. You're the principal -- our site visit
23 two weeks ago, we went to the outskirts of your
24 school; is that correct?

25 THE WITNESS: Yes.

1 COMMISSIONER CABRAL: Thank
2 you.

3 CHAIRPERSON ACZON: Anybody else?

4 MR. MINKIN: One follow up.

5 RECROSS-EXAMINATION

6 BY MR. MINKIN:

7 Q Currently you are not a year-round school?

8 A We are not. Not like multi-track or year
9 round, but we do offer summer programs to students.

10 Q If for some reason you had to go year
11 round, that's something that's occurred on other
12 campuses throughout the state; correct?

13 A It is, and there is a process that the
14 schools have used to move from a traditional calendar
15 to a multi-tri calendar.

16 Q Thank you.

17 COMMISSIONER OKUDA: If I can ask you a
18 question. What is your total enrollment right now?

19 THE WITNESS: We're just over 500 students.

20 COMMISSIONER OKUDA: How many faculty do
21 you have?

22 THE WITNESS: It's a complicated question,
23 but the total number certificated staff is 36 right
24 now.

25 COMMISSIONER OKUDA: 36. And I'm sorry,

1 your total enrollment presently is?

2 THE WITNESS: Was 504 at last count, but
3 that was the end of the past school year, so summer
4 creates a different kind of flux with incoming
5 kindergartners, so I can't answer that specifically
6 at this day.

7 COMMISSIONER OKUDA: I know from my wife
8 you can never tell about the next year, but do you
9 have an estimate of what the enrollment was going to
10 be this coming school year?

11 THE WITNESS: Yes, the projected was 486
12 students, but we expect just over 500.

13 COMMISSIONER OKUDA: So about stable right
14 now?

15 THE WITNESS: Stabilizing, I'll call it
16 that. We fluctuated a little bit last year with an
17 unexpected spike with an increase of students, but
18 that was not necessarily applicable to some sort of
19 housing issue.

20 COMMISSIONER OKUDA: Thank you.

21 THE WITNESS: You're welcome.

22 CHAIRPERSON ACZON: Anybody else,
23 Commissioners? Thank you. Next witness.

24 EXECUTIVE DIRECTOR: Next witness is
25 Maka'ala.

1 CHAIRPERSON ACZON: Do you affirm that the
2 testimony that you're about to give is the truth?

3 THE WITNESS: Yes.

4 CHAIRPERSON ACZON: Please state your name
5 and address for the record.

6 THE WITNESS: My name is Maka'ala
7 Ka'aumoana, and my address is Post Office Box 1205,
8 Kilauea, Kaua'i.

9 MAKALA KA'AUMOANA
10 Was called as a witness by and on behalf of the
11 public, was sworn to tell the truth, was examined and
12 testified as follows:

13 DIRECT EXAMINATION

14 Aloha, Commissioners, I am Maka'ala
15 Ka'aumoana. I reside in Kalihiwai, Kaua'i. My
16 testimony here today is on behalf of myself.

17 I speak today not as a resident who will be
18 directly impacted by the details of this petition,
19 but as a citizen of Kauai who sees this application
20 for reclassification as incremental, segmented, and a
21 potential precursor of future proposals elsewhere on
22 Kauai.

23 At its best, this is an end-around attempt
24 by the County of Kaua'i Housing Agency to address the
25 need for housing at its worst. It is an arrogant,

1 short-sighted and poorly disguised way to give large
2 landowners at the cost of community and neighborhood.

3 There is neither plan nor process in place
4 for the communities most impacted by this Petition to
5 participate in these proposed major changes other
6 than limited testimony in the current review of Kauai
7 County General Plan and this process of Petition to
8 Intervene.

9 This is the proverbial cart before the
10 horse. The county has announced it will be doing a
11 community plan for Ele'ele, Hanapepe, that's the
12 horse. This is the cart.

13 The degree of change that will be
14 experienced as a result of this reclassification is
15 as large a scale as can be visited on any community
16 in Hawaii. This reclassification and the impacts it
17 will cause will change the traffic, school
18 population, the shopping, the very lives of people
19 who are settled in neighborhoods and who have
20 established a culture of life on Kaua'i.

21 These are the working folks who till the
22 soil, pick the coffee, work for the county, and serve
23 our breakfasts. This area is the backbone of rural
24 Kaua'i, and this Petition for reclassification is the
25 catalyst that changes everything. Without adequate

1 disclosure and review of these impacts, the scale and
2 nature of these changes requires a thorough planning
3 process, not just a map change.

4 When we are under pressure to address
5 urgent issues such as housing, it is the very time to
6 proceed with caution and learn from other communities
7 who have experienced the same situation. This is a
8 time to talk to each other, to honor in every way
9 possible the communities affected. This is the time
10 to respect pono process and commit to the pono
11 product that we obtain when we do that.

12 Where is the disclosure of downstream and
13 cumulative impacts of this project with the build-out
14 of over several decades? Where are the mitigation
15 measures? Where are the community benefits of this
16 land use change? Where are the complete
17 infrastructure plans? Where is the community in
18 this?

19 In all its shades and hues, the picture is
20 clear to many that this is a proposal driven by large
21 landowners who seek to profit from the real need for
22 housing on Kaua'i. Yes, housing is needed, in the
23 right places, with the right plan. Take the time to
24 do this important work correctly.

25 I suggest this proposal lacks the

1 comprehensive public review and public discourse
2 needed for it to address these needs in a balanced
3 way, and certainly is missing a sincere effort to
4 include the community component, not just supporters.

5 I am very pleased this Commission agreed to
6 accept the Petition to Intervene in this matter,
7 otherwise the opportunities for community members to
8 express their concerns would have been even more
9 limited.

10 There is a community at stake here. This
11 proposal divides neighborhoods, uses this Commission
12 to replace planning and thoughtful process. Don't
13 let that happen. Don't let an arrogant process usurp
14 pono planning. Deny this application and allow our
15 community to participate in its own future. We are
16 smart. We know how to learn from others. We can do
17 this better.

18 CHAIRPERSON ACZON: Thank you. Any
19 questions?

20 CROSS-EXAMINATION

21 BY MR. MINKIN:

22 Q Aloha, long time no see.

23 A Hello my friend, David.

24 Q Did you participate in the County Council
25 201H hearings?

1 A I did not.

2 Q Did you attend any of the community
3 meetings held on the west side?

4 A I did not.

5 Q And you believe that this is a conspiracy
6 by large landowners in concert with the County of
7 Kaua'i; is that correct?

8 A I didn't use the word "conspiracy", but I
9 do believe that large landowners will benefit. I do
10 believe that this is a large piece of land that
11 should not be discussed, isolated for its own
12 purposes, and in a segmented way.

13 Q Do you understand what the purview of the
14 LUC is as to each application; what their level of
15 authority is?

16 A I believe that I understand the LUC has the
17 authority to allow for the rezoning, to allow for the
18 difference in use, change in use, the change in
19 designation from Agricultural to Urban in this case.

20 Q Do you understand that if any other
21 landowner came forward, they would have to go through
22 the same process, if necessary?

23 A Yes, of course.

24 Q And you believe that this process for Lima
25 Ola somehow jeopardizes the Land Use Commission in

1 the future, that's your testimony?

2 A It is. I think this is an opportunity for
3 Land Use Commission and communities and local
4 governments and local agencies to take a second look
5 at how we do this, to allow for the same process that
6 we have with the Special Management Area, where we
7 are not allowed to segment projects.

8 We are not allowed to cut and paste and
9 piece and put things together without a picture of
10 the whole project, a picture of the whole community,
11 a picture of the whole area.

12 A simple look at the map of what is being
13 considered here shows Ele'ele and Hanapepe over
14 there, this thing over here (indicating), this kind
15 of housing here, this kind of housing here
16 (indicating). It's very divided. It's very
17 segmented.

18 And there is going to be impacts that are
19 not foreseen. And I think this Commission has just
20 as much responsibility as the Planning Commission
21 does to address this because by rezoning that, by
22 redesignating that, they are allowing for this to
23 occur prior to a comprehensive plan being in place.

24 Q But you didn't participate in the 201H
25 process?

1 A I would be happy to explain why not.

2 Q Just a simple yes or no.

3 A No. We do not maha'oi.

4 Q And you did not participate in the
5 community meetings, correct?

6 A That's right.

7 Q And your awareness is that various county
8 agencies, state agencies and federal agencies have
9 all opined in this matter; correct?

10 A I'm aware that some have. I haven't seen
11 the entire docket.

12 Q Thank you. Nothing further.

13 CROSS-EXAMINATION

14 BY MR. BRACKEN:

15 Q Are you familiar with the legislative
16 intent by the 201H process for affordable housing?

17 A I am aware of the intent to provide
18 affordable housing. I am aware of the intent that we
19 need to address -- we have a responsibility as a
20 government and as a people of a place to address
21 these kinds of human needs.

22 Q I have no further questions.

23 MS. APUNA: No questions.

24 CHAIRPERSON ACZON: Ms. Souza?

25 -o0o-

CROSS-EXAMINATION

BY MS. SOUZA:

Q Mr. Minkin implied that because you haven't participated in the 201H process or attended public meetings, that perhaps you might not be aware of what the bigger picture issues are.

Can you address your participation with the General Plan Update and the significance of your participation in that process?

A Wow. In my personal life I am now matriarch of a fairly large local family, and we have interests in the traditional practices and places of Kaua'i. And I participated in the General Plan process as it relates to our own family interests and needs.

As a profession, I am the Executive Director of the Hanalei Watershed Hui, and I participated in the General Plan process as it relates to the watershed component of our General Plan. I also participated behind the scenes.

In my own community of the North Shore of Kaua'i there were many who were engaged actively, went to all of the meetings, and then we met in smaller focus groups on the North Shore. It's not critical that I be in every meeting. I couldn't

1 possibly do that.

2 It's important that I do my job both as
3 tutu and as an executive director, and so most of the
4 time I stay on the North Shore.

5 But I've been very involved in the General
6 Plan process and concerned about just this very
7 thing. What is the bigger picture? How are we
8 integrating these communities?

9 This map concerns me as far as being
10 segmented and not integrating. If this is all
11 affordable, and this is all higher end, what does
12 that do? It's concerning. And I think that we've
13 learned some lessons. We've certainly learned some
14 lessons from an affordable housing unit in
15 Princeville, the North Shore, which could have been
16 planned much better. We settled for nearly half the
17 units that we were allotted.

18 So I'm stung by that. My community was
19 stung by that. Our need is just as big there,
20 believe it or not, as it is on the west side. But
21 the west side is not my community. I'm speaking, and
22 my testimony was on the general concept of how this
23 process has occurred.

24 Q As an involved community leader, are you
25 aware, or are there hot spots of major traffic

1 congestions on the island?

2 A Try to get out of Hanalei at 4:00 o'clock.
3 Try to get through Kapaa. It took me two hours the
4 other day. I was coming down for a Commission
5 meeting. Two hours to get from Kilauea -- not even
6 Hanalei -- Kilauea to Lihue. We call it Kapaa crawl.
7 We've given it a name.

8 There are fewer limitations as far as land
9 area and so forth for roads and for traffic
10 management on the west side, because on the North
11 Shore and east side we have one road at this point.

12 But the frustration and angst. A fight
13 broke out yesterday at Wainiha Bridge and it was not
14 pleasant, and it was because of congestion. It was
15 because of angst. It was because of lack of
16 patience.

17 And that kind of thing will continue to
18 occur until we do a better job of planning the bigger
19 picture, including the traffic, including the
20 different services that people need, and not
21 separating ourselves more than we are already.

22 Q Do you have an opinion on the capacity of
23 state and county agencies to successfully respond to
24 these hot spots?

25 A They haven't so far.

1 Q Thank you.

2 CHAIRPERSON ACZON: Commissioners?

3 Anybody? Thank you.

4 Chair will call for a five-minute recess.

5 (Recess was taken.)

6 CHAIRPERSON ACZON: Everyone be seated.

7 Back on the record.

8 Mr. Orodenker, please call the next
9 witness.

10 EXECUTIVE DIRECTOR: The next witness is
11 Susan Remoaldo.

12 CHAIRPERSON ACZON: Do you affirm that the
13 testimony that you're about to give is the truth?

14 THE WITNESS: Yes.

15 CHAIRPERSON ACZON: Please state your name
16 and address for the record.

17 THE WITNESS: Susan Remoaldo, P.O 885,
18 Kaua'i 96705.

19 SUSAN REMOALDO

20 Called as a public witness, was sworn to tell the
21 truth, was examined and testified as follows:

22 DIRECT EXAMINATION

23 Today I am speaking on my own behalf. I am
24 a 20-year resident of Ele'ele Nani located across
25 Kaumualii Highway from the proposed Lima Ola housing

1 development project. I was able to take advantage of
2 a County of Kauai low income housing opportunity in
3 Ele'ele Nani in 1992. While I didn't qualify for
4 Self-Help housing or a house and lot package, I was
5 able to purchase a lot with a three-year deadline to
6 build a home.

7 Having witnessed and experienced similar
8 project impacts and concerns related to traffic,
9 drainage, deed covenants, and recreational needs, I
10 wish to comment on the same regarding Lima Ola in the
11 hope of avoiding, mitigating and/or eliminating these
12 problems.

13 Since moving to Ele'ele Nani in 1996, I do
14 not use the Laulea/Mahea intersection to make left
15 turns onto the highway. It's just too dangerous. It
16 was heartening to hear that the county would install
17 a traffic signal at that intersection, and the sooner
18 the better for current and future residents.

19 However, a signalized intersection will
20 change the noise and air quality in the area with
21 additional -- as vehicles stop and restart as the
22 light dictates, thereby affecting the nearby
23 intersections at Mehana/Eleele Roads, Halewili,
24 Kaumualii Highway and Ulaula and Kaumualii Highway.

25 A two-year flood study seems deficient to

1 design an adequate drainage plan for Lima Ola. The
2 location of the detention basins collect water at a
3 lower elevation directly behind the proposed
4 multi-family units in Phase I, will leave the bottom
5 floors of these buildings vulnerable to potential
6 flood damage as it doesn't take much for water to
7 accumulate.

8 The Ele'ele Nani Park, which you observed
9 during the site visit, was designed to serve as both
10 a drainage swale and passive park. Yet one day of
11 rain in Ele'ele last year resulted in a pool of water
12 in the park for several days because it couldn't make
13 its way to the drain.

14 While drainage and vegetative swales are
15 proposed for Lima Ola, they will only work as
16 intended if properly constructed and maintained.

17 From my observations and experience at
18 Ele'ele Nani, any unencumbered space near a home will
19 be parked on thereby negating the purpose and
20 compromising the function of this aspect of Lima
21 Ola's drainage plan.

22 Ele'ele Nani has shoulders on two sides and
23 sidewalks on one side of the street. Because lots
24 are small, the setback minimal and the garage/carport
25 has become another room of the house, and families

1 are all now driving adults with large vehicles, they
2 occasionally extend over the sidewalk causing walkers
3 like mothers with strollers, senior citizens and
4 children to walk in the road, or are parked on the
5 shoulders and sidewalks.

6 Other residents place rebar, concrete
7 blocks, rocks or planting on unencumbered areas
8 fronting their homes denying others legitimate use of
9 these spaces.

10 Lima Ola's home and lot layout as
11 illustrated in their documents show a longer
12 setback/driveway to accommodate multiple vehicles,
13 but can they accommodate sometimes up to eight used
14 by the same household, as occurs on my street,
15 without affecting the drainage plan?

16 The warranty deed signed by the county
17 included covenants related to nearby agricultural
18 activities and dangerous conditions, and is far more
19 descriptive and extensive than a similar covenant in
20 my deed.

21 CHAIRPERSON ACZON: Please summarize.

22 THE WITNESS: The warranty deed explains
23 agricultural activities as smoke, dust, noise, heat,
24 agricultural chemicals, particulates and similar
25 substances, and that the property is adjacent to or

1 in the vicinity of a water reservoir and open water
2 ditch. And that really nothing can be done about it
3 unless they violate applicable laws, ordinances, or
4 regulations.

5 Sometimes these laws, ordinances or
6 regulations are not enough. Using statistics from an
7 air quality station in Lihue instead of, you know,
8 Ele'ele, is not sufficient.

9 And the agricultural fields, even without
10 any activity, creates enough dirt to seep even
11 through my closed windows. Ag activities and
12 construction activity will create even more of this
13 problem.

14 CHAIRPERSON ACZON: Please summarize.

15 THE WITNESS: Do not let happen to abutting
16 Ele'ele the dirt horror experienced in other
17 communities because of these activities.

18 In closing, Lima Ola is marketed as a
19 neighborhood intended to inspire and encourage
20 healthy lifestyles. Potential residents should be
21 made aware of the quality of life issues that are
22 being traded for the opportunity to reside in Lima
23 Ola. That includes health and safety and insurance
24 concerns and the use of public parks.

25 In order for Lima Ola to succeed as a

1 thoughtful and thought out housing project as Kaua'i
2 County contends, the concerns and impacts expressed
3 in my testimony will hopefully be reflected in the
4 Commission's conditions of approval.

5 CHAIRPERSON ACZON: Thank you. Any
6 questions for the testifier?

7 MR. MINKIN: No, Chair.

8 MR. BRACKEN: Yes.

9 CROSS-EXAMINATION

10 BY MR. BRACKEN:

11 Q Do you believe a round-about would be a
12 preferable alternative to traffic light?

13 A No, because where I've seen the
14 round-about -- well, no because I've seen the small
15 one located near Habitat, but -- no, because the
16 intersection we're talking about is located just on
17 the crest of a hill if you're traveling east. When
18 you're traveling west, you don't see it until you're
19 right on top of it.

20 MR. BRACKEN: No further questions.

21 MS. APUNA: No questions.

22 MS. SOUZA: No questions.

23 COMMISSIONER ESTES: Can you tell me what
24 the average annual rainfall is in Ele'ele?

25 THE WITNESS: I have read that it is

1 between 30 and 40 inches.

2 CHAIRPERSON ACZON: Vice Chair Scheuer.

3 VICE CHAIR SCHEUER: So if I understood
4 your testimony correctly, you're concerned about
5 increased flooding in part as one of your points that
6 you've raised?

7 THE WITNESS: I am concerned about the
8 proposed drainage swales.

9 VICE CHAIR SCHEUER: Being insufficient to
10 contain --

11 THE WITNESS: If people park on them.

12 VICE CHAIR SCHEUER: On the swales
13 themselves?

14 THE WITNESS: On the swales.

15 VICE CHAIR SCHEUER: So would it increase
16 runoff and flooding downhill from the property?

17 THE WITNESS: It could potentially, yes.

18 VICE CHAIR SCHEUER: Is this something
19 you've observed in your own neighborhood of flooding
20 resulting from your neighborhood down --

21 THE WITNESS: My particular street does not
22 have this kind of swale.

23 VICE CHAIR SCHEUER: Thank you very much.

24 CHAIRPERSON ACZON: Commissioner Cabral.

25 COMMISSIONER CABRAL: I'm just kind of

1 curious. Since you live right there in that
2 community, were you able to attend any of those
3 public hearings? I understand it was said 50
4 community meetings. Were you able to attend those
5 and express this concern?

6 THE WITNESS: I was able to attend those.
7 I listened in to gain information.

8 COMMISSIONER CABRAL: Thank you.

9 CHAIRPERSON ACZON: Commissioner Chang.

10 COMMISSIONER CHANG: Good morning, thank
11 you. Just two questions. One in follow up with
12 Commissioner Cabral.

13 Were any of those public hearings held at
14 Ele'ele School or nearby vicinity?

15 THE WITNESS: One was held at Ele'ele
16 School.

17 COMMISSIONER CHANG: You live in Ele'ele
18 Nani?

19 THE WITNESS: Yes.

20 COMMISSIONER CHANG: Do you notice
21 multi-generations living within those homes?

22 THE WITNESS: Yes.

23 COMMISSIONER CHANG: Thank you very much.

24 CHAIRPERSON ACZON: Anybody else,
25 Commissioners? Thank you, Ms. Remoaldo.

1 EXECUTIVE DIRECTOR: Next witness is Wilma
2 Holi.

3 CHAIRPERSON ACZON: Let me swear you in
4 first.

5 Do you swear that the testimony that you're
6 about to give is the truth?

7 THE WITNESS: I do.

8 CHAIRPERSON ACZON: Please state your name
9 and address for the record.

10 THE WITNESS: My name and address is on the
11 prepared testimony, but for the record I am Wilma
12 Holi, P.O. Box 368, Hanapepe 4504 B Puna Road. I've
13 been a lifelong resident of the west side, in
14 particular Hanapepe area.

15 CHAIRPERSON ACZON: Please proceed.

16 WILMA HOLI
17 Was called as a public witness, was sworn to tell the
18 truth, was examined and testified as follows:

19 DIRECT EXAMINATION

20 THE WITNESS: Okay. And my apologies for
21 the lateness of my testimony.

22 I also included in the testimony the LCA
23 number for that parcel and even adjacent parcels.
24 7712 is LCA number assigned to Mataio Kekuanaoa.

25 And I'm here to put you folks on notice.

1 I've already done that with the Kaua'i Housing
2 people. The title on many properties in that area
3 are cloudy, and 7712 still remains with Mataio
4 Kekuanaoa.

5 On the second page you find my genealogy.
6 Some people -- sorry, I looked at one, it's got the
7 wrong second page. Let me know if anybody has some
8 errors. Second page has my genealogy.

9 CHAIRPERSON ACZON: We have it.

10 THE WITNESS: Okay. I'm done.

11 CHAIRPERSON ACZON: Any questions?

12 CROSS-EXAMINATION

13 BY MR. MINKIN:

14 Q Ms. Holi, good morning. You did attend
15 community meeting, correct?

16 A I attended one. Very busy. Involved with
17 the Mauna Kea hotly contested hearing, so not on the
18 island very much.

19 Q At that meeting you asked for and you did
20 receive from the County Housing warranty deed for the
21 project?

22 A I looked at it, but warranty deed, anybody
23 can prepare warranty deed. LCA 11 and the name still
24 remains on the document, and it tells me my title is
25 still resting with Mataio.

1 Q But based on that one meeting you asked for
2 something, and the housing agency responded and gave
3 you what you asked for, correct?

4 A I looked at something, but it looked more
5 like metes and bounds and that kind of stuff.

6 Q Thank you. No further questions. Thank
7 you.

8 MR. BRACKEN: No questions.

9 MS. APUNA: No questions.

10 MS. SOUZA: No questions.

11 CHAIRPERSON ACZON: Commissioners?

12 VICE CHAIR SCHEUER: Aloha, Ms. Holi.

13 THE WITNESS: Good morning.

14 VICE CHAIR SCHEUER: You testified you're
15 kama'aina to this area?

16 THE WITNESS: Very much so.

17 VICE CHAIR SCHEUER: Do you engage in
18 anything, what we refer to as traditional and
19 customary practices in this area, such as fishing or
20 gathering in the ocean makai of this site?

21 THE WITNESS: Do you really want to open up
22 that book? I mean, do you really want to do it with
23 me?

24 VICE CHAIR SCHEUER: I'm asking because I
25 was curious. In the Cultural Impact Assessment

1 section of the Environmental Assessment for this
2 project, it was stated that a letter was sent to you
3 inquiring about your practice.

4 Did you receive any letter?

5 THE WITNESS: If it was sent in the mail,
6 maybe because I was off island a lot, it may have
7 been returned to the sender. A lot of my mail got
8 returned to the sender because I was not there to
9 pick up my mail. So I mean, I was off on Big Island
10 a lot and nobody to pick up my mail.

11 VICE CHAIR SCHEUER: I understand. The LUC
12 is obligated to make specific findings when a
13 proposed action that we take might have an affect,
14 maybe negatively, on the traditional and customary
15 practices of Native Hawaiians in an area.

16 THE WITNESS: Well, let me tell you about
17 the latest one.

18 VICE CHAIR SCHEUER: May I just finish so
19 you know where my question is coming from?

20 The Cultural Impact Assessment that's been
21 attached to this Petition simply states that on this
22 75 acres of land, land currently in Agricultural use,
23 no known traditional and customary practices, but the
24 document is silent to anything makai or downstream
25 practices that might be impacted by this. And so I

1 was wondering if you had any comments related to
2 that?

3 THE WITNESS: You're talking about alloidal
4 rights? You ever heard about that concept? Are you
5 familiar with alloidal rights?

