

Land USE COMMISSION

STATE OF HAWAI'I

Hearing held on January 24, 2019

Commencing at 9:30 a.m.

Airport Conference

400 Rogers Boulevard, Suite 700, Room #IIT#2

Honolulu, Hawaii 96819

AGENDA

VII. Call to Reconvene

VIII. HEARING AND ACTION

DR18-64 ROBINSON KUNIA LAND, LLC (Oahu)
Consider Petition for Declaratory Order to
designate Important Agricultural Lands for
approximately 1239.20 acres at Kunia, O'ahu,
Hawai'i identified by TMK Nos. All or portions
of Tax Map Keys (1)9-4-003-001(por.)and
(1)9-4-004-002 (por.) -003-004
(por.)-007, -008 -010 -011, 012, 018 and
-019(por.)

IX. Rule Amendment Status and Authorization to
proceed with Amendments

X. Adjournment

BEFORE: Jean Marie McManus, CSR #156

APPEARANCES:

JONATHAN SCHEUER, Chair
NANCY CABRAL, Vice Chair
AARON MAHI, Vice Chair
DAWN N.S. CHANG
GARY Y. OKUDA
LEE OHIGASHI
ARNOLD WONG
EDMUND ACZON

STAFF:

RANDALL S. NISHIYAMA, ESQ.
Deputy Attorney General

DANIEL ORODENKER, Executive Officer
RILEY K. HAKODA, Planner/Chief Clerk
SCOTT A.K. DERRICKSON, AICP-Planner
BERT SARUWATARI, Planner

DAWN APUNA, ESQ.
Deputy Attorney General
RODNEY FUNAKOSHI, Planning Programing Administrator
Lorene Maki, Planner
For State Office of Planning

EARL YAMAMOTO, Planner
For Department of Agriculture

EUGENE TAKAHASHI, Deputy Directory
DINA WONG, Acting Chief
Department of Planning and Permitting
For County of Honolulu

STEPHEN MAU, ESQ.
Attorney for Robinson Kunia

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1 CHAIRPERSON SCHEUER: Aloha mai kakou. Good
2 morning.

3 This is the January 24th, 2019 portion of
4 the January 23rd and 24th, 2019 Land Use Commission
5 meeting.

6 Our next agenda item is hearing and action
7 meeting on DR18-64 Robinson Kunia Lands, LLC-
8 Petition for Declaratory Order to designate Important
9 Agricultural Lands for approximately 1239.20 acres of
10 land at Kunia, O'ahu, Hawai'i identified by the
11 following Tax Map Key Nos. all or portions of Tax Map
12 Keys (1)9-4-003-001(por.) and -004, (1)
13 9-4-004-002(por.) -003 -004(por.) -007, -008, -010,
14 -011, -012, -018, and -019 (por.)

15 Will the Petitioner please identify
16 themselves for the record?

17 MR. MAU: This is Stephen Mau. I'm the
18 attorney for the Petitioner. Next to me here is
19 Kehau Wall, who is one of the representatives from
20 the Petitioner.

21 CHAIRPERSON SCHEUER: Thank you.

22 Will the other parties please identify
23 themselves?

24 MR. TAKAHASHI: My name is Eugene Takahashi
25 with City and County of Honolulu, Deputy Director

1 with the department. Joining me is Dina Wong, Acting
2 Planning Division Chief for the Department of
3 Planning and Permitting.

4 MS. APUNA: Good morning, Deputy Attorney
5 General Dawn Apuna on behalf of State Office of
6 Planning. Here with me today is Lorene Maki and
7 Rodney Funakoshi.

8 Earl Yamamoto is here on behalf of the
9 Department of Agriculture.

10 CHAIRPERSON SCHEUER: Thank you.

11 Let me update the record.

12 On November 28, 2018, the Commission
13 received the Petitioner's Petition for Declaratory
14 Order to designate Important Agricultural Lands, and
15 Exhibits A through E with a hard copy and digital
16 file; and \$1000 filing fee.

17 A request for comments to the LUC about the
18 Petition were mailed by Petitioner to OP, the State
19 Department of Agriculture and to the City and County
20 of Department of Planning and Permitting on the same
21 day.

22 On December 24, 2018, Christmas Eve, the
23 Commissioner received DOA's comments on the Petition.

24 On December 26, 2018, the Commission
25 received OP's comments on the Petition.

1 On December 31, 2018, New Year's Eve, the
2 Commission mailed the January 9-10, 2019 site visit
3 agenda notice to the Parties and the Statewide and
4 Oahu mailing lists.

5 On January 19, 2019, the Commission
6 received Petitioner's Response to OP and DPP's
7 comments.

8 Mr. Mau, are you familiar with the
9 Commission's policy and rules regarding reimbursement
10 of hearing expenses?

11 MR. MAU: We are.

12 CHAIRPERSON SCHEUER: Let me briefly
13 describe our procedure for today on this docket.

14 First, I'll call for any individuals
15 desiring to provide public testimony to identify
16 themselves. All such individuals will be called up
17 to the public witness box where I will swear you in
18 prior to providing testimony.

19 After the completion of testimony, then the
20 Petitioner will make their presentation. After the
21 Petitioner's presentation, we will receive any
22 comments from the County, Office of Planning and
23 Department of Agriculture. And after that the
24 Commission will conduct its deliberations.

25 Are there any questions about our

1 procedures for today? Petitioner?

2 MR. MAU: Thank you, Mr. Chair. No
3 questions.

4 CHAIRPERSON SCHEUER: County?

5 MR. TAKAHASHI: No questions.

6 MS. APUNA: No questions.

7 MR. YAMAMOTO: No questions.

8 CHAIRPERSON SCHEUER: And I will also note
9 from time to time I will call for short breaks and
10 recesses, including the opportunity to give a rest to
11 our court reporter.

12 Mr. Mau, I intend to declare that the
13 documents submitted by the Department of Agriculture,
14 Office of Planning, City and County of Honolulu
15 Department of Planning and Permitting, any written
16 public testimony, and Petitioner's response are part
17 of the record in this matter.

18 Do you have any objections to this?

19 MR. MAU: No objection.

20 CHAIRPERSON SCHEUER: Hearing none, the
21 documents are made part of the record. Without
22 objection the documents are made part of the record.

23 Now it's time for public testimony. I
24 believe we have at least one person signed up to
25 provide testimony.

1 COMMISSIONER OKUDA: May I make a
2 disclosure before we proceed?

3 CHAIRPERSON SCHEUER: Please go ahead.

4 COMMISSIONER OKUDA: Thank you, Mr. Chair.

5 I would like to disclose the fact Ms. Wall
6 and I have been co-counsel representing a party in a
7 matter unrelated to anything pending before the Land
8 Use Commission. I don't believe that would affect my
9 ability to render a decision in this case.

10 CHAIRPERSON SCHEUER: Thank you. Any other
11 disclosures, Commissioners?

12 MR. MAU: Mr. Chairman, for the record, Mr.
13 Fee is Petitioner's witness, not a public witness.

14 CHAIRPERSON SCHEUER: Okay.

15 COMMISSIONER OKUDA: Mr. Chair, if I can
16 also disclose, I think I mentioned this at the site
17 visit, but I'll do so for the record, that my late
18 father worked very closely with Mr. Fee regarding a
19 Palolo Valley Water Association, which was a
20 nonprofit community organization.

21 Although I personally have not socialized
22 with Mr. Fee, but I know about Mr. Fee through my
23 late father.

24 CHAIRPERSON SCHEUER: Okay. Thank you.

25 Are there any further disclosures?

1 So Mr. Fee is not here as a public witness.
2 So you'll get to call him during your presentation?

3 MR. MAU: That's correct.

4 CHAIRPERSON SCHEUER: Are there any public
5 witnesses wishing to give public testimony on this
6 matter?

7 Mr. Mau, you may proceed.

8 MR. MAU: Thank you, Mr. Chairman. We call
9 as our first witness, Mr. Tom Fee.

10 CHAIRPERSON SCHEUER: So, Mr. Fee, I will
11 swear you in.

12 Do you swear or affirm that the testimony
13 you're about to give is the truth?

14 THE WITNESS: I do.

15 CHAIRPERSON SCHEUER: Please state your
16 name and address for the record, then you can respond
17 to the questions from counsel.

18 THE WITNESS: Thomas E. Fee, address 733
19 Bishop Street, Suite 2590, Honolulu, Hawai'i.

20 CHAIRPERSON SCHEUER: I will ask that you
21 speak as close to the microphone as possible.

22 THOMAS E. FEE
23 Was called as a witness by and on behalf of the
24 Petitioner, was sworn to tell the truth, was examined
25 and testified as follows:

DIRECT EXAMINATION

BY MR. MAU:

Q Mr. Fee, where do you work?

A HHF Planners.

Q What is your title there?

A President.

Q How long have you been at that job?

A 35 years.

Q We submitted to the Commission as part of the record in this case -- Chairman mentioned your resume. That's the resume that you provided to me?

A Yes.

Q Is that a correct resume?

A Yes.

Q I assume all the Commissioners do have the resume before you.

Would you provide us briefly your educational background?

A Bachelor of Arts in economics, and a Master's of Urban and Regional Planning from Hawai'i.

Q And as principal of HHF planners --

CHAIRPERSON SCHEUER: I'll also ask you to speak closer to the microphone.

MR. MAU: I will. Thank you.

Q (By Mr. Mau): As a principal of HHF

1 Planners, what services do you provide?

2 A We focus on land planning.

3 Q Are you a member of any professional
4 associations?

5 A Yes. I have a number of professional
6 associations including the American Planning
7 Association, American Institute of Certified
8 Planners, local chapters of the Urban Land Institute,
9 Hawai'i Association of Environmental Professionals,
10 Aloha Chapter of Lambda Alpha International Real
11 Estate Economic Organization, and U.S. Green Building
12 Council.

13 Q As a land planner, do you specialize in any
14 particular area?

15 A Yes. Areas include master planning, hazard
16 mitigation planning, land use and entitlement
17 processing, and a number of other subspecialties.

18 Q Do you possess any licenses?

19 A I'm a member of the American Institute of
20 Certified Planners.

21 Q How long have you had that license?

22 A 1986.

23 Q Have you ever testified before the Land Use
24 Commission as an expert witness?

25 A Yes.

1 Q What year was that or what was the matter
2 about?

3 A It was in the matter of the Kapolei West
4 redistricting. We prepared the master plan, the
5 environment -- EIS, and supported the Land Use
6 Commission process.

7 Q And do you believe your testimony here
8 today will be helpful in assisting the Commission in
9 understanding this case, in rendering a decision in
10 the case?

11 A Yes, I do.

12 MR. MAU: Mr. Chairman, at this time I
13 would like to tender this witness as an expert in
14 land planning.

15 CHAIRPERSON SCHEUER: Are there any
16 objections from the Commissioners? Okay.

17 Q (By Mr. Mau): Have you reviewed the
18 Petitioner's Petition to the LUC to designate
19 approximately 1239 acres as Important Agricultural
20 Lands?

21 A Yes, I have.

22 Q This Petition was filed, I believe,
23 November 28th, Docket No. 18-64?

24 A Yes, I have a copy.

25 Q And you have a copy there.

1 And this Petition has attached to it a
2 verification, and also has attached to it Exhibits A
3 through E; is that correct?

4 A Yes.

5 Q Exhibit D to the Petition is an assessment
6 that you prepared?

7 A That's correct.

8 Q What was the purpose of preparing the
9 assessment?

10 A It was to support the Petitioner in this
11 voluntary dedication process.

12 Q Did you reach a conclusion on your
13 assessment as to whether the Petition Area, as set
14 forth in the Petition, qualifies as Important
15 Agricultural Lands under Hawai'i Revised Statute
16 Chapter 205?

17 A Yes, I did.

18 Q And in connection with your testimony
19 today, did you prepare a PowerPoint presentation?

20 A Yes, I did.

21 Q For the record, that is -- we circulated
22 the PowerPoint presentation. We also have it up here
23 on the screen, but we did circulate a copy, so all of
24 you should have that.

25 Before I ask you to summarize your findings

1 and analysis and basis for your conclusions, I'm
2 going to ask you to identify the Petition Area, if
3 you would do that for us.

4 A This is a map included in the Petition, we
5 give it A with some minor modifications. We've added
6 some place names. The Petition Area is the area
7 located in green. Those are the lands the Petitioner
8 proposed for IAL.

9 Areas in yellow are the remainder of the
10 Petition's land that are not proposed for IAL.

11 Q Could you give us some idea, north, south,
12 east, west and what area you're talking about?

13 A Yeah. Let me orient you. This is in the
14 Kunia area, Central Oahu. Waipahu is to the south.
15 Down here, this is Kunia Road, the major spine
16 through this area. (Indicating.)

