

STATE OF HAWAII

LAND USE COMMISSION

July 11, 2019

Commencing at 9:30 a.m.

Airport Conference Center

400 Rogers Blvd., Suite 700, Room #IIT#2

Honolulu, Hawaii 96819

AGENDA

VII. Call to Reconvene

VIII. ACTION

A05-758 A CHARITABLE FOUNDATION CORPORATION
(O'ahu)

To Consider Motion for Order Releasing
Condition Nos. 1, 4, 7, 8, 10 and 11 As Set
Forth in the Findings of Fact, Conclusions of
Law, and Decision and Order dated April 21,
2006 and in the Declaration of Conditions
Recorded in the Bureau of Conveyances of the
State of Hawai'i as Document No. 2006-105635

IX ADJOURNMENT

BEFORE: Jean Marie McManus, CSR #156

1 APPEARANCES:

2 COMMISSIONERS:

3 JONATHAN SCHEUER, Chairperson

NANCY CABRAL, Vice Chair

4 AARON MAHI, Vice Chair

GARY OKUDA

5 DAWN N.S. CHANG

EDMUND ACZON

6 RANDALL S. NISHIYAMA, ESQ.

7 Deputy Attorney General

8 STAFF:

DANIEL ORODENKER, Executive Officer

9 RILEY K. HAKODA, Chief Clerk/Planner

BERT SARUWATARI, Planner

10
11 EUGENE TAKAHASHI, Deputy Director

DINA WONG, Acting Division Chief

12 Honolulu County

Department of Planning and Permitting

13 DAWN APUNA, ESQ.

14 Deputy Attorney General

RODNEY FUNAKOSHI,

15 State Office of Planning

16 DICKSON LEE, ESQ.

TRACY FUKUDA, Wilson Okamoto

17 DR. DAVID DRUZ, Petitioner Representative

For A05-758

18

19

20

21

22

23

24

25

INDEX

WITNESS:

PAGE

A05-758

CHARITABLE FOUNDATION CORPORATION

DAVE DRUZ

Direct Examination

50

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

3 This is the July 11, 2019 Land Use
4 Commission Meeting.

5 I would like to announce that Agenda Item
6 IX of the Agenda Docket No. DR19-66 Poma'ikai
7 Partners, LLC, will not be heard today.

8 Petitioner advised the Commission after the
9 agenda notice was circulated that it was not ready to
10 proceed as scheduled.

11 So our next agenda item is a continued
12 action hearing on Docket A05-758 A Charitable
13 Foundation Corporation Motion for Order Releasing
14 Condition Nos. 1, 4, 7, 8, 10 and 11 As Set Forth in
15 the Findings of Fact, Conclusions of Law, and
16 Decision and Order dated April 21, 2006 and In the
17 Declaration of Conditions Recorded in the Bureau of
18 Conveyances of the State of Hawai'i as Document No.
19 2006-105635.

20 Will the parties please identify
21 themselves?

22 MR. LEE: Good morning, Members of the
23 Commission. My name is Dickson Lee. I have with me
24 today Dr. David Druz, who is representing the
25 Petitioner, and to my left is Tracy Fukuda from the

1 planning firm of Wilson Okamoto.

2 CHAIRPERSON SCHEUER: City and county.

3 MS. WONG: My name is Dina Wong. I'm with
4 Department of Planning and Permitting. I'm the
5 Acting Planning Division Chief.

6 MR. TAKAHASHI: Eugene Takahashi, Deputy
7 Director of Department of Planning and Permitting.

8 CHAIRPERSON SCHEUER: Welcome.

9 MS. APUNA: Deputy Attorney General Dawn
10 Apuna on behalf of State Office of Planning. Here
11 with me today is Rodney Funakoshi.

12 CHAIRPERSON SCHEUER: Let me now update the
13 record in this docket.

14 On April 9th, 2019, the Commission received
15 Petitioner's Motion for Order Releasing Conditions 1,
16 4, 7, 8, 10 and 11 as set forth in the Findings of
17 Fact, Conclusions of Law and Decision and Order dated
18 April 21st, 2006 and in the Declaration of Conditions
19 Recorded in the Bureau of Conveyances of the State of
20 Hawaii as Document No. 2006-105635.

21 On April 12th, 2019, the Commission
22 received the Office of Planning's request for
23 Extension of Time to Respond to the Petitioner's
24 Motion.

25 On April 15, 2019, the Commission mailed

1 correspondence granting OP's request.

2 On May 28th of this year, the Commission
3 received Petitioner's Memorandum re: Amended
4 Affidavit of Authorized Officer David Druz.