6 VICE CHAIR SCHEUER: Yes.

7 THE WITNESS: Run with kuleana landowners,
8 mauka-makai, so it runs right through the parcel.
9 The latest case, I'll tell you about the late --
10 State of Hawaii versus Palama. He was arrested up in
11 Hanapepe Valley for trespassing. Criminal charges.
12 I told 'em, you know what, they don't have good
13 title, change of venue, criminal to civil. It went
14 to the court appeals, it was heard 2015, April 16th,
15 2015.

16 I know that date because that's when I had
17 to appear in Hilo to present my testimony to the
18 Special Board of Regents meeting regarding Mauna Kea.

19 VICE CHAIR SCHEUER: Ms. Holli, I have read
20 that case, and I'm actually familiar with that case
21 because it came up in relationship to a separate
22 docket.

23 THE WITNESS: Okay, good.

24 VICE CHAIR SCHEUER: My question to you is
25 straight forward.

1 Do you fish or gather things in the area
2 makai of this proposed development?

3 THE WITNESS: I'm not a hunter. I'll admit
4 that. I'm not a hunter, but you know pigs, we all
5 know pigs. They run to where the food is. So if
6 there is no foods up in the mountain, but there is
7 food down towards the ocean, they run from mountain
8 to ocean, likewise they run back up.

9 So to say that your traditional gathering
10 rights remain in a certain area, doesn't happen. You
11 go where the source is. I know down the coastline,
12 yeah, got opii, good moi ground, good other kinds of
13 things that I won't make mention. There is lot of
14 turtle.

15 VICE CHAIR SCHEUER: These are things that
16 you and your ohana gather?

17 THE WITNESS: I'm better known for salt
18 making in Hanapepe, but I know when, you know, that
19 area in front of Wahiawa was opened to the public,
20 and we had easier access, yeah, we will go down to
21 Wahiawa Bay and fish down there.

22 My grandfather, my maternal grandfather was
23 the last konahiki for Hanapepe, my tutuman. Check my
24 genealogy. He has title to the entire ahupua'a of
25 Hanapepe, that's his father Mataio, that's his lands.

1 So I'm not ignorant of what I'm claiming in
2 my testimony. And from Hanapepe onto Waimea belongs
3 to his sister, not to Gay Robinson. That's why I
4 could advise Pulipulama (phonetic) change it from
5 criminal to civil and run the state ragged.

6 VICE CHAIR SCHEUER: Mahalo.

7 CHAIRPERSON ACZON: Commissioners, any more
8 questions for Ms. Holi?

9 COMMISSIONER CHANG: Aloha, Ms. Holi.
10 Thank you so much for your testimony.

11 I would like to follow up on some of
12 Commissioner Scheuer's comments regarding traditional
13 and customary practices.

14 Now, on this particular property, are you
15 aware of any trails that run through the property
16 that may have been provided access mauka to makai?

17 THE WITNESS: You know, my tutu man,
18 Mataio, it goes back to 1864 when his son became the
19 monarch, and there's been a lot of changes. I mean I
20 can tell you why A&B gave it to Habitat for Humanity.

21 COMMISSIONER CHANG: That's okay.

22 THE WITNESS: I was one of the original
23 members of Habitat for Humanity Board. I was
24 recruited shortly after the recovery of Hurricane
25 Iniki, so A&B was looking for tax break.

1 COMMISSIONER CHANG: Ms. Holi, we want to
2 make sure that this record for this particular case
3 is really complete, so that it has information,
4 because they have -- we have an obligation to make
5 sure we are preserving and protecting the Native
6 Hawaiian rights.

7 So it would be really helpful if part of
8 the record identifies where some of the traditional
9 practices that may have occurred on this property,
10 because as Commissioner Scheuer indicates, the
11 existing CIA says there were none, but you have
12 ohana, your tutu man who was konahiki of this area,
13 that you would have first-hand knowledge.

14 So what kinds of activities actually
15 occurred on this land or adjacent to this land?

16 THE WITNESS: I don't know about that
17 particular parcel, but like I say, mauka-makai trails
18 from villages down along the coastline up to mauka,
19 probably would have passed right through there
20 (indicating.)

21 COMMISSIONER CHANG: Do you know of any?

22 THE WITNESS: Versus walking in the valley,
23 dry riverbed now, but one time Wahiawa Stream ran
24 from up mauka behind what is now -- well, they tried
25 to build a dam up there. There's a lake up in,

1 behind Wahiawa.

2 So the water that is accumulated in that
3 lake wouldn't flow down through Wahiawa Stream down
4 through the ocean.

5 COMMISSIONER CHANG: Do you remember any
6 stories being told by either tutu man that have been
7 passed down to you about prior to the sugarcane being
8 planted over there, families going from mauka to
9 makai through that?

10 THE WITNESS: Well, there are certain
11 places in Wahiawa Valley right next to that parcel
12 that was used for taro farming. In fact, Iolani
13 Luahini's father was the taro farmer that provided
14 taro for my family. He was raised in Wahiawa Valley
15 right along the highway.

16 Now, there is a lot of cultural sites in
17 Wahiawa and in Hanapepe Valley. Not so much on the
18 planes. In fact, the last war was fought during the
19 Kingdom of Hawaii was there on the planes of Wahiawa,
20 battle of Wahiawa when Kaumualii's son was stupid
21 enough to challenge Kalanimoku. Brought his army
22 over to Kaua'i and killed him.

23 COMMISSIONER CHANG: Do you know on this
24 particular parcel or property, prior to planting of
25 sugarcane, any house lots where people might have

1 lived in this area?

2 Many times where people live you would find
3 burials. Do you know if there were any villages
4 within this area?

5 THE WITNESS: Burials were in the burial
6 caves of Wahiawa Valley and Hanapepe Valley.

7 The topography of the land does not lend
8 itself to certain kinds of activities. Now, if there
9 were any villages, it would be either shoreline or up
10 in the valley closer to the ocean resources, and
11 closer to the upland taro farming activities.

12 But that's the area where the last battle
13 of Wahiawa was fought. And this is the where the
14 Kaua'i chiefs were murdered, and their bodies were
15 left on the field for the pigs to consume.

16 COMMISSIONER CHANG: Was that up mauka or
17 makai?

18 THE WITNESS: The whole area. In fact,
19 George Humehume was captured along the coastline line
20 in Wahiawa.

21 COMMISSIONER CHANG: You made a comment
22 about when the access was opened there were more
23 people.

24 THE WITNESS: When I was a small kid we
25 would access the coastline, what is now all closed

1 off. But if you go down towards Island Pier area and
2 you turn left past the KIU plant, and what used to be
3 refinery, there were two roads that went inward, one
4 kind of rough trail that went down along the
5 coastline, and this is where we had our rubbish dump.
6 Now it is Port Allen Cemetery.

7 Just about behind the cemetery inland is a
8 road. And that road was open for, you know, locals
9 to go from Ele'ele, Port Allen into Wahiawa along the
10 coastline.

11 Wahiawa Bay is where the water that came
12 down from the stream, it was a nursery for fishes.
13 Likewise in Hanapepe with the freshwater that comes
14 down through the river, these all fisheries.

15 COMMISSIONER CHANG: I'm not as familiar
16 with this area as you are. So Wahiawa Bay is makai
17 of this project area?

18 THE WITNESS: If you're standing on the
19 project looking towards the ocean, it will be just a
20 little to the left. Where the project is, if you're
21 to look to the ocean, just to the right of it would
22 be the cemetery and the old rubbish dump.

23 COMMISSIONER CHANG: Commissioner gave me a
24 map.

25 You say it's a nursery. Do you notice

1 whether during rainy season, we heard some testimony
2 about flooding, does erosion and water go out to the
3 bay that impacts fishing out there?

4 THE WITNESS: I don't know anything about
5 the streamflow from Wahiawa, but I do know about
6 Hanapepe Valley. And you know anything from the top,
7 it's going to flow downhill. But I know there's a
8 little -- it flows down.

9 There's another place called Glass Beach.
10 And I know there's a little ditch formed from the
11 runoff, and it goes down and it goes out into the
12 ocean by Glass Beach.

13 And depending on how worn out that road is,
14 kind of gives you an indication of how heavy the rain
15 was.

16 COMMISSIONER CHANG: I appreciate your
17 testimony. Thank you very much.

18 CHAIRPERSON ACZON: Anybody else,
19 Commissioners?

20 COMMISSIONER CABRAL: You had indicated I
21 think initially that you attended one of the
22 hearings. At that hearing, were you able to express
23 the concerns that you are expressing now?

24 THE WITNESS: I did give them notice of
25 Mataio Kekuanaoa 7712.

1 RECROSS-EXAMINATION

2 BY MR. MINKIN:

3 Q Mauka of Wahiawa Bay there is a quarry now.

4 A Apparently there is, yes.

5 Q That quarry, it's between Lima Ola parcel
6 and Wahiawa Bay, correct?

7 A Well, the quarry is makai of the highway.
8 I don't know how far into the valley they have come.
9 The access is closed off, so you cannot go makai and
10 check things out and see for yourself.

11 Q Thank you. No further questions.

12 CHAIRPERSON ACZON: Anybody else,
13 Commissioners? Thank you, Ms. Holi.

14 MS. SOUZA: I have, as one of my exhibits,
15 an aerial photo of this area including some of the
16 properties that Mrs. Holi was referring to. I have
17 mounted it on a poster board, and I have it here, if
18 you would like to use it for reference for any of the
19 public testifiers when they're pointing out to
20 locations.

21 CHAIRPERSON ACZON: We can go over that.

22 EXECUTIVE DIRECTOR: Next witness is Wayne
23 Souza.

24 CHAIRPERSON ACZON: Do you affirm that the
25 testimony that you're about to give is the truth?

1 THE WITNESS: I do.

2 CHAIRPERSON ACZON: Please state your name
3 and address for the record.

4 THE WITNESS: Wayne A. Souza. My address
5 is P.O. Box 450, Hanapepe, Hawaii 96716.

6 CHAIRPERSON ACZON: Please proceed.

7 WAYNE A. SOUZA

8 Was called as a public witness, was sworn to tell the
9 truth, was examined and testified as follows:

10 DIRECT EXAMINATION

11 THE WITNESS: I am a resident of Hanapepe
12 and a member of Hanapepe-Ele'ele Community
13 Association. I am here testifying on behalf of
14 Hanapepe-Ele'ele Community Association.

15 Over the course of about 18 months, the
16 Hanapepe-Ele'ele Community Association has discussed
17 the Lima Ola project at numerous meetings. We have
18 reviewed the project's Environmental Assessment,
19 submitted comments on the Draft EA, reviewed all
20 drafts of the General Plan Update and participated in
21 the General Plan public meetings and workshop,
22 commented and testified extensively on the draft
23 revised General Plan on the project and other land
24 use changes and policy statements to County of Kaua'i
25 Planning Department and Planning Commission.

1 I've been consulted by Jean Souza and
2 updated on her intervention on the Petition before
3 the Land Use Commission.

4 We support housing for Kaua'i's residents.
5 We also support the proposed Lima Ola project
6 provided that the conditions for approval be imposed
7 that adequately address our concerns related to:

8 Adverse impacts at Ele'ele Elementary
9 School to accommodate students from the project.

10 Long-term and cumulative impact of
11 increased use of Salt Pond Beach Park and
12 establishment of a wide coastal strip for public use
13 and enjoyment along the coastline from Port Allen to
14 Numila.

15 The reclassification of the petition area
16 has no relationship to the development of adjacent
17 properties or nearby Agricultural lands.

18 Highway impacts surrounding the petition
19 area and helping alleviate regional impacts.

20 Drainage from the Petition area does not
21 flood nearby highways and cause adverse impacts to
22 downstream properties including the shoreline and
23 ocean.

24 We feel that the design of the project's
25 drainage system, which is based on a two-year storm,

1 is inadequate. It subjects our residents and other
2 motorists on the highways to potential serious injury
3 or even death during the flooding periods which occur
4 on the average of every three years.

5 We recommend that the conditions on
6 drainage imposed by the Land Use Commission on two
7 prior affordable housing projects in Lana'i City on
8 Lana'i Island (Docket No. A11-792 Department of
9 Housing and Human Concerns, County of Maui) and North
10 Kona on Hawaii Island (Docket No. A10-788 Hawaii
11 Housing Finance and Development Corporation and
12 Forest City Hawaii Kina, LLC) be used for this
13 Petition.

14 We generally support the conditions
15 recommended by Intervenor Jean Nishida Souza and by
16 the Office of Planning.

17 CHAIRPERSON ACZON: Thank you.

18 Any questions, Mr. Minkin?

19 MR. MINKIN: No.

20 MR. BRACKEN: Yes.

21 CROSS-EXAMINATION

22 BY MR. BRACKEN:

23 Q How long has the community association been
24 in existence?

25 A About two years. We got organized once we

1 found out about the General Plan process going on.

2 Q Are you the president of the Association?

3 A No, we don't have a president, just have
4 members.

5 Q About how many members do you have?

6 A Active members, around ten.

7 Q And how do you become a member of this
8 Association?

9 A Just have to be a resident or owner of a
10 business in our area and show up at the meeting. We
11 have no dues.

12 Q Have you filed Articles of Incorporation or
13 any organizational documents?

14 A No, we haven't.

15 Q Thank you, no further questions.

16 MS. APUNA: No questions.

17 CHAIRPERSON ACZON: Ms. Souza?

18 MS. SOUZA: Yes.

19 CROSS-EXAMINATION

20 BY MS. SOUZA:

21 Q When you have some -- getting to your
22 comments about beach parks, you have some
23 professional experience related to parks and
24 recreational behavior.

25 Could you share what that is? And

1 elaborate on the concern about the impact on Salt
2 Pond Beach Park.

3 A I have a Bachelor's of Science in outdoor
4 recreation from Eustace State University, and I was a
5 planner, park planner, and the park superintendant
6 for the Division of State Parks, Department of Land
7 and Natural Resources just shy of 35 years. I'm
8 retired now.

9 Our concern about Salt Pond Beach Park
10 which was ignored in the EA, is that people frequent
11 beach parks. Salt Pond Beach Park is very popular.
12 You go there during weekends or during the summer,
13 it's packed with cars.

14 We don't see any plans or commitment to
15 expand the park if this project increases usage of
16 the park. The project talks about community parks.

17 And my experience, my observation of
18 community parks is really there isn't that much use.
19 Primarily people go there for the basketball court,
20 and they tend to be residents of that neighborhood.

21 Whereas in Salt Pond Beach Park they come
22 from all over. You have individuals. You have
23 couples. A lot of groups that go there. And those
24 groups don't only just come from Hanapepe, they come
25 from around the island because this is a social event

1 for them.

2 Q And related to Salt Pond Beach Park,
3 considering the attributes of this park, can you
4 address the availability of similar beach parks in
5 the area? Are there any? Or where is the closest
6 one?

7 A Well, the west side have very few safe
8 swimming areas. When I say safe swimming areas, I'm
9 talking about poor swimmers. The only areas we have
10 on the South Shore and the west side is Poipu Beach
11 Park and Salt Pond Beach Park. The rest of the
12 beaches are all open ocean. You have to be a strong
13 swimmer in those areas.

14 Q Thank you.

15 Related to the community's concerns about
16 the emergency shelters, can you explain a little bit
17 about your and the community's experience with hazard
18 awareness and response, and give a little bit of
19 background about why you are concerned about
20 emergency shelters?

21 A In our community we are very concerned
22 about emergency shelters because a lot of our homes
23 are old, built in the fifties. And unless you've
24 done major improvements to the homes, they're not
25 safe for people to stay there during a hurricane.

1 And what we have been told is, if my
2 numbers are right, that the existing shelters, which
3 are really our schools, can accommodate only about
4 25 percent of population.

5 So what does that mean when you can almost
6 double population at Ele'ele? Where are they going
7 to go?

8 Q And what would be the community's
9 experience in addressing hazard awareness and
10 response?

11 A Our association has joined Hawaii Hazardous
12 Awareness and Resilience Program through the state,
13 FEMA and National Guard. And we've been -- last year
14 and this year we co-sponsored an educational event on
15 hazards.

16 Q Are you currently involved in formulating a
17 response plan for the community?

18 A Yes, we are. We're working with the
19 General Oliveira area. He's the one guiding us.

20 Q Thank you.

21 CHAIRPERSON ACZON: Commissioners, any
22 questions?

23 Commissioner Cabral.

24 COMMISSIONER CABRAL: Getting old and bad
25 hearing. I heard a lot of about salt, S-A-L-T, so

1 the beach you're talking about is south of Salt Pond
2 Beach?

3 THE WITNESS: Salt Pond Beach Park, the
4 salt pans are adjacent.

5 COMMISSIONER CABRAL: That was what I was
6 thinking.

7 Also that same question, because I have
8 concerns about the public hearings that were or were
9 not held.

10 Were you able to attend any of the public
11 hearings that were held at -- county says they had 50
12 in the area.

13 THE WITNESS: We have had representatives
14 one or more attend every meeting that we are aware of
15 and which were open to us. We just did not make
16 testimony to the County Council, and the reason was
17 we had asked the housing agency to keep us informed
18 of all meetings and actions, and they didn't inform
19 us, and we didn't learn about it until a few days
20 before.

21 If you are familiar with community
22 associations, we have to discuss it and agree to
23 something, and that wasn't enough time for us to do
24 it.

25 CHAIRPERSON ACZON: Mr. Minkin.

CROSS-EXAMINATION

MR. MINKIN:

Q Just for the record, you are married to the Intervenor?

A Yes, I am.

Q Intervenor was only allowed to cover seven areas with a stipulation for intervention, correct?

A I don't know the number.

Q And some of the questions that she just posed to you exceeded her seven areas of intervention, correct?

A That I don't know.

Q You live in the same household. You've been briefed by her on numerous occasions about what's going on, and you are sitting here under oath and you are telling us that you don't know what her seven areas of intervention are?

A I was at the meeting, but I don't recall.

Q Prior to today's testimony, did Ms. Souza, your wife, tell you what questions she was going to ask you when you came up during the public testimony portion?

A She mentioned some questions.

Q Thank you, nothing further.

CHAIRPERSON ACZON: Ms. Souza, do you have

1 follow up?

2 MS. SOUZA: This is a public witness. This
3 is not a witness for the Intervenor. Thank you.

4 CHAIRPERSON ACZON: Thank you.
5 Commissioners?

6 COMMISSIONER CHANG: Just one question.
7 Hello, Mr. Souza, thank you for your
8 testimony.

9 I wanted to follow up on your concerns
10 related to civil defense, or was it emergency
11 shelters?

12 One of the proposed conditions by the
13 Office of Planning is that the Petitioner, County
14 shall construct the proposed community center to
15 allow service, a civil defense shelter, and it is to
16 withstand high wind events.

17 Is that satisfactory to address your
18 concerns?

19 THE WITNESS: Yes, it would take care of
20 the residents of that project.

21 COMMISSIONER CHANG: Thank you.

22 CHAIRPERSON ACZON: Anybody else,
23 Commissioners? Thank you, Mr. Souza. Next witness.

24 EXECUTIVE DIRECTOR: Mr. Chair, the next
25 witness is Joann Yukimura.

1 CHAIRPERSON ACZON: Do you affirm that the
2 testimony that you're about to give is the truth?

3 THE WITNESS: I do.

4 CHAIRPERSON ACZON: Please state your name
5 and address for the record.

6 THE WITNESS: JoAnn Yukimura, 2749 Kapena
7 Street, Lihue 96766.

8 JOANN YUKIMURA

9 Was called as a public witness, was sworn to tell the
10 truth, was examined and testified as follows:

11 DIRECT EXAMINATION

12 CHAIRPERSON ACZON: Good morning,
13 Councilmember.

14 THE WITNESS: Good morning, Chair and
15 members of the Land Use Commission. Thank you for
16 this turn to testify as an individual councilmember.

17 For 40 years as a citizen, even as a
18 councilmember and as mayor, I have been a consistent
19 advocate for wise land use on Kaua'i, because good
20 planning is the only way to achieve our General Plan
21 goal to keep Kaua'i's rural character and aloha even
22 as we grow and change.

23 Over that same timeframe, I've also
24 initiated, facilitated and/or supported the building
25 of over 1500 affordable homes on Kaua'i.

1 I want to make clear at the outset that in
2 analyzing whether there should be a reclassification
3 district boundary in this case, the issue is not
4 whether affordable housing should be built. I think
5 we could all agree that affordable housing, lots of
6 it is needed to be built on Kaua'i as quickly as
7 possible. However, we must not move so fast that we
8 skip good planning.

9 Earlier this week I submitted detailed
10 written testimony showing that the proposed Lima Ola
11 development in its entirety of 550 units contradicts
12 the existing Kaua'i General Plan as well as the
13 pending General Plan Update, which is supposed to
14 guide Kaua'i's development over the next 20 years,
15 but will not do so if we do not follow it.

16 And I urge you to read my prior testimony
17 because it contains critical information related to
18 the decision-making criteria you have sworn to
19 consider under Hawaii Revised Statute Section 205-17.

20 In their respective testimonies Planning
21 Director Michael Dahilig and long range planner Marie
22 Williams concur that Lima Ola does not conform to
23 Kaua'i's General Plan or the Hanapepe-Ele'ele
24 Development Plan. However, they minimize this fact
25 by saying that the 201H process does not require

1 conformance. I do not believe it is that simple.

2 It is important to understand the
3 underlying rationale of 201H. I believe it was
4 established to facilitate the building of affordable
5 housing, but I do not believe its intention is to
6 brush aside Kaua'i's main goal of preserving its
7 rural character or allow negative impacts such as
8 major traffic build-up or destruction of agricultural
9 lands in the name of affordable housing, especially
10 when alternative sites exist for affordable housing
11 without those negative impacts and with adequate
12 infrastructure.

13 And the fact that you Land use
14 Commissioners have the discretion to evaluate and
15 judge whether -- well, you have the power to approve
16 or disapprove or approve with conditions, that means
17 that you have the discretion to evaluate and judge
18 whether the proposed housing project will be good for
19 the community, considering state and county goals and
20 plans.

21 And that means you can disapprove a project
22 which will create a dysfunctional community, which is
23 what will happen if you ignore good planning. Or you
24 can approve with conditions to mitigate negative
25 impact.

1 So the biggest problem with Lima Ola is its
2 numbers. And I suggested you approve the Lima Ola
3 project with the condition that only the land for the
4 first phase be reclassified. Both existing General
5 Plan and the pending --

6 CHAIRPERSON ACZON: Please summarize.

7 THE WITNESS: I would like to just say this
8 paragraph. The residential growth should be
9 incremental in small steps rather than
10 transformational in order to protect the rural
11 characters of the west side. Regional demand is
12 defined in the Updated General Plan by growth
13 allocations to different regions.

14 Of the 9,000 homes projected to be needed
15 islandwide by 2035, four percent, or 360 units are
16 allocated to the Hanapepe-Ele'ele District, and I
17 refer you to an Exhibit A attached. Thank you.

18 And so if you add the 550 Lima Ola units
19 plus Habitat for Humanity's already entitled
20 125 units, that's 675 units, and then there's
21 Department of Hawaiian Homes 480 home sites on the
22 other side of Hanapepe Town which is overgrowth.

23 And if you consider the traffic which I
24 refer you to Exhibit B.

25 CHAIRPERSON ACZON: Please summarize.

1 THE WITNESS: Yes. You can see that the
2 traffic congestion will be impossible.

3 So in conclusion, Lima Ola in its entirety
4 is inconsistent with the General Plan, the Updated
5 General Plan, and the Hanapepe-Ele'ele Development
6 Plan, and contradicts numerous state goals and
7 policies, and is far more growth than is needed in
8 the district.

9 And remember that after the first phase a
10 \$7 million water tank will be needed to be built.
11 And major traffic will be generated. So limiting the
12 project to its first phase will provide many
13 affordable homes, while mitigating the impacts, and
14 it will also allow the Hanapepe-Ele'ele Community
15 Plan process to develop a consensus.

16 CHAIRPERSON ACZON: Any questions?

17 MR. MINKIN: Thank you, Chair.

18 CROSS-EXAMINATION

19 BY MR. MINKIN:

20 Q Good morning, Councilmember Yukimura. We
21 have known each other since 1996.

22 A I don't know when we met, but it's been a
23 long time.

24 Q It's been years.

25 This letter, the oral testimony that you

1 submitted, you submitted it on council letterhead.