17 To the north are the Schofield barracks and
18 Wheeler Army Airfield.

19 To the east across Waikakalaua Gulch is
20 Mililani. Nearby we have got the Islet Pond
21 Community here up to the south of Schofield Barracks,
22 Gayland, LLC, formally known as Nihonkai property on
23 the west side. To the south, state ag park and the
24 Royal Kunia increment II.

25 We also have state ag park on the north

1 side of the property as well. Very steep Waikakalaua
2 Gulch comes down here and creates a very sharp edge
3 to the property and separates it from Mililani.

4 Q There also is a golf course?

5 A Right. Hawai'i Country Club is right here,
6 on the north side of the Gayland, LLC, property.

7 If I can just add, the site is fairly
8 heavily dissected through gulches and ravines, so
9 whereas it may look like a homogenous land unit,
10 there are fairly significant gulches that transect
11 through the property.

12 Q So the total Robinson Kunia land, green and
13 yellow, is how many acres?

14 A 2440.35 acres.

15 Q And the area of the land that we seek to
16 designate as Important Agriculture Lands?

17 A Just over half of the lands and that
18 amounts to 1239.2 acres.

19 Q And that was calculated to be about 50.8
20 percent?

21 A Correct.

22 Q And how is the acreage or the area
23 calculated?

24 A They were using satellite imagery, GIS
25 tools and coordinating them with TMK map acreages.

1 If could I start with some history. We
2 commissioned a literature review and cultural
3 consultation as part of the exhibit we prepared. We
4 wanted to give the Commissioners as much background
5 as possible as they deliberate on this project.

6 We commissioned International Archaeology,
7 LLC. That's a group aligned with International
8 Archaeology Institute, which has been providing
9 archaeological services in the State of Hawai'i for
10 over 30 years.

11 A group we worked with around the Pacific
12 and in Hawai'i, a very well regarded firm. Their
13 findings included in their report in the exhibit
14 indicated that the area was sparsely populated during
15 the traditional Hawaiian period, and there are no
16 kuleana awards affected by the IAL land.

17 There are no records of traditional
18 archaeological sites other than the Waiahole Ditch,
19 which was constructed in the early 1900s, and is
20 considered a historic site. The proposed action has
21 no affect on the ditch.

22 The cattle ranching started in the mid
23 1800s. It was purchased by James Robinson in 1852.
24 Oahu Sugar Company started farming I think in the
25 early 1900s, it may have been late 1800s as well. So

1 it's been under cultivation for over a century.

2 Pineapple was briefly introduced in the
3 upper lands in the late 1900s, 18 -- yeah, 1900s.

4 Currently the area is farmed under a
5 license to the Robinson Trust by Waikele Farms,
6 headed by Larry Jefts. He started the operations in
7 1994 just as Oahu Sugar Company was winding down.

8 I would like to review the standards and
9 criteria in the statute to underscore a finding that
10 the lands are appropriate for designation as IAL.

11 I'm sure you're all familiar with the
12 criteria. Each of these slides will address each of
13 the criteria. I want to start with land use.

14 It is currently under agriculture. The
15 site visit several weeks ago confirmed that. The
16 farmer, Waikele Farms operated under Sugarland, a
17 trade name, and is produced and placed in many of the
18 large food sources on Oahu. Very well-known and
19 respected operation.

20 Approximately 210 acres are utilized for
21 pasture. Almost 700 acres of the property are under
22 vegetable cultivation. Basic crops include banana,
23 corn, tomato, bell peppers, wombak and watermelon.
24 Again, some cattle grazing happening in gulch lands.

25 The balance of the property in the IAL

1 designation consists of support areas, baseyards,
2 areas for staging, portions of Waiahole Ditch, water
3 reservoirs and other areas as indicated on the slide.

4 Criteria two gets at the suitability
5 ratings, lands with soil conditions and growing
6 conditions. The area is just -- well, 50 percent LSB
7 A, just over the half of the property is LSB A and B.
8 This is the Land Study Map. It's a large intact line
9 unit with surrounding gulches and other land. And
10 it's one of the reasons that we selected it. It's an
11 intact land mass.

12 Solar radiation is fairly high. These are
13 some of the most productive agricultural lands in the
14 State of Hawai'i. The radiation is in the area of
15 188 to 194 watts per square meter, according to the
16 official source.

17 Agricultural lands of importance to the
18 State of Hawai'i was headed by DOA back in the '70s
19 to follow best practice on identifying important farm
20 lands. It's been sort of a benchmark for important
21 lands for a number of decades.

22 The area is largely considered prime ag
23 land, the area 57 percent -- excuse me -- 61 percent.
24 You can see the area farm land in green here.

25 Criteria four gets at traditional Native

1 Hawaiian uses or unique crops. As I reported
2 earlier, the archaeological literature review we
3 conducted, cultural interview, did not indicate any
4 traditional Native Hawaiian agricultural use on the
5 property, but certainly the property is suitable for
6 unique agricultural crops and uses.

7 It's had over 80 years of sugar
8 cultivation, and the bagasse from the sugar power,
9 the mill, and provide electricity. So it's
10 demonstrated its ability to handle a wide variety of
11 crops. The farmer at this be point chooses not to
12 farm those kinds of crops.

13 Water, another criteria number five. It
14 has sufficient water. The main source being Waiahole
15 Ditch that they are using about 2.39 million gallons
16 per day of water. Wells constructed, handled years
17 ago, that provide close to 100,000 gallons per day
18 for agricultural use.

19 The farmer also has access to R-1 water
20 from the Schofield Wastewater Treatment Plant, as was
21 discussed on the site visit. The farmer uses some of
22 the reservoirs on the property, gets the water and
23 provides irrigation water for its operation.

24 The mean annual rainfall from the Hawai'i
25 rainfall atlas in this area is 30 to 35 inches.

1 That's below the rate quoted by the farmer on the
2 site visit.

3 This is a map just showing where the
4 reservoir is that we visited, and where the Waiahole
5 Ditch cuts through the property.

6 Criteria six looks at consistency with
7 local county plans and policies. Not noted here, the
8 County General Plan has a very strong growth
9 management element to it which is to focus
10 development in urban areas, and maintain rural and
11 agricultural areas.

12 So this area is outside of what is referred
13 to as the growth boundary. And so essentially its
14 agricultural use is consistent with General Plan
15 policies.

16 The Central Oahu Sustainable Community Plan
17 was formally dated 2002. County is in the process of
18 updating the plan. This is a current map of the
19 official plan of the Land Use Plan for the Central
20 Oahu Community Plan.

21 It's obviously a complicated looking map.
22 Kunia Road here. This is the property outlined here.
23 This is the growth boundary here, you can see this
24 large dashed line. So the property is clearly
25 outside of the Urban Growth Boundary. It's a policy

1 the county instituted in 1997 to basically preserve
2 these open ag lands for agriculture and focus urban
3 development in the areas within the growth boundary.

4 So the current use of the property is
5 consist with the county plan.

6 County zoning, the entire area surrounding
7 the property -- this is the property here -- this
8 is -- it's in the Ag 1 District, a small exception of
9 the Hawai'i Country Club.

10 And, of course, Mililani across Waikakalaua
11 Gulch. And down to the south Royal Kunia. So it's
12 consistent with county zoning.

13 Critical land mass. This is criteria
14 seven. The notion is we don't want to have a lot of
15 small parcels scattered around. We want to make sure
16 there's a large land base for the long-term future
17 for agriculture.

18 And so this property provides almost
19 1240 acres of land for Important Agricultural Use.
20 It is, as I noted earlier, to the north the state has
21 ag parks, so it creates a land mass in this critical
22 area of Oahu that will be very important for the
23 state going forward.

24 Finally, agricultural support. What's the
25 positioning, is it close to transportation? This

1 property is very well positioned. Close to major
2 highway, close to ports and markets on Oahu.

3 I've run through the eight criteria. I
4 would like to provide a brief summary.

5 The property directly meets seven of the
6 eight IAL criteria.

7 Criteria four we discussed. There are no
8 Native Hawaiian agricultural uses. Presently there
9 are no unique agricultural crops or uses present.
10 But they are -- certainly the property is suitable
11 for unique crops and uses, as I discussed.

12 The letters from the State Department of
13 Agriculture and Office of Planning are very
14 supportive of the application. They too have gone
15 through each of the criteria and come up with a
16 similar conclusion that the property, the Petition is
17 compliant with the Commission's rules, criteria. The
18 letter from the Department of Planning and Permitting
19 in essence supports the conclusion that the property
20 is eligible for IAL designation. The property is
21 mapped as IAL in the Department of Planning and
22 Permitting submittal to the City Council that is
23 being considered right now. DPP has requested a
24 deferral of this action.

25 Just a quick comment. We have worked with

1 the Department of Planning and Permitting over the
2 last year. I think our first meeting might have been
3 November 20th -- 17, and so the trust has been very
4 open, and we've had some very good discussions with
5 the city. We have learned a lot about the mapping
6 process. And you can spend -- a very open book, and
7 we were encouraged that since the mapping process had
8 kind of closed down, that we should proceed to the
9 City Council or to Land Use Commission through a
10 voluntary dedication, so that's what we're here for.
11 And that is my remarks.

12 Q Do you have an opinion as to whether the
13 Commission should defer the application to designate
14 these lands as Important Agricultural Lands?

15 A Yes, I do.

16 Q What is your opinion?

17 A I think this is a straight-up boundary
18 dedication. The Applicant's met -- Petitioner met
19 the criteria. They coordinated very closely with the
20 city on their process. We see we have full support
21 from the Department of Agriculture and Office of
22 Planning. It's my belief that it is compliant with
23 the necessary requirements and statute to approve as
24 Important Agricultural Lands.

25 Q Does the statute contemplate opportunity

1 for landowner to voluntarily designate his property
2 prior to an involuntary designation by the County?

3 A Very much so. That was obviously the
4 intent of the legislature to see to what extent
5 landowners and farmers would be willing to come in in
6 the front of what would be a mandatory dedication.

7 Q I have no further questions for the
8 witness.

9 CHAIRPERSON SCHEUER: If we can get the
10 lights.

11 Commissioners, are there questions for the
12 witness?

13 Would the parties first like to question
14 the witness? City?

15 MR. TAKAHASHI: No, we have no questions.

16 CHAIRPERSON SCHEUER: Office of Planning?

17 MS. APUNA: No questions.

18 MR. YAMAMOTO: I have a clarification. The
19 Department does have a proposed agricultural park
20 that's just north of Royal Kunia, the residential
21 development on the east side of Kunia Road.

22 I believe you made a reference to another
23 ag park south of Mililani by the peninsula. That's a
24 private agricultural park. It's called the Mililani
25 Agricultural Park. Part of it is owned by Wayne --

1 (unintelligible). And on the spine road to the east
2 it remains with Castle & Cooke, so it's a private
3 agricultural park.

4 THE WITNESS: Earl, I apologize if I
5 misspoke, but the agricultural park I talked about
6 was the 150-acre park here (indicating) and the park
7 to the north of the state lands on the north side of
8 the project up between Schofield and the property, so
9 just up on the north end.

10 So those are state lands that are currently
11 under -- I think it's leased for farming. I wasn't
12 talking about across the gulch. I appreciate the
13 clarification.

14 MR. YAMAMOTO: Thank you.

15 CHAIRPERSON SCHEUER: Commissioners?
16 Commissioner Okuda.

17 COMMISSIONER OKUDA: Mr. Fee, what
18 percentage of the Applicant's parcel is not being
19 requested to be designated as IAL?

20 THE WITNESS: Just under 50 percent.

21 COMMISSIONER OKUDA: Can you give an
22 explanation why those lands are not being requested
23 to be designated as IAL?

24 THE WITNESS: The statute requires majority
25 of the land to be included in the voluntary

1 dedication, and we're providing -- we met that
2 criteria. So it's over 50 percent. It represents
3 the majority of the land.

4 COMMISSIONER OKUDA: But my question is,
5 was there any consideration given to designating the
6 portions that are not being designated as IAL land to
7 be designated IAL? If not, what were the reasons why
8 those other lands are not being requested to be
9 designated?

10 THE WITNESS: There was a thoughtful
11 extended process of looking at which lands should be
12 put forth as IAL. The discussion was generally
13 north/south and east/west. You know, it's a
14 significant portion of land. And I think the
15 criteria were -- what we ended up with was east.

16 So you could look at north of the Waiahole
17 Ditch, or south of the Waiahole Ditch, or east; on
18 the east side near Waikakalaua Gulch or on the west
19 side near Kunia Road.

20 So there are just a few ways that you could
21 actually do that, and given the land form and the way
22 the gulches work, the east side seemed to give the
23 best value from the trustee's perspective of
24 commitment to agriculture.

25 COMMISSIONER OKUDA: Thank you.

1 And then with respect to the request by the
2 city to defer this decision, would the Robinson Trust
3 suffer any actual prejudice if the decision were
4 deferred?