5 On June 10th, 2019, the Commission received
6 the Office of Planning's response to Petitioner's
7 Motion.

8 On June 20th the Commission received the
9 Petitioner's response to OP's response to the
10 Petitioner's Motion.

11 On July 1st the Commission mailed the
12 July 10th through 11, 2019 LUC meeting agenda notice
13 to the Parties and the Statewide, Oahu and Hawai'i
14 mailing and emailing lists.

15 Now, let me briefly describe our procedure
16 for today on this docket.

17 First I'll give the opportunity for the
18 Petitioner to comment on the Commission's Policy
19 governing reimbursement of hearing expenses.

20 I will then call on any individuals
21 desiring to give public testimony, which looking
22 around, I believe there are none.

23 After public testimony, the Commission will
24 hear argument on Petitioner's Motion. We will first
25 hear from the Movant, then County and finally the

1 Office of Planning.

2 The Movant will present oral argument on
3 Releasing Conditions 1, 4, 7, 8, 10 and 11
4 consecutively and in order without interruption. No
5 additional evidence or witnesses are required. At
6 the completion of its argument, the Commissioners
7 will be given the opportunity to ask questions.

8 Once the Petitioner's presentation is
9 complete and the Commissioners have completed their
10 questioning, the County shall give its presentation
11 in the same manner. The Commissioners can ask
12 questions.

13 Once the County has completed its
14 presentation and the Commissioners have completed
15 their questioning, OP will present its case in the
16 same manner. The Commissioners will then ask
17 questions.

18 Once the Commissioners have completed their
19 questioning of OP, the Petitioner will be given a
20 chance for a short rebuttal, and then finally
21 questions by the Commissioners.

22 At the conclusion of that, the Commission
23 will conduct its deliberation.

24 Are there any questions on our process for
25 this morning?

1 MR. LEE: None.

2 MS. WONG: No questions.

3 MS. APUNA: No questions.

4 CHAIRPERSON SCHEUER: Thank you very much.

5 So, Mr. Lee, have you reviewed HAR
6 15-15-45.1 with regard to reimbursement of hearing
7 expenses?

8 MR. LEE: Yes.

9 CHAIRPERSON SCHEUER: And what is your
10 client's position on this?

11 MR. LEE: We concur with whatever the
12 Commission requires.

13 CHAIRPERSON SCHEUER: Thank you very much.

14 Last check. I don't see anybody desiring
15 to give public testimony. We can proceed.

16 COMMISSIONER OKUDA: May I make a
17 disclosure before we proceed?

18 CHAIRPERSON SCHEUER: Yes, please proceed
19 with your disclosure, Commissioner Okuda.

20 COMMISSIONER OKUDA: I would like to
21 disclose to all parties that I know personally
22 Dickson Lee. The basis of my knowledge of Dickson
23 Lee is his firm, which originally was known as the
24 Law Firm of Okumura, Takushi, Funaki & Wee hired me
25 when I was still in law school as a summer law clerk

1 in 1980, and I practiced at the Okumura Takushi Law
2 Firm from 1981 when I graduated law school, to
3 approximately 1986 when I left to form my own firm.

4 Since then I have had clients that have
5 also been represented by Mr. Lee's firm, predecessor
6 firm and the current law firm.

7 And he's also been involved in cases that
8 I've been involved in.

9 I would also like to disclose the fact that
10 our firm represents the Tojo Revocable Trust which
11 has a pending proceeding with City and County of
12 Honolulu. I believe it's under the jurisdiction of
13 Department of Planning and Permitting, a technical
14 issue about whether or not consolidation of a lot,
15 which is nonreflective on the land court certificate
16 of title, is still applicable to the title issues.
17 That's set for mediation before Retired Supreme Court
18 Justice James Duffy.

19 I don't believe any of these relationships
20 or matters affect my ability to give a fair and
21 impartial decision in this case.

22 CHAIRPERSON SCHEUER: Thank you.

23 Does the Petitioner object to Mr. Okuda's
24 continued participation in this matter?

25 MR. LEE: No.

1 MR. TAKAHASHI: No.

2 MS. APUNA: No objection.

3 CHAIRPERSON SCHEUER: Any other disclosures
4 or matters? Commissioner Cabral.

5 VICE CHAIR CABRAL: I just now met Mr.
6 Dickson Lee, but we have had -- he's worked with some
7 clients that -- we have mutual clients, and I think I
8 have some emails from him, but I have nowhere near
9 the memory of that detail, so I'm sure it will not
10 affect my ability to be impartial. Thank you.

11 CHAIRPERSON SCHEUER: Any objection?

12 MR. LEE: This is the first time I've met
13 Mrs. Cabral. I'm not -- I do think she has received
14 copies of emails from my client.