2 Have the other councilmembers blessed your
3 decision here today?

4 A No. That's why I said I'm testifying as an
5 individual councilmember.

6 Q And that begs another question. Why did
7 you submit it on County Council letterhead?

8 A Because I'm a councilmember.

9 Q Okay.

10 A Councilmembers are entitled to use council
11 letterhead, but I did clarify that I'm speaking as an
12 individual, counselor.

13 Q Did you -- were you on the council during
14 the time that the property was bought from A&B or
15 McBryde Sugar?

16 A I was not. I was rushing to go and testify
17 against it, and I did not get to the meeting in time.

18 Q But you have been present on the council
19 for other votes related to this project such as 201H
20 project?

21 A I was.

22 Q Did you support it at that time?

23 A I did because I didn't have any of the
24 planning information that I have presented today. A
25 lot of this planning information, I believe, should

1 have been presented by the Planning Department, but
2 it wasn't.

3 Q And you do believe that affordable housing
4 is needed on the west side?

5 A It is. And I have been working for many
6 different affordable housing projects on the west
7 side. There are locations right around Waimea High
8 School and the Middle School that would be perfect
9 for affordable housing, and there is already water
10 and sewers. And it's within walking distance of
11 every need over there, the beach, the library, the
12 groceries, the schools, everything.

13 Not for 550 units, but 550 units in one
14 place anywhere on the west side is a lot of units,
15 and it would be better served if we could have
16 affordable housing in Waimea, Hanapepe, Ele'ele as
17 well as other parts of the island.

18 Q Understood, but this 550 units would be
19 staggered over time, according to the Petition,
20 correct?

21 A But still the allocation is over the next
22 20 years.

23 Q Ma'am, you had three minutes and then an
24 additional three minutes, the way I calculated it.
25 Please just answer my question.

1 A I am answering it.

2 Q It's staggered over time, yes or no, the
3 phases?

4 A Yes. But it's still within a 20-year
5 planning period, and the plan that's in the General
6 Plan Update says that the allocation of housing
7 should be 360 units over the next 20 years.

8 Q Let's talk about economies of scale. To
9 plan something on -- let me back up.

10 Those other projects that you said are
11 sites available would not get you the number of homes
12 that this would over time, correct?

13 A No, it could.

14 You could put 100 around Hanapepe Heights.
15 You could work with DHHL to provide housing for
16 Hawaiian families. And there are many Hawaiian
17 families on the west side.

18 There are locations in Waimea, which is why
19 the water plan actually provided water, because
20 that's where we wanted affordable housing. That's
21 where the existing General Plan provides for
22 affordable housing. Kekaha could use affordable
23 housing.

24 Q Some of those areas in the Waimea, Kekaha,
25 are in Shoreline Management Area; isn't that correct?

1 A Not all of them.

2 Q Some of them, that was my question;
3 correct?

4 A They may be.

5 Q And that would require other issues to be
6 resolved before anything could be done on those
7 parcels, correct?

8 A Whenever you have proposed housing parcel,
9 there are issues to resolve.

10 Q Correct. And in this particular situation
11 -- let me back up.

12 You just mentioned DHHL. Have you done
13 anything to facilitate development of affordable
14 housing on DHHL since you expressed your opposition
15 to this project?

16 A I think that's a question for the housing
17 agency.

18 Q Well, you are the -- I'll reframe from
19 that. Nothing further.

20 CHAIRPERSON ACZON: Mr. Bracken?

21 MR. BRACKEN: A couple questions.

22 CROSS-EXAMINATION

23 BY MR. BRACKEN:

24 Q Are you aware of the Draft General Plan
25 Updated housing demand for the projected -- of the

1 entire island for the year 2035?

2 A It's attached to my testimony.

3 Q Can you tell me what it is?

4 A 9,000.

5 Q Are you familiar with the HRS 201H process?

6 A Somewhat.

7 Q Thank you. No further questions.

8 CHAIRPERSON ACZON: Ms. Apuna.

9 CROSS-EXAMINATION

10 BY MS. APUNA:

11 Q I had a question. There are alternative
12 sites that were chosen. What is your understanding
13 of why the county chose this particular site as
14 opposed to those alternative sites?

15 A Thank you for your question. It's my
16 understanding that Mayor Baptiste, when he was mayor,
17 said to A&B, oh, we have a terrible housing problem
18 and we need your help, so please give us some land.

19 And A&B I believe offered that land where
20 Lima Ola is being proposed. So there was no real
21 effort to do a feasibility study about where housing
22 would be needed, and where it would work best. It
23 was a political deal. And if you look at some of the
24 General Plan Update proceedings, you will see that
25 A&B has plans to -- they want to develop all along

1 the coast from Port Allen to New Mill, which will
2 create a second city on Kaua'i.

3 A second city, which has incredible
4 ramifications, as you all know from Oahu. There are
5 only a two-lane road between Ele'ele and Poipu and
6 Lihue. And in the latest South Kaua'i Plan, which
7 was adopted a couple years ago, they removed the
8 makai bypass, because it was going through the
9 tropical botanical gardens and going to open up ag
10 lands.

11 That was the Planning Department proposal
12 to remove that. So the only access is through
13 Kalaheo Town. And to put four lanes through Kalaheo
14 Town will destroy Kalaheo Town.

15 So you're getting into a traffic congestion
16 corner by allowing a lot of growth when you don't
17 have jobs there. And you'll see my second attachment
18 which shows the comparison of location of housing and
19 jobs, and you can see that on the west side, the
20 houses far exceed the jobs; whereas in Lihue, the
21 jobs are tremendously more than the housing, which is
22 why we have huge traffic going between Waimea and the
23 west side and Lihue and Poipu.

24 And if we have to -- you know, it cost us
25 \$80 million to expand the two-lane highway from Lihue

1 to KCC, two miles. We can't do a bypass around
2 Kapaa-Wailua, because that's \$600 million. And so to
3 create a need for another bypass, not have the money
4 to do it is a huge crisis that we are going to make
5 happen if we don't follow our plan to mainly locate
6 growth in Lihue and South Kaua'i.

7 That's the General Plan, both existing and
8 the update say that's where growth should be.

9 MS. APANA: No further questions.

10 MS. SOUZA: No questions.

11 CHAIRPERSON ACZON: Commissioners?

12 COMMISSIONER ESTES: In your testimony you
13 made the statement Lima Ola would create a
14 dysfunctional community. Could you explain what you
15 meant by that? Those are your exact words.

16 THE WITNESS: No, I said that if a proposed
17 project were to cause a dysfunctional community, you
18 have the power, I believe, to disapprove it.

19 COMMISSIONER ESTES: What do you mean by
20 "dysfunctional community"?

21 THE WITNESS: Well, one where people who
22 are working in Kapaa, because Lima Ola is the only
23 affordable housing available, and Habitat for
24 Humanity says they have two families from Kapaa that
25 are now getting homes in Ele'ele. If they have to

1 commute to work in Kapaa, the transportation cost,
2 their household transportation costs are going to be
3 far higher.

4 So that's a problem if we don't put houses
5 close to work places. And Lima Ola doesn't have
6 abundant jobs in the Ele'ele-Hanapepe area. You'll
7 see that in the graph I showed.

8 So if you increase household transportation
9 costs, cause huge traffic problems from the west side
10 to Lihue, require \$7 million to build a water tank,
11 where there are other sites where you don't have to
12 spend that kind of infrastructure cost. That's
13 dysfunction.

14 That's not the best way to plan our
15 communities. If you put affordable housing only in
16 one place, and you don't have a mix of incomes and a
17 mix of uses, then you have this suburban area that
18 people have to drive everywhere to, and you will have
19 traffic congestion also within the Ele'ele-Hanapepe
20 area as well as between west side and Lihue.

21 COMMISSIONER ESTES: Thank you.

22 VICE CHAIR WONG: Councilmember, thank you
23 for coming today. I have one question.

24 So the document you provided to us, your
25 testimony shows that Lihue has a lot of jobs, that

1 the population and growth will be approximately
2 40 percent, correct?

3 THE WITNESS: Correct.

4 VICE CHAIR WONG: So this island is
5 beautiful compared to Oahu, which is all high-rises.
6 The only way I can see the growth is just high-rises
7 in Lihue. Is that what you --

8 THE WITNESS: No, we can accommodate that
9 42 percent of growth without going high-rises. We
10 may want to relook at our four-story limit and go to
11 six maybe. You know, that has to go through a
12 planning process. But we won't have to go to
13 high-rise.

14 VICE CHAIR WONG: I don't want to see
15 another Oahu.

16 THE WITNESS: Neither do we.

17 VICE CHAIR WONG: I was just thinking, wow,
18 40 percent of 9,000, half of that 4,000 people, so
19 that's a lot of people that need houses.

20 THE WITNESS: We have a huge need for
21 housing as has been testified, but it's really
22 important to put them in the right places otherwise
23 the traffic that is caused is going to be horrendous.

24 VICE CHAIR WONG: I understand that,
25 because traffic is terrible when I have to go to

1 Kapaa, and Oahu is worse, just wondering.

2 How would you have those housing, or for
3 the people if you don't go high? That's --

4 THE WITNESS: That's why both our General
5 Plan, our General Plan Update, and our Multimodal
6 Land Transportation Plan say that we have to put
7 houses in our existing urban areas where the jobs
8 are. That will really help cut down on traffic.

9 VICE CHAIR SCHEUER: Aloha, Councilmember.
10 I have a few questions. Since I think you were asked
11 by counsel for Petitioner about acquisition of that
12 particular piece of property, and you have some
13 knowledge of it, are you aware of why the county
14 accepted the property with the deed restrictions that
15 it has limiting it to agriculture and affordable
16 housing?

17 THE WITNESS: That's a very good question.
18 It was not, in my opinion, a good thing to do,
19 because it really restricts us from doing good
20 planning with mixed uses and mixed income.

21 I think, you know, there's this sort of
22 mindset that, well, as long as it's for affordable
23 housing, it's good, without thinking through what
24 really makes for a good affordable housing. And so I
25 mean --

1 VICE CHAIR SCHEUER: Was that a condition
2 that you're aware of that the County Council had to
3 -- I'm not familiar with the provision for the
4 acquisition of real property under Kaua'i County
5 ordinances and rules.

6 THE WITNESS: I think it probably looked to
7 the mayor and council that they had to accept those
8 conditions if they wanted the land.

9 VICE CHAIR SCHEUER: If the Land Use
10 Commission was inclined to follow your request to
11 only change the zoning on Phase I for Phase I, what
12 briefly do you think the advantages and disadvantages
13 would be to the county for that process?

14 I would assume the county housing agency is
15 seeking to do it all at once, part so they don't have
16 to go through this process again, so there would be
17 some additional cost.

18 What are some of the advantages that you
19 see if the Land Use Commission were to only approve
20 the redistricting of Phase I?

21 THE WITNESS: Well, we would get affordable
22 housing, which is in the time frame that the housing
23 agency is proposing. They're not proposing to do all
24 500 at once. They want to do first phase soon, so we
25 would get housing soon which is what we want. But it

1 wouldn't have the giant impacts that it would have if
2 the whole thing were done. And just spread it over
3 time doesn't mitigate impacts in the long run. And
4 spreading it over time doesn't make it comply with
5 the plan for Ele'ele-Hanapepe.

6 And it gives the Planning Department and
7 county time to embark on an Ele'ele-Hanapepe
8 Community Plan where the whole community can be
9 involved in the question of how do we want our
10 community to grow, and in what direction, because
11 that process hasn't been done. And Lima Ola is
12 setting a course to go east -- I think it's east.
13 Anyway, toward New Mill before any real discussion
14 about where the community should grow.

15 And I want to say there is quite a lot of
16 land on the west side of Hanapepe, and also within
17 the town area that needs to be considered in terms of
18 growth, because there's room for growth in those
19 areas too.

20 VICE CHAIR SCHEUER: I have one final
21 question, if I may.

22 You mentioned in your testimony, your oral
23 testimony, I believe, and written as well, concerns
24 about potential future traffic impacts.

25 Under the proposing conditions, it would

1 require new TIARs, and potentially conditions
2 associated with those TIARs at each phase of the
3 project.

4 Is it your contention that those conditions
5 would be insufficient to address the traffic impacts
6 that you're suggesting may occur from this
7 redistricting?

8 THE WITNESS: Yes, absolutely. TIARs are
9 so inadequate for describing and analyzing traffic
10 impacts, because they really are mainly localized,
11 intersections, turn lanes, et cetera.

12 If you look at California, the State of
13 California, whenever there is a large development
14 like Stanford University or Google or whatever, they
15 have these regional impact studies, which show what's
16 going to happen to the whole region.

17 And in our case the island is the region,
18 and none of that traffic was analyzed in the EIS or
19 -- yeah, in the EIS or in the planning process. So I
20 don't see that it would be analyzed under TIAR.

21 VICE CHAIR SCHEUER: I have nothing
22 further. Thank you very much.

23 COMMISSIONER CABRAL: Your Exhibit B that
24 was attached to your letter is from 2011, and a
25 number of things have happened in the economy. And

1 my question is -- maybe you or someone else may know,
2 are there any more recent reports or studies,
3 analysis, as to distribution of jobs versus housing
4 that are available at this time?

5 THE WITNESS: Not that I know. Although we
6 could go back to our transportation consultant and
7 get him to update probably. But I don't know that
8 many more units have been built since 2011, because
9 we're still recovering from the 2008 crash, and so
10 there haven't been a lot of homes built except
11 wealthy homes.

12 COMMISSIONER CABRAL: That's kind of what
13 my question is, but the other side of this is jobs.
14 And I don't know if you know any redistribution or
15 reduction of jobs in the primary areas.

16 THE WITNESS: I don't believe there's been
17 any reduction in jobs. Our economy is now pretty
18 high, low on employment. But the location of jobs I
19 don't think have changed much, because the primary
20 economic generators are the hospital, county and
21 state government, PMRF.

22 COMMISSIONER CABRAL: And then I've got my
23 little map from the airplane. I like maps. So when
24 you talk east side, Lihue looks to me like that's on
25 the east, but you have that as separate from the

1 number of businesses sort of southeast, east side,
2 Kapaa and that type of area east side, north side,
3 west side and so on, and Lihue.

4 THE WITNESS: East side means Kapaa-Wailua.

5 CHAIRPERSON ACZON: Commissioner Okuda.

6 COMMISSIONER OKUDA: Thank you, Chair. I
7 don't know Councilmember Yukimura personally, but I
8 just want to mention that her cousin Peter Morimoto I
9 believe was an attorney with Council Services when he
10 was in private practice. We co-counselled a number
11 of cases together, and I believe he's still employed
12 by the county.

13 My question, Councilmember, you talked
14 about certain alternative sites for this type of
15 housing. Has the county or the council specifically
16 taken any action to move forward with alternative
17 sites for housing?

18 THE WITNESS: Yes. In fact, the housing
19 agency is going to be breaking ground soon in Poipu
20 Koloa. It's a Kukuiula Development condition. I'm
21 very proud to say that I voted and was part of the
22 council when we required the housing as a condition
23 of zoning approval, and I think we're going to be
24 providing about 130 units in the heart of Poipu Koloa
25 which is going to be wonderful, because it will be

1 close to jobs and it will be permanently affordable.

2 And then there's -- we just finished an
3 elderly housing project, which is also perfect
4 because it's in the heart of Lihue, and one in
5 Princeville where affordable housing is really
6 difficult to get and many families now are in there.

7 And also one DR Horton in the Hanamalu
8 triangle also in Lihue, but in the first phase the
9 lowest affordable house will be 435,000, which is the
10 high end of the 100 -- 80 percent to 140 percent
11 median income. And we need, you know, really 80
12 percent of the affordable housing need is in the
13 100 percent of median income and lower, and that's
14 where we don't have houses.

15 But instead of spending \$7 million on a
16 water system and \$1.3 million on a traffic light that
17 is not going to really make it safe for our kids to
18 cross, we could use that money to shake loose water
19 in Lihue so that we could have water for DR Horton's
20 second and third phases, which are part of their
21 affordable housing obligation to Kaua'i.

22 And right now, you know, there's no
23 timetable for that development.

24 COMMISSIONER OKUDA: Those decisions, is it
25 true or not true that those types of decisions are

1 better suited to be made by members of your County
2 Council who are maybe closer to the communities than
3 members of the LUC?

4 THE WITNESS: You know, the County Council
5 process of 201H left a lot to be desired. I tried to
6 -- I moved to set a public hearing, and I had checked
7 with the Chair ahead of time on this, and the council
8 voted not to have a public hearing on Lima Ola, even
9 though we could do it within the time frame for
10 decision-making.

11 We did not get much planning information
12 about -- I mean I spent the last two weeks digging it
13 up myself trying to figure this out.

14 And so the council hasn't gotten good
15 information. And then even if they did, I'm not sure
16 how they would vote. So it's really important for
17 the Land Use Commission to follow its decision-making
18 criteria.

19 And I have to say that the state, you know,
20 I've been talking mainly about compliance or
21 conformance with the General Plan, but in your 226,
22 HRS 226-104 encourage -- No. B1, encourage urban
23 growth primarily to existing urban areas where
24 adequate public facilities are already available, or
25 can be provided with reasonable public expenditures

1 and away from areas where other important benefits
2 are present, such as protection of important ag
3 lands, or preservation of lifestyles.

4 You know, this is a key state policy, and I
5 don't believe that Lima Ola in its totality of
6 550 units is complying with it.

7 COMMISSIONER OKUDA: Thank you.

8 CHAIRPERSON ACZON: Commissioner Chang.

9 COMMISSIONER CHANG: Good morning, nice to
10 see you. Thank you for your testimony.

11 I wanted to follow up on a line of
12 questioning regarding the deed restriction. So if
13 the Commission of LUC was just to approve the first
14 phase, because the Mayor, in his testimony, talked
15 about this is land banking, using -- keeping that
16 75 acres for affordable housing.

17 If only Phase I was to be approved and
18 affordable housing isn't built on the remainder
19 phases, could A&B -- well, one, will the land revert
20 back to A&B? And A&B come in for land zoning
21 reclassification and actually put in a much larger,
22 more marketable scale homes?

23 Is that a potential?

24 THE WITNESS: Well, neither the state nor
25 county zoning would allow that unless you give it to

1 them.

2 COMMISSIONER CHANG: So A&B could come back
3 to LUC for rezoning classification of the remainder,
4 assuming the county doesn't use the balance of the
5 land for affordable housing?

6 THE WITNESS: If I had been on the council
7 at the time that A&B -- well, first of all, let me
8 just say. Land banking is only worthwhile if that
9 land is good for affordable housing. If you look at
10 the overall planning for Hanapepe-Ele'ele, I'm not
11 sure it is. And it needs to go through a community
12 plan process.

13 And if I had been on the council when A&B
14 offered the land, I would have asked if they could
15 have maybe given a smaller portion with money in lieu
16 of land so that we could have developed that right
17 away; or whether we could sell the land for
18 agricultural enterprise, to an agricultural
19 enterprise, then use that money toward affordable
20 housing in another area where it would be
21 appropriate.

22 COMMISSIONER CHANG: We're kind of stuck
23 with the existing deed restriction. So the reality
24 is 75 acres came with the deed restrictions. If only
25 phase one is approved, and I have not seen the deed,

1 I don't know if there is a time limit on that, or at
2 what point in time A&B can exercise the reversion
3 that it goes back to A&B.

4 But A&B could come back to Land Use
5 Commission and request zoning change themselves,
6 right?

7 THE WITNESS: Yes, and even the county
8 could do that. It might take more money, but if they
9 have done their planning process and the community
10 has been able to determine how and where
11 Ele'ele-Hanapepe should grow, and the General
12 Planning and the transportation have been thought
13 through, it would be a much better time to give an
14 approval than now, because otherwise just be able to
15 go straight into developing it without addressing
16 these issues.

17 COMMISSIONER CHANG: Let me ask you this
18 question about the community plan.

19 If the Ele'ele-Hanapepe community supports,
20 let's say assuming that we went -- Kaua'i goes
21 through the planning process and the community says
22 no, we support expanded development, affordable
23 development in this area, at that point in time would
24 you have any objections to this project?

25 THE WITNESS: As long as everything has

1 been laid out in terms of alternatives and good
2 planning information on the west side of
3 Hanapepe-Ele'ele planning area. So along Hanapepe
4 Heights where DHHL has land, there is land I think
5 that is not in cultivation that could be used for
6 housing. And the county is building extending a
7 sidewalk from Hanapepe Heights down to the main
8 highway, which means that it will connect that
9 neighborhood both existing and potential to Hanapepe.

10 Actually the pathway to Ele'ele School is a
11 much safer one than the one that would cross major
12 Kaumualii Highway from Lima Ola.

13 So those things needed to be analyzed and
14 they weren't.

15 COMMISSIONER CHANG: What I'm hearing is
16 lot of concerns regarding process. That this just
17 may not be -- that we're doing some -- that the
18 community hasn't had a full opportunity to make their
19 own decision about the character of Ele'ele-Hanapepe
20 and that process really should be had first.

21 If only Phase I is approved, and all these
22 conditions apply to the remaining phases, one, they
23 have to have funding available for the rest of the
24 phases, traffic conditions need to be addressed.
25 School conditions need to be addressed as well. If

1 those -- would you support the project of these
2 remaining phases if all of those kinds of -- all of
3 those considerations have been adequately addressed
4 and the community ultimately supports this affordable
5 development?

6 THE WITNESS: I would not support it if the
7 General Plans says that the growth in that area
8 should be incremental and much less than what can
9 possible with that land urbanized, why urbanize that
10 land if it's not going to fit with the General Plan
11 or the community plan?

12 It's really premature, because what if the
13 community decides that it doesn't want it urbanized,
14 then you're going to have a proceeding to remove
15 the -- reclassify it back down to ag.

16 And, you know -- I mean, I there has to be
17 some need to consider Kaua'i Coffee. It's cultivated
18 trees right now. And in the General Plan Update
19 they're proposing to even urbanize -- calling it
20 provisional ag all the way to the gulch which is
21 another 75 acres.

22 This is the domino effect that I mentioned
23 in my written testimony. You take out 150 acres of
24 cultivated crops of a really important industry on
25 Kaua'i, what is that impact? And I don't think

1 Kaua'i Coffee is at liberty to say what it really is
2 because of their connection to A&B. So someone else
3 should be figuring this out.

4 There's just so many big issues, that I
5 don't think this land should be urbanized until all
6 those issues have been thought through.

7 COMMISSIONER CHANG: This may be a
8 speculative question.

9 If LUC approves the phase, the petition as
10 the county is suggesting, and the development
11 planning process goes forward, and if ultimately the
12 development plan is amended to reflect that this area
13 should be appropriate for that growth, and that
14 subsequently before any new phases are built, the
15 considerations that you've raised, as well as others,
16 traffic, schools are adequately addressed at that
17 point in time, do you believe that this project is
18 appropriate?

19 THE WITNESS: Are you saying it should be
20 urbanized on the condition that all these things are
21 figured out?

22 COMMISSIONER CHANG: No, I'm not saying it
23 should. Let's say county developing planning process
24 moves forward and it does say that this area is
25 appropriate for expanded urbanization. So just Phase

1 I is approved, but the other phases are subject to,
2 one, appropriate zoning, appropriate considerations
3 related to traffic, schools.

4 If you know at that point in time the
5 planning process for the county development plan is
6 moving forward, if it then reflects that this area
7 should be urbanized, then, two, before the next
8 phases are built, traffic consideration addressed,
9 school issues are addressed, would you then be
10 supportive?

11 THE WITNESS: I can't say that. You're
12 asking me to know what the answers will be before the
13 answers are available.

14 And I also want us to all understand that,
15 I mean, I may be wrong, but when I looked at the
16 expansion plans for Ele'ele-Hanapepe it does look
17 like a second city node, or an urban node, and if
18 that is going to be the case, it really has to be an
19 islandwide discussion about whether we should have
20 that, because the ramifications in terms of traffic,
21 infrastructure demands and lifestyle and urbanization
22 issues is so huge, you can't really discuss it here.
23 It has to go through a planning process. It's a
24 really big decision.

25 I mean you can tell, you know, in Honolulu

1 what the Second City in Kapolei has done, right?
2 This is on a smaller scale, but it is our General
3 Plan thus far, two General Plans, the one in
4 existence done to in 2000, and the one presently
5 pending say the growth should be in Lihue and South
6 Kaua'i.