5 THE WITNESS: If I could speak for the
6 trustees. This is somewhat of a defensive measure as
7 a large landowner. No one has better credentials as
8 supporting agricultural than Robinson Trust, over
9 100 years of agriculture. Very deep roots in that.
10 So I think this -- what they're concerned about is
11 there are costs with IAL designation. And they're
12 trying to meet the legal requirement clearly through
13 the statute.

14 If the Commission approves the voluntary
15 dedication, they cannot be further designated by the
16 Commission.

17 So I think that they would prefer that
18 there not be a dedication. They feel that there are
19 a cost to the dedication that limits their future use
20 of the property. So I think they are very anxious
21 and very hopeful that the Commission will act on this
22 today as part of a voluntary dedication and not
23 defer.

24 COMMISSIONER OKUDA: My question is what
25 would be the actual prejudice to the Applicant if the

1 decision were deferred?

2 THE WITNESS: Actual prejudice as far as I
3 can see would likely be that the Commission would
4 dedicate the entire property under the city's
5 petition.

6 COMMISSIONER OKUDA: Why would that be
7 prejudice to the estate or trust?

8 THE WITNESS: IAL limits the range of uses
9 that a landowner has. Just by way of background.
10 There are basically three layers of regulation
11 already. There's obviously the State Agricultural
12 District and limitations that it provides and imposes
13 on landowners.

14 There's, since the early 2000s there's now
15 the Urban Growth Boundary that the city has imposed
16 that basically says they won't contemplate anything
17 that is not consistent with agriculture beyond the
18 Urban Growth Boundary. And then obviously the city
19 zoning.

20 All of these are legislative matters,
21 they're discretionary permits. So to come in with
22 another layer, like IAL, which in itself there are
23 greater restrictions on the use of farm dwellings.
24 There are significant restrictions on trying to
25 reclassify out of the IAL, in addition to burden of

1 Agriculture District and growth boundary, others. So
2 they find that it's a very significant burden, and
3 want to meet the letter of the law and go with
4 voluntary dedication.

5 So they feel very concerned about the
6 prospect of having the entire land dedicated. And
7 have been very forthright with the city in providing
8 that.

9 COMMISSIONER OKUDA: Thank you very much,
10 Mr. Fee. Thank you, Mr. Chair.

11 CHAIRPERSON SCHEUER: Commissioner Aczon.

12 COMMISSIONER ACZON: Good morning, sir.
13 Just a followup to Commissioner Okuda's questions
14 about waiting for the city's designation.

15 I understand you mentioned that the
16 Petitioner has been working with the city on trying
17 to come up with this IAL. As far as you know, the
18 city has something else planned with this different
19 shape from your plan?

20 THE WITNESS: The city, as I understand it,
21 would like to take the entire landholdings, the 24 --
22 2500 acres and put it in the IAL. So all the yellow
23 and green would go into IAL.

24 So they're basically saying everything goes
25 in. So that's -- I think with the voluntary

1 dedication process, it allows bonafide petitioners to
2 come in and request a majority of the land, which
3 would be just over half of the land.

4 The discussion with the city is more the
5 trust is thinking about doing this. Is it possible
6 for the city to amend their maps? What are their
7 suggestions for moving forward?

8 So it was more coordination, I think, just
9 an open-door relationship. Obviously, relationships
10 with the city are very important to the trust.

11 COMMISSIONER ACZON: Thank you.

12 You mention there is approximately
13 343 acres of agricultural support. Are they all in
14 one area or scattered around the property?

15 THE WITNESS: I think I can use one of the
16 maps here to explain that.

17 So you can see that the unclassified is the
18 area that is not colored. So they're on the
19 periphery in the adjacent gulch lands. And this is
20 according to the sort of a national grading for
21 Important Agricultural Lands.

22 So those are what are called support land.
23 So we have got the base camp, storage. There is some
24 ranching or grazing happening in the gulches, they're
25 just not used for the primary fruit and vegetable

1 crops.

2 COMMISSIONER ACZON: So how many acres are
3 included in the IAL Petition?

4 THE WITNESS: 1239.2 acres.

5 COMMISSIONER ACZON: Say that again.

6 THE WITNESS: 1239.2 acres.

7 COMMISSIONER ACZON: No, I'm asking about
8 how many of those support lands that is included in
9 the IAL?

10 THE WITNESS: They're all included. In
11 this graphic you can see.

12 COMMISSIONER ACZON: So the 343 acres of
13 support, agricultural support lands are all in the
14 IAL designation?

15 THE WITNESS: Yes, sir.

16 COMMISSIONER ACZON: Do you know what's the
17 Petitioner's intent on the remaining land, that
18 1200 acres -- the 1239 acres -- I'm sorry -- 1201
19 acres? Do you know what's the owner's intent on
20 that? What is the use? I know it's being used in
21 agriculture right now. So what's the future plan?

22 THE WITNESS: That's the foreseeable future
23 is continuation of the leases, licenses, and there's
24 no change.

25 Mr. Jefts is a tremendous farmer, and the

1 trust has complete trust in him and would like him to
2 continue farming the entire property.

3 There is another licensee, Aloun, and
4 Hawaiian Pineapple, so I think the trust would like
5 them to continue their operations and continue
6 providing some land rent for that land.

7 MR. MAU: If I can, there's also Increment
8 3 in the non-IAL lands. You might point out what
9 that is.

10 THE WITNESS: Increment 3 is 160-acre area
11 that's in the state Urban District. That's this area
12 right here (indicating). So this is the Urban
13 District boundary, goes around the ag park.

14 So areas to the south of this line are in
15 the Urban District, and areas to the north, including
16 the lands that we're talking about, are in the state
17 Agricultural District.

18 This area was urbanized, zoned by the
19 trust, and they are working with partners, other
20 partners in Increment 2 to get that project into
21 Urban use. Right now it's being farmed by the
22 farmer.

23 COMMISSIONER ACZON: So you're saying that
24 it's going to stay agriculture?

25 THE WITNESS: Yeah. The area in the

1 Agriculture District, state Agriculture District, at
2 this point the foreseeable use is consistent with the
3 uses permitted under the state Agriculture District.
4 So there's no intent to come in with an Urban
5 District petition or some kind of urbanization
6 process.

7 COMMISSIONER ACZON: So there's no
8 intention for district boundary amendment later for
9 the remainder?

10 THE WITNESS: Not at this point. Obviously
11 things can change. As I mentioned, they have got
12 160 acres here in the Urban District. The market is
13 just not there. So there's no foreseeable attempt to
14 change the district boundary.

15 COMMISSIONER ACZON: But it can happen?

16 THE WITNESS: Certainly.

17 COMMISSIONER ACZON: Thank you.

18 CHAIRPERSON SCHEUER: Thank you,
19 Commissioner Aczon. Commissioners, further
20 questions? Commissioner Cabral.

21 VICE CHAIR CABRAL: Since I don't
22 understand the magnitude of all the planning and so
23 much acreage, can you tell me on your side of this,
24 approximately how long have you been working on this
25 specific project, preparing to make this presentation

1 or studying the land to work with the Robinson Trust
2 Family to determine what the decision would be, and
3 then preparing for this? How many months, years?
4 What's the timeframe to get ready -- to get ready for
5 a decision of this magnitude?

6 THE WITNESS: Well, we have had a
7 relationship with the trust for the last ten years or
8 longer, and one of the early assignments was to
9 really do some careful per satellite mapping of the
10 properties, and looking at terrain and things. That
11 was more of a technical assignment.

12 But this particular assignment started in
13 late 2017.

14 VICE CHAIR CABRAL: Thank you.

15 CHAIRPERSON SCHEUER: Commissioner Wong.

16 COMMISSIONER WONG: Just one question.

17 So when was the IAL statute adopted?

18 THE WITNESS: I don't know that answer.

19 COMMISSIONER WONG: So when did this really
20 come to a head, this request from the Robinsons to
21 work on this?

22 THE WITNESS: One of the galvanizing points
23 was a briefing that city and county had in late 2017
24 on the status of their mapping effort. I think that
25 was sort of a wake-up call that, oh, my gosh, we need

1 to get involved.

2 I think they talked about it earlier, but
3 it looked like it was -- the city's process wasn't
4 clearly understood. So that was an important moment.
5 I think that was part of the process the city goes
6 through to make sure everybody is aware where the
7 policy is going.

8 COMMISSIONER WONG: So the next question I
9 have is: During this time when the city was involved
10 or started this process, were there any times that
11 you or the Robinson was informed that they're going
12 to put the entire parcel, not the 50 percent that
13 you're seeking, but entire parcel into IAL?

14 THE WITNESS: My recollection is they were
15 generally aware, but it was -- they're not experts in
16 city planning or regional planning. And I think they
17 weren't sure what the consequences were, and it was
18 just another effort.

19 But I think they became knowledgeable about
20 it in the sort of 2017 timeframe, the first meeting I
21 think with the city about what can we do? We're
22 concerned. Again, it was in the late 2017.

23 So they sort of activated once they began
24 to see that the city had started to form an opinion
25 and they were moving toward submittal to city

1 council.

2 COMMISSIONER WONG: Since this property is
3 private, were there any times that they said, you
4 know what, the Robinsons, I'm going to -- I want to
5 tell the City -- I want to put this much and not the
6 entire piece?

7 THE WITNESS: Yes, that was part of the
8 discussion with Department of Planning and
9 Permitting, that, you know, would they consider
10 changing their position. And I think their point
11 was, the door had kind of shut on their mapping
12 process as early -- as late 2018. We made a
13 decision. You'll need to proceed to the City Council
14 or the Land Use Commission.

15 COMMISSIONER WONG: Thank you.

16 CHAIRPERSON SCHEUER: Commissioner
17 Ohigashi.

18 COMMISSIONER OHIGASHI: There is a 40-acre
19 parcel on the left-hand side. Is that under Urban
20 also?

21 THE WITNESS: No, it's state Ag.

22 COMMISSIONER OHIGASHI: And the proposal by
23 the city would be to include all of the state Ag
24 portions as IAL?

25 THE WITNESS: Yes, sir.

1 COMMISSIONER OHIGASHI: And the Urban
2 portions would not be designated?

3 THE WITNESS: Correct.

4 COMMISSIONER OHIGASHI: The 40 acres which
5 appears to be adjacent to Mililani, 161 acres that
6 are in Urban, if we remove that from the calculation,
7 would that increase the amount of percentage that you
8 actually -- that may be subject to -- well, increase
9 the amount of your lands that are proposed to be
10 designated IAL?

11 THE WITNESS: It would increase the
12 percentage.

13 COMMISSIONER OHIGASHI: And the other
14 question that I had was, you have agriculture going
15 on the whole parcel. Is that right?

16 THE WITNESS: Yes, sir.

17 COMMISSIONER OHIGASHI: How much of the
18 percentage of agriculture is occurring on the
19 proposed IAL designation? Is there a way to break it
20 up in terms of percentage in that area?

21 THE WITNESS: In terms of bushels of
22 melons, I think it's a complicated question, and
23 other than just as a straight proportion of the land,
24 I don't have enough information to look at to what
25 extent it contributes to the farmers' bottom line.

1 These are important -- I think as we heard
2 on the site visit, the farmer fallows his land to
3 minimize his pesticide and other costs to it. So
4 he's always moving crops around. There is a summer,
5 sort of a seasonal area where in summer certain crops
6 grow well, and in the winter. So over half of the
7 land is probably fallow at any given time.

8 COMMISSIONER OHIGASHI: Is there an amount
9 of acreage that you can figure out in each of the
10 areas as to what actually can be used for agriculture
11 purposes? Because I think you mentioned there is a
12 whole network of gulches and unusable pieces of
13 property. Is there a percentage in each of the areas
14 that you can use?

15 What I'm trying to get at is the IAL
16 designation, is there equal amount of lands that are
17 being designated that actually can be used for
18 agriculture as the other side?

19 THE WITNESS: Well, if you look at the
20 ALISH designation, again, based on a national method,
21 the 62 percent of it is prime or unique, 63 prime
22 unique or other, so those are considered as important
23 lands of the property that is being proposed for
24 dedication. 63 percent are considered Important
25 Agricultural Lands from an ALISH perspective, which

1 is again a national methodology.

2 Now, I think what you're asking, how does
3 that compare with the percentages on the non -- the
4 lands that aren't being proposed as IAL. I don't
5 have that figure in front of me.

6 COMMISSIONER OHIGASHI: Maybe more simpler,
7 I just wanted to know how many acres in the IAL
8 portion, proposed portion, can be used for
9 agriculture? Versus how many acres to the non-IAL
10 portion can actually used for agriculture?

11 THE WITNESS: I can --

12 COMMISSIONER OHIGASHI: I'm just curious.
13 I just wanted to -- there's different ways of looking
14 at it, in my mind, even though there's only 40 --
15 50.8 percent in the IAL. If there's 60 percent of
16 the actual usable property in that designation, that
17 would tell me more.