15 CHAIRPERSON SCHEUER: Not regarding --

16 MR. LEE: Not regarding any of this.

17 CHAIRPERSON SCHEUER: Any objection to Ms.
18 Cabral's continued participation in this proceeding?

19 MR. LEE: No.

20 MR. TAKAHASHI: No.

21 MS. APUNA: No.

22 CHAIRPERSON SCHEUER: With that then, you
23 can proceed with your case. And I'll remind you
24 again, this is not an evidentiary hearing.

25 MR. LEE: I'm going to ask Ms. Fukuda to

1 show a graphic on the Petition Area.

2 (Video shown.)

3 This is an old docket, so I don't think any
4 of you were here in 2006.

5 The Petition Area is outlined in red.
6 Apparently, according to Ms. Fukuda, it was recently
7 done by the City and County of Honolulu in terms of
8 GIS graphic showing the Petition Area.

9 The large area consists of approximately 79
10 acres. The area to the right, on top of it consists
11 of approximately nine acres. And the parcel that's
12 below the area, that small area, is approximately
13 five acres.

14 The 79-acre parcel of land was conveyed to
15 the State earlier this year.

16 The Petitioner still owns the two parcels
17 to the right of it.

18 So with that proper perspective, the
19 condition of the land has not changed, it's still
20 basically overgrown.

21 With that, lights on -- well, okay, maybe
22 to the left is Waimea Bay. To the bottom of the
23 Petition Area is Waimea Valley. Above the Petition
24 Area is a residential community in Urban.

25 CHAIRPERSON SCHEUER: Please continue.

1 MR. LEE: Thank you.

2 My client, the Petitioner Charitable
3 Foundation is an environmentally sensitive nonprofit
4 corporation, which acquired the land on Pupukea Ridge
5 about 2020 -- 2000, I'm sorry.

6 The purpose of his acquiring the land is to
7 basically acquire the land in order to give to the
8 State for State Park Reserve. It acquired all the
9 other land simply because it had to do some as a
10 condition of purchasing from the prior owner, Finance
11 Realty. The sole purpose was to preserve --

12 CHAIRPERSON SCHEUER: For the benefit of
13 the record, I'm going to ask you to try and stay
14 fairly close and a consistent distance from the
15 microphone. It's hard for us who like to gesture.

16 MR. LEE: The sole purpose of acquisition
17 of the land was to preserve and to convey it to the
18 State for State Park Reserve.

19 The total area is approximately 94 acres,
20 of which only 34 acres was the subject of this
21 Petition. Approximately 29 acres was in Agriculture,
22 and five acres were in Conservation -- I'm sorry,
23 55 acres.

24 So what we did was we sought to transfer,
25 change the district boundary of approximately --

1 let's see, total of 55 acres, and we changed 34 acres
2 from Agriculture into Conservation. And
3 approximately five acres into Agriculture, from
4 Conservation to Agriculture.

5 The Commission approved the Petition in
6 2006. And thereafter, the Petitioner sought to
7 comply with the conditions imposed by the Commission
8 which was basically to create the subdivision. It
9 took almost 12 years to do that.

10 And it involved getting approvals from the
11 Department of Planning and Permitting, including
12 development of a road for access to the agriculture
13 lots that are off to the right of the picture here.

14 The Office of Planning has acknowledged
15 that the Petitioner has complied with substantially
16 all of the conditions which we are requesting to be
17 released except for the condition that the Petitioner
18 continue to file annual reports solely for the
19 purpose of reporting -- excuse me, I have an allergy,
20 I can't hear sometimes -- solely for the purpose of
21 informing the Commission of an intent to convey the
22 two agriculture lots.

23 We believe we have complied with that
24 condition where in our motion we have stated that
25 Petitioner intends to convey those two lots. We

1 believe that there's no prejudice to the State or the
2 public if the Commission were to release Condition
3 No. 7 which is that. And the reason for that is that
4 we have several layers of protection for the State.

5 The first is the recordation, the Decision
6 and Order which says that those two lots are
7 agriculture.

8 The second layer of protection is
9 declaration of conditions, covenants and restrictions
10 which the City required the Petitioner to file saying
11 that the property is in agriculture.

12 A third position that -- a third protection
13 that we afford to the State and to the public is that
14 after this hearing, we will be filing a declaration
15 of covenants, conditions and restrictions, which
16 provides that the number of farm lots, farm dwellings
17 that can be situated on the two farm lots must comply
18 with both the Commission and Department of Planning
19 and Permitting requirements.