7 So if you start building the west side, it
8 has huge implications for whether the west side is
9 going to be the rural section of the island.

10 CHAIRPERSON ACZON: Any more questions?

11 COMMISSIONER CHANG: No.

12 MR. MINKIN: Just two short questions.

13 CHAIRPERSON ACZON: After his questions,
14 we'll take a break.

15 RECROSS-EXAMINATION

16 BY MR. MINKIN:

17 Q You kept referring to 7 million for a water
18 tank. Isn't it true it's only 700,000?

19 A I could be in error. It must be. I stand
20 corrected. Thank you.

21 Q Just something else that you mentioned.
22 You mentioned senior housing in Lihue. How close to
23 the commercial center is that senior housing in
24 Lihue? Where is the closest supermarket?

25 A That is one of the real needs in the

1 downtown Lihue core. And the county has major plans
2 to renovate Rice Street. And I've been personally
3 working on a food co-op for Rice Street. So it's a
4 need. We all miss the Big Save that used to be a
5 part, actually, of this redone shopping center which
6 is now county offices, but --

7 Q So I just want to get to the point that
8 even though that housing, which you approve of,
9 doesn't have -- for seniors, doesn't have markets and
10 things within immediate -- within steps away from
11 their door, they have to go to Kukui Grove, right?

12 A Yeah, and it's one of the -- you know, you
13 don't do good planning overnight. You start
14 building. And that's why we have this renovation of
15 Rice Street to make it walkable and bikeable and
16 hopefully business will come back.

17 I have been actually personally trying to
18 find a developer for the Crest Street Building, and
19 we're looking at, you know, food co-ops and that kind
20 of thing to make it a complete community.

21 But I'll tell you one thing, elderly
22 housing is not suburban, and Lima Ola would be
23 suburban.

24 Q Thank you.

25 CHAIRPERSON ACZON: We have five more

1 additional testifiers. We will take a break and come
2 back ten after 1:00.

3 (Noon recess taken.)

4 Back on the record.

5 Good afternoon. The Chair will take the
6 list of witnesses out of order to accommodate some of
7 our elected officials because they have previous
8 engagements. Mr. Orodénker.

9 EXECUTIVE DIRECTOR: Next witness is Ross
10 Kagawa.

11 CHAIRPERSON ACZON: Good afternoon, Vice
12 Chair Kagawa. Do you affirm that the testimony that
13 you're about to give is the truth?

14 THE WITNESS: Yes.

15 CHAIRPERSON ACZON: Please state your name
16 and address for the record.

17 THE WITNESS: Thank you all for
18 accommodating our request, and thank you for all you
19 do.

20 ROSS KAGAWA

21 Was called as a public witness, was sworn to tell the
22 truth, was examined and testified as follows:

23 DIRECT EXAMINATION

24 THE WITNESS: I'm in strong support of the
25 Lima Ola project. Born and raised in Hanapepe. I've

1 seen two successful projects in my area. The first
2 was Hanapepe Cliffside right above Hanapepe Heights.
3 The second one was Ele'ele Nani Phase I and Phase II.
4 And you, know, both projects I can speak by
5 experience, they have housed a lot of our west side
6 local residents.

7 When we talk about adding to traffic, I
8 don't see that really happening on a large scale
9 because a lot of the new residents, I believe, if it
10 follows the trend of Cliffside and Ele'ele Nani
11 projects, a lot of residents already live there, so
12 how is that adding to traffic? A lot of residents
13 already live there that are going to be new residents
14 that still live in the same area. They already live
15 there.

16 Lot of residents, multi-families live in
17 one house. When they have the opportunity to buy,
18 they buy. And that's what has happened with the
19 Cliffside and Ele'ele Nani.

20 At first when the Cliffside project was
21 proposed, I remember my parents kind of opposing it,
22 theoretically because what you'd have was affordable
23 project right next to our, you know, market homes.

24 But as it turned out, you know, we didn't
25 have much of a public hearing process at that time,

1 and I think the process was that government made that
2 decision that there was affordable housing need.

3 There was opportunity of plantation land right there
4 abutting residential neighborhood, and it turned out
5 to be a good project. It housed a lot of friends and
6 family that I grew up with.

7 So I see this as being a continuation
8 that's filling a need. We have a lot of need out
9 there. I know there are some residents, and I know
10 some of them that oppose it, but it's as a whole, I
11 think, for us, as councilmembers, and I'm being from
12 the west side, my vote totals are always good in
13 Hanapepe-Ele'ele area. You know, I always finish
14 high there, and wherever I go, you know, people
15 always complain or what have you, you know, about
16 government, whether it be county or state, tell me
17 the road is bad, or this park is bad, needs
18 improving.

19 And based on those conversations, I have
20 not heard one complaint yet from constituents on the
21 west side. Nobody has told me, eh, enough affordable
22 housing in Ele'ele-Hanapepe. None of that.

23 In fact, what I hear is people saying can
24 we push for more housing? How can we get affordable
25 project? I think this is the right project. Getting

1 land for free, this is our best opportunity to try to
2 get affordable housing. We have free land. It's
3 abutting existing infrastructure.

4 So I think this is a wonderful opportunity.
5 I urge you to please approve this plan for the island
6 and residents. I think it's a winner.

7 CHAIRPERSON ACZON: Any questions, Mr.
8 Minkin?

9 MR. MINKIN: None, thank you.

10 MR. BRACKEN: No questions.

11 MS. APUNA: No questions.

12 MS. SOUZA: No.

13 CHAIRPERSON ACZON: Commissioners, any
14 questions?

15 COMMISSIONER CABRAL: In your position, did
16 you attend some of the public hearings that were held
17 by the county and with regard to this matter?

18 THE WITNESS: No, I tend to stay away from
19 attending. I believe we have enough -- our voices
20 heard through council meetings and, you know, other
21 inviting type meetings.

22 But when the public meetings are held, as
23 councilmember, I said enough. They don't want to
24 hear me. I think I let the process -- what I do is I
25 typically ask, you know, the housing agency, how did

1 the public hearing go? And any complaints? And if
2 there is constituents that, you know, that I want to
3 address, I'll give them a call and see if I can talk
4 and add more clarification, what have you.

5 As far as that project, I heard a couple of
6 complaints regarding concerns about water. And when
7 we ask the water department, when we discussed Lima
8 Ola before the council, the water department said,
9 based on what they have, they believe they can
10 sufficiently service fees, which is primarily our
11 concern, short-term goal, can we service enough water
12 for Phase I, and their answer was, yes. So I had no
13 reason to object to that complaint.

14 COMMISSIONER CABRAL: Thank you.

15 CHAIRPERSON ACZON: Commissioner Okuda.

16 COMMISSIONER OKUDA: Would you have a real
17 problem if the Commission only approved rezoning or
18 district boundary amendment for just the first phase
19 and maybe leave the later phases for later decision,
20 to take into account what might take place sometime
21 in the future?

22 THE WITNESS: I understand you guys wanting
23 that option. But we have a gap of 9,200 -- same with
24 the whole state, everybody is struggling for
25 affordable housing.

1 This is free, wonderful residential lands,
2 and I certainly want to keep the whole parcel right
3 now and make sure that we can plan properly.

4 If we have only the first phase, then the
5 next phases are questioned. And how do you plan when
6 you're not sure what is going to come down the line?

7 But if you have the approval, then you can
8 appropriately plan, and I think it will be good
9 planning for us.

10 And if any other concerns do not work for
11 Phase II and III, I would hope our mayor and housing
12 agency and planning would stop it. And they have
13 stopped it on their end.

14 But I think as far as the land, I would
15 like the county to receive it and have that
16 opportunity to plan for going forward, because I know
17 I heard talk about, you know, well, there is not
18 enough job opportunities, and what have you, on west
19 side.

20 West side has PMRF. It's a huge employer.
21 Our enrollment is bad at Waimea High School. When I
22 was going there in 1984, we had 900 students. Today,
23 500 students.

24 You know, I keep hearing from the school,
25 like, wow, we can't compete in sports and what have

1 you with the other schools, because our enrollment is
2 so small. By adding more housing, I think we're
3 supporting, at least adding, like I said -- I believe
4 majority of residents will be from the west side.

5 It's kind of bred into us. It's like
6 people from Waianae, they're west side residents.
7 They want to live there. That's how it is here.

8 I think we are going to get some added
9 residents, which is good. If they have a job at
10 PMRF, they might move from Kapaa to be closer to
11 work. So, you know, we're going to hopefully be
12 adding to Waimea High School enrollment problem.

13 COMMISSIONER OKUDA: If the approval by the
14 Commission is approval only for the first phase,
15 wouldn't prevent the county from in the future moving
16 forward with developing the other phases, just means
17 resubmitting under the 201H provisions to the LUC
18 which provides for expedited procedure anyway, right?

19 THE WITNESS: Yeah, I understand. I just
20 don't see the negatives to tell me that approving it
21 by phase would be better. I think this is a great
22 project, and I would like to see the whole shebang
23 being approved today, if possible.

24 VICE CHAIR SCHEUER: Thank you for taking
25 time out of your busy day to come and speak to us.

1 It's really helpful to hear from the councilmembers.
2 There is always a diversity of views on the council,
3 so the more we hear from, the better. (Ringing
4 phone.) It's not mine.

5 THE WITNESS: We pay five dollars at the
6 council whenever that happens.

7 VICE CHAIR SCHEUER: I guess I just want to
8 say, while you're here, I appreciate everything you
9 said. Your concerns about the project and strong
10 desires and needs for affordable housing, I think as
11 public official, you're familiar with how sometimes
12 you make a decision under constraints, and then
13 somebody comes and talks to you who's not aware of
14 all those constraints, says why did you make that
15 decision?

16 So we do operate under an obligation that
17 we swear to uphold the State Land Use law and have to
18 look at these different impacts. And any decision we
19 make on any particular project is not like we are
20 against or for economic development, or against or
21 for affordable housing, it's how does the law apply
22 in this case.

23 Just wanted to say we're in the same
24 situation that you are sometimes constrained by
25 various things.

1 THE WITNESS: I understand. The phasing,
2 yeah, if there's a first phase, you know, we would be
3 happy, but I think we'd be even more happy if we
4 could get the total phase approved today -- tomorrow.

5 COMMISSIONER CHANG: Thank you, Councilman
6 Kagawa, for your testimony and being here.

7 Were you on the council when the land was
8 obtained from A&B?

9 THE WITNESS: I was on the council for the
10 past five years, so if it was before that, then no.
11 But every vote that I've had for Lima Ola and the
12 land and whatever, was before supported -- Lima Ola
13 supported 100 percent.

14 COMMISSIONER CHANG: I wanted to get a
15 better understanding of A&B's restriction on the deed
16 that it has to be for affordable housing or ag, if
17 you knew anything -- I'm trying to understand --
18 because if the county doesn't use the for affordable
19 housing, or ag, I haven't read the deed, but I
20 believe the land would go back to A&B. So I want
21 more understanding of why A&B put that --

22 THE WITNESS: I think just success of
23 Ele'ele Nani I and II, and it's just right across the
24 street.

25 CHAIRPERSON ACZON: Anybody else?

1 Follow-up question, Ms. Souza.

2 MS. SOUZA: Just for fact checking.

3 CROSS-EXAMINATION

4 BY MS. SOUZA:

5 Q Are you aware that the county purchased the
6 property? It's not free.

7 A How much did we purchase it for? Oh, 2.5
8 million, okay, almost free, a land of that size.

9 VICE CHAIR SCHEUER: Because it keeps
10 coming up, the Petitioner did provide the Warranty
11 Deed, Exhibit 1 to their petition.

12 CHAIRPERSON ACZON: Anybody else,
13 Commissioners? Thank you Vice Chair.

14 THE WITNESS: Thank you.

15 CHAIRPERSON ACZON: Next witness.

16 EXECUTIVE DIRECTOR: Next witness is Mel
17 Rapozo.

18 CHAIRPERSON ACZON: Do you affirm that the
19 testimony you give is the truth?

20 THE WITNESS: Yes.

21 CHAIRPERSON ACZON: Please state your name
22 and address for the record.

23 THE WITNESS: My name is Mel Rapozo. 292
24 Makani Road, Kapaa 96746.

25 -o0o-

1 MEL RAPOZO

2 Was called as a public witness, was sworn to tell the
3 truth, was examined and testified as follows:

4 DIRECT EXAMINATION

5 THE WITNESS: Let me start by saying you
6 can never take the comments of any councilmember as
7 representative of the entire council. You heard two
8 different views in a couple hours. But I did want to
9 clarify a few statements.

10 Let me just give you my history. I
11 actually was on the council when we had the
12 resolution to bank the lands. I think myself and
13 Councilmember Furfaro offered the resolution, and it
14 passed. Mayor Baptiste was supportive and moved
15 forward with negotiating with A&B and other land
16 owners.

17 But Tom Shigemoto and A&B was the most
18 willing, and although I wasn't there in 2010 when the
19 land was purchased, I was there for everything that
20 led up and everything that followed. And I can tell
21 you that we have had nothing but positive -- except
22 for a few of the opponents -- but every council that
23 I sat on that heard this matter was supportive.

24 What I heard today from the other -- before
25 lunch, Planning Department didn't do their job,

1 housing didn't do their jog. Mayor didn't do their
2 job. Information was bad. But that's not true.

3 I need you folks to understand that from
4 day one -- and I was there day one -- we got good
5 information. We processed good information. We
6 processed really good public input, public testimony.

7 I didn't attend any of the meetings that
8 was asked about earlier. And for us here it's
9 something to do with Sunshine Law, like only two
10 councilmembers can attend. And I hate driving out to
11 somewhere to find out two are there, and we got to
12 leave.

13 So I haven't attended, but like Ross said,
14 we see a lot of people every day in our lives. And I
15 have not heard any constituent of mine come and tell
16 me that we should not move forward. In fact, they
17 want us to hurry up.

18 I cannot understand for the life of me how
19 anyone can say this is a bad location. Shopping
20 center is there. School is there. Everything in the
21 community is there. And we have a lot of people that
22 are driving very, very far because there's no housing
23 on that side. This is a great project.

24 And I think Ross touched about school
25 enrollment. Right now we have a lot of crowding, lot

1 of people living three, four families Ele'ele Nani on
2 the west side. This is going to alleviate that. The
3 traffic that's going from Lihue or PMRF, it's there
4 already -- this is not going to add to the traffic.
5 If anything, it's going to decrease the traffic
6 because you going to allow them to get even closer to
7 PMRF than they may be. So the 201H process is there
8 for a reason.

9 I know Councilmember Yukimura said the
10 Chair didn't want to have public hearing. You know,
11 201H process is to have expedited hearings, an
12 expedited process. And I felt that the process 201H
13 as well as the Land Use Commission process would all
14 have ample time for community input.

15 We didn't need to delay this process
16 another month or so for a public hearing because the
17 process in itself would cover that.

18 So I urge all of you -- I don't think doing
19 it in sections is feasible. I don't think it's
20 practical. Look at what is going on with this
21 process right here. There is no stability if we are
22 going to do Phase I and the whole process again for
23 Phase II and III and IV. I would ask you all do it
24 at once.

25 One more clarification. Earlier it was

1 talking about, oh, the state can take back the lands,
2 A&B can take back the land. The county owns that
3 lands. We own that land outright. And the deed
4 restriction, as far as I remember, the resolution
5 urged the mayor to purchase land for affordable
6 housing. And I think A&B may have been hesitant to
7 sell this property, if we didn't make that clear, if
8 not going to go to affordable housing, it would
9 revert back to ag. That's my recollection.

10 But that's our land. No one is going to
11 take it away. Not going to revert back to any other
12 owner. It's our lands.

13 CHAIRPERSON ACZON: Any questions?

14 MR. MINKIN: No questions.

15 MR. BRACKEN: No questions.

16 MS. APUNA: No questions.

17 MS. SOUZA: No questions.

18 THE WITNESS: Please pass this project,
19 thanks.

20 EXECUTIVE DIRECTOR: Next witness Arthur
21 Brun.

22 CHAIRPERSON ACZON: Do you affirm that the
23 testimony that you're about to give is the truth?

24 THE WITNESS: Yes.

25 CHAIRPERSON ACZON: Please state your name

1 and address.

2 THE WITNESS: My name is Arthur Brun.

3 ARTHUR BRUN

4 Was called as a public witness, was sworn to tell the
5 truth, was examined and testified as follows:

6 DIRECT EXAMINATION

7 THE WITNESS: I'm a member of the Kaua'i
8 County Council and Chair of the Community Assistance
9 and Veteran Services Committee, which oversees the
10 housing agency also.

11 As a councilmember I strongly support the
12 Lima Ola project and support this proposed district
13 boundary amendment from ag to urban.

14 As you heard two of my constituents say,
15 and I also talked to three other ones this morning,
16 so that's five of us -- six of us total that support
17 this project.

18 County of Kaua'i has seen housing prices
19 sky rocket in the past few years. The cost of a home
20 is simply out of reach for most of our working
21 residents. Affordable rentals are extremely hard to
22 come by.

23 This is a problem that has escalated over
24 the past decade, and it is critically important that
25 we as a county do whatever we can to move new

1 affordable housing projects forward as quickly as
2 possible.

3 Lima Ola has a problem. It's a 550 new
4 affordable units when it is fully built up. If we,
5 as elected officials, don't step up to the plate and
6 do everything in our power to get these units and
7 others into construction, then our children and our
8 grandchildren will be forced to leave Kaua'i, our
9 beautiful home.

10 So now let me take off my council hat and
11 speak to you briefly from another perspective. As a
12 life-long member of the west side. A member of the
13 west side workforce and proud parent and grandparent.

14 For me, my dad died when I was four. I was
15 raised by a single mom, so these opportunities never
16 reached us. I was once homeless. Living on the
17 street.

18 In recent years we have seen several
19 affordable housing projects sprout up on the North
20 Shore, east side Lihue, and even on the South Shore.
21 But the need for affordable housing is just as
22 critical on the west side. Major employers on the
23 west side have hard time attracting and retaining
24 workers because there's simply no housing available.

25 We have good jobs being offered by PMRF in

1 agricultural and other industries. The west side is
2 ready for a new development. We want to grow, but
3 there are simply no affordable units available to the
4 people who want to work and work on the west side.
5 Lima Ola will help fill that gap.

6 It will offer my children and my
7 grandchildren a place to live when they enter the
8 workforce. It will also offer our kupuna a safe and
9 inclusive community when they are ready to retire.

10 As an employee of a large agriculture
11 producer on the west side, it would allow us to
12 attract employees who won't have to spend an hour or
13 more commuting to work. The need for affordable
14 housing on Kaua'i is huge and it's not isolated to
15 just Lihue.

16 If we want to maintain our unique character
17 of the communities around our island, and create
18 opportunities for jobs, residents close to where they
19 live, then we must create affordable housing
20 opportunities all over the island. Lima Ola is very
21 much needed for Kaua'i, and it's very much needed for
22 the west side.

23 I know a lot was brought up about traffic,
24 and you heard it earlier, traffic is there. Traffic
25 is there. And the only traffic -- I drive from

1 Waimea to Lihue to come into council meetings. The
2 only traffic I have is when we reach by the tunnel of
3 trees. I don't see traffic out on the west side.

4 I am confident this will not add to
5 traffic. This will not add to traffic because people
6 will live on the west side. They will stay there.
7 You heard about the high school and about the
8 enrollment. I graduated in '89. We were up at about
9 850 students. They're down to about 500 right now.
10 I also went to Waimea High School.

11 Again, I ask that you guys support this
12 project in its entirety. I don't think doing them in
13 phases was the answer. I would hope that we can do
14 it all one time and get it done. Thank you.

15 CHAIRPERSON ACZON: Any questions?

16 MR. MINKIN: No.

17 MR. BRACKEN: No.

18 MS. APUNA: No.

19 MS. SOUZA: No.

20 CHAIRPERSON ACZON: Commissioners?

21 COMMISSIONER CABRAL: Thank you for your
22 insight and your personal perspective.

23 Several people have talked about Waimea
24 High School, and since I'm not from here, I'm from
25 the Big Island, and we have our own issues there.

1 I wanted to ask you if the school used to
2 be 850, 1,000, that was in the '80's, early '90's, is
3 that because at that time plantation -- was sugar
4 plantation still king and everybody was working
5 there?

6 What has happened in the shift and/or jobs
7 or population that has caused this area now either to
8 be underpopulated in the number of people that used
9 to live in this area, or just not as much keikis as
10 their used to be? Help me understand the shift.

11 THE WITNESS: I think at that time we had
12 like Ele'ele Nani, Hanapepe, Cliffside. My mom
13 finally bought a home. Haven't had any development
14 in about 20 years now, and the plantation, we still
15 have the seed companies, who employ more than what
16 the sugar plantations used to employ on the west
17 side. So the jobs are there.

18 There is jobs there, it's just no
19 development. So not younger people moving in with
20 younger kids. And everybody is living until they're
21 80, 90 years old, so you don't have the younger kids
22 moving in.

23 COMMISSIONER OKUDA: If I can ask this
24 question. What do you see as the downside to the
25 county by the Commission just approving Phase I and

1 waiting for another petition later for subsequent
2 phases?

3 THE WITNESS: To me -- see what we are
4 going through just to get this one approved? We are
5 going to go through this again. Right now we have a
6 housing department, a mayor that's fully behind this.
7 What if the next ones come through, we got something
8 else to do?

9 I think we really need this on the west
10 side. Been a lifelong resident on the west side,
11 born Kalaheo, been on the west side, and we really,
12 really need this. I ask please do the whole project.

13 CHAIRPERSON ACZON: Any other,
14 Commissioners? Thank you, councilmember.

15 Next witness.

16 EXECUTIVE DIRECTOR: Next witness is Ken
17 Taylor.

18 CHAIRPERSON ACZON: Do you swear that the
19 testimony that you're about to give is the truth?

20 THE WITNESS: To the best of my knowledge,
21 yes.

22 CHAIRPERSON ACZON: Please state your name
23 and address.

24 THE WITNESS: For the record, my name is
25 Ken Taylor speaking on my own behalf. My address is

1 1720-A Makaleha, Kapaa, 96746

2 KEN TAYLOR

3 Was called as a public witness, was sworn to tell the
4 truth, was examined and testified as follows:

5 DIRECT EXAMINATION

6 CHAIRPERSON ACZON: Please proceed.

7 THE WITNESS: Before I start, I just want
8 to let everybody know that I have a hearing problem,
9 so if there is going to be any questions, I need you
10 to speak up. Thank you.

11 I have given each of you a folder with my
12 bio and a copy of my testimony. I'm asking that you
13 not approve this request for zoning change. It's
14 time to change how we measure affordable housing.

15 A cheap house isn't affordable if it comes
16 with a high transportation cost. We should really be
17 talking about affordable living rather than
18 affordable housing. We are better off providing
19 affordable housing in more compact walkable bike-able
20 places than auto-dependent areas characterized by
21 sprawl.

22 But housing is important. We must remember
23 life is getting much worse for the poor; housing,
24 food, transportation, other essentials eat of up
25 their meager incomes.

1 As we move forward, we must remember that
2 the problems can be solved, but first they must be
3 recognized; and then second, recognized as urgent.
4 Then comes the more difficult process of changing our
5 mindset and our expectation.

6 I title the rest of my conversation as:
7 Ready, Fire, Aim.

8 In my opinion, the County Housing Agency
9 has made a bad decision. Now they're asking you to
10 buy into their bad decision; a good plan in the wrong
11 place, hence, ready, fire, aim.

12 There are little to no jobs in Ele'ele and
13 Hanapepe area, so most all of the residents of this
14 project must drive for a job. I want to let you know
15 the implications of this.

16 Traffic. We know the state just spent
17 about \$80 million on two miles of highway just right
18 out here, and those four lanes were to go another
19 five miles out to the tree tunnel, but the funds were
20 not available.

21 In April 2014 the Department of
22 Transportation presented their Long-Range
23 Transportation Plan (2014 to 2035) the needs to the
24 community.

25 Kaua'i is expected to receive only about

1 \$630 million for transportation projects between 2014
2 and 2035.

3 The estimated cost to address identified
4 transportation needs by 2035 would be nearly \$3.2
5 billion.

6 CHAIRPERSON ACZON: Please summarize your
7 testimony. We have your testimony in front of us.

8 THE WITNESS: I hope you'll take the time
9 to read it. I've spelled out pretty much what's
10 going on. And the cost of sprawl is killing us, and
11 we need to put a stop to continue this sprawl because
12 affordable housing is going to be a problem for
13 everybody if the cost of sprawl continues the way it
14 has been.