18 THE WITNESS: From the ALISH mapping, it's
19 about 780 acres that are considered prime unique or
20 other, and that's this area in color here.
21 (Indicating).

22 COMMISSIONER OHIGASHI: You don't have that
23 for the other area?

24 THE WITNESS: I don't, but because of the
25 gulches, it's not completely -- it's going to be

1 similar. There's going to be a fair amount fallow or
2 gulch land in that other component.

3 COMMISSIONER OHIGASHI: I don't have any
4 further questions.

5 CHAIRPERSON SCHEUER: I think we're not
6 quite done with the witness, but I think it's time
7 for a break, so let's take a ten-minute break.

8 Reconvene at 10:33.

9 (Recess taken.)

10 CHAIRPERSON SCHEUER: It's 10:33. Back on
11 the record.

12 The witness, we still have the witness, Mr.
13 Fee, who is being questioned by the Commissioners.

14 Commissioners, are there further questions?
15 If not, I have some questions for the witness.

16 I'm going to be following up on some points
17 raised by my fellow Commissioners.

18 I believe it was in response to
19 Commissioner Okuda, who was talking about essentially
20 what harm might come to the Petitioner if the LUC
21 deferred action on this matter.

22 I believe you stated that then, as a result
23 of the city's process, the LUC would designate the
24 entire property. Did I understand that correctly?

25 THE WITNESS: I believe that would be their

1 recommendation to the Commission. I'm not sure how
2 the Commission would react to that.

3 CHAIRPERSON SCHEUER: As an expert in
4 planning, can you explain what the next steps would
5 be if we chose to defer today?

6 THE WITNESS: I guess if the purpose of the
7 deferral was to receive the City Council's
8 recommendation, and consider that in, and this
9 voluntary dedication together, would that be the
10 deferral?

11 CHAIRPERSON SCHEUER: If the Land Use
12 Commission chose to defer today, what would next
13 happen at the city level before anything came to us?

14 THE WITNESS: As I understand it,
15 Department of Planning and Permitting transmitted its
16 recommendation to the City Council. City Council has
17 asked the Agricultural Task Force to evaluate the
18 proposal before it begins its deliberation.

19 So the City Council hasn't begun to analyze
20 the Department of Planning and Permitting's proposal
21 until it gets its recommendation from the
22 Agricultural Task Force.

23 I think it last met in November. It is
24 scheduled a follow-up meeting to discuss the matter.
25 I'm not sure whether that meeting has been scheduled.

1 In the city's letter they indicate that they hope
2 that the task force will make a recommendation to
3 City Council. The City Council will have gone
4 through its deliberations and provided a
5 recommendation to LUC I think they say early this
6 year.

7 We have believe it's going to be more
8 complicated, that there will be delays. In fact, the
9 timing for us is, given the length of time it's
10 taken, it's hard to say when that would be coming.
11 So that's the process as I understand it.

12 CHAIRPERSON SCHEUER: So would the
13 Petitioner, landowner, have a chance to testify in
14 front of the Council as to the recommendation?

15 THE WITNESS: Yes.

16 CHAIRPERSON SCHEUER: They could otherwise
17 participate in the process to that point?

18 THE WITNESS: Yes.

19 CHAIRPERSON SCHEUER: Would the Petitioner
20 have an opportunity to appear before us again before
21 we took action on any recommendation from the county?

22 THE WITNESS: I'm not sure of the rules,
23 what the procedure would be other than through this
24 Petition that's been filed here, whether the
25 Petitioner could come back before the Commission.

1 CHAIRPERSON SCHEUER: My next set of
2 questions has to do with what I believe are some
3 questions from Commissioners Aczon and Ohigashi were
4 going towards.

5 But I'm curious as to the portion of the
6 land owned by the Petitioner that is not included in
7 this Petition for IAL.

8 What percentage of those lands are either A
9 or B under the Land Study Bureau classifications?

10 THE WITNESS: I don't have those figures in
11 front of me, sir.

12 CHAIRPERSON SCHEUER: Is it over half?

13 THE WITNESS: That would be my guess.

14 CHAIRPERSON SCHEUER: Could you -- would it
15 have been possible for the Petitioner to designate
16 over 50 percent of their lands comprised of entirely
17 A or B lands?

18 THE WITNESS: It would be possible. The
19 lands may be bifurcated, they may not be contiguous,
20 and it's not a requirement under the voluntary
21 dedication rules.

22 CHAIRPERSON SCHEUER: Can you repeat that
23 last sentence?

24 THE WITNESS: There is no requirement in
25 the statute of regulations requiring a certain

1 percentage of LSB lands be included in the petition.

2 I want to just add to this. We're talking
3 about, again, why they claim some of the most
4 productive agricultural lands in the State of
5 Hawai'i, and I think this has been under cultivation
6 for a century, and are extremely productive. And I
7 think the voluntary dedication is really remarkable
8 in terms of its long-term productivity.

9 And there's equivocation about whether
10 there is better lands. I think within this context
11 is -- gets out of the actual petition itself, and
12 these are the 1240 acres that are before you.

13 CHAIRPERSON SCHEUER: I want to go to part
14 of your testimony, my third part of questioning.

15 You said more than once, I believe, correct
16 me if I'm wrong, that the landowner has long-term
17 commitment to agriculture.

18 THE WITNESS: Yes, sir.

19 CHAIRPERSON SCHEUER: But I also heard that
20 they're trying to preserve options for future
21 urbanization of other portions of their land?

22 THE WITNESS: I apologize if I misspoke. I
23 don't think there's any thought about, at this point,
24 future urbanization. As I mentioned, they have
25 160 acres in the Urban District that they're actively

1 trying to get developed. And it's beyond the Urban
2 Growth Boundary.

3 As I mentioned, there are these many tiers.
4 It's not consistent with the Agricultural District.
5 The market is just not there. So there's really no
6 sort of end game that's not being stated here about
7 urbanization. They have been committed to
8 agriculture. There's just no discussion internally
9 about urbanization of the lands that are before you.

10 CHAIRPERSON SCHEUER: And when you say the
11 lands that are before us, you're referring to the
12 Petition Area, not the entirety of their holdings?

13 THE WITNESS: The entirety of their
14 holdings. Of course, if we're including 160 acres of
15 urban land in the Petition Area, and the lands on the
16 Mililani side, 40-acre side are actually problematic
17 from a farming perspective. But I think it would be
18 very difficult to rezone it. So there may be a way
19 to create -- they really need to look at how they're
20 going to farm that land. It's difficult for them at
21 this point.

22 CHAIRPERSON SCHEUER: Which land are you
23 referring to?

24 THE WITNESS: 40 acres across Waikakalaua
25 Gulch. It was mentioned earlier by Commissioner --

1 right here (indicating). So it's across this gulch
2 right in the densely packed residential neighborhood,
3 served by waters from Waiahole Ditch. So there is
4 farming activities going on there. But there's a lot
5 of complaints about noise and pesticide drip and
6 dust. And it's just difficult. It really doesn't
7 have the land mass for significant farming. So
8 they're struggling with what to do with it.

9 It certainly would be difficult to proceed
10 with that land use district reclassification or
11 zoning reclassification given the fact that it's --
12 how difficult that is these days, and the lack of
13 market for redevelopment.

14 CHAIRPERSON SCHEUER: What are the length
15 of lease terms or license terms given to Mr. Jefts in
16 the Petition Area?

17 THE WITNESS: There was an initial lease in
18 1995, 20 years, and it was extended to 2025 several
19 years ago.

20 CHAIRPERSON SCHEUER: To 2025?

21 THE WITNESS: Yes, sir.

22 CHAIRPERSON SCHEUER: Does any of that
23 lease cover lands outside of this Petition Area?

24 THE WITNESS: Yes.

25 CHAIRPERSON SCHEUER: I have nothing

1 further. Commissioners, anything else?

2 THE WITNESS: Could I bring up a point?

3 At the break I had a conversation with
4 Eugene Takahashi at DPP, and he reminded me it was
5 important to disclose to the Commission that our firm
6 was supporting DPP in their mapping process for the
7 IAL effort. We provided several scenarios.

8 I wasn't personally involved, it was
9 another partner. I just want to make sure the
10 Commissioners were aware of this.

11 We supported basically their mapping
12 effort. I would like to say that it was solely the
13 Department of Planning and Permitting's decision to
14 move forward with a certain set of scenarios and
15 mapping that would -- does include the Robinson
16 property.

17 CHAIRPERSON SCHEUER: Thank you for that
18 disclosure.

19 Did you have any redirect, Mr. Mau?

20 MR. MAU: I don't have anything further.

21 CHAIRPERSON SCHEUER: Thank you very much.
22 You're excused from being a witness, and you can
23 continue with your presentation.

24 MR. MAU: We will call as our next witness
25 Patricia Kehau Wall.

1 CHAIRPERSON SCHEUER: Aloha.

2 THE WITNESS: Hi.

3 CHAIRPERSON SCHEUER: Do you swear or
4 affirm that the testimony you're going to give is the
5 truth?

6 THE WITNESS: Yes.

7 CHAIRPERSON SCHEUER: State your name and
8 address and proceed to answer Mr. Mau's questions.

9 THE WITNESS: My name's Kehau Wall, and my
10 address is 1164 Bishop Street, Suite 650, Honolulu.

11 PATRICIA KEHAU WALL

12 Was called as a witness by and on behalf of the
13 Petitioner, was sworn to tell the truth, was examined
14 and testified as follows:

15 DIRECT EXAMINATION

16 BY MR. MAU:

17 Q What is your occupation?

18 A I am a lawyer. I've been practicing in
19 Honolulu for 35 years.

20 Q And in what capacity do you appear here
21 today?

22 A I'm appearing on behalf of the Robinson
23 Kunia Land, LLC, which is the owner of the Petition
24 property.

25 Q And what is your affiliation with Robinson

1 Kunia?

2 A I'm one of the managers of the Caroline
3 Robinson, LLC. And that LLC is a manager of RKL,
4 which is the owner.

5 Our LLC, Caroline Robinson, has about 90
6 descendants of Caroline Robinson, and she was married
7 to the son of James Robinson. She was from Hawai'i
8 Island, which is where most of our beneficiaries and
9 members now have their roots, including me.

10 Q So you're a descendant of Caroline
11 Robinson?

12 A Yes, I am.

13 Q So indirectly you too have an interest in
14 this property?

15 A Yes.

16 Q And, in fact, when the Caroline Robinson
17 Trust was terminated at one time, you actually had
18 title to part of this property?

19 A Okay, I don't remember that. It was quite
20 a while ago.

21 Q It was about 1976.

22 A All right, yes.

23 And, of course, there are other members of
24 RKL that are related to other descendants of James
25 Robinson.

Q This Petition was brought here today to designate Important Agricultural Lands. The decision was made to designate slightly over 50 percent. Is that correct?

A Yes, it is.

Q Can you tell us why the decision was made to do this voluntary petition?

A The reason that we are voluntarily designating over 50 percent of our land for IAL is to use the opportunity that's in the statute, HRS 20 -- whatever it is.

Q 5.

A 205, that allows us to voluntarily designate 50 percent of our land for IAL.

Q What is your understanding with voluntary designation of 50 percent of your lands? What is your understanding as to whether other -- the rest of your land could be dedicated?

A Per the statute, the remainder, the minority portion, less than 50 percent, shall not be designated IAL. And it was already pointed out that the land that is not being designated is also in agriculture. And it's also, I think, valuable agricultural land.

But the reason that we are not including

1 that is because IAL is something that's recently
2 being implemented. There's uncertainty as to what
3 exactly it's going to mean long term. This land is
4 already zoned Ag. I'm talking about non-IAL land.
5 It's already zoned Ag, and the land use
6 classification is Ag, but because IAL adds another
7 layer, and it's uncertain at this point, ultimately
8 we may decide to designate everything, but right now
9 we're acting in accordance with the statute and doing
10 the voluntary designation.

11 Q Doesn't your family have other Ag land,
12 your immediate family, other than Robinson Kunia?

13 A Personally I said I was from Hawai'i
14 Island. And I grew up on a cattle ranch. My
15 family's been in ranching for over 100 years, so I
16 have a personal commitment to agriculture.

17 However, I am a managing member of an LLC
18 that has 90 people in it, and there are other owners
19 as well. But from a personal perspective, I'm in
20 favor of agriculture in perpetuity.

21 Q Have you learned or become familiar with
22 some of the implications of being designated IAL as
23 opposed to just being in agriculture?

24 A Well, that's a good question, because I
25 think it's uncertain at this point. I understand

1 what we're told IAL will mean, and it sounds like a
2 good concept, and we'll see how it gets implemented.

3 Q Do you have an understanding as to how it
4 may, for example, impact you or your family if your
5 lands were designated as IAL?