20 The declaration will also provide that
21 there will be no further subdivision without
22 obtaining the Land Use Commission and Department of
23 Planning and Permitting's approval.

24 That being said, we feel that there's
25 adequate protection. Whoever owns the property will

1 have knowledge of these restrictions by virtue of the
2 title deed that's covered by these three documents.

3 In summary, we are requesting the
4 Commission to release Condition No. 1, which provides
5 the Petitioner convey the 79-acre parcel of land to
6 the State or State Park Reserve. We have done that
7 as of January 24, 2019, earlier this year.

8 I would like to point out that the deed to
9 the State contains several conditions, restrictions
10 on the use of the land which are intended -- which
11 are specifically crafted with input from the North
12 Shore Community which prohibits construction of any
13 improvements on the property.

14 For example, the State cannot build a cell
15 tower to be placed on the property. The State cannot
16 allow a windmill to be placed on the property for
17 electrical generation. There's no hunting allowed on
18 the property.

19 We are asking the Commission to release
20 Condition No. 4 which required the Petitioner to
21 maintain the trail system on the property for a
22 period of ten years. That condition expired in 2016

23 We're asking again the Commission to
24 release Condition No. 7, which is what we discussed
25 earlier, that we have complied with the condition

1 that we notify -- excuse me -- notify the Commission
2 of the intent to convey the two parcels of land.

3 We believe, again, that there's no
4 prejudice to the State or to the public by releasing
5 that condition.

6 We have complied, the Petitioner has
7 complied with Condition No. 10 which required that a
8 notice of the Commission's Decision and Order be a
9 recorded. That was done June 1, 2006. We're asking
10 that the Commission release Condition No. 11, which
11 required that the Decision and Order be recorded, and
12 that was done on June 7, 2006

13 That being said, we are requesting the
14 Commission to favorably consider our request.

15 Again, I apologize. I cannot hear
16 sometimes. Thank you.

17 CHAIRPERSON SCHEUER: I have the same
18 problem, but no excuse of an allergy.

19 Thank you, Mr. Lee.

20 Commissioners, are there any questions for
21 the Movant? Commissioner Aczon or -- I'm trying to
22 remember how they mispronounced your name in Kona
23 yesterday. Acozone?

24 COMMISSIONER ACZON: Maybe I'm missing
25 something. What about Condition No 8?

1 MR. LEE: Condition No. 8 and the report,
2 we're asking the annual report also be released.

3 COMMISSIONER ACZON: Thank you.

4 MR. LEE: I'm sorry, I apologize. I
5 assumed that was deferred.

6 CHAIRPERSON SCHEUER: Thank you,
7 Commissioner Aczon.

8 Commissioner Chang, we have missed you.

9 COMMISSIONER CHANG: Thank you very much.
10 Good to be back.

11 Mr. Dickson, who is the adjoining landowner
12 to the property below, I guess on the bottom?

13 MR. LEE: That's Waimea Bay. I believe OHA
14 owns that. I think they own the Waimea Valley Park.

15 COMMISSIONER CHANG: The Waimea Valley
16 Park, that's on the bottom?

17 MR. LEE: The bottom.

18 COMMISSIONER CHANG: The bottom third?

19 MR. LEE: Yeah.

20 COMMISSIONER CHANG: And they are
21 adjoining --

22 MR. LEE: They own the valley.

23 COMMISSIONER CHANG: Where is the army's
24 property? Is it above there?

25 MR. LEE: I don't know but, David, can you

1 respond to that?

2 Will he have to be sworn in?

3 CHAIRPERSON SCHEUER: Correct. Generally
4 because this is not an evidentiary hearing, we work
5 without witnesses. However, disclosing, since I was
6 in charge of the acquisition of Waimea Valley for the
7 Office of Hawaiian Affairs, I could actually respond
8 to the question for you if you wish.

9 The Office of Hawaiian Affairs owns
10 approximately 1800 acres, which is from the red
11 property line to the bottom of the page, or towards
12 the ridge. At the ridgeline where you can see
13 sugarfields, that is owned by Kamehameha Schools.

14 The Office of Hawaiian Affairs conveyed the
15 property to Hi'ipaka, LLC, which is the holder of the
16 land right now. The army's land is much farther
17 mauka out of this image.

18 COMMISSIONER CHANG: Thanks. I just needed
19 to understand.

20 MR. LEE: Also like to point out that a
21 primary reason for the Petitioner to acquire this
22 land was because you have residential right above it,
23 and we wanted to make sure there was no further
24 development of that ridgeline.

25 CHAIRPERSON SCHEUER: Commissioners, are

1 there other questions? I just had a brief question.