15 And I've laid out some of that information
16 here, and I just say sprawl equals traffic. Traffic
17 need equals need for infrastructure. Infrastructure
18 equals need for money. Money equals county and state
19 "no have". So I hope you'll take the opportunity
20 before you and do what is right for the young people
21 of today and tomorrow, and say no to this zoning
22 project.

23 CHAIRPERSON ACZON: Thank you. Any
24 questions for the witness?

25 -o0o-

CROSS-EXAMINATION

BY MR. MINKIN:

Q Did you attend any community meetings other than the site inspection two weeks ago?

A No, I didn't.

Q Thank you. No further questions.

MR. BRACKEN: No questions.

MS. APUNA: No questions.

MS. SOUZA: No questions.

CHAIRPERSON ACZON: Commissioners?

COMMISSIONER ESTES: I just -- Ken is an old friend, so I don't want him to get away without a question.

Why is it better to have a crowded Lihue than to have things spread out?

THE WITNESS: I didn't understand the latter part of your question.

COMMISSIONER ESTES: I understand about traffic. I'm not convinced that everybody in Ele'ele drives to Lihue for a job or further. So I'm saying, you want to have a center like Lihue where you're going to have maybe the center for affordable housing.

Why is that better than having a community further out?

1 THE WITNESS: Well, I think, first of all,
2 Lihue is the main job area on the island. South
3 Shore, Koloa, Poipu is the second biggest job area on
4 the island.

5 So it only makes sense, we have a proposed
6 project come down the pike that's been approved
7 that's going to produce 650 to 800 low wage jobs. It
8 only makes sense to put the housing at this point in
9 time for the most part in Lihue.

10 There are some locations in Hanapepe and
11 Waimea and Kekaha that could take some of the
12 affordable housing out there, but when you look at
13 the cost of duplicating services, solid waste
14 transfer stations, sewer treatment plants, et cetera,
15 those costs are killing us, because most communities
16 of our size you have one.

17 Wastewater treatment plants alone, we have
18 four, plus three or four private ones. That
19 duplication and cost can no longer keep being
20 afforded, and we need to put a stop at some point in
21 time, and say, let's take a look at the whole picture
22 not just take an item at a time.

23 Well, this is a good project. I'm not
24 opposed to affordable housing. I think we could do
25 it. I'll put a zoning map up there on the wall for

1 Lihue area, there's over 300, close to 400 acres of
2 land that's already been zoned in Lihue for
3 development.

4 What we need to do is take another look at
5 how we approach that. Not those eight units per
6 acre, six units per acre. We've got to densify. And
7 it makes sense. You're down in Lihue, you can walk
8 or bike to high school, to junior high, or middle
9 school, and grade school.

10 At this project location, everybody going
11 to middle school and high school is going to have to
12 be bused ten miles one way every day. Those issues
13 come at a cost.

14 And you have to start looking at the whole
15 picture, not just that one little acorn.

16 COMMISSIONER ESTES: So I think you're
17 saying cost and traffic, those are your two --

18 THE WITNESS: Absolutely.

19 COMMISSIONER ESTES: Okay. I'll just say
20 this. One of the things I love about Kaua'i is we
21 have neighborhood centers and libraries in every
22 single little town, and to provide services maybe to
23 other places west side, whatever, that's just what we
24 do because we live in Hawaii.

25 THE WITNESS: And it's costing us a lot of

1 money.

2 COMMISSIONER ESTES: Well, maybe it's worth
3 it.

4 CHAIRPERSON ACZON: Commissioner Cabral.

5 COMMISSIONER CABRAL: I just want to make
6 sure I got my notes right. You said you're from
7 Kapaa, so that's --

8 THE WITNESS: East side.

9 COMMISSIONER CABRAL: I'm just trying to
10 get my map straight. Thank you very much.

11 CHAIRPERSON ACZON: Anybody else? Thank
12 you, Mr. Taylor.

13 EXECUTIVE DIRECTOR: Next witness is Kirk
14 Saiki.

15 CHAIRPERSON ACZON: Do you affirm that the
16 testimony that you're about to give is the truth?

17 THE WITNESS: Yes.

18 CHAIRPERSON ACZON: State your name and
19 address for the record.

20 THE WITNESS: Kirk Saiki, 4398 Pualoke,
21 Lihue.

22 KIRK SAIKI

23 Was called as a public witness, was sworn to tell the
24 truth, was examined and testified as follows:

25 DIRECT EXAMINATION

1 THE WITNESS: I'm with the Water
2 Department. I'm the manager/chief engineer, and I
3 just wanted to give you some insight on the process,
4 at least from our side.

5 We got involved with the project early on.
6 And what we did required a Water Master Plan. And
7 through that Master Plan it was determined that the
8 first phase of the project could be completed without
9 any water improvements. The subsequent phases will
10 require some improvements. That's all I've got to
11 say.

12 CHAIRPERSON ACZON: Any questions?

13 MR. MINKIN: No questions. Thank you, sir.

14 MR. BRACKEN: No questions.

15 MS. APUNA: No questions.

16 MS. SOUZA: Yes.

17 CROSS-EXAMINATION

18 BY MS. SOUZA:

19 Q Reviewing your department's comments, I
20 understand that -- correct me if I am wrong -- that
21 there's no assurance that water would be available in
22 subsequent phases.

23 A No, there's never an assurance that water
24 is going to be available, even if I wanted to build a
25 home today. But based on what we know in terms of

1 development and large developments in that area, we
2 don't see -- no one has come in except for Lima Ola.

3 Q Thank you.

4 CHAIRPERSON ACZON: Just to clarify.
5 You're testifying for or against the project?

6 THE WITNESS: Neither. Well, I guess for,
7 because what I'm testifying, just providing
8 information of what the water development, the
9 procedures that we undertook to assure that project
10 does have water.

11 VICE CHAIR WONG: Thank you for testifying.

12 I have a question with the water issue.
13 Let's say you already have Phase I, enough water to
14 sustain. So if Phase II and Phase III, you just go
15 build more, right?

16 THE WITNESS: Yes. Like I believe in Phase
17 II or III we need a reservoir, the reservoir will get
18 built so the Phase II or III can get be built.

19 If we need something else, it will get
20 built contingent to the next phase.

21 VICE CHAIR WONG: We will have water, no
22 matter what?

23 THE WITNESS: Yes.

24 VICE CHAIR WONG: Because Kaua'i has a lot
25 of water. I'm just saying it appears for Phase I you

1 already have. Phase II, Phase II you would just go
2 to reservoir and have enough water to sustain up to
3 IV?

4 THE WITNESS: Yes.

5 VICE CHAIR SCHEUER: Just following up on
6 those questions.

7 So for Phase I they having to purchase
8 water credits, or are those being provided by DWS by
9 the project?

10 THE WITNESS: Not sure what you mean by
11 "water credit".

12 VICE CHAIR SCHEUER: In other counties,
13 developers hold a certain number of water credits
14 that can be turned into a certain number of meters.

15 THE WITNESS: Well, if they build
16 facilities, extra capacity for their development,
17 then that amount of water is available, you know, is
18 theirs. We call it offsets.

19 Basically for this project, our system is
20 adequate for Phase I, so there's no real credits. So
21 if 500 homes came in and wanted a meter before we
22 built Lima Ola, then, yeah, there wouldn't be.

23 VICE CHAIR SCHEUER: So for the next
24 phases, it sounds like there is an element of storage
25 and an element of transmission, but no source

1 development that's required?

2 THE WITNESS: Do we have source, Eddie, for
3 the future phases like III and IV.

4 UNKNOWN SPEAKER: That will be reanalyzed
5 when it comes.

6 THE WITNESS: But -- okay, but
7 transmission, yes, I know we need transmission
8 improvements. Source improvements, what we do have,
9 which actually helps the project, is we have a well
10 that essentially is -- we don't use it. It's not in
11 service right now, but we can put it back into
12 service.

13 VICE CHAIR SCHEUER: To provide water for
14 this project?

15 THE WITNESS: For the area.

16 VICE CHAIR SCHEUER: Does the county treat
17 affordable houses done, like by the county, in the
18 same manner that it would treat a private developer?

19 THE WITNESS: No, we don't. At least
20 recently, it's not official, but what we have done is
21 reduce the impact fees for county certified
22 affordable housing projects.

23 VICE CHAIR SCHEUER: Which would include
24 any impact for water infrastructure?

25 THE WITNESS: Yeah. I mean, that's for

1 expansion of the infrastructure.

2 VICE CHAIR SCHEUER: Thank you very much.

3 CHAIRPERSON ACZON: Anybody else?

4 Commissioner Chang.

5 COMMISSIONER CHANG: So just to clarify --
6 thank you, Mr. Saiki.

7 So just to kind of clarify. So in the
8 future for Phases II, III and IV, one, the County
9 Housing Department would have to come to your
10 department to get assurances that they have the water
11 capacity?

12 THE WITNESS: Well, they would have to come
13 in to get their meters.

14 COMMISSIONER CHANG: Who would pay for that
15 improvement?

16 THE WITNESS: It depends. Say, if it
17 was -- let's take this away from the county, like a
18 private developer. A lot of times if we know we have
19 enough lead time, we can do the improvements. If
20 it's short-term, then typically we require the
21 developer to do the improvements.

22 For this project right now what we have
23 done is, since we knew ahead of time that this was
24 coming down the road, what we have done is we have
25 gotten money from the state legislature, because to

1 do improvements on the system to increase the
2 reliability of service to Lima Ola and Ele'ele.

3 COMMISSIONER CHANG: That is for Phase I or
4 future phases?

5 THE WITNESS: Actually it's for all phases.
6 It's just really, even without the improvements, we
7 would have been fine, but this just increases
8 reliability to that area.

9 COMMISSIONER CHANG: When you say
10 sufficient lead time, what kind of lead time would
11 you normally need?

12 THE WITNESS: We have been working on this
13 for four, five years now, in that range.

14 COMMISSIONER CHANG: So, again, making sure
15 that I understand. So there's enough water capacity
16 to complete Phase I?

17 THE WITNESS: Yes.

18 COMMISSIONER CHANG: You receive
19 legislative funding to --

20 THE WITNESS: Just do improvements to the
21 system.

22 COMMISSIONER CHANG: Will those
23 improvements increase your capacity for the future
24 phases? Or is it -- let me ask you. Is it for
25 future phases?

1 THE WITNESS: No. When -- well, yes and
2 no, like I said earlier. Because what it does is the
3 reliability. What we have now is just one way of
4 feeding that area. With this new project, we will
5 have two ways of feeding the area. So if a pipeline
6 breaks, we still have a way of leading water to that
7 area.

8 COMMISSIONER CHANG: Because there's
9 potential or possible conditions that before the next
10 phase, they need to come to your department to ensure
11 that there's adequate water?

12 So with this, with the legislative funding
13 to improve the reliability, is there anything
14 additional that they need to do to get water
15 assurances for Phases II and III?

16 THE WITNESS: Yes. And they know about it,
17 and it's all documented in the Water Master Plan.

18 COMMISSIONER CHANG: What kind of lead time
19 do they need to do for Phase II?

20 THE WITNESS: Phase II I believe is a
21 reservoir, so five years would be great.

22 COMMISSIONER CHANG: Thank you so much.

23 CHAIRPERSON ACZON: Commissioner Cabral.

24 COMMISSIONER CABRAL: Since I'm familiar
25 with -- I'm familiar with rain. The area that this

1 property is going into appeared to be fairly lush and
2 green. So am I correct in assuming that there's
3 fairly good rainfall there, and/or uphill from there
4 that you guys have adequate rainwater for large
5 population?

6 The second concern is: So you have enough
7 potential resources, it's just a matter of
8 transmission from source to household or storage
9 between, and then the other question is, what about
10 flooding?

11 There was references, concerns about
12 flooding. I don't know if that's your department or
13 not.

14 THE WITNESS: No.

15 COMMISSIONER CABRAL: The reservoirs we saw
16 on our site visit led me to be concerned -- that
17 reservoir, there was a spillway to where it would
18 spill over if it got too full. That was part of the
19 water system was the reservoir and those beautiful
20 tanks.

21 How do you folks control that to make sure
22 your water system doesn't potentially flood the
23 housing downhill?

24 THE WITNESS: Basically the drainage system
25 is designed, and we know how much water is going to

1 overflow, because we pump to our reservoirs. So
2 that's all designed by engineers, and the capacities
3 are predetermined.

4 Going back to the other question about
5 source and the adequacy of the amount of water, on
6 Kaua'i we have water. What we don't have a lot of
7 times is infrastructure. So in terms of -- and since
8 you're from the Big Island, you understand
9 sustainable yield in Keauhou and all that stuff.

10 So we are not even tickling our sustainable
11 yields for each of our hydraulic units. So we have
12 adequate groundwater supplies.

13 In that Hanapepe-Ele'ele area, all our
14 sources really aren't uphill towards Kalaheo, but
15 it's towards Hanapepe, so on the other side of the
16 stream, hydrogeologically the wells are much more
17 productive on the Waimea side of the stream than the
18 Ele'ele side.

19 COMMISSIONER CABRAL: Thank you very much.

20 VICE CHAIR SCHEUER: Just to help, I think
21 with Commissioner Cabral's questioning.

22 We saw both the surface water reservoir,
23 which I believe is related to agricultural irrigation
24 system as well as a water tank reservoir for the
25 drinking water system.

1 I think your question was about the surface
2 water open air reservoir that we saw, rather than the
3 drinking?

4 THE WITNESS: Yes.

5 COMMISSIONER CABRAL: I drink my water out
6 of a fake swimming pool.

7 COMMISSIONER ESTES: What is the average
8 annual rainfall in the Ele'ele area?

9 THE WITNESS: I don't know.

10 COMMISSIONER CABRAL: A lot.

11 CHAIRPERSON ACZON: Mr. Minkin.

12 MR. MINKIN: Just a followup.

13 CROSS-EXAMINATION

14 BY MR. MINKIN:

15 Q The reservoir that they saw was Kapa
16 Reservoir. That's not under your control, is it?

17 A No. We have the steel tanks that are
18 alongside the highway that will feed.

19 Q Kapa Reservoir is controlled by Kaua'i
20 Coffee?

21 A I don't know.

22 Q Thank you.

23 CHAIRPERSON ACZON: Thank you. Next
24 witness.

25 EXECUTIVE DIRECTOR: Delilah Pundyke.

1 CHAIRPERSON ACZON: Do you affirm that the
2 testimony you're about to give is the truth.

3 THE WITNESS: Yes.

4 CHAIRPERSON ACZON: State your name and
5 address.

6 THE WITNESS: My name is Delilah Pundyke.
7 My address is 376 Eluna Street, Ele'ele 96705.

8 DELILAH PUNDYKE

9 Was called as a public witness, was sworn to tell the
10 truth, was examined and testified as follows:

11 DIRECT EXAMINATION

12 THE WITNESS: I come here on behalf of the
13 west side residents of Ele'ele, Hanapepe, Waimea and
14 Kekaha who work in Lihue, Koloa, Kapaa and Wailua,
15 but they don't want to live out there. We like to
16 stay on the west side because it's beautiful out
17 there. It's a lot slower. The environment out their
18 is nice too.

19 So, you know, we approve the Lima Ola
20 project because it's more attainable. It's more
21 affordable for us rather than living in Kapaa. The
22 affordable home project that's coming up in Hanamalu
23 \$499,000. That's expensive. Really expensive.

24 The affordable project on the west side
25 would be more attainable for us west-side residents.

1 As far as traffic concerns, we -- it's
2 already here. My husband commutes to work. He works
3 all over the island. We live in Ele'ele. We have a
4 Habitat for Humanity house.

5 I know a whole bunch of other people who
6 lives on the west side and works out in Lihue and
7 Kapaa, but goes home to the west side. Traffic is
8 traffic. It's always been here. It's probably
9 always going to be here.

10 As far as the school capacity, my children
11 go to Ele'ele Elementary School, Waimea Canyon Middle
12 School, and Waimea High School. It would be nice if
13 we had more numbers there. We are a Title 1 school.
14 The academic standards are great. A lot of the cum
15 laude, magna cum laude, summa cum laude that
16 graduates from Waimea High School is Ele'ele
17 Elementary School.

18 And, yeah, I think that's pretty much it.
19 We would like to see this affordable housing project
20 to move forward, not just one phase, but all phases.
21 I think it would help the community on the west side
22 rather than everybody bunking up in one house dealing
23 with a landlord.

24 I think it would -- I'm nervous, sorry -- I
25 went to one public meeting for Lima Ola, and in my

1 uneducated opinion, me, being uneducated, I'm a stay
2 at home mom, I quickly understood the expediting
3 process, and appreciated the county and the planning
4 process in having this to move forward regarding the
5 families on the west side, knowing that there is a
6 high demand for housing for the west side residents
7 who would want to live out on the west side and stay
8 out on the west side.

9 CHAIRPERSON ACZON: Thank you. Any
10 questions?

11 MR. MINKIN: No questions.

12 MR. BRACKEN: No questions.

13 MS. APUNA: No questions.

14 MS. SOUZA: No questions.

15 COMMISSIONER ESTES: I just want to make a
16 comment. To us an uneducated opinion is just as
17 important as an educated one. You did fine.

18 THE WITNESS: Thank you.

19 COMMISSIONER CABRAL: Trying to find my
20 numbers, but since you're sort of right there with
21 the people that are potentially going to be the
22 residents of these combined projects that are already
23 happening with Habitat and that, do you think that
24 from the people you know -- we keep hearing
25 references about multiple families in the same

1 structure and that, do you think it's going to be
2 able to handle -- I think it's 111 first phase
3 multi-families and -- what's my number one -- 149.

4 149 combined houses and apartments and
5 stuff, do you think there is enough people in your
6 world to absorb that?

7 THE WITNESS: Yes.

8 COMMISSIONER CABRAL: I handle lots of
9 rentals in Hilo. Most of the people that you know in
10 that -- you would or would the people you're talking
11 about are sort of in a sense representing for us,
12 which I really appreciate your willingness to be here
13 and handle the stress, but would they want to be in
14 an apartment or they prefer single-family dwelling?

15 THE WITNESS: It depends. A lot of the
16 people that I know would love to become homeowners.
17 And there is some others that could do -- who
18 wouldn't mind doing apartment.

19 COMMISSIONER CABRAL: Thank you.

20 THE WITNESS: It's on both ends.

21 COMMISSIONER CHANG: Just one question.
22 You're doing really good. I really appreciate your
23 testimony.

24 You said you live in a Habitat for Humanity
25 home. Is that across -- right next to where this

1 project --

2 THE WITNESS: The project will be in the
3 back of my house.

4 COMMISSIONER CHANG: Do you have children
5 that go to Ele'ele Elementary School?

6 THE WITNESS: I have two.

7 COMMISSIONER CHANG: I guess right now they
8 crossover the street?

9 THE WITNESS: Yes.

10 COMMISSIONER CHANG: Do you walk your
11 children across the street?

12 THE WITNESS: No, drop them off. I walk
13 them to class.

14 COMMISSIONER CHANG: So you're driving
15 across from your house into the street?

16 THE WITNESS: Yeah.

17 COMMISSIONER CHANG: Do you think most
18 families would do that, given the proposed
19 development, that they would drive their children
20 rather than crossing the street?

21 THE WITNESS: Yeah. Of course, they do
22 that already.

23 COMMISSIONER CHANG: And you're comfortable
24 with that arrangement?

25 THE WITNESS: Yes.

1 COMMISSIONER CHANG: Thank you so much.

2 CHAIRPERSON ACZON: Anybody else,
3 Commissioners? Thank you. Next witness.

4 EXECUTIVE DIRECTOR: Next witness is Fred
5 Cowell.

6 CHAIRPERSON ACZON: Let me swear you in.
7 Do you affirm that the testimony that
8 you're about to give is the truth?

9 THE WITNESS: Yes.

10 CHAIRPERSON ACZON: Please state your name
11 and address.

12 THE WITNESS: Fred Cowell, 4393 Aho Pueo
13 Drive, Kalaheo 96741.

14 FRED COWELL
15 Was called as a public witness, was sworn to tell the
16 truth, was examined and testified as follows:

17 DIRECT EXAMINATION

18 THE WITNESS: I'm going to read from my
19 statement.

20 So I am the General Manager for Kaua'i
21 Coffee. I'm the ag that's being described. 20
22 inches is the amount of rain in the subdivision area.
23 I know that because we monitor our farm very closely.

24 Kaua'i Coffee Company LLC has no objection
25 to the county rezoning of the proposed 75-acre tract.

1 Kaua'i Coffee is still harvesting coffee on the
2 parcel and will continue to maintain coffee and
3 remaining sections until that parcel is fully built
4 out. We are operating on that land and as
5 sub-lessee, sub-license.

6 The Kaua'i Coffee LLC is not part of A&B.
7 We are a lessee. We lease lands from A&B. So I
8 think I can speak for myself.

9 There's been questions about whether
10 75 acres of coffee being displaced into housing is a
11 worthwhile trade.

12 For us that represents five percent of our
13 total acreage. We are a very modern precision
14 agricultural operation. In terms of orchard crew,
15 that represents approximately one full-time job
16 equivalent, that 75 acres.

17 During the harvest season -- let me state
18 that the jobs on the west side, there are jobs on the
19 west side. I employ 135 full-time workers and we
20 swell up to almost 200 during the harvest season.

21 My goal with the company is to improve our
22 quality, maintain our production, bring higher
23 technology to the farming business, which means that
24 I have to draw young people to the area, and they
25 want somewhere to live.

1 With that, I'll finish my testimony and
2 open it for your questions.

3 CHAIRPERSON ACZON: Any questions?

4 MR. MINKIN: Yes.

5 CROSS-EXAMINATION

6 BY MR. MINKIN:

7 Q Mr. Cowell, there's been talk about the
8 type of coffee that's being grown here is not one
9 that is anticipated to be used or transplanted to
10 another area. Can you tell us about that?

11 A Well, our plans are, as we're removing
12 trees for Phase I, they're going to be replanted. We
13 have pukas all throughout our orchards where we have
14 had loss over the years. We are also in a replanting
15 effort. Our trees are almost 30 years old. And
16 we're constantly having to renew our tree stock as we
17 go. So those trees are not going to get bulldozed
18 under.

19 Q So the agriculture that is there is going
20 to be moved elsewhere because those trees are
21 valuable to you as an ongoing concern?

22 A Correct.

23 Q The technology portion that you talked
24 about, that you need young people. Can you tell us
25 just generally what sort of things you're looking for

1 when you say you need young people? Do you mean
2 young people that have high school education, college
3 education, that sort of thing? What are we talking
4 about?

5 A Actually we require a mix. I've got manual
6 jobs that are truly manual labor. The term
7 "precision technology" involves using sensors and GPS
8 technology to have better information about what's
9 going on in our fields.

10 So, for instance, we fly -- I fly as a
11 licensed drone operator an aerial survey drone, and
12 gather information about our crops. As the general
13 manager that's not the best use of my time. I've
14 actually got an intern this summer from NASA that's
15 going to be helping us build our drone program, to
16 help us monitor irrigation, canopy, fruit production,
17 moisture, even pigs we can find that way.

18 We are modernizing the way that we grow.
19 We're not to -- fully to robotic technology, but
20 there are technologies coming down the pike that I'm
21 going to need technicians, not somebody with a rake.
22 So that day is coming.

23 Q Thank you. No further questions.

24 MR. BRACKEN: No questions.

25 MS. APUNA: No questions.

1 MS. SOUZA: I have a couple questions.

2 CROSS-EXAMINATION

3 BY MS. SOUZA:

4 Q Is there a clause in your lease or
5 sub-license of land from A&B that you will not oppose
6 projects proposed by A&B on its lands?

7 A Not that I'm aware of.

8 Q Are you familiar with the lands that are
9 designated in the proposed Draft General Plan as
10 provisional agriculture immediately adjacent to the
11 petition area, as well as lands between Wahiawa Gulch
12 and Numila?

13 A I am.

14 Q What is your understanding of the possible
15 uses of those lands?

16 A I believe the current County Plan, not the
17 Draft County Plan, also has those as provisional ag,
18 but it's not designated as important ag lands.