6 A Well, some of the direct impact, is my
7 understanding that with IAL land, nobody can live on
8 the land unless they're actively involved in
9 agriculture. So that would be a change from what is
10 currently permitted.

11 Q And how are people affected, if you cannot
12 live on the land unless you actually farm it?

13 A Well, that creates issues for relatives and
14 family members who may not be actively involved in
15 the agriculture. But this is more of a concern for
16 property, our family lands on the Big Island, which
17 aren't subject to this petition. I don't think there
18 is a present intention for any owners to move to the
19 land that RKL currently holds.

20 Q And the Petitioned Area is currently in
21 agriculture?

22 A Yes.

23 Q And Tom Fee answered some questions. The
24 property is presently leased to Larry Jefts?

25 A Licensed, correct.

1 Q Do you have any intention of extending that
2 license if Larry should ask for an extension?

3 A Yes, we would be happy to extend that
4 license. He's been a great farmer for us, and has
5 done really good things with that land.

6 MR. MAU: I have no further questions.
7 Commissioners.

8 CHAIRPERSON SCHEUER: I'm first going ask
9 whether the other parties have questions. Now,
10 you've made the same mistake I did.

11 City and County?

12 MR. TAKAHASHI: No questions.

13 CHAIRPERSON SCHEUER: Office of Planning?

14 MS. APUNA: No questions.

15 CHAIRPERSON SCHEUER: Department of
16 Agriculture?

17 MR. YAMAMOTO: No questions.

18 CHAIRPERSON SCHEUER: Commissioners? The
19 second you mentioned ranching on Hawai'i Island, I
20 knew we would get questions from Commissioner Cabral.

21 VICE CHAIR CABRAL: I'm Nancy Cabral, and
22 I'm from the Big Island and I have a little ranch,
23 but I have a big cowboy.

24 Where is your property on the Big Island
25 and your family?

1 THE WITNESS: Our property is Wall Ranch,
2 and it's between Kainaliu and Honalo. Pretty much
3 that describes where it intersects Mamalahoa Highway.

4 VICE CHAIR CABRAL: Kona side?

5 THE WITNESS: Yes.

6 VICE CHAIR CABRAL: I'm Hilo side.

7 You have a wonderful ranch and your land is
8 beautiful. Thank you, that's all. Friendly Big
9 Island.

10 CHAIRPERSON SCHEUER: Commissioners? No.
11 Anything on redirect?

12 MR. MAU: No, I have nothing further.

13 CHAIRPERSON SCHEUER: Thank you very much.

14 THE WITNESS: Thank you.

15 CHAIRPERSON SCHEUER: Mr. Mau, you can
16 continue with your presentation.

17 MR. MAU: We have nothing further, and we
18 submit to the Commission our request to have the
19 land, the 1240 acres designated as Important
20 Agricultural Lands.

21 CHAIRPERSON SCHEUER: City and County, are
22 you ready to proceed?

23 MR. TAKAHASHI: Yes.

24 CHAIRPERSON SCHEUER: You're excused.

25 THE WITNESS: Thank you.

1 MR. TAKAHASHI: For the record, to answer
2 one of the questions, the next meeting of the City
3 and County of Honolulu, City and County Agricultural
4 Development Task Force is Tuesday, November 29th at
5 9:30 a.m. in the second floor of City Council
6 Committee Meeting Room, on the agenda under Item 4,
7 under "business items 4A" is discussion.

8 CHAIRPERSON SCHEUER: Can you repeat the
9 date?

10 MR. TAKAHASHI: January 29.

11 CHAIRPERSON SCHEUER: Not November?

12 MR. TAKAHASHI: No.

13 CHAIRPERSON SCHEUER: Speak slowly and very
14 close to the microphone.

15 MR. TAKAHASHI: Again, clarifying the next
16 meeting of the Agricultural Development Task Force is
17 January 29th at the City Council Committee Meeting
18 Room, which is the second floor, Honolulu Hale at
19 9:30 a.m. Item 4A is a discussion on the Important
20 Agricultural Lands, item 4B is discussion incentive,
21 and 4C is discussion and new business.

22 So I would also like to confirm what Tom
23 Fee has stated earlier. Scott Ezar has been hired by
24 the City and County of Honolulu as our consultant in
25 helping identify land that meet the criteria as set

1 forth by the City and County of Honolulu.

2 At no point in time am I aware of Mr. Fee's
3 involvement with respect of putting forth any
4 recommendation from the firm to the City and County
5 of Honolulu. All the recommendations as put forth by
6 the City and County of Honolulu, it was by City and
7 County of Honolulu, and he was just a resource of
8 identification as set forth in criteria that we have
9 set for them to aid us in identifying lands that are
10 eligible and met the criteria.

11 Also like to confirm that we have
12 transmitted our findings to City Council, and it is
13 before City Council right now, pending action by City
14 Council.

15 So at this point the department, nor the
16 city, is able to put forth a recommendation on behalf
17 of City Council as to what their recommendations
18 would be under action. That is why we have put forth
19 the recommendation that the Commission weigh in on
20 possibly the proceedings of information that may come
21 out of the City Council process.

22 I think that concludes the information to
23 the Commissioners.

24 CHAIRPERSON SCHEUER: Okay. Are there
25 questions for the city from the Petitioner?

1 MR. MAU: Mr. Takahashi, you're familiar
2 with the statute Chapter 205?

3 MR. TAKAHASHI: Yes.

4 MR. MAU: Would you agree that the intent
5 of the statute was to give the landowner an
6 opportunity to voluntarily designate certain of its
7 lands prior to any effort by the city to involuntary
8 designate lands?

9 THE WITNESS: It is my understanding that
10 provision exists within the current HRS.

11 MR. MAU: You wouldn't agree that that was
12 one of the purposes of the statute?

13 MR. TAKAHASHI: With respect to the
14 purpose, I was not involved in the initial passage of
15 the legislation, so I would not be able to give
16 background to that.

17 MR. MAU: You would agree if the Commission
18 here today granted the Petition, that the city would
19 not be able to designate additional lands?

20 MR. TAKAHASHI: That is my understanding,
21 correct.

22 MR. MAU: And is it also your understanding
23 if the Commission defers the action to this Petition,
24 that the city has a right to submit all the lands for
25 or designate all of the land?

1 MR. TAKAHASHI: Would you restate the
2 question?

3 MR. MAU: If for any reason the Commission
4 decides to defer their decision, is it your
5 understanding that the Council could submit
6 involuntary designation, or request an involuntary
7 designation of all of the petition land?

8 MR. TAKAHASHI: That is my understanding as
9 put forth the recommendation as to the State Land Use
10 Commission for their action.

11 MR. MAU: So if the Commission does defer
12 action and does not grant our Petition, your
13 understanding is that it's possible that the Council
14 can seek to have all of our lands designated as IAL?

15 MR. TAKAHASHI: The City Council can put
16 forth a recommendation. The actual designation, I
17 believe under the statute, would rest upon State Land
18 Use Commission to set forth the final decision.

19 MR. MAU: That's fine. I have no further
20 questions.

21 CHAIRPERSON SCHEUER: Office of Planning?

22 MS. APUNA: I do have one question.

23 How is this Petition any different than any
24 other IAL petitions that have come in the last year
25 before the LUC as far as asking that the Commission

1 defer any action on those petitions for IAL versus
2 this one?

3 MR. TAKAHASHI: The previous petitions, at
4 that point in time the city did not have the final
5 findings and transmittal to Council. We did identify
6 Monsanto with respect to -- we stated on record that
7 we were in process of identifying such lands, and
8 made also a statement that all these lands met the
9 criteria.

10 We didn't have a formal finding at that
11 point in time, but we wanted to bring forward what
12 our initial draft efforts have brought forward as to
13 what lands are being considered.

14 For Hartung, which is the second
15 application, again, we still did not have a formal
16 transmittal. So at that point in time we did not put
17 forth a recommendation to the State Land Use
18 Commission for deferral, because at that point in
19 time it was not before City Council for final
20 recommendation to the Commission.

21 Now we have a final findings, objective
22 findings that we have transmitted to City Council,
23 and we feel that in that process the Commissioners,
24 the Land Use Commission possibly could benefit from
25 some of the testimony or information that may come

1 out of those proceedings. We just wanted to bring
2 forth that to the Land Use Commission.

3 MS. APUNA: So basically it's a matter of
4 timing, the timing of this Petition as opposed to
5 earlier ones in the last year?

6 MR. TAKAHASHI: Correct.

7 MS. APUNA: Thank you.

8 CHAIRPERSON SCHEUER: Department of
9 Agriculture, do you have any questions for City and
10 County of Honolulu?

11 MR. YAMAMOTO: No questions.

12 CHAIRPERSON SCHEUER: Questions,
13 Commissioners? Who wants to go first?

14 Commissioner Wong -- Commissioner Cabral.

15 VICE CHAIR CABRAL: Ladies first. Smart
16 man.

17 CHAIRPERSON SCHEUER: Is that a motion?

18 VICE CHAIR CABRAL: The question was asked
19 earlier, and we didn't get a clear answer.

20 The law that will allow for this
21 designation to take place, when did that take place?
22 When was that law created by the state for the
23 counties to have this power?

24 MR. TAKAHASHI: I don't have that date.

25 VICE CHAIR CABRAL: Can I ask the state if

1 they know?

2 MS. APUNA: I believe it was 2005 that the
3 IAL statute was established, and I think there were
4 amendments to it in 2008.

5 VICE CHAIR CABRAL: Thank you very much.

6 CHAIRPERSON SCHEUER: Commissioner Wong.

7 COMMISSIONER WONG: So it appears from
8 Robinson's testimony, that 2017 the city and county
9 started the process; is that correct?

10 MR. TAKAHASHI: No, that is not correct.

11 COMMISSIONER WONG: When was the process
12 started?

13 MS. WONG: About 2012 we started the
14 process on Phase I of the project.

15 COMMISSIONER WONG: So the question is,
16 during this time period, did you contact all the
17 landowners regarding this process and ask them if
18 they have any statement, like I want to put this much
19 land, or it's all or nothing?

20 MR. TAKAHASHI: In the process we did do
21 multiple mail outs. And in the 2017 meeting, our
22 mail outs -- forgive me if I don't have the exact
23 number. I know we started out about 2004. And what
24 happened if -- it was based on TMKs. Eventually what
25 we did is we trimmed down that to about, I think

1 about 1800 property owners were notified.

2 The reason why we reduced the mail out, for
3 example, as Robinson Trust, if they own 100
4 properties, it didn't make sense to send 100 notices.
5 So if they own multiple parcels, that's how we
6 reduced it.

7 COMMISSIONER WONG: So the mail outs -- the
8 question is, did you say we're having a community
9 meeting to inform you of what we're going to do with
10 your parcel; or you can come in and say I want to
11 reduce the parcel?

12 MR. TAKAHASHI: The mail out was stating
13 for the statute, what we are obligated to do,
14 identifying the lands based on the criteria. We did
15 not provide an opportunity in which how much of the
16 land you want to keep in or out. It was a disclosure
17 process which we were stating that our mandate is to
18 identify the lands that met the criteria.

19 So that's what the mail out was. So the
20 draft map that was put forward earlier, we identified
21 all land that could be considered.

22 After the comment period we further
23 evaluated the comments put forth, and we find the
24 proposal -- the findings and the recommendation based
25 on some of the comments we receive.

1 So, for example, there were a large number
2 of lots that was small, less than an acre in size.
3 And they were right now currently approved and shall
4 be used for residential use. So you have a lot of
5 that on the North Shore that we looked at --
6 (indecipherable) State Land Use designation of
7 agriculture and all the other things.

8 And, again, those lands were not included
9 in the final recommendation.

10 We also had, because this is a
11 resource-based identification, it was based upon a
12 lot of studies that was previously done. The studies
13 may have not been necessarily 100 percent accurate.

14 So based upon additional information,
15 property owners have stated, well, your criteria says
16 it has to be active use. We have water and we have
17 soils, and those are the criteria that we use.

18 They said, no, we don't have all this. We
19 provided a soil study and provided documentation that
20 when we see those information, then we find it. And
21 we did not include those lands for inclusion.

22 Also since the inclusion, the
23 identification was not parcel based, because based
24 upon resources, and based upon how these resources
25 were initially identified and that we found there

1 were a lot of slivers in roadways and streams. Those
2 are areas, again, we cleaned up.

3 So after we cleaned it up and we did
4 another mail out saying that this is what we're
5 putting forward as our findings to City Council for
6 their consideration, we did another mail out.

7 In addition to that, we paid for half page
8 ad, color ad in the Sunday paper to further expand
9 our outreach to the public both in identifying and
10 disclosing what is your process and where we are in
11 the process.