19 I've seen a couple of different drawings
20 that show different colors of land use throughout
21 that side. I believe the draft extends the
22 provisional ag below Halewili Road toward Numila.
23 That's a new addition. And I'm hoping it takes a
24 long time before that need arises.

25 Q So if we were to add up acreages, perhaps

1 you can tell us what percentage that is of your
2 plantation.

3 So if you're to add Lima Ola, which you
4 said I think was five percent, you're able to add the
5 provisional ag designation immediately east of Lima
6 Ola through Wahiawa Gulch --

7 A Which is roughly another 75 acres.

8 Q So that's ten percent?

9 A Yes.

10 Q The lands from Port Allen to Wahiawa Gulch
11 makai of the --

12 A I'm not sure what those total acreages are.

13 Q Would you say it's about the same size?

14 A Probably another 150 acres.

15 Q So ten percent. So the lands makai of
16 Halewili between Wahiawa Gulch and Numila?

17 A Maybe another 150. I'm working strictly
18 off a picture of a map.

19 Q So add five, five -- was it ten and five,
20 that's 25 percent of the plantation.

21 Is your plantation still agriculturally
22 viable?

23 A It is.

24 Q Sustainable?

25 A As employee of a company that is leasing

1 the lands from A&B, the company was aware of those
2 types of planning decisions when the purchase was
3 made, the lease was arranged. We have recognized
4 from the start that the -- and those provisions are
5 actually in the lease, identified as agricultural
6 acreage over and above the base acres, but we would
7 still be viable even at 2500 acres.

8 Q And I'm assuming you're familiar with
9 agricultural quality of these lands and the Lima Ola
10 lands, although they are not Important Agricultural
11 Lands. Would you say that they have the same
12 physical qualities as the Important Agricultural
13 Lands in terms of arability, fertility, those kinds
14 of qualities?

15 A All of the land that Kaua'i Coffee farms
16 used to be McBryde Sugar, and was sugar for almost
17 100 years, so all of the lands were arable based on
18 that with water input, fertilizer input and some of
19 the others.

20 Our best coffee on the farm is not on the
21 Lima Ola tract. We have other more valued sections
22 based on either rainfall, soil conditions, soil type.

23 Does that answer your question?

24 Q Are they in any of these areas that we have
25 been talking about?

1 A I wish I had a map. If we were to draw the
2 isohyets, which is the mean rainfall, that section
3 from Lima Ola to below Numila, as you described it,
4 is where we have the lowest amount of rainfall.
5 Those are the areas where I have to put the greatest
6 amount of work to maintain trees at productive level.

7 Q Moving onto Kapa Reservoir. What is the
8 Kaua'i Coffee relationship to Kapa Reservoir?

9 A It's within the bounds of our leased acres.
10 We have a responsibility to maintain and control Kapa
11 Reservoir for irrigation use. It has no natural
12 fill, meaning no stream that flows into it. And we
13 use it as a capacitor for water for when the
14 irrigation ditch is not flowing.

15 So we basically hold water for short-term
16 use. No water goes in unless we put it in, and we
17 drain it out as required.

18 Q And the water is obtained from sources in
19 Hanapepe Valley?

20 A Yes.

21 Q Would that be surface sources or wells?

22 A I believe it's provided to us from A&B, but
23 I believe it's from Pump 3, which is in the Hanapepe
24 River Valley.

25 Q And how -- in the case of a situation in

1 which perhaps there might be a problem with the
2 reservoir, either overtopping or some other
3 structural problem, how would you -- what's the
4 protocol to manage the water levels and providing
5 some comfort of safety for people downstream of the
6 reservoir?

7 A That's a very good question. We are
8 managed by DLNR through their dam safety regulations.
9 We go through regular inspections through them. We
10 have emergency action plans in place and are checked
11 by the state on an annual basis, but I'm not sure of
12 the specific protocol for Kapa as to how we would
13 lower it.

14 If a hurricane were pointed at us, we
15 actually have volume reduction strategies that we
16 have to go through in advance. We take it down to a
17 safer level to anticipate extra rainfall.

18 But Kapa not being fed by any ground
19 source, it's strictly surface rain that would come.

20 Q Thank you.

21 A You're welcome.

22 CHAIRPERSON ACZON: Commissioners, any
23 questions for the witness?

24 COMMISSIONER OKUDA: Thank you for coming
25 here today, Mr. Cowell.

1 You kind of covered this, but just so I'm
2 clear in my mind. Would this project, whether it's
3 just Phase I approved by the Commission, or all the
4 phases over time, would that help your recruitment of
5 employees or workers at your company? Not help your
6 recruiting employees? Or you just don't know at this
7 point in time?

8 THE WITNESS: It would be very hard to
9 anticipate whether a phase could be better or worse.

10 COMMISSIONER OKUDA: Without talking about
11 breaking up into phases, just the project in general,
12 whether Phase I or all the phases at one time, would
13 the project as a whole, as it developed, would it
14 help your recruitment of employees? Not help the
15 recruitment of employees? Or you just can't tell us
16 one way or the other?

17 THE WITNESS: I wouldn't be able to tell
18 you one way or the other. We're very fortunate to
19 have the Habitat for Humanity immediately on our west
20 quarter now. We want to be a good neighbor. We want
21 people to understand what we're doing on the other
22 side of the fence, and potentially become employees.
23 Habitat for Humanity is building out slowly, but we
24 are hoping that a good relationship with our
25 neighbors will lead to employees being interested.

1 COMMISSIONER OKUDA: Thank you.

2 VICE CHAIR SCHEUER: Very quickly. Because
3 you said that A&B provides water to you, so I perhaps
4 have outdated knowledge. I thought that Kaua'i
5 Coffee was part of Alexander & Baldwin.

6 THE WITNESS: It was up until 2010, and
7 Kaua'i Coffee incorporated, previous business entity
8 was part of A&B. Kaua'i Coffee LLC is part of
9 Massimo Zanetti, an Italian firm.

10 So we have a landlord/lessee relationship
11 with A&B.

12 VICE CHAIR SCHEUER: You're a lessee?

13 THE WITNESS: Yes.

14 VICE CHAIR SCHEUER: Thank you.

15 COMMISSIONER CHANG: Thank you, Mr. Cowell,
16 for being here and testifying.

17 I was wondering if Kaua'i Coffee has any
18 plans on replacing the acreage that you've lost?

19 THE WITNESS: Within what is called the
20 broad boundaries of the leased land that we have,
21 there are other parcels that aren't currently in
22 coffee. I'm working closely with A&B to potentially
23 replace those within other lands within the existing
24 boundary that aren't part of our current lease.

25 CHAIRPERSON ACZON: Anybody else? Thank

1 you, Mr. Cowell.

2 Any more public witnesses?

3 THE WITNESS: I was asked by Randy
4 Francisco to read his statement. I'm going read it
5 as if I'm him.

6 My name is Randall Francisco, and I am a
7 resident of Hanapepe, Kaua'i. I am writing this
8 letter in support of the County of Kauai's request
9 for an amendment to the Agricultural Land Use
10 District Boundaries into an Urban Land Use District
11 for certain lands situated at 'Ele'ele, Kaua'i,
12 Hawaii, consisting of approximately 75 acres, Tax Map
13 Key (4)2-1-001:054 related to the Lima Ola HRS 201H
14 project.

15 I do not need housing. I have the
16 privilege of residing in my parent's home built in
17 1959 as part of the original subdivision in Hanapepe
18 Heights. I have had many blessings since I spent my
19 youth growing up in the house and community, moving
20 away to attend college, establishing a career in
21 higher education, returning to Kauai, relocating to
22 the same home, affecting positive change and giving
23 back to this island which has given so much to me.

24 As the former president of the Kauai
25 Chamber of Commerce, I have followed this project

1 since its inception, fully understanding the
2 long-term benefits that a home means to people on the
3 Garden Island. This project indeed represents
4 socio-economic justice, pride of ownership and a deep
5 sense of community, freedom and kuleana.

6 What struck me most about this project,
7 having attended several community meetings by the
8 Kauai Housing Agency staff, was the tremendous
9 support and desire from attendees to see this project
10 brought to life for present and future generations of
11 homeowners and, especially, west Kauai residents.
12 Also, not forgetting that this multi-generational
13 community will offer options for many, including
14 seniors.

15 One lasting impression of a meeting was at
16 the Hanapepe Neighborhood Center. The meeting
17 provided attendees information about the project,
18 including what they need in order to prepare for the
19 opportunity for them. I recall how awestruck I was
20 to see these women at the end of their work day and
21 early evening before dinner attend the meeting with
22 their hopes and dreams of a possible home in their
23 beloved west side community. Each woman was clearly
24 an important decision-maker in her household knowing
25 full well what a positive outcome would be for the

1 eventual project's build-out.

2 As I listened to their questions and
3 comments, it was very clear to me that these women
4 were indeed not only learning and interested about
5 this opportunity, but most of all, what they would
6 need to do to prepare for the eventual chance to
7 apply for housing.

8 The irony of this meeting was that their
9 teacher-friend was unable to attend as she was still
10 in her classroom doing what all teachers do.
11 However, her friends would apprise her of the
12 meetings, as their friend was also interested in the
13 opportunity of moving into one of the homes/house
14 lots.

15 It has been just about 40-plus years since
16 the west Kauai has had a housing project of this
17 significance. This project will continue the cycle
18 of much needed housing for workforce needs, economic
19 development, and residents endeared to the west
20 side's values and quality of life.

21 What began as a dream of the late Mayor
22 Bryan Baptiste has continued under the leadership of
23 Mayor Bernard Carvalho and this west side community
24 and our many, many partners and stakeholders.

25 I ask for your approval of this important

1 and historic moment for Kauai residents.

2 Mahalo and aloha, Randall Francisco.

3 CHAIRPERSON ACZON: Are there any more
4 testifiers, public witnesses? This concludes our
5 public witness testimony for this docket. Let's take
6 a five-minute break.

7 (Recess was taken.)

8 CHAIRPERSON ACZON: We're back on the
9 record.

10 Mr. Minkin, please describe the witnesses
11 you wish to have admitted into the record.

12 MR. MINKIN: For the record, David Minkin
13 on behalf of Petitioner. We have worked out
14 agreement of two stipulations with all parties,
15 including the County of Kauai Department of Planning,
16 State Office of Planning, and Intervenor Souza.

17 Number one stipulation: It is stipulated
18 by and between all parties that all exhibits
19 submitted by all parties are entered into evidence,
20 number one.

21 Number two: Second stipulation by and
22 between all parties, all witnesses that will be
23 called, including the Intervenor Jean Souza, will be
24 deemed experts based upon their training and
25 experience for purposes of this proceeding.

1 That allows you to then just evaluate their
2 testimony as you would any other witness. Is that so
3 stipulated?

4 CHAIRPERSON ACZON: Can I have the party's
5 agreement on that? Mr. Bracken.

6 MR. BRACKEN: The Planning Department,
7 County agrees to that stipulate -- two stipulations.

8 MS. APUNA: OP agrees as well.

9 MS. SOUZA: Intervenor agrees.

10 CHAIRPERSON ACZON: All of the exhibits are
11 admitted to the record.

12 VICE CHAIR SCHEUER: Mr. Chair, may I ask a
13 question?

14 One is Petitioner's expert Mr. Melrose. I
15 notice he's never previously been qualified as an
16 expert before, which is one of the ways that we
17 generally determine -- often we defer if they have
18 been qualified as an expert before, then there is not
19 heavy questioning.

20 I just had some -- if we accept the
21 stipulation among the parties, that means then the
22 next time he comes without any questioning, people
23 would assume that there was some examination of his
24 qualifications in relationship to his expertise.

25 CHAIRPERSON ACZON: That's the stipulation.

1 Is that all right?

2 MR. MINKIN: Yes.

3 For the record, Mr. Melrose will not be
4 present. He has stage four cancer as of less than a
5 month ago.

6 Our first witness is Thomas Holliday, and
7 pursuant to the -- basically the way I understand it,
8 and the way I've conducted myself in the past with
9 witnesses with written testimony, his direct
10 testimony is what has been submitted. I will not be
11 asking him questions, and then it will go down the
12 line for the parties to expedite this process and
13 allow the Commissioners, and if needed I have
14 follow-up questions, as does anyone along the line.

15 CHAIRPERSON ACZON: So presentation of the
16 case, okay.

17 May I swear you in?

18 Do you attest that the testimony you're
19 about to give is the truth?

20 THE WITNESS: Yes.

21 THOMAS W. HOLLIDAY

22 Was called as a witness by and on behalf of the
23 Petitioner, was sworn to tell the truth, was examined
24 and testified as follows:

25 DIRECT EXAMINATION

1 CHAIRPERSON ACZON: Please state your name
2 and address for the record.

3 THE WITNESS: Thomas W. Holliday. I am the
4 Director of Hallstrom team of CBRE, business address
5 1003 Bishop Street, Suite 1800, Honolulu, Hawaii
6 96813.

7 CHAIRPERSON ACZON: Please proceed.

8 MR. MINKIN: Based upon the stipulation,
9 his written direct testimony I believe is Exhibit 31,
10 and with that I would submit him based on that
11 written direct testimony and turn it over down the
12 line. Thank you.

13 MR. BRACKEN: No questions.

14 MS. APANA: No questions.

15 CROSS-EXAMINATION

16 BY MS. SOUZA:

17 Q Your market study extends from Lihue to
18 Kekaha, correct?

19 A Correct.

20 Q What is the thinking behind that broader
21 scope of a project that's located in Ele'ele?

22 A In fact, we looked at this twice for the
23 county, and previously on a more micro level. But we
24 do plenty of work here on the island, and in general
25 divide the island into three parts as to the extent

1 of where a person would be willing to live and work
2 within a given area.

3 And so we look at from Lihue to Kekaha as
4 the south and west side of the island. From Lihue to
5 Anahola as being the east side of the island, and
6 from Anahola to Hanalei as more of the North Shore of
7 the island, and quantify demand within those areas
8 because they are somewhat interchangeable from a
9 housing alternative perspective.

10 Q Is there any concern or limitation that you
11 would like to share in having that large a geographic
12 scope in which Lihue is a big part of that market,
13 and South Kaua'i is a big part of that market?

14 A Again, even if you break it down into, as
15 we have heard testimony today, our surveys and
16 investigation, reveal the same thing. That is that
17 there is a huge demand for housing, affordable
18 housing in west Kaua'i.

19 It's just that from a market perspective,
20 persons who live in -- market is not so tight that it
21 follows political lines, you know, South Kaua'i
22 versus Hanapepe-Ele'ele, people would view those as
23 alternatives if they can get affordable housing.

24 And so we want to make sure we capture the
25 entire, what we call market trade area, for that

1 particular product type.

2 But even on a small basis, when you look at
3 the county's numbers there is definitely demand just
4 in the west Kaua'i area for affordable housing,
5 particularly relative to the nominal projects that
6 are proposed.

7 Q So looking at your latest rebuttal
8 testimony, you indicate that the Lima Ola units can
9 be absorbed in about ten years?

10 A Correct.

11 Q Why then would the project's full build-out
12 be characterized as several decades out?

13 A I am not a political person. Everything I
14 do is based upon the market. So when we look at a
15 project, even though the county is the developer, we
16 look at it from a market perspective.

17 So we look at this whether it was A&B
18 building it or Grove Farm or anybody else building
19 it, that if it was undertaken in quick phases moving
20 forward, it would take about ten years or so to
21 absorb, and about 12 years from beginning to end.

22 Q And looking at your population projections,
23 they're high in comparison with the county's Draft
24 General Plan.

25 A Actually, they're very similar. That is

1 where we got them. We got them from Appendices B of
2 their 2017 numbers. The difference is we go out to
3 2040 while they only go out to 2035, because we like
4 to have a longer time frame. And there was
5 discussion about this project, in fact, extending
6 over several decades.

7 Our numbers are nearly identical to the
8 county numbers. As a matter of fact, we used the
9 county's numbers as a baseline, and then against that
10 we put historical trending, so the historical
11 trending number has a tendency to be slightly higher.

12 In history, market trends have in fact
13 exceeded most county projections slightly. So we
14 show that difference. But we use the county
15 projections as the baseline.

16 Q Thank you.

17 I would like to express my appreciation to
18 you and to the Petitioner for updating your report so
19 it is current. Thank you very much.

20 A Whatever I can do.

21 CHAIRPERSON ACZON: Commissioners, any
22 questions?

23 Mr. Minkin, do you have a follow-up
24 question?

25 REDIRECT EXAMINATION

1 BY MR. MINKIN:

2 Q The witness indicated he needs to clarify
3 something.

4 A No, no, I just wanted to say, one of the
5 things that's been really commonly brought up here
6 was talking about phasing and phasing of the project.

7 Oh, sorry. One of the things that's been
8 brought up consistently here is the phasing of the
9 project, and the county I think is going way -- as
10 someone who has been involved in hundreds of these
11 projects over the years, I think they're going way
12 beyond the call of duty by even talking about that.

13 No private developer comes before the State
14 Land Use Commission and wants to phase a project.
15 Because one of the things is going to result is this
16 all happening again.

17 I enjoy the work personally, getting a
18 chance to get paid, but you know, the county, and
19 therefore, somebody is going to be spending dollars
20 on people like me coming back to redo this time and
21 again, when they could be spending on building
22 affordable housing for people.

23 Q Another follow up.

24 Did you actually consider or try to
25 evaluate the actual housing demand for

1 Ele'ele-Hanapepe area?

2 A In our prior situation, we did. Now,
3 because of the changes that were made between the
4 2014 General Plan and data sources that we were given
5 at the time, and the changes to 2017, it didn't
6 become feasible with the numbers put out by the
7 Planning Department.

8 Q If someone had testified that there is only
9 360 -- the demand is only 360, would you agree with
10 that?

11 A No, I wouldn't.

12 Q Why not?

13 A Well, they didn't take the analysis in
14 their 2017 update to the extent they did in their the
15 2014 materials. They did talk about the number of
16 new households that would be expected in
17 Hanapepe-Ele'ele. Again, that's a political number.
18 It's driven by things other than the market.

19 You know, you're not going to be going to
20 people you can't have any other more children, and
21 you have to live with grandmother for the rest of
22 your life.

23 You've got to allow the market to move
24 somewhat. But even in the household growth that they
25 project, it's like four or 500 homes minimum. And

1 remember that, as we all know throughout the state,
2 any time you have a market area on the neighbor
3 islands, you don't get just resident households
4 buying, you get a lot of second home off-island
5 buyers as well.

6 On Kaua'i they represent about 19 percent
7 of all the resident household units that are
8 available are actually owned by second home buyers.

9 So when you consider that in the area
10 itself it would have been over 400 homes, and you
11 need another 20 or 30 percent, you're talking 500 or
12 something more homes in that area.

13 But, again, I appreciate the political
14 goals of setting up populations, but you know those
15 things are political, not market.

16 And just to take that one step further,
17 currently Hanapepe-Ele'ele represents about
18 8.7 percent of the island's population.

19 Well, we've all heard talk here today about
20 how the island needs 9,000, 10,000 more housing
21 units. Well, eight or nine percent of those housing
22 units, which would be Hanapepe-Ele'ele's fair share,
23 would be like a thousand units.

24 So even just within the overall demand, if
25 you just wanted to keep Hanapepe-Ele'ele as the same

1 population proportion as the other planned areas on
2 the island, it would support, like I say, another
3 800-plus units.

4 Q Nothing further.

5 CHAIRPERSON ACZON: Commissioners? Vice
6 Chair Scheuer.

7 VICE CHAIR SCHEUER: Just a brief question,
8 because you referred to that projection of 9,000
9 needed units. In your written direct, you say that
10 in Lihue to Kekaha region by 2040 there will be a
11 total need for between 7,358 and 9,743 units.

12 THE WITNESS: Correct. I don't necessarily
13 buy the nine to 10,000 for two reasons.

14 One is, again, that goes to 2035. Our
15 projections go to 2040.

16 Secondly, the projections of nine to 10,000
17 is how many resident households there are. That is
18 not the demand for housing units.

19 There are a lot of second home buyers who
20 are not buying resort residential, but who buy in
21 every single project that's made available, unless
22 it's an affordable project such as this one where
23 there will be limitations on who can buy into it.

24 So you have to build way more than just
25 enough to service resident households. So the

1 numbers they were talking about, nine to 10,000 is
2 for resident households to 2035. We are actually
3 talking about the entire market through 2040.

4 So the number is going to be significantly
5 higher five years down the road, and when you put in
6 the buyer demographic of second homeowners.

7 COMMISSIONER CABRAL: In that same question
8 number 16 in your report here, you're referencing
9 those numbers of housing, and you also you reference
10 it to the demand for workforce housing as a workforce
11 housing project.

12 And I think when we met before on the
13 Intervenor's question it was always, in my mind,
14 workforce housing. And I know that when it comes to
15 funding for these projects, that is different than
16 low income, or low low income, and those different
17 levels of income.

18 So when we did our site visit -- and I
19 don't mind being corrected if I misunderstood from
20 our site visit two weeks ago, I understood then that
21 it was the understanding that perhaps the housing may
22 change over the course of Phase I, II, III and IV.
23 And it may either be workforce housing. It might be
24 low income, or low low income depending on what
25 private developer can come forward, and what private

1 developer can get funding, because this is all going
2 to be subsidized funding through the federal
3 government, is my understanding of it, and I could be
4 corrected.

5 So if you were to put that into your mix,
6 do you think that you would still need that many
7 houses if it wasn't just workforce house development,
8 or would you potentially need even more housing if
9 you were to be able to expand that 550 houses and
10 allow for low income?

11 THE WITNESS: If you start talking about
12 ultra, very low income, like below 80 percent or 60
13 percent median level, those people are difficult to
14 house in the market. And so you can always use more
15 of those units. There is never enough of them in the
16 market even subsidized, LIHTC, Section 8, no matter
17 how you build it.

18 I would think some of the builders in here
19 will be developers of other projects who need low
20 cost housing credits in order to build somewhere.
21 And so they would provide a mix that would give them
22 the credits they needed. And sometimes you get bonus
23 credits for providing very low income housing versus
24 gap group priced housing.

25 And they would work on maximizing the

1 number of credits relative to the need, but there is
2 significant need. Our study show that in this area
3 at least 75 percent or so of all homes need to be in
4 the affordable price range, and there's others that
5 say it's 80 percent.

6 COMMISSIONER CABRAL: Maybe this was a
7 trick question. So in terms of your examination of
8 the need and the demand, and I don't know from the
9 questions you talk about economic impact, et cetera,
10 and I don't see a whole lot about social impact.

11 Are you in a position with your expertise
12 to say whether the difference in what the potential
13 social impact might be if in fact this project were
14 to be more of a mix of low low, low 80 percent, just
15 low low income versus workforce development?

16 Do you have any idea of what that might be?

17 THE WITNESS: I'm not a sociologist. But I
18 would say that within the report, one of the things
19 we were asked to do, which is a step further than
20 most market studies, is to identify specific model
21 types, what mix of types of units do we need,
22 multi-family, rental, for sale housing. What price
23 points do we need. What unit types, one and two
24 bedrooms, and what prices should they be rented and
25 sold at.

1 That is typically complex, but that's
2 something the county wanted, so it could help do a
3 better plan.

4 COMMISSIONER CABRAL: Thank you very much.

5 CHAIRPERSON ACZON: Anybody else? Next
6 witness.

7 MR. MINKIN: Next witness would be Cathleen
8 Dagher.

9 CHAIRPERSON ACZON: Do you affirm that the
10 testimony that you're about to give is the truth?

11 THE WITNESS: Yes.

12 CATHLEEN DAGHER

13 Was called as a witness by and on behalf of the
14 Petitioner, was sworn to tell the truth, was examined
15 and testified as follows:

16 DIRECT EXAMINATION

17 CHAIRPERSON ACZON: Please state your name
18 and address for the record.

19 THE WITNESS: My name is Cathleen Dagher.
20 I'm an archeologist at Scientific Consultant
21 Services. Our address is 1347 Kapiolani Boulevard,
22 Suite 408, Honolulu 96814.

23 MR. MINKIN: Again, the direct testimony is
24 contained at Exhibit 46, and I would turn it over
25 down the line, please.

1 MR. BRACKEN: No questions.

2 MS. APUNA: No questions.

3 MS. SOUZA: No questions.

4 CHAIRPERSON ACZON: Commissioners?

5 COMMISSIONER CHANG: Good afternoon. Thank
6 you for being here to testify.

7 You prepared the Cultural Impact
8 Assessment?

9 THE WITNESS: That is correct.

10 COMMISSIONER CHANG: As I read through your
11 testimony, I would like to ask you some questions
12 about when you did the Cultural Impact Assessment.