12 So we have received no recent request in
13 which (coughing interruption) -- I don't want my land
14 included. What we did, we evaluated the requests,
15 but these requests were based in our evaluation, and
16 the changes we made was objective, not based upon, I
17 don't want it included, just because I don't want
18 this. It was based upon the criteria that we used to
19 identify eligible land. And if our material was
20 flawed, then we evaluated and made necessary changes.

21 Again, some mapping errors and other
22 changes that also we revised and we took out for
23 recommendation.

24 So we just wanted to further define the
25 recommendation. But, again, we put forth -- our

1 purpose was to be objective to City Council in
2 identifying lands that met the criteria.

3 COMMISSIONER WONG: I don't know how to
4 phrase it correctly.

5 So this process that you went through was
6 pretty much we will take out gulches or E lands, but
7 everything else here, City Council, is that pretty
8 much --

9 MS. WONG: Just to clarify, as the Deputy
10 Director stated, it was a resource-based exercise.
11 There were three criteria that we pulled down and
12 used for agricultural production, and soils quality,
13 and of water.

14 And those three criteria that are conducive
15 for growing conditions and availability of water.
16 Those three criteria didn't all need to be met, it
17 just had to be one that was considered for IAL.

18 COMMISSIONER WONG: So the next question I
19 have, since you went through the process now. Now
20 you give it to City Council. You're saying to the
21 City Council, this is our recommendation?

22 MR. TAKAHASHI: Our finding.

23 COMMISSIONER WONG: Say, for example,
24 Robinson, who is in front of us, here's 4,000 acres
25 of land, approximate. This is our process, this is

1 our findings.

2 MR. TAKAHASHI: Our findings was based upon
3 those three criteria how much the land was
4 identified.

5 COMMISSIONER WONG: So if I was City
6 Council, I'm going to say -- so that means I'm going
7 to follow the findings and tell -- and say, okay,
8 let's put all this 4,000 acres on IAL, or recommend
9 to Land Use put the 4,000 without any input from the
10 owners themselves. And I want to take out
11 1000 acres, 100 acres.

12 MS. WONG: During the City Council's
13 proceedings, there is opportunity for testimony by
14 public and petitioners.

15 MR. TAKAHASHI: And all of those comments
16 that they have put forth, including what has been put
17 forth by Robinson, is part of the record by City
18 Council, so they can weigh in on that.

19 When we undertake this effort it was
20 strictly to be objective based upon the criteria and
21 identifying the land and putting forth best
22 information before City Council as the executive
23 body -- I mean the legislative body, who will be
24 weighing on that. And they will say, I agree, maybe
25 we shouldn't include this, even though the criteria

1 identified that.

2 We wanted to put forth all land that met
3 the criteria for their consideration, and not just
4 take out, oh, this one we agree should include or
5 not. We didn't want to be arbitrary, wanted to be
6 clear and factual.

7 COMMISSIONER WONG: The question I have
8 next is, I know that Robinson right now is coming in
9 front of us instead of going to the City Council.

10 What if they go to City Council and say I
11 want only 1,200 approximate acres of land, instead
12 City Council buys into it, still have to come to us.

13 Wouldn't it be easier just to come to us
14 and forget about that portion?

15 MR. TAKAHASHI: That is a possibility. And
16 there is a possibility that the City Council, when
17 adopting a recommendation on behalf of City and
18 County of Honolulu, could put forth something that is
19 different from what the Land Use Commission could
20 support, and the Land Use Commission could support or
21 approve something different than what City Council or
22 city has put forth as their recommendation.

23 So, again, the purpose of our letter
24 earlier was to bring it to your information that the
25 matter is before City Council, and if there is any

1 information or additional input to this additional
2 request, that information could weigh in with respect
3 to LUC decision, do you approve or not?

4 Again, just another opportunity for the
5 Commission, if you want to hear what others may say,
6 or what comes out of this process.

7 COMMISSIONER WONG: So the question I have
8 then is, right now we can either accept, object or
9 make the size smaller, right, for this IAL?

10 MR. TAKAHASHI: That is the discretion of
11 LUC.

12 COMMISSIONER WONG: If the City Council
13 comes in front of us, their recommendation, and we
14 can do the same thing?

15 MR. TAKAHASHI: For the other lands, if you
16 choose to approve the Petitioner's request, then all
17 the final recommendation by City and County of
18 Honolulu as approved or adopted by City Council would
19 need to be amended to exclude the remaining portion
20 of Robinson Trust lands.

21 COMMISSIONER WONG: And this is an open
22 hearing that we had. We could allow any person in
23 the public to come and testify about this issue right
24 now, is that correct? So they could have gone here
25 instead of City Council?

1 MR. TAKAHASHI: Correct. You just have
2 another venue in which people find the public or even
3 legislative body of City and County of Honolulu be
4 able to provide, correct.

5 COMMISSIONER WONG: No more questions,
6 thank you.

7 CHAIRPERSON SCHEUER: Thank you,
8 Commissioner Wong.

9 Commissioner Aczon.

10 COMMISSIONER ACZON: It was mentioned
11 before that there were petitions in front of us that
12 was approved by the Commission previously. And you
13 responded to Ms. Apuna's question, just a matter of
14 timing.

15 My question is, was there any deadline for
16 any petitioner to come forth and voluntarily submit
17 petition for the IAL?

18 MR. TAKAHASHI: No deadline, because it's
19 voluntary.

20 COMMISSIONER ACZON: I'm just trying to
21 figure out the fairness of the process. We approve
22 several of them. And then it just so happened that
23 Robinson came in kind of late in the game.

24 MR. TAKAHASHI: Again, it's voluntary.
25 It's a timing, as was mentioned by the state. And

1 what we wanted to do was to bring forth to let you
2 know where we are.

3 So there is a very high possibility that
4 you might be able to receive additional information
5 or input through the council proceedings.

6 Again, it is the discretion of the LUC if
7 you choose to, if you feel that council is not making
8 reasonable progress to your satisfaction, you could
9 take action before them or pose a question to the
10 council with respect to where you are, when do you
11 anticipate or maybe provide some additional input to
12 the LUC.

13 Right now the Department of Planning and
14 Permitting does not have any opportunity to control
15 or provide input as to how council proceeds. We
16 would definitely be a willing agency providing
17 comments, or to answer any questions that they may
18 have as we are here today.

19 COMMISSIONER ACZON: I understand. I know
20 we have been waiting for this information for quite a
21 while. Thank you.

22 MR. TAKAHASHI: It is a long process, and
23 we kind of wish that Kaua'i did theirs first.

24 COMMISSIONER ACZON: Thank you.

25 CHAIRPERSON SCHEUER: Commissioner Okuda.

1 COMMISSIONER OKUDA: Thank you, Mr. Chair.

2 Mr. Takahashi, you do agree or understand
3 that the Land Use Commission is quasi-judicial, so we
4 can only make decisions based on the record or
5 evidence that is presented to us, right? Everyone
6 agrees with that, correct?

7 MR. TAKAHASHI: Correct.

8 COMMISSIONER OKUDA: So we really have to
9 just look at the record that has been presented to
10 us. Is that a fair statement of your understanding
11 of the process?

12 MR. TAKAHASHI: That's my understanding.
13 But through the proceedings, if you do not conclude
14 your proceedings today, there may be additional
15 information added to the records as part of the City
16 Council process.

17 COMMISSIONER OKUDA: I agree.

18 The city, as far as I can tell, submitted a
19 two-page letter dated December 31, 2018, with respect
20 to the Petition that has been filed by the Robinson
21 Trust, correct?

22 MR. TAKAHASHI: Correct.

23 COMMISSIONER OKUDA: And there was nothing
24 else attached to that letter as far as studies, data,
25 documents or anything else, correct?

1 MR. TAKAHASHI: Correct.

2 The information that we provided to council
3 is available on-line, because that's part of the
4 record and city clerk. If you request, we can
5 definitely forward a hard copy of all of the findings
6 and everything else that we have transmitted to City
7 Council, our understanding that will be part of your
8 record as well, because once City Council takes
9 action on that, you will have that as part of your
10 record as well when you take action on the council
11 recommendation.

12 COMMISSIONER OKUDA: Because we are bound
13 by the record that has been presented to us, you
14 agree with that; correct?

15 MR. TAKAHASHI: Again, it's my
16 understanding, but I'm not an attorney.

17 COMMISSIONER OKUDA: This is not a trick
18 question. I'm not trying to ask you -- but I just
19 want to make sure that we know what the record is.
20 And as far as I can tell, when I read the city's
21 letter dated December 31, 2018, there was no
22 reference or incorporation by reference to any other
23 materials, including anything on city website or
24 anything like that.

25 Was that a fair reading of the city's

1 December 31, 2018 letter?

2 MR. TAKAHASHI: Correct. But it also
3 indicated what was the findings that was transmitted
4 to council prior to the Petition being submitted to
5 the Commission for the Commission's actions.

6 COMMISSIONER OKUDA: Believe me, I take --
7 and I'm sure other Commissioners are taking into
8 account everything that is stated in that letter.

9 A question to you related to that, about
10 the record here, the city reviewed, for example, Mr.
11 Fee's submission and presentation, correct?

12 MS. WONG: Yes, in the Petition, yes.

13 COMMISSIONER OKUDA: Did the city find any
14 inaccurate or misleading statements made by Mr. Fee?

15 MR. TAKAHASHI: No.

16 COMMISSIONER OKUDA: You do agree that the
17 IAL designation process does allow the private
18 landowner to come in, and some people have described
19 it as sort of like a race between the government
20 agencies, the counties and the private landowner to
21 the Land Use Commission.

22 Is that a reasonable description of what is
23 taking place here?

24 MR. TAKAHASHI: That's my understanding. I
25 don't know how factual it is, just my personal

1 observation.

2 COMMISSIONER OKUDA: And it would be a not
3 unreasonable conclusion to believe that that is part
4 of the incentive process to try to encourage the
5 private landowners to voluntarily make certain types
6 of decisions?

7 MR. TAKAHASHI: I cannot speak on behalf of
8 landowners as to what the incentives are, because I
9 did not ask the question to the landowners, you know,
10 that it was that they are trying to beat the county
11 to the recommendation. It is, again, an observation.

12 COMMISSIONER OKUDA: Based on the fact that
13 we as a Commission can only make decisions based on
14 the evidence in the record and not speculation, but
15 can you give us a pretty firm or reasonably firm date
16 when the City Council will make its decision? Or is
17 that really speculation at this point in time?

18 MR. TAKAHASHI: That would be speculation.
19 What I can tell you is what I have disclosed is that
20 the council has it before its meeting next week to
21 discuss the matter.

22 We have had meetings with council members.
23 They have verbally indicated that it is the desire to
24 take action on the IAL, but at no point in time have
25 they identified a date.

1 COMMISSIONER OKUDA: And none of them have
2 disclosed what their view or position is with respect
3 to the Robinson lands, which are the subject of this
4 Petition or Application, correct?

5 MR. TAKAHASHI: As of today, no. But what
6 we have done with respect to the IAL process is we
7 have met with all nine council members, actually now
8 it's eight. We have met and briefed all the council
9 members as to what is expected by council as part of
10 the process. So they're aware of the process, but at
11 no point in time have they expressed any personal
12 comments on any parcel of lands or development or
13 project.

14 COMMISSIONER OKUDA: Final question is
15 this. What would be the actual prejudice to the City
16 and County of Honolulu if the Commission does not
17 defer a decision on this Petition? What would be the
18 actual prejudice to the county?

19 MR. TAKAHASHI: I don't know if there is a
20 prejudice. That's more of a legal -- sorry,
21 terminology.

22 What we wanted to do was bring forward
23 factual information to the Commission if they want to
24 weigh in or have an opportunity to take in additional
25 information.

1 It is our understanding that this process
2 does have a mandate deadline, so it is the discretion
3 of the Commission to see if they want to take action
4 today or defer the matter.

5 COMMISSIONER OKUDA: Believe me, I don't
6 think any of us on the Commission don't want to
7 consider all factual information, and anything that
8 the city wants to submit on the record, so the record
9 is what it is. And we, at least I personally assume
10 the city has chosen to decide what it wants to submit
11 on the record and what it doesn't.

12 In any event, that's just a comment, Mr.
13 Chair. Thank you very much.

14 CHAIRPERSON SCHEUER: Thank you.
15 Commissioner Cabral.

16 VICE CHAIR CABRAL: Gary brought up some
17 questions for me.

18 Speaking of eight versus nine, or nine
19 versus eight, I only listen to the news. Do you guys
20 have a council -- are you able to meet as a council,
21 or not?

22 (Indecipherable words.)

23 Oh, they are. Okay.

24 MR. TAKAHASHI: I wish this wasn't on the
25 record.

1 Yes, officially we do have a council. They
2 have elected an interim Chair and formed a committee,
3 so City Council has started -- or started the daily
4 business of proceeding as of this week.