13 Were you able to do archival research on
14 the area prior to the sugar plantation?

15 THE WITNESS: Yes.

16 COMMISSIONER CHANG: Were there mo'olelos
17 are in place?

18 THE WITNESS: I didn't find any mo'olelos.

19 COMMISSIONER CHANG: Did you look?

20 THE WITNESS: Probably. Yeah, probably.

21 COMMISSIONER CHANG: That's kind of a
22 little unusual that an area doesn't have a mo'olelo.

23 THE WITNESS: We might not have had all the
24 references, but I did try, yeah.

25 COMMISSIONER CHANG: Let me go back.

1 Are you aware of any Land Commission Awards
2 in this petition area?

3 THE WITNESS: Yes. I believe there's one
4 that we mention. It's 7712, and it went to -- it's
5 in Appendix A of the CIA, I believe.

6 MR. MINKIN: Appendix E, I believe.

7 THE WITNESS: Let me refer to the text.
8 I'm going to have a hard time reading that appendix.

9 Okay, on page 15 in the inventory survey,
10 second paragraph -- third paragraph. It went to
11 Kekuanaoa under LCA 7712.

12 COMMISSIONER CHANG: I'm not sure if you
13 were here this morning when Ms. Holi was here.

14 Were you able to get any information from
15 her?

16 THE WITNESS: I was not. We did contact
17 her.

18 COMMISSIONER CHANG: Did she respond?

19 THE WITNESS: No, she did not.

20 COMMISSIONER CHANG: Did her letter come
21 back?

22 THE WITNESS: No, it did not.

23 COMMISSIONER CHANG: Are you aware of any
24 kuleana lands within this petition area?

25 THE WITNESS: Probably not, based on that

1 LCA.

2 COMMISSIONER CHANG: Why do you say that?

3 THE WITNESS: Because of Kekuanaoa, so he
4 got the whole 'ahupua'a.

5 COMMISSIONER CHANG: Even within Land
6 Commission Awards there are still some kuleana lands.

7 THE WITNESS: That is true. I have to say
8 we did this property in 2014, so my memory of all of
9 the details is not really clear. But this is what we
10 found, so this is what we said.

11 COMMISSIONER CHANG: So you don't recall
12 whether any archival research identified any kuleana
13 lands in the area?

14 THE WITNESS: It did not. I would have
15 mentioned it. Basically what we do, is we're
16 archeologists. Generally what we do is we go to the
17 TMK book. We try to go back to the larger land
18 divisions, go to the zoning section, because that
19 usually has more information.

20 So anyway -- and it was before OHA had
21 their database, before a lot of other references were
22 available to us.

23 So based on the TMK and 7712 went
24 Kekuanaoa, that's what we went with.

25 COMMISSIONER CHANG: But in your written, I

1 guess your paragraph 29: "Please describe the
2 matters addressed pursuant to the OEQC guidelines."
3 And you identified 11. Is that correct?

4 I'm looking at your written direct
5 testimony, Exhibit 12.

6 THE WITNESS: Okay.

7 MR. MINKIN: For the record, it's now
8 Exhibit 46.

9 COMMISSIONER CHANG: So OEQC guidelines
10 identify the manner in which you do cultural impact
11 assessments; correct?

12 THE WITNESS: That's correct.

13 COMMISSIONER CHANG: So even if you're an
14 archeologist, these are some guidelines to help guide
15 you in doing that; right?

16 THE WITNESS: That's correct.

17 COMMISSIONER CHANG: So what kind of
18 information did you gather -- let me ask you this.

19 Did you identify any trails in the area?

20 THE WITNESS: We did not. I would have
21 mentioned them.

22 COMMISSIONER CHANG: What information did
23 you look at to determine that there were no trails in
24 the area?

25 THE WITNESS: That's interesting. Well,

1 they didn't show up on maps, you know. They didn't
2 show up on maps.

3 And, well -- and actually the testimony
4 that I did get didn't identify any. So the CIA, we
5 rely on the testimony of people that come forward.
6 And in this case, only one person came forward, and
7 her testimony or her information that she provided to
8 me was that the land had always been in sugarcane.
9 And she didn't know of any. And there may have been
10 activities and whatever in the past there, but she
11 knew of none, and our inventory survey did not
12 identify any.

13 COMMISSIONER CHANG: Your Archaeological
14 Inventory Survey you did it was a pedestrian survey
15 and you did five trenches?

16 THE WITNESS: I believe that's true.

17 I did not participate in the AIS, or in the
18 writing, so I'm just familiar with the findings, the
19 methodology.

20 COMMISSIONER CHANG: That was out of
21 75 acres?

22 THE WITNESS: That's correct.

23 COMMISSIONER CHANG: You did five trenches
24 and found one historic property?

25 THE WITNESS: That was in accordance with

1 the State Historic Division. They were okay with
2 that.

3 COMMISSIONER CHANG: The difficulty that we
4 have as LUC, we have a constitutional mandate that we
5 have to ensure that we're preserving and protecting
6 traditional and customary practices. And so we
7 depend and rely upon the information that is
8 presented to us. So it's really helpful for us to
9 understand the basis upon which you drew the
10 conclusion that there were no traditional and
11 customary practices.

12 And you've been an archaeologist for how
13 many years?

14 THE WITNESS: Over 30.

15 COMMISSIONER CHANG: In Hawaii?

16 THE WITNESS: Mostly.

17 COMMISSIONER CHANG: Have you ever come
18 across a situation where you have found subsurface
19 archaeological or cultural resources, including
20 burials, underneath former sugarcane lands?

21 THE WITNESS: Yes, I'm aware of studies
22 that have identified them, yes.

23 COMMISSIONER CHANG: So in this case there
24 was a presumption that it was former sugarcane lands,
25 and so there really wasn't any additional

1 investigation?

2 THE WITNESS: I'm not responsible for the
3 inventory survey. I did not participate in it.
4 That's under the guidelines of State Historic
5 Preservation Division. They reviewed the report.
6 They accepted it. And that's it. I have nothing to
7 do with that.

8 COMMISSIONER CHANG: But you were
9 responsible for the Cultural Impact Assessment?

10 THE WITNESS: Yes.

11 COMMISSIONER CHANG: And you drew the
12 conclusion that there were no identified traditional
13 customary practices in the area?

14 THE WITNESS: My findings were that no one
15 came forward, and I provided any information on them.

16 So as I said, we got two responses, one was
17 from OHA. They had just commended our efforts on
18 doing a CIA. They did not provide any additional
19 information.

20 The second response is in the CIA. It's in
21 one of the appendices. I can read it to you. It's
22 actually in the text.

23 We contacted -- actually we contacted John
24 Kruse. John Kruse passed my inquiry to Sabra Kauka.
25 And this is what Mrs. Kauka said. She said that John

1 Kruse gave her the SCS letter requesting information
2 on cultural sites on the project area. John Kruse
3 provided her with my letter of inquiry. And she in
4 turn showed -- Sabra Kauka in turn showed my letter
5 of inquiry to Kupuna Janet Kahalekomo, as she is the
6 oldest link in the Hawaiian Studies Kupuna Program to
7 the Hanapepe area, and she is quite knowledgeable.

8 Kupuna Kahalekomo had said that the area
9 has been in either sugarcane or coffee production for
10 her whole life. So any cultural sites that may have
11 been there are long gone.

12 Kupuna Kahalekomo also stated that Francis
13 Ching surveyed the area in the 1950's and read the
14 report. I did not find that report in my research,
15 but CIAs are an opportunity for the local community,
16 traditional community members to come forward and
17 provide information about traditional cultural
18 practices previously or currently conducted either
19 within the project area of interest, or the larger
20 ahupua'a.

21 Sometimes they might spill over into the
22 district, but basically this project and/or ahupua'a.

23 Based on those findings that no one came
24 forward, my conclusions were that there were none
25 identified. If someone had come forward and

1 identified, I would have had a different conclusion.

2 COMMISSIONER CHANG: And I would agree with
3 you that that really is the role of the Cultural
4 Impact Assessment to inform us of any potential
5 impacts.

6 Is that normally how you would do -- would
7 you just send out letters? Did you try -- did you
8 contact any members of the Kaua'i-Niihau Island
9 Burial Council?

10 THE WITNESS: Yes, actually I did. Hold
11 on. Let me find that. Because I did eight
12 individuals for this -- we contacted OHA, contacted
13 Dr. Kamana'opono Crabbe, Hinano Rodrigues, State
14 Historic Preservation Division, Kumane Aipolani,
15 Chair of Kaua'i Island Burial Council, William
16 Ho'ohuli is an Oahu gentleman that requested to
17 always be included in CIA consultation plan. Glen
18 Kapahu, John Kruse, Rhoda Libre, Joseph Manini, Leah
19 Perreira, Ronson Sahut, Beryl Blaich, Kuulei Santos
20 and Wilma Holi.

21 COMMISSIONER CHANG: Did you send them a
22 letter or call them?

23 THE WITNESS: Yes, generally what I do is I
24 send out -- well, this is general. Sometimes there
25 is different practices. Normally what I do is

1 prepare a list of contacts. I send out an initial
2 letter of inquiry to all people on the list. I wait
3 three weeks. I send out follow-up letters.

4 Sometimes -- I don't believe that happened
5 in this case, because I looked over my notes before I
6 came. But sometimes we also post notices in the
7 local newspaper, in this case would have been Garden
8 Island News and Honolulu Star-Advertiser. We post
9 them two consecutive and weekdays then they also run
10 on a Sunday. I think in this case we were lucky and
11 they ran on the same days both in newspaper, also in
12 the OHA newsletter.

13 COMMISSIONER CHANG: Any attempt to do
14 personal contacts?

15 THE WITNESS: I don't always have -- I go
16 with the information I have available. In this case
17 I had addresses, I believe, so, what -- in this case
18 I sent letters. Sometimes people call me. Sometimes
19 people refer other people. The contact list itself,
20 a lot of these people came from the Office of
21 Hawaiian Affairs. They contacted one of our
22 archaeologists here, gave him the list, or he
23 contacted them, they provided him with a list. They
24 passed that onto me.

25 COMMISSIONER CHANG: I recognize that your

1 methodology was you sent out letters. You followed
2 up. But I guess just kind of understanding Hawaiian
3 culture, each ahupua'a has its own stories to tell,
4 and if I didn't find anything, I would have hoped
5 that there would have been additional effort to try
6 to identify -- much of our traditional and customary
7 practices preexisted plantation, but I understand the
8 conclusions, and now I understand the basis upon
9 which you drew that conclusion. Thank you.

10 VICE CHAIR SCHEUER: Commissioner Chang has
11 asked some of the very same questions I was planning
12 to ask, but I have a few more.

13 Just to clarify, because I wasn't clear on
14 your responses. After sending letters, what follow
15 up did you do?

16 THE WITNESS: Follow-up letters. So
17 generally I send initial letters. I waited around
18 three weeks. I send follow-up letters.

19 VICE CHAIR SCHEUER: Your written direct
20 testimony states that you believe this meets the
21 requirements under -- for the LUC to make a decision
22 under Ka Pa'akai O Ka 'Aina.

23 THE WITNESS: Correct.

24 VICE CHAIR SCHEUER: What is your
25 understanding of the Land Use Commission under Ka

1 Pa'akai O Ka 'Aina?

2 THE WITNESS: Actually maybe I don't know.

3 VICE CHAIR SCHEUER: Your written direct
4 testimony says you believe this gives us sufficient
5 information for the LUC to make a determination under
6 Ka Pa'akai O Ka 'Aina; is that correct?

7 THE WITNESS: Yes, okay.

8 VICE CHAIR SCHEUER: SO what are the Land
9 Use Commission's duties under Ka Pa'akai Oka 'Aina?

10 THE WITNESS: From my perspective, I follow
11 the outline provided by OEQC. So in that sense, I
12 fulfilled my responsibility.

13 VICE CHAIR SCHEUER: Can you give me a
14 moment, Chair? I misplaced the witness' testimony.

15 Your answer to written direct question
16 number 32 was: "In light of Ka Pa'akai O Ka 'Aina,
17 does your Cultural Impact Assessment provide
18 sufficient information for the Commission to grant
19 the requested reclassification?"

20 And your response is: "Yes".

21 THE WITNESS: I would hope so. We follow
22 OEQC guidelines. We conducted a methodology. We
23 stand by our findings.

24 VICE CHAIR SCHEUER: So my question for you
25 is: What is the Commission's duties under Ka Pa'akai

1 O Ka 'Aina?

2 THE WITNESS: I guess I don't know. We
3 provided a Cultural Impact Assessment and we stand by
4 it.

5 VICE CHAIR SCHEUER: So you are asserting
6 that it has the information required, but you don't
7 know what the requirements are?

8 THE WITNESS: It has the information that
9 is recommended in the OEQC guidelines, and that is
10 our be responsibility and we have fulfilled those.

11 VICE CHAIR SCHEUER: In Ka Pa'akai O Ka
12 'Aina, the court has referred to the petition area,
13 the affected area by a potential action.

14 What is your understanding of what that
15 area is that is the geographic scope of where you
16 should look?

17 THE WITNESS: That would be the 75 acres
18 that is the project area.

19 VICE CHAIR SCHEUER: Nothing beyond?

20 THE WITNESS: I guess I don't understand
21 the question.

22 VICE CHAIR SCHEUER: Let me ask it again.

23 So in this case this is mauka lands. There
24 may be traditional and customary practices makai of
25 this parcel that could be theoretically affected by

1 this development.

2 Does the scope of your analysis include
3 that geographic area?

4 THE WITNESS: It would have if people had
5 come forward and provided that information.

6 According to OEQC guidelines, as I said earlier, the
7 general geographic area the CIA writer is responsible
8 for is either the project area or the ahupua'a. In
9 the event that traditional cultural practices are
10 spilled out of the ahupua'a into the district, then
11 the geographic area would be expanded.

12 But in this case no one had come forward.
13 If people had come forward, any information they
14 would have provided would have been included. So if
15 they included informational lands mauka, that would
16 have been included in the CIA, or makai, or in the
17 project area. But we got really very limited
18 responses, and no one provided information on
19 traditional cultural practices within the ahupua'a.

20 So because the findings of the CIA are
21 based on what informants tell us, that's what we have
22 to go with.

23 VICE CHAIR SCHEUER: Last question.

24 I just noticed in your resume that you
25 listed experience with the development of the

1 Ritz-Carlton at Honokahua as part of your experience.

2 Can you say a little bit more of what your
3 involvement was there?

4 THE WITNESS: Many years ago -- that's the
5 project that brought me to Hawaii from the mainland.
6 I was field archaeologist, and I came out and
7 excavated -- I worked for about two weeks before the
8 project got shutdown by Governor Waihe'e because it
9 was so controversial.

10 COMMISSIONER ESTES: I would like to ask a
11 question about the letters. Just generally the first
12 letter that you send out, what does it say?

13 THE WITNESS: Oh, I can read it to you.
14 Basically --

15 COMMISSIONER ESTES: You can summarize it.

16 THE WITNESS: Basically the initial
17 paragraph starts out with who contracted us. It has
18 the acreage. The name of the project. The
19 landowner. That kind of information.

20 We revise our letters a little bit, but I
21 believe this one, the second paragraph and some of
22 the following paragraphs describe the laws and --
23 okay. So it describes -- it talks about Act 50, the
24 state constitution that generated CIA, the production
25 of CIAs. It also refers to OEQC guidelines. Then

1 goes into our methodology.

2 COMMISSIONER ESTES: These are the letters
3 sent out to people you're asking to contact you?

4 THE WITNESS: Uh-huh.

5 COMMISSIONER ESTES: And how did you ask
6 them to contact you?

7 THE WITNESS: I say -- actually this one is
8 kind of brief. This is a follow-up letter.

9 This is kind of brief. So we say we are
10 asking you for any information that you or other
11 individuals have which might contribute to the
12 knowledge of traditional cultural activities that
13 were or are currently being conducted in the vicinity
14 of the project area.

15 We are also asking for any information
16 pertaining to traditional cultural activities or
17 traditional rights which may be impacted by the
18 proposed housing development. The results of the
19 Cultural Impact Assessment are dependent on the
20 response and contribution of individuals such as
21 yourself. I also enclose maps that show the project
22 area.

23 COMMISSIONER ESTES: How did you tell them
24 to contact you?

25 THE WITNESS: I say: Please contact me at

1 Scientific Consulting Services, Honolulu. I provide
2 my phone number, my email, and I say with any
3 information and recommendations considering this
4 Cultural Impact Assessment.

5 COMMISSIONER ESTES: So when you didn't
6 hear from those people, you sent out another letter?

7 THE WITNESS: That's correct.

8 COMMISSIONER ESTES: All from Honolulu?

9 THE WITNESS: That's correct.

10 COMMISSIONER ESTES: Did you ever make any
11 personal contact with anybody in that area?

12 THE WITNESS: I did not.

13 COMMISSIONER ESTES: Thank you.

14 COMMISSIONER OKUDA: Just a couple
15 follow-up questions.

16 One more following up with the Vice Chair's
17 question.

18 With respect to your written direct
19 testimony, which has been stipulated into evidence,
20 did you write-up the document, or did somebody write
21 the document up before you signed it?

22 THE WITNESS: The CIA, did I write all of
23 it?

24 COMMISSIONER OKUDA: No, the exhibit that's
25 titled: Written Direct Testimony, and the written

1 direct testimony starts, number one, "Please state
2 your name and business address for the record." And
3 there is an answer. Then question and answer.

4 I'm trying to find out, were you the person
5 who wrote the answers, or were the answers provided
6 to you and you reviewed it, or what was the process?

7 THE WITNESS: Both.

8 COMMISSIONER OKUDA: Well, did you prepare
9 the first draft of this, or did somebody else write
10 it up for you, and then you reviewed it?

11 THE WITNESS: Someone sent it to me.

12 COMMISSIONER OKUDA: Can I ask who sent it
13 to you?

14 THE WITNESS: Honestly, I don't remember.

15 COMMISSIONER OKUDA: When was this sent to
16 you?

17 THE WITNESS: Probably a couple weeks ago.
18 I don't recall. Probably in my phone or emails. I
19 don't recall. I would say like two or three weeks
20 ago.

21 COMMISSIONER OKUDA: How much time did you
22 spend reading the document before you signed it?

23 THE WITNESS: I think I read it pretty
24 thoroughly.

25 COMMISSIONER OKUDA: My question is how

1 much time did you spend reading the document before
2 you signed it?

3 THE WITNESS: I can't tell you that. I'm
4 not sure.

5 COMMISSIONER OKUDA: The reason I'm asking
6 this question, for example, if you look at question
7 No. 31, top of page eight, says:

8 "Are you familiar with the requirements
9 imposed by the Hawaii Supreme Court in the Ka Pa'akai
10 O Ka 'Aina v. Land Use Commission decision?"

11 You see that question?

12 THE WITNESS: Yes.

13 COMMISSIONER OKUDA: And your answer was
14 what?

15 THE WITNESS: "Yes".

16 COMMISSIONER OKUDA: And this is just my
17 observation here, is it because -- did you understand
18 that what you were signing as far as your written
19 direct testimony was as if you were testifying under
20 oath before this Commission?

21 THE WITNESS: Yes, I read this. It made
22 sense. I understood this. I said yes, I understand
23 this.

24 COMMISSIONER OKUDA: Because you do
25 understand that where testimony is given to us

1 contradicts other testimony, we have to use that in
2 weighing the credibility of a witness, because this
3 is a quasi-judicial proceeding?

4 THE WITNESS: I understand.

5 COMMISSIONER OKUDA: So you understand that
6 it's really important that we have accurate
7 information, no matter how long it takes to give us
8 precise or accurate answers?

9 You do understand that, correct?

10 THE WITNESS: Yes.

11 COMMISSIONER OKUDA: Is this the first time
12 you've submitted written testimony to the Land Use
13 Commission?

14 THE WITNESS: Yes.

15 COMMISSIONER OKUDA: Thank you. I have no
16 further questions.

17 CHAIRPERSON ACZON: Take five minutes.

18 (Recess was taken.)

19 CHAIRPERSON ACZON: Everybody be seated.
20 Back on record.

21 Commissioners, any more questions?

22 Mr. Minkin, your next witness.

23 MR. MINKIN: I have some follow-up
24 questions.

25 -o0o-

1 REDIRECT EXAMINATION

2 BY MR. MINKIN:

3 Q Ms. Dagher, in addition to you, who else
4 worked on this Cultural Impact Assessment?

5 A I'm sorry, I don't understand the question.
6 Are you referring to a particular -- I conducted the
7 consultation process, so I reached out to the
8 community. I received their responses. I prepared
9 the analysis and I prepared the conclusion.

10 Q Did anyone else work with you on any other
11 aspect?

12 A Robert Spears, my immediate supervisor.
13 Michael Dayga (phonetic) supervised the inventory
14 survey, and -- yeah.

15 Q Was your Cultural Impact Assessment part of
16 any other document that was being submitted for this
17 project?

18 CHAIRPERSON ACZON: Is your microphone on?

19 MR. MINKIN: Thank you.

20 Q Was the Cultural Impact Assessment part of
21 any other submission in this project?

22 A No.

23 Q Was it connected to the Environmental
24 Assessment?

25 A Yes.

1 Q How was it connected to the Environment
2 Assessment?

3 A The CIA study is a part of the EA.

4 CHAIRPERSON ACZON: Mr. Minkin, can you
5 bring the microphone closer?

6 Q (By Mr. Minkin): So in addition to you,
7 Mr. Spear, your immediate supervisor, and Michael
8 Dayga were involved in doing components for the
9 Environmental Assessment; correct?

10 A That's correct.

11 Q Thank you. I have no further questions.

12 CHAIRPERSON ACZON: Any follow up?

13 MR. BRACKEN: No.

14 COMMISSIONER CHANG: Can I -- I just wanted
15 to confirm for the record, Ms. Dagher, I want to be
16 very clear that I understand all of the information
17 that you relied upon to make your determination that
18 there's no -- based on the studies -- based on the
19 studies and interviews, are there any Native Hawaiian
20 customary -- traditional and customary practices
21 being exercised in the project area. And you said
22 no.

23 Could you please identify for me on the
24 record what were the studies that you looked at?

25 THE WITNESS: I looked at previous

1 archeological studies. I looked at archival
2 research. I looked at Handy and -- do you want the
3 references?

4 COMMISSIONER CHANG: Are they included in
5 your CIA?

6 THE WITNESS: Yes, Handy and Handy,
7 archaeological research.

8 COMMISSIONER CHANG: And that was the
9 extent, but you don't recall doing archival research
10 identifying any mo'olelo in the area?

11 THE WITNESS: That I did not do. I usually
12 go to Waiihona'aina database. That's identified in
13 the LCA. Yeah, in this case I did not. I did not
14 find any mo'olelo.

15 COMMISSIONER CHANG: And you did one
16 interview?

17 THE WITNESS: No, I did not do an
18 interview.

19 COMMISSIONER CHANG: No interviews?

20 THE WITNESS: No, I'm sorry. The response
21 that we got, received, was a written response.
22 Actually both responses were written, so we did not
23 get any oral --

24 COMMISSIONER CHANG: So you had no
25 firsthand contact with anyone about this project

1 area?

2 THE WITNESS: No.

3 COMMISSIONER CHANG: Based upon your
4 information, you identified no resources in the area?

5 THE WITNESS: We made a reasonable effort
6 to reach out to the community. As I said, we made
7 the community aware of the project. So we reached
8 out to identify people that were knowledgeable about
9 traditional cultural practices. Putting notices in
10 the newspaper, putting notices in OHA newsletter.
11 OHA -- I had some of those contacts already, OHA
12 provided us with some.

13 We often rely on -- or part of the process
14 is we consult with organizations that are
15 knowledgeable. They often provide us with contacts.
16 So we contacted those folks.