5 VICE CHAIR CABRAL: As opposed to the
6 federal government who can't work -- that's it, okay.

7 I'm in private business, and I handle
8 properties, like thousands of real estate parcels and
9 subdivisions, condominiums, rentals. So I'm into big
10 numbers of managing things.

11 But I look at the numbers that you're
12 talking of 2000-plus mail outs, at 1800, and if many
13 of these are 1000-plus acres of parcels of land that
14 you have to determine what's Important Agricultural
15 Land versus unimportant versus good, versus bad
16 versus whatever the criteria are that you're going to
17 look at.

18 I assume you cannot attack or deal with --
19 erase attack -- deal with all 1800 or so landowners
20 in the same first week or month, how are you
21 prioritizing? Who are you going to try and start to
22 work with or determine how you're going to determine
23 Important Agricultural Lands for designation?

24 Is there a system or just going after the
25 biggest to the smallest?

1 MR. TAKAHASHI: No individual property
2 owner is targeted in the process. This process
3 involves -- the legislation requires identification
4 of IAL lands, so we establish our processing, and
5 that's why we hired -- to assist us, based on the
6 criteria, help us identify the land, and based upon
7 that we put forth what our finding was at the
8 council.

9 We notified all of the property owners.
10 Yes, we have received numerous comments, all of the
11 comments is part of the record, and it is
12 transmitted -- has been transmitted to City Council
13 for their consideration.

14 Again, if they want to take action on each
15 individual property owner -- what we looked at was
16 big resource identification, what is large Important
17 Agricultural Lands.

18 VICE CHAIR CABRAL: So your priority is if
19 it's got the best soil, it's at the top of the list?

20 MS. WONG: It would be if it met one of the
21 three criteria.

22 VICE CHAIR CABRAL: Soil, water?

23 MS. WONG: Any one of the three.

24 MR. TAKAHASHI: Again, you may have lands
25 that are not A and B land, but they were in

1 production. And the question is why didn't we
2 exclude them? And what happened is that agriculture
3 consists of many different activities, which include
4 cattle. So they may not need certain types of land
5 or land. In some situations, you may not be abutting
6 Waiahole Ditch, or water system, but they have
7 infrastructure, they have transport, or may not have
8 to transport.

9 So, again, we didn't want to exclude other
10 bonafide agricultural properties for IAL
11 consideration.

12 VICE CHAIR CABRAL: So my cattle land is
13 not really great for farming, might be safe for
14 awhile, huh? I'm on Big Island.

15 MR. TAKAHASHI: Discretion, again, what is
16 important land? Cattle is an important agricultural
17 resource. So why shouldn't they be eligible for
18 designation for consideration?

19 And we didn't want to exclude just because
20 you're raising this type of crop, or you're doing
21 this type of activity.

22 What we have put forward is, again,
23 identification of what we felt was important
24 agricultural resources to City Council for their
25 consideration.

1 VICE CHAIR CABRAL: Another question that's
2 come up, is there any thought that at some -- so, you
3 know how much land you have on Oahu. We, of course,
4 in Hilo we have been growing lately, but, Big
5 Island -- but you have so much land, are you trying
6 to get where at some point you want a percentage of
7 all of the land on Oahu to be able to remain in some
8 kind of agricultural usage, or is there a goal, or is
9 there an end point? Or is it eventually the goal is
10 we'll have all of the land in agriculture?

11 MR. TAKAHASHI: Our goal is to identify all
12 lands that meet the criteria. It was not based on
13 acreage or percentage.

14 VICE CHAIR CABRAL: Thank you.

15 CHAIRPERSON SCHEUER: Commissioners.

16 VICE CHAIR MAHI: I would like to get back
17 to the Petitioner and the reason as to why we're
18 having this meeting today. To discuss at this length
19 so far in terms of what City Council is going to do
20 or not do, the city is trying to do or not do.

21 I really like to get back to the Petitioner
22 and let's make a decision.

23 CHAIRPERSON SCHEUER: Commissioner
24 Ohigashi.

25 COMMISSIONER OHIGASHI: Beware when they

1 tell you that it is not a trick question.

2 My concern is the Agricultural Development
3 Task Force or ADTF, is that like a -- what is that,
4 the task force?

5 MR. TAKAHASHI: Consists of various members
6 from the agricultural community into which to provide
7 input to City Council.

8 COMMISSIONER OHIGASHI: So it's like a take
9 or a separate operating kind of --

10 MR. TAKAHASHI: It's an advisory group to
11 City Council.

12 COMMISSIONER OHIGASHI: And they prepare a
13 report?

14 MR. TAKAHASHI: With respect to the final
15 form of the recommendation, I don't know if it will
16 be in respect to a report.

17 COMMISSIONER OHIGASHI: But they made some
18 findings?

19 MR. TAKAHASHI: Recommendations to council.
20 Again, it's all people who have -- who is involved in
21 the agriculture business, so again, these are
22 people --

23 COMMISSIONER OHIGASHI: I understand that
24 part. I'm just trying to find out about this group.

25 And they made findings or recommendation to

1 the council?

2 MS. WONG: There was a resolution passed
3 for this agricultural task force, and its resolution
4 states what their focus should be. And it lists five
5 items.

6 One is to review the land use ordinance
7 regarding zoning for agricultural area, and the
8 necessary changes in zoning to reflect change in
9 agricultural practices.

10 Two, addressing gentlemen farming from a
11 land use perspective by restricting these uses in
12 agricultural areas.

13 Three, reevaluating areas for roads and
14 utilities in agricultural zoned areas.

15 Four, examining the agricultural tax rate;
16 and five, developing extended agricultural industry.

17 COMMISSIONER OHIGASHI: But they made
18 recommendations regarding the IAL designation; is
19 that right?

20 MR. TAKAHASHI: Correct. This was --

21 COMMISSIONER OHIGASHI: I just want to --
22 and you mentioned there are three criteria that they
23 looked at in making their recommendation; is that
24 right?

25 MR. TAKAHASHI: No. The criteria was not

1 set forth by the City Council advisory --

2 COMMISSIONER OHIGASHI: But there were
3 three that you mentioned.

4 MR. TAKAHASHI: Right.

5 COMMISSIONER OHIGASHI: I wanted to find
6 out what --

7 MS. WONG: If the land is currently in
8 agricultural production, if there's water available
9 on the land, and if the soil is conducive for
10 agricultural activity.

11 There's no weighing on which factor or
12 criteria counts more, or as Deputy Director said,
13 what type of activity is occurring.

14 COMMISSIONER OHIGASHI: So their
15 recommendation does not contain the eight criteria
16 listed in Section 205-44(h) Hawaii Revised statute?

17 MR. TAKAHASHI: Correct. The county's
18 establishing their recommendation set forth, look at
19 those, and select which criteria they would like to
20 use in identifying the land.

21 The other counties could use a different
22 criteria.

23 COMMISSIONER OHIGASHI: The criteria that
24 the State Land Use Commission has to use in
25 determining whether it's an IAL designation was not

1 the three criteria that the ADTF uses, is that right?

2 You mentioned three criteria, but there is
3 eight different standards and criteria to identify
4 IAL land in 205-44(a)--

5 MR. TAKAHASHI: Correct, what --

6 COMMISSIONER OHIGASHI: Those three
7 criteria were the only ones used, not necessarily the
8 standards and criteria identified in Section
9 205-44(c); is that right?

10 MS. WONG: From the HRS 205-44(c), the
11 criteria that the County used in the mapping project
12 was 1, 2 and 5.

13 COMMISSIONER OHIGASHI: But the criteria
14 for the recommendation of findings for lands were
15 only three criteria, not eight; is that right?

16 MR. TAKAHASHI: As set forth by the City
17 and County of Honolulu, correct.

18 COMMISSIONER OHIGASHI: Now --

19 MR. TAKAHASHI: And the selection --

20 COMMISSIONER OHIGASHI: I have another
21 question. My other question is, that I just wanted
22 to be sure, I've looked in this, in the documents on
23 file, and I remember to some extent what our Chairman
24 indicated, updated the record, but the report or the
25 recommendations were not submitted as part of your

1 request for deferral; is that correct?

2 MR. TAKAHASHI: Correct.

3 COMMISSIONER OHIGASHI: I don't have any
4 other questions.

5 CHAIRPERSON SCHEUER: Commissioners,
6 anything further?

7 I have two very brief questions and then we
8 will take a ten-minute break.

9 I just want to be very clear. The city has
10 not said at all that there is anything inaccurate or
11 incorrect or legally noncompliant in the Petition
12 before us; is that correct?

13 MR. TAKAHASHI: Correct.

14 CHAIRPERSON SCHEUER: Second question is:
15 Should we grant the Petition today in its entirety,
16 how much land remains on this island in your current
17 plan that has not already been designated as IAL that
18 is eligible for designation as IAL?

19 MR. TAKAHASHI: You have to give us a
20 second.

21 MS. WONG: In the final report that DPP
22 transmitted to City Council, we're recommending about
23 45,400 acres for IAL.

24 CHAIRPERSON SCHEUER: Which includes the
25 24,408?

1 MR. TAKAHASHI: Correct.

2 CHAIRPERSON SCHEUER: So this would reduce
3 it by approximately two-and-a-half percent?

4 MR. TAKAHASHI: 1200 acres, I don't know
5 exact percentage.

6 CHAIRPERSON SCHEUER: I'm not super good at
7 math, but I think I'm good. So that's it.

8 I think we will definitely need a break.
9 We will take a ten-minute break. It's 11:36. We
10 will reconvene at 11:46.

11 (Recess taken.)

12 CHAIRPERSON SCHEUER: We're back on the
13 record.

14 We've now concluded with the Office of
15 Planning -- excuse me, with city and county. We now
16 have OP, Department of Agriculture.

17 OP, please proceed.

18 MS. APUNA: We have Mr. Rodney Funakoshi
19 who will summarize OP's position.

20 CHAIRPERSON SCHEUER: Mr. Funakoshi, do you
21 swear or affirm that the testimony you're about to
22 give is the truth?

23 THE WITNESS: Yes.

24 CHAIRPERSON SCHEUER: Please proceed.

25 -o0o-

1 RODNEY FUNAKOSHI

2 Was called as a witness by and on behalf of the
3 Office of Planning, was sworn to tell the truth, was
4 examined and testified as follows:

5 DIRECT EXAMINATION

6 BY MS. APUNA:

7 Q Can you please give us some of your
8 background and your job title, et cetera?

9 A I am the Planning Program Administrator of
10 the State of Hawai'i, Office of Planning Land Use
11 Division.

12 Q What is OP's position with regard to this
13 Petition?

14 A My testimony will be fairly brief.

15 Mr. Fee has very well covered much of what
16 I would have summarized here. But the Office of
17 Planning does support and appreciate Robinson Kunia
18 Lands' voluntary participation in the IAL process.

19 And I do wish to note that the designation
20 of the most productive agricultural lands in Hawai'i
21 will help realize the goals of sustainability and
22 food security for the State of Hawai'i.

23 Accordingly, OP recommends that Land Use
24 Commission approve the designation of all 1,239 acres
25 in the Petition Area as IAL.

1 We further recommend a condition of
2 approval be imposed, waiving any and all rights to
3 credits under HRS 205-45(b) as represented by the
4 Petitioner.

5 And we also note that the Petition Area
6 constitutes approximately 51 percent of all the land
7 owned by the Petitioner that lies within the State
8 Agricultural Land Use District, and should the
9 Petition be approved, the Commission would be barred
10 from designating any additional land owned by the
11 Petitioner that may be identified by the city for
12 designation as IAL.

13 So that concludes my testimony, and I'm
14 available for questions.

15 MS. APUNA: Mr. Funakoshi is open for any
16 questions.

17 CHAIRPERSON SCHEUER: Petitioner?

18 MR. MAU: Thank you very much, Mr.
19 Funakoshi. I have no further questions.

20 CHAIRPERSON SCHEUER: City and County?

21 MR. TAKAHASHI: No questions.

22 CHAIRPERSON SCHEUER: Department of
23 Agriculture?

24 MR. YAMAMOTO: No questions.

25 CHAIRPERSON SCHEUER: Commissioners? No

1 questions -- Commissioner Okuda.

2 COMMISSIONER OKUDA: Mr. Funakoshi, what is
3 the Office of Planning's position on the City's
4 request for deferral?

5 THE WITNESS: Our attorney will cover that.

6 CHAIRPERSON SCHEUER: Anything further,
7 Commissioner Okuda?

8 COMMISSIONER OKUDA: Nothing further, thank
9 you.

10 CHAIRPERSON SCHEUER: Anything else,
11 Commissioners? Thank you, Mr. Funakoshi.

12 Please proceed, Ms. Apuna.

13 MS. APUNA: I do have comments with regard
14 to the recommendation that the Commission defer its
15 position on this Petition until the City Council
16 transmits its recommendation --

17 COURT REPORTER: I'm sorry, Dawn, I'm
18 having a really hard time hearing you over here.

19 MS. APUNA: -- with regard to DPP's
20 recommendation that this Commission defer its
21 decision on this Petition until the City Council
22 transmits its recommendations on lands proposed for
23 IAL designation to the Commission.