17 COMMISSIONER CHANG: I just have one last
18 question.

19 Commissioner Scheuer asked you about your
20 experience with Honokahua.

21 THE WITNESS: Yes.

22 COMMISSIONER CHANG: You said you had some
23 work, about two weeks, and it got closed because it
24 was complicated.

25 THE WITNESS: No, it was controversial.

1 That was the project that unified the Native Hawaiian
2 community. They were very angry.

3 COMMISSIONER CHANG: Do you remember why
4 they were angry?

5 THE WITNESS: Yes. There were like a
6 thousands burials that were excavated during that
7 project. And so they were very angry, but that
8 project unified the community. It strengthened the
9 State Historic Preservation -- it ended up doing a
10 lot of good things, and the remains all eventually
11 came back. Went to Smithsonian, they came back and
12 got reinterred exactly the way they came out.

13 COMMISSIONER CHANG: I don't know if many
14 people in the Hawaiian community would agree that it
15 had done a lot of good. It was a basis for the
16 burial laws.

17 THE WITNESS: That's right.

18 COMMISSIONER CHANG: 1400 burials were
19 disturbed. Probably many Hawaiians probably wouldn't
20 have characterized that as something good.

21 Thank you so much for your testimony.

22 CHAIRPERSON ACZON: Anybody else?

23 COMMISSIONER CABRAL: Based on your
24 experience with these types of investigations or
25 reports or efforts to make contact with people in the

1 community, I think I read that you think it was 11
2 people you indicated you sent letters to personally
3 and tried to make contact with, and yet one person
4 got back to you with the information about referring
5 you to someone else.

6 Is that sort of standard, or do you usually
7 get more feedback? Or do you think that more could
8 have been done to get more feedback? What's kind of
9 the -- if there is a norm to that, what is the norm?

10 THE WITNESS: We reached out to actually
11 eight individuals, and many of them were members of
12 the local community.

13 As part of the CIA process we reach out to
14 the community, but we respect their privacy. If they
15 don't want to respond -- so we send out the initial
16 letters, we wait the appropriate period of time. We
17 send out follow-up letters. We respect their
18 privacy. We respect their right to not respond. A
19 lot of times this information is sensitive. People
20 don't like to divulge it. So I think we did an
21 appropriate amount of consultation, yeah.

22 COMMISSIONER CABRAL: Thank you.

23 COMMISSIONER CHANG: One question about
24 methodology. I appreciate the fact that you don't
25 want to sort of invade their privacy, if someone

1 doesn't want to respond.

2 But do you feel that that's an adequate
3 methodology when we are talking about preserving and
4 protecting traditional and customary practices to
5 stop at the point where no one responds, so we make a
6 conclusion, in your opinion?

7 THE WITNESS: Yes. First of all, under
8 OEQC guidelines, we are required to make a fair -- I
9 forget the phrase -- a fair attempt to reach the
10 community. We did a reasonable attempt to reach the
11 community. We do that. Many of these people are
12 elderly and many of them don't want to participate.
13 So, yeah, we don't badger them. We allow them their
14 privacy. We put notices out in the newspaper. I
15 believe people that are interested in these types of
16 things are aware of that.

17 I also believe within these communities
18 they talk to each other, so I believe that they were
19 aware of this project. I believe if they wanted to
20 come forward, they would have. And we did reach out.
21 I think two letters is a fair amount.

22 COMMISSIONER CHANG: Is this normally how
23 you do --

24 THE WITNESS: Yes, this is standard. We
25 post a notice in the local newspapers. We post

1 notices in the OHA newsletter. We contact them. We
2 wait a period. We contact them. If they had
3 contacted me, I would have called them back
4 immediately. And once they respond and let me know
5 that they would like to be interviewed, then I set up
6 the interviews. But if they don't come forward, I
7 respect their privacy.

8 COMMISSIONER CHANG: Do you work with
9 people that are within the community who they might
10 feel more comfortable speaking to?

11 THE WITNESS: Well, no.

12 COMMISSIONER CHANG: Okay. Thank you.

13 CHAIRPERSON ACZON: Mr. Minkin, are you
14 done with the witness?

15 MR. MINKIN: That concludes the testimony
16 of this witness.

17 CHAIRPERSON ACZON: Please call your next
18 witness.

19 MR. MINKIN: Next witness is Travis
20 Braswell.

21 CHAIRPERSON ACZON: Do you affirm that the
22 testimony that you're about to give is the truth?

23 THE WITNESS: Yes.

24 TRAVIS BRASWELL

25 Was called as a witness by and on behalf of the

1 Petitioner, was sworn to tell the truth, was examined
2 and testified as follows:

3 DIRECT EXAMINATION

4 CHAIRPERSON ACZON: Please state your name
5 and address for the record.

6 THE WITNESS: My name is Travis Braswell,
7 representing Mott MacDonald Engineering Company, 7621
8 Purfoy Road, Suite 115, Fuquay Varina, North Carolina
9 27526.

10 CHAIRPERSON ACZON: Mr. Minkin.

11 MR. MINKIN: Again, as with the other
12 witnesses, the direct testimony is contained at
13 Exhibit 50.

14 MR. BRACKEN: No questions.

15 MS. APANA: No questions.

16 CHAIRPERSON ACZON: Ms. Souza.

17 MS. SOUZA: Yes, I have a few.

18 CROSS-EXAMINATION

19 BY MS. SOUZA:

20 Q In your testimony or report, I can't
21 remember which one now, what is your rationale for
22 saying that an increase of ten percent more traffic
23 generated would have no effect on the traffic or
24 accommodation, and a ten percent increase by zeroing
25 out the amount of bicycles five percent and bus rides

1 five percent, which were assumptions in your traffic
2 impact analysis.

3 A So you're asking the rationale behind the
4 effects of including that versus not including that?

5 Q I believe your statement was increase of
6 ten percent more traffic generated would have no
7 effects on the traffic recommendations.

8 A Right. So basically the intent with that
9 was that if we took no traffic reductions from the
10 transit bike and ped use, the numbers, the volumes
11 that we would be including in the trip generation are
12 a small amount when dispersed over the study
13 intersections, that the recommendations that we made
14 would not change.

15 Q One of the findings in your report
16 indicated that the project will already cause traffic
17 level to be level of service F, I believe.

18 A The traffic study -- basically what we do
19 is we analyze the traffic at an existing year to
20 establish a baseline. We coordinate it with the
21 Department of Transportation to add a growth rate to
22 the build-out year of the development, and that's
23 without a project, to get an estimate of what future
24 conditions would be like. And then we added the side
25 traffic to that, and we compared the two. And the

1 levels of service would be F without the project at
2 that future year.

3 Q So with this project it's still projected
4 level of service F. So if you increased the traffic
5 generated by ten percent, it still would be level of
6 service F?

7 A Correct. More traffic you add, you're
8 going to add the delay.

9 Q How would you characterize level of service
10 F if you were a driver along a Kaumualii going west
11 to Ele'ele Shopping Center? What does that mean?

12 A Highway capacity manual is what we use, and
13 that's where we get the levels of service. And it's
14 defined as delay, and so it's A through F. A being
15 really no delay. You're free flowing. You're able
16 to drive and make all your maneuvers, down to F,
17 which is basically, stop, stop and go, pretty bad
18 conditions.

19 Q And what is your assessment of the regional
20 traffic impacts of 550 more housing units in Ele'ele?

21 A Regional impact, typically a study like
22 this for a development going in a residential area,
23 the TIAR is more a localized study. It doesn't look
24 at regional impacts.

25 If you start thinking regionally with

1 these, you're putting -- there are more assumptions
2 that would have to go that are less reliable, where
3 folks are traveling to and going to and from. And
4 for us to make an assumption based on different
5 driveways and roadways that are in between, it just
6 becomes less reliable.

7 Q What is your assessment of the conventional
8 method of assessing traffic impact? Have they done a
9 good job, poor job in estimating traffic loads,
10 especially off-site and downstream?

11 A My experience, yes.

12 Q Poor job?

13 A A good job.

14 Q No further questions.

15 CHAIRPERSON ACZON: Commissioners.

16 VICE CHAIR SCHEUER: Aloha. Your written
17 direct testimony, question 17 notes the TIAR was
18 dated March 24, 2014 and revised. Have there been
19 any further revisions to that?

20 THE WITNESS: Not that I'm aware of.

21 VICE CHAIR SCHEUER: How long is a TIAR
22 sort of fresh? If you get what -- for how long a
23 period might it be relied on for decision-making, or
24 alternatively, what are the factors a decision-maker
25 should consider whether or not it needs to be

1 updated?

2 THE WITNESS: In my experience, three to
3 five years maybe. I'm pulling from work I do with
4 local municipality back home. I think they consider
5 it good for about five years out.

6 VICE CHAIR SCHEUER: What are some of the
7 factors that affect that?

8 THE WITNESS: Well, traffic patterns
9 change, volumes change. When we did the study, we
10 did traffic counts on existing levels out there now,
11 and then you're estimating a growth, so the farther
12 away you get from that baseline, it's a good idea to
13 go ahead and re-evaluate and see if the traffic has
14 changed, has it grown at the level that you thought
15 it would. You know, sometimes it's slower growth,
16 sometimes it quicker.

17 VICE CHAIR SCHEUER: That's it for me.
18 Thank you.

19 CHAIRPERSON ACZON: Commissioners?

20 COMMISSIONER CHANG: Just one.

21 How familiar are you with the traffic
22 conditions on Kaua'i? Have you done other traffic
23 studies?

24 THE WITNESS: Not on Kaua'i.

25 COMMISSIONER CHANG: So first traffic study

1 on Kaua'i?

2 THE WITNESS: Yes.

3 COMMISSIONER CHANG: When you do traffic
4 studies, does the uniqueness of the locality
5 sometimes make a difference on the traffic pattern?

6 THE WITNESS: Yes, and we conducted a field
7 visit before starting to come and collect accounts
8 and to do a field visit. I believe we also
9 interviewed someone with the school, elementary
10 school.

11 VICE CHAIR SCHEUER: So you did more
12 interviews than the previous witness is what you are
13 saying?

14 THE WITNESS: We spoke with someone at the
15 school.

16 COMMISSIONER CHANG: So is your position
17 that the traffic study that was prepared -- did you
18 do a traffic study for Phase I?

19 THE WITNESS: The study is for the whole --

20 COMMISSIONER CHANG: For the whole
21 build-out?

22 THE WITNESS: Yes.

23 COMMISSIONER CHANG: There is a
24 recommendation that a new updated TIAR be prepared
25 before all subsequent phases to re-evaluate the

1 validity of the current TIAR. Would you agree with
2 that?

3 THE WITNESS: That seems fair.

4 COMMISSIONER CHANG: Seems fair,
5 reasonable, notwithstanding that your traffic study
6 was for the entire build-out, you believe it's also
7 reasonable to do an updated TIAR before the next
8 phase of development?

9 THE WITNESS: That's right.

10 CHAIRPERSON ACZON: Anybody else?

11 REDIRECT EXAMINATION

12 BY MR. MINKIN:

13 Q And the updated TIAR is requested by the
14 Department of Transportation for the state, correct?

15 A That's my understanding, yes.

16 Q And you indicated that an updated TIAR
17 would be fair, is it because the traffic patterns may
18 change once the initial phase goes in?

19 A Sure. I mean, and background volumes. I
20 mean not just the development, but just as time goes
21 on, like I said, traffic growth may occur slower or
22 quicker than that we expected.

23 Q Thank you. Nothing further.

24 CHAIRPERSON ACZON: Are you done with the
25 witness?

1 MR. MINKIN: Next witness would be Max
2 Solmssen.

3 CHAIRPERSON ACZON: Do you affirm that the
4 testimony that you're about to give is the truth?

5 THE WITNESS: Yes.

6 MAX SOLMSEN
7 Was called as a witness by and on behalf of the
8 Petitioner, was sworn to tell the truth, was examined
9 and testified as follows:

10 DIRECT EXAMINATION

11 CHAIRPERSON ACZON: State your name and
12 address for the record.

13 THE WITNESS: Max Solmssen, 1286 Queen Emma
14 Street, Honolulu, Hawaii 96813.

15 MR. MINKIN: Thank you. Direct testimony
16 is at Exhibit 48. And with that I would turn him
17 over to the others.

18 MR. BRACKEN: No questions.

19 MS. APUNA: No questions.

20 MS. SOUZA: Yes, I have a couple questions.

21 CROSS-EXAMINATION

22 BY MS. SOUZA:

23 Q So you're responsible for the Environmental
24 Assessment?

25 A Yes. I worked on the Environmental

1 Assessment.

2 Q So related to park needs. What's your
3 assessment of the differences between neighborhood
4 park and a beach park?

5 A Neighborhood parks are usually more upland,
6 and beach parks include a shoreline area.

7 Q What's your experience on Kaua'i?

8 A As far as Environmental Assessments?

9 Q Uh-huh.

10 A I've done about three other Environmental
11 Assessments in my career in Kaua'i.

12 Q Would you acknowledge at least that the
13 combination of the requirements for a neighborhood
14 park might be different than the requirements and use
15 of a beach park, and the beach park as it exists on
16 Kaua'i, for example, Salt Pond Beach Park?

17 A Could you repeat the question?

18 Q So your EA indicated that based on the
19 population for this area, expected population for
20 this area, that there would be a need for X number
21 acres of a neighborhood park, and that that
22 requirement is being met on-site.

23 But I didn't see any reference to the
24 impact that these residents would have on a larger
25 facility such as Salt Pond Beach Park.

1 So do you have any comments about that?

2 A I don't, no.

3 Q Thank you.

4 CHAIRPERSON ACZON: Commissioners?

5 COMMISSIONER OKUDA: In your professional
6 opinion, is the project in conformance with the
7 Kaua'i General Plan?

8 THE WITNESS: Yes.

9 COMMISSIONER OKUDA: Why do you say it is?

10 THE WITNESS: As we talk about in the EA,
11 there's a number of different aspects of the plan
12 that the project is in conformance with, such as
13 create housing for Kaua'i residents and a number of
14 other areas as well.

15 COMMISSIONER OKUDA: In coming to your
16 evaluation or conclusion that the project is in
17 conformance with the Kaua'i General Plan, did you
18 take into account what the opinion might be of the
19 Kaua'i Planning Office?

20 THE WITNESS: We did consult them,
21 consultation period we consulted the Kaua'i Planning
22 Department.

23 COMMISSIONER OKUDA: Do you know what their
24 opinion is about whether or not this project conforms
25 with the Kaua'i General Plan?

1 THE WITNESS: Off the top of my head, I
2 don't know exactly what their opinion is.

3 COMMISSIONER OKUDA: Would their opinion be
4 something that you think would be relevant to your
5 conclusion in deciding whether or not the project is
6 in conformance with Kaua'i General Plan?

7 THE WITNESS: It could be, yeah.

8 COMMISSIONER OKUDA: Because that would be
9 information you would want to know, correct? What if
10 the Kaua'i Planning Office's position is that in
11 general the project is not in conformance with the
12 Kaua'i General Plan, would that affect your opinion?

13 THE WITNESS: Yeah, that is something we
14 could take into consideration. We received that
15 during the EA process.

16 COMMISSIONER OKUDA: Thank you. No further
17 questions.

18 VICE CHAIR SCHEUER: Aloha. I want to
19 follow up with some of the discussions that we were
20 having with the witness who was the author of the
21 Cultural Impact Assessment, because this document was
22 incorporated into the Environmental Assessment.

23 If I understand your written direct
24 testimony correctly, I believe -- or you have stated
25 that -- let me pull up the exact -- you believe that

1 we can make a decision on this docket given the
2 information in the EA?

3 THE WITNESS: Yes.

4 VICE CHAIR SCHEUER: Including the Cultural
5 Impact Assessment?

6 THE WITNESS: Yes.

7 VICE CHAIR SCHEUER: So you believe the
8 Cultural Impact Assessment contains sufficient
9 information for us to make a Ka Pa'akai analysis?

10 THE WITNESS: Ka Pa'akai analysis? I'm not
11 familiar with that term, Ka Pa'akai.

12 VICE CHAIR SCHEUER: Okay. So part of what
13 the Cultural Impact Analysis helps us to do is
14 perform an analysis required by the Hawaii State
15 Supreme Court under a case called Ka Pa'akai O Ka
16 'Aina, which requires us -- and I'll paraphrase -- to
17 identify the scope of valued cultural and natural
18 resources in the Petition area, the degree to which
19 those resources and practices -- the degree to which
20 those resources and practices may be affected by a
21 proposed development, and the actions that can be
22 taken to minimize or eliminate any impact on those
23 practices.

24 So there was considerable questioning about
25 whether the outreach for the information or the

1 research done was sufficient in the CIA for us to
2 make those analysis.

3 THE WITNESS: Yeah, I mean, I've done a
4 number of Environmental Assessments and the
5 methodology that SCS used is on par with what I've
6 seen before, the archival research, and then reaching
7 out to folks via letters. So, yeah, I believe it was
8 sufficient in satisfying that.

9 VICE CHAIR SCHEUER: The CIA states it was
10 prepared for another person at your firm, I believe
11 Sakoda.

12 THE WITNESS: That was my previous boss who
13 no longer works with our company.

14 VICE CHAIR SCHEUER: So were you involved
15 with the entirety of the preparation of this
16 Environmental Assessment being written from its
17 inception?

18 THE WITNESS: Yes.

19 VICE CHAIR SCHEUER: But you had a
20 supervisor who was actually responsible as the
21 primary coordinator?

22 THE WITNESS: She was project manager
23 initially.

24 VICE CHAIR SCHEUER: Did you then become
25 the project manager.

1 THE WITNESS: Yes.

2 COMMISSIONER CHANG: Just some additional
3 questions.

4 The difficulty that we have as the Land Use
5 Commission is that the Supreme Court has made it very
6 clear that we have to have sufficient findings, that
7 they have determined the protection and preservation
8 of traditional and customary practices is a
9 constitutional right, and that we have an obligation,
10 we have an affirmative obligation.

11 So to a large extent we rely upon the
12 information provided by the Petitioner, and in this
13 case, again, the difficulty that we have is, the CIA
14 sent out letters, may have done some archival
15 research, but weren't aware whether mo'olelo -- for
16 Hawaiians the mo'olelo will tell you about the place,
17 tell you about what kind of resources may or may not
18 be there. Tell you about water, winds, tells you a
19 lot.

20 Some of those precontact information is
21 very relevant to understanding what some of those
22 traditional practices may have been.

23 Unfortunately, based upon the testimony
24 there wasn't a lot of that information, in my view,
25 to help us make that kind of finding. So this is

1 very difficult. We're trying to understand the basis
2 upon which that conclusion was made that there's no
3 impacts when you sent out a letter and you get no
4 response.

5 So do you just stop at that? Do you think
6 that's enough?

7 THE WITNESS: Yeah. Going back to what
8 Cathy was talking about, you send a letter, no one
9 responds. Send another one, no one responds. I
10 don't think it's appropriate to go and knock on
11 people's doors, call over and over. Again, I would
12 think that there needs to be some kind of a limit,
13 but again, I'm not an archeologist to get that kind
14 of specific detail scope.

15 COMMISSIONER CHANG: What about going, for
16 example, to kupunas in the area? What about going to
17 Bishop Museum? What about going to the archives?
18 Aren't there other available resources or references
19 other than relying upon no response to a letter?

20 THE WITNESS: She also, she mentioned that
21 she consulted OHA. I feel like that's a pretty good
22 resource. We reached out to them in pre-consultation
23 period. And a lot of times organizations like OHA
24 will give us those key community members that we can
25 reach out to. So she did do that.

1 COMMISSIONER CHANG: And it doesn't sound
2 like she got a lot of information. They just said,
3 well done, we're glad you guys are doing a CIA. Was
4 that Kamana'o pono Crabbe, they applauded the efforts
5 to do a CIA. I thought I read that.

6 THE WITNESS: I'm not sure. She reached
7 out to the Burial Council as well.

8 COMMISSIONER CHANG: She sent letters, no
9 one responded.

10 Kind of my experience in Hawaiian
11 community, people are going to respond if they know
12 who you are, sometimes maybe. So think about that.
13 Because like I said, it may be very self-serving to
14 say, no response, therefore no adverse interest. I
15 don't know, that's the conclusion here.

16 So, you know, hard place for us to be in
17 where historically many Hawaiians have lost access to
18 resources, and this is a body where we can try to
19 make sure that we are protecting those.

20 So we take that -- I think everybody here
21 takes that really seriously.

22 But in your opinion, the CIA was adequate
23 and should have sufficient information for us to make
24 a determination?

25 THE WITNESS: Yes.

1 COMMISSIONER CHANG: Can I ask you a
2 question --

3 CHAIRPERSON ACZON: Commissioner Chang, can
4 I interrupt you?

5 Mr. Minkin, how many more witnesses do you
6 plan to call today?

7 MR. MINKIN: Four more, and maybe a fifth
8 based on what was said today.

9 CHAIRPERSON ACZON: Ms. Apuna, I understand
10 you folks have to leave.

11 MS. APUNA: Yes, our flights at 5:30. We
12 will be leaving.

13 CHAIRPERSON ACZON: You read the testimony.
14 Do you have any questions for them?

15 MS. APUNA: I'm assuming you're going to go
16 through all the witnesses today, or will there be
17 some for tomorrow? Maybe we could keep certain ones
18 for tomorrow.

19 CHAIRPERSON ACZON: Can you name all the
20 witnesses, so Ms. Apuna --

21 MR. MINKIN: Anson Murayama, Gary Mackler,
22 Marie Williams, Michael Dahilig.

23 CHAIRPERSON ACZON: Do you have any
24 questions for them?

25 COMMISSIONER CHANG: We're not going to

1 proceed -- I'm uncomfortable with proceeding without
2 the presence of Office of Planning.

3 CHAIRPERSON ACZON: Commissioners?

4 VICE CHAIR WONG: Commissioner Chang will
5 finish her question and I have a question.

6 MR. MINKIN: Finish up this witness.

7 COMMISSIONER CHANG: I'll just ask one more
8 question.

9 CHAIRPERSON ACZON: Can you guys make it?

10 COMMISSIONER CHANG: My question really is
11 short.

12 Mr. Solmssen, was there a reason why you
13 did an EA and not an EIS for the project?

14 THE WITNESS: Basically looking to see if
15 there is going to be potential significant impact on
16 resource area.

17 COMMISSIONER CHANG: Someone had raised
18 issue about segmentation and cumulative impacts
19 because of Phase I, so is there a reason why you just
20 did an EA?

21 THE WITNESS: The EA looks at the entire
22 project.

23 COMMISSIONER CHANG: And you felt the EA
24 was adequate for this size project?

25 THE WITNESS: Yes.

1 COMMISSIONER CHANG: Okay.

2 VICE CHAIR WONG: Chair, do you mind if we
3 call the witness back tomorrow? Is that possible,
4 tomorrow morning? Because I think OP needs to catch
5 a plane.

6 COMMISSIONER CABRAL: Let's see if these
7 folks have questions of this witness before we stop.

8 MR. MINKIN: I have some follow up also
9 just to be safe.

10 CHAIRPERSON ACZON: Let's recess for the
11 day.

12 COMMISSIONER OKUDA: Very quickly before a
13 recess, can I ask so that it's not a gotcha kind of
14 thing at the end, if the parties can address at
15 closing or some point in time whether or not the
16 standard Ka Pa'akai, so that we're clear, the case
17 found at 94 Hawaii 131, 2015 case whether those
18 standards are met by the record when the record and
19 when the evidence closes, whether or not the
20 standards have been met, or the standards have not
21 been met?

22 And the second thing is whether the parties
23 can address at closing, time of closing whether or
24 not a finding needs to be made by the Housing Finance
25 Development Department or Board under HRS

1 201H-38(a)(1), whether it has to be a specific
2 finding or not, and whether or not there is evidence
3 in the record regarding that.

4 Thank you, Chair.

5 CHAIRPERSON ACZON: So let's recess for the
6 day. We will convene tomorrow at 9:00 a.m., same
7 place.

8 (The proceedings adjourned at 4:22 p.m.)
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CERTIFICATE

STATE OF HAWAII)
) SS.
COUNTY OF HONOLULU)

I, JEAN MARIE McMANUS, do hereby certify:

That on June 28, 2017, at 9:30 a.m., the
proceedings contained herein was taken down by me in
machine shorthand and was thereafter reduced to
typewriting under my supervision; that the foregoing
represents, to the best of my ability, a true and
correct copy of the proceedings had in the foregoing
matter.

I further certify that I am not of counsel for
any of the parties hereto, nor in any way interested
in the outcome of the cause named in this caption.

Dated this 28th day of June, 2017, in Honolulu,
Hawaii.

/S/ Jean Marie McManus
JEAN MARIE McMANUS, CSR #156