24 The Commission's withholding of the
25 decision would run counter to the IAL process under

1 Part III of HRS Chapter 205 and HAR Subchapter 17.

2 Running parallel to each other, the county
3 process is completely separate from, though
4 simultaneous with, the voluntary landowner petition
5 process, while neither intersects or interferes with
6 the other until the LUC receives the county maps in
7 conjunction with private landowner declaratory IALs.

8 HRS 205-45(i) clearly allows and authorizes
9 the Commission to decide this Petition, stating,
10 "Notwithstanding any other law to the contrary, the
11 Land Use Commission may grant declaratory orders
12 pursuant to this section before the commission
13 receives from any county a map delineating
14 recommended important agricultural lands."

15 All that this Commission is empowered to do
16 today is to evaluate qualifications of the Petition
17 land for designation as IAL. It may either approve
18 the entire or portion of the Petition Area, or it may
19 deny the Petition in its entirety.

20 The IAL statute and rules do not authorize
21 the LUC to withhold a decision on a voluntary IAL
22 petition until the county's maps are received.

23 The Commission should not thwart the
24 efforts of the Petitioner to come forth voluntarily
25 to designate its lands as IAL, in favor of the city's

1 desire to designate more or different lands than the
2 Petitioner is offering. Thank you.

3 CHAIRPERSON SCHEUER: Commissioner Okuda,
4 counsel was responding to your question.

5 Do you have a follow up?

6 COMMISSIONER OKUDA: No, I don't, Mr.
7 Chair. I think that succinctly is the explanation or
8 answer to my question.

9 CHAIRPERSON SCHEUER: Any further questions
10 for the Office of Planning?

11 Thank you very much.

12 Department of Agriculture. If I can ask
13 you for this portion to take a place near by the
14 microphone, or you can sit in the public witness box.

15 Please proceed.

16 MR. YAMAMOTO: My name is Earl Yamamoto,
17 Department of Agriculture planner, representing the
18 Chair of the Department of Agriculture.

19 Department of Agriculture supports the
20 Application of the Petition for the Robinson lands
21 along the east side of Kunia Road for all the reasons
22 that have been already expressed here in this
23 hearing.

24 I would like to add that if approved, the
25 designation of the 1239 acres would support our --

1 the department, and city and county's long-standing
2 protections that we have sought for these lands along
3 the Kunia corridor between the Royal Kunia
4 residential subdivision, and up to the Schofield
5 Barracks Wheeler Airfield area on both sides of Kunia
6 Road.

7 It's a long-standing belief, and the city
8 has provided the protections and consistently, and
9 applied for as long as I've been a planner at the
10 Department of Agriculture, and I would like to
11 commend them for their efforts.

12 And we also would like to note that the
13 Waiahole Ditch that crosses through the middle of the
14 Petition Area is an irreplaceable resource. Its
15 continued use for agriculture, agricultural
16 production is needed to be maintained.

17 All uses in that area we strongly support,
18 and we have equally strongly supported the other
19 petitions for Important Agricultural Lands
20 designation in the area.

21 CHAIRPERSON SCHEUER: Thank you, Mr.
22 Yamamoto.

23 Petitioner, do you have questions for the
24 Department of Agriculture?

25 MR. MAU: We thank you for your testimony.

1 We have no questions.

2 CHAIRPERSON SCHEUER: City and County of
3 Honolulu?

4 MR. TAKAHASHI: No questions.

5 CHAIRPERSON SCHEUER: Office of Planning?

6 MS. APUNA: No questions.

7 CHAIRPERSON SCHEUER: Commissioners?

8 Thank you very much.

9 Commissioners -- sorry. Petitioner, do
10 you, have any final comments that you want to make at
11 this time?

12 MR. MAU: I have no further comments.

13 CHAIRPERSON SCHEUER: Commissioners, do you
14 have any questions for the Petitioner, final
15 questions for the Petitioner? For the City and
16 County of Honolulu? For the Office of Planning or
17 for the Department of Agriculture?

18 If not, we are ready to deliberate.
19 Commissioners, what is your pleasure?

20 Commissioner Aczon.

21 COMMISSIONER ACZON: Mr. Chair, I want to
22 make a motion.

23 CHAIRPERSON SCHEUER: Please proceed.

24 COMMISSIONER ACZON: Going to move that the
25 Land Use Commission grant the Petition by Robinson

1 Kunia Land, LLC, to designate 1,239 acres at Kunia,
2 Oahu as Important Agricultural Land with the
3 following conditions:

4 Number one, Petitioner shall comply with
5 representations made to the Commission with respect
6 to not claiming any credits described in HRS
7 205-45(h) with respect to the Petition Area.

8 And secondly, within seven days of issuance
9 of Commission's Decision and Order, Petitioner shall
10 record it with the Bureau of Conveyances.

11 CHAIRPERSON SCHEUER: A motion has been
12 made by Commissioner Aczon.

13 COMMISSIONER MAHI: Second.

14 CHAIRPERSON SCHEUER: And seconded by
15 Commissioner Mahi.

16 Commissioners, there's a motion before us.
17 We're in time of discussion. Does anyone want to
18 speak to the motion? Commissioner Cabral.

19 VICE CHAIR CABRAL: Ladies first again.

20 Yes, I've read all of this, and I want to
21 thank the Petitioner for their efforts to move
22 forward, and as much as I can appreciate that the
23 county has -- is now moving forward with their plans,
24 I've got to say that someone in private business -- I
25 appreciate that the Petitioner is in private business

1 and they need to make decisions, some of which were
2 exposed -- I didn't think about this.

3 You never know what additional government
4 regulation may be put onto something in the future,
5 scary thought. So I'm going to vote in favor because
6 I think everyone has the same timeframe to get things
7 ready, and we are here and this is before us now, and
8 we need to keep moving forward.

9 And I appreciate the Petitioner for their
10 willingness to designate a huge amount of land,
11 beautiful land for agricultural purposes, and to
12 keeping it in agriculture forever. Thank you.

13 CHAIRPERSON SCHEUER: Commissioners?
14 Commissioner Okuda.

15 COMMISSIONER OKUDA: Chair, I'm inclined to
16 vote in favor of the motion. I believe that the
17 evidence that's been submitted on the record is
18 undisputed as far as the suitability and
19 applicability of the statute here.

20 With respect to the deferral, I believe the
21 Office of Planning, Ms. Apuna's explanation of the
22 law, is persuasive, and is in fact an accurate
23 statement of the law about the authority or lack
24 thereof in this specific circumstance to require or
25 authorize a deferral.

1 I also note the Hawai'i Supreme Court case,
2 Sierra Club versus DR Horton, 136 Hawai'i 505, a 2015
3 Hawaii Supreme Court case, even though that's not a
4 deferral with respect to an IAL petition, it did
5 raise an issue about whether deferral was required
6 where there was boundary amendment. And the holding
7 of the Supreme Court was it is not.

8 So for these reasons and any other good
9 records in the record, I believe the Petition and the
10 motion should be granted.

11 CHAIRPERSON SCHEUER: Thank you,
12 Commissioner Okuda.

13 COMMISSIONER ACZON: Commissioner Okuda's
14 statement, according to HAR 15-15-100 provides the
15 alternative action requires the Petition for the
16 third one, but deferral is not one of them. Thank
17 you.

18 CHAIRPERSON SCHEUER: Further comments,
19 Commissioners?

20 If there is none, I will also state for the
21 record that I will be voting in favor of the motion.
22 I'll just make a few clarifications on that.

23 First of all, I don't question whether or
24 not the landowner has demonstrated commitment to
25 agriculture. Actually, I don't, ironically, see that

1 this is part of that -- simply housekeeping in the
2 face -- in response to a law that really speaks to.

3 While I am absolutely here for trying to
4 support and increase agriculture in Hawai'i, I find
5 the IAL law itself a very sorry attempt to do so. It
6 is a waste of our time.

7 And that's not to say that I don't
8 appreciate the work that the city has done so far in
9 identifying great lands on this island, but should
10 have some further protection of agricultural lands.

11 But I do believe our hands are tied in
12 terms of our ability to defer at this point in
13 response to your request.

14 Are there any further comments? If not,
15 Mr. Orodener, please poll the Commission.

16 EXECUTIVE OFFICER: Thank you, Mr. Chair.
17 The motion is to grant the Petition for IAL
18 designation with conditions.

19 Commissioner Aczon?

20 COMMISSIONER ACZON: Yes.

21 EXECUTIVE OFFICER: Commissioner Mahi?

22 VICE CHAIR MAHI: Aye.

23 EXECUTIVE OFFICER: Commissioner Ohigashi?

24 COMMISSIONER OHIGASHI: Aye.

25 EXECUTIVE OFFICER: Commissioner Cabral?

1 VICE CHAIR CABRAL: Yes.

2 EXECUTIVE OFFICER: Commissioner Okuda?

3 COMMISSIONER OKUDA: Yes.

4 EXECUTIVE OFFICER: Commissioner Wong?

5 COMMISSIONER WONG: Aye.

6 EXECUTIVE OFFICER: Chair Scheuer?

7 CHAIRPERSON SCHEUER: Aye.

8 EXECUTIVE OFFICER: Thank you, Mr. Chair.

9 The motion passes unanimously.

10 CHAIRPERSON SCHEUER: Thank you very much.

11 Congratulations to the Petitioner.

12 We have one more item on our agenda. We
13 will lose some of our Commissioners, so I'm going to
14 proceed.

15 Our next agenda item is an action item to
16 authorize the executive officer to submit the
17 administrative rules to the governor.

18 Commissioners, do you have any questions,
19 or do you wish to have further discussion on this
20 matter?

21 EXECUTIVE OFFICER: Thank you, Mr. Chair.

22 This is a request by staff to submit the
23 proposed rule amendment to the governor.

24 As the Commission may recall, the hearing
25 on our proposed rules, it was discovered that we had

1 made an error with regard to "substantial
2 commencement" clause.

3 We have since corrected that, gone back out
4 to hearing. There were no comments other than
5 comments in support of the change.

6 We are now asking to take the next step so
7 that the rules can be finalized and put into law,
8 which would be to submit them to the governor for
9 signature.

10 CHAIRPERSON SCHEUER: Are there any
11 questions for the executive officer?

12 Commissioner Aczon.

13 COMMISSIONER ACZON: Are these the same
14 rules we approved previously?

15 EXECUTIVE OFFICER: Yes. The only change
16 was that it was pointed out to us in the course of
17 hearing that we had inadvertently used the term
18 "substantial commencement of construction", when it
19 should have been "substantial commencement of the use
20 of the land".

21 CHAIRPERSON SCHEUER: Any further questions
22 for the executive officer?

23 Commissioners, what is your pleasure on
24 this matter? Commissioner Wong.

25 COMMISSIONER WONG: I want to make a

1 motion.

2 CHAIRPERSON SCHEUER: Please.

3 COMMISSIONER WONG: To move forward the
4 rules to the governor to authorize the commission,
5 executive officer, that portion, sir.

6 COMMISSIONER ACZON: I second the motion.

7 CHAIRPERSON SCHEUER: A sort of motion has
8 been made by Commissioner Wong, but reflected in the
9 record earlier, and seconded by Commissioner Aczon to
10 move these rules to the governor.

11 Any further discussion on this matter? If
12 not, all in favor? Anybody opposed? The motion
13 passes.

14 Are there any further questions or comments
15 on our meeting agenda items?

16 VICE CHAIR CABRAL: I do.

17 CHAIRPERSON SCHEUER: Commissioner Cabral.

18 VICE CHAIR CABRAL: I always end up with so
19 much paperwork afterwards, like we got that beautiful
20 colored handout. Is there any reason we're supposed
21 to keep these things? I've talked to Riley before,
22 and after awhile I do get rid of them, or should I
23 give them back to somebody so they can use it in
24 other presentation?

25 Do you folks, staff, need any of this

1 paperwork in the future?

2 CHAIRPERSON SCHEUER: Mr. Executive
3 Officer.

4 EXECUTIVE OFFICER: We get copies, staff
5 gets its own copy. The Commissioners get
6 duplicative, so keep them, throw them away, put them
7 in a bird cage, whatever you want to do.

8 CHAIRPERSON SCHEUER: There being no
9 further business, I propose we adjourn.

10 (The proceedings were adjourned at 12:10
11 p.m.)

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CERTIFICATE

STATE OF HAWAII)
) SS.
COUNTY OF HONOLULU)

That on January 24, 2019, 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 24th day of January, 2019, in Honolulu, Hawaii.

/s/ Jean Marie McManus
JEAN MARIE McMANUS, CSR #156