2 You said the North Shore Community sought
3 certain conditions, certain of these conditions.

4 Can you be a little more descriptive?
5 There are many communities within the North Shore
6 Community, I know from personal and painful
7 experience.

8 MR. LEE: I think it's the neighborhood
9 board that was involved. There was North Shore
10 Neighborhood, Sunset Beach Association and North, and
11 North Shore Community Land Trust.

12 MR. LEE: The conditions that are in the
13 deed, and that's Exhibit 1 to our Petition, or our
14 Motion, which is the limited warranty deed. On page
15 4 -- would you like me to read it?

16 CHAIRPERSON SCHEUER: Please proceed.

17 MR. LEE: And Grantee covenants that the
18 Property is and shall forever be owned for the public
19 good in the management, maintenance and preservation
20 of the Property's scenic, viewplanes, open space,
21 recreational values, and cultural, historical and
22 natural resources and values of the Pupukea Ridge and
23 restricted from any development or the use that would
24 impair or interfere with such resources and values.
25 Structures such as communication or other utility

1 towers or poles, ziplines and wind turbines, are and
2 shall be prohibited.

3 Notwithstanding the foregoing, Grantee may
4 construct improvements, such as maintenance
5 structures and comfort stations, provided that such
6 improvements do not detract from such resources and
7 values and blend with the natural environment, do not
8 exceed a height of 15 feet, are set back so that such
9 improvements are not visible from Waimea Valley and
10 Waimea Beach Park below.

11 Recreational use is and shall be restricted
12 to traversing the Property by foot or on animals,
13 such as horses, mules or donkeys. Dogs and public
14 hunting are not and shall not be permitted on the
15 Property provided that Grantee may conduct ungulate
16 control and eradication of invasive animals, except
17 for motor vehicles necessary for Grantee to maintain
18 the Property and to allow for a parking area for no
19 more than 24 motor vehicles, no other motor vehicles,
20 including motorcycles and all terrain vehicles, and
21 non-motorized vehicles, such as bicycles, shall be
22 permitted to be operated or used within the Property
23 for any other use or purpose.

24 Any activity on or use of the Property
25 inconsistent with the foregoing covenant is and shall

1 be prohibited. Notwithstanding the foregoing,
2 Grantee shall have the right to grant easements and
3 rights-of-way and the right to grant to any public
4 utility or governmental authority such rights-of-way
5 over, across and under said easements for lines and
6 other transmission facilities and appurtenances only
7 for water and electricity serving only the Property.

8 CHAIRPERSON SCHEUER: I think that's good.
9 Thank you.

10 MR. LEE: That was drafted with input from
11 the North Shore Communities.

12 CHAIRPERSON SCHEUER: Thank you.

13 Any other questions, Commissioners?

14 Commissioner Cabral.

15 VICE CHAIR CABRAL: Your comments now
16 brought up a question. I think previously you said
17 hunting would be prohibited on the property.

18 MR. LEE: Yes. The State asked for the
19 ability to be able to eradicate pigs. That was the
20 word "ungulate".

21 VICE CHAIR CABRAL: So eradication of the
22 pigs may be permitted and allow for hunting?

23 MR. LEE: Not open hunting.

24 VICE CHAIR CABRAL: Well, I live around
25 those pigs because I live in the country and hunting

1 is a really good way to help control them. It's
2 much, much more difficult to trap and remove. So I'm
3 just suggesting you might want to have controlled
4 hunting.

5 MR. LEE: We no longer own the land. That
6 would be a State issue at this point, because we
7 originally asked for no hunting at all, and the State
8 asked for the ability to do hunting for pigs.

9 VICE CHAIR CABRAL: That's fine. I agree.
10 Thank you. Okay.

11 CHAIRPERSON SCHEUER: Commissioners, any
12 other questions for the Movant? If not, you'll have
13 a chance for rebuttal. We can proceed with the City
14 and County of Honolulu.

15 MR. TAKAHASHI: We have no questions. No
16 rebuttal.

17 CHAIRPERSON SCHEUER: You would we have no
18 objection?

19 MR. TAKAHASHI: Yeah, we have no objection.

20 CHAIRPERSON SCHEUER: Are there any
21 questions for the County?

22 COMMISSIONER CHANG: I do have one
23 question.

24 If the Petitioner files a subdivision, is
25 there a public hearing process for that where the

1 community would be notified of that?

2 MR. TAKAHASHI: There is no hearing process
3 for subdivision. It's administrative.

4 COMMISSIONER CHANG: So the notice of
5 change of ownership, because I think Mr. -- but,
6 okay, so there is no public process for a
7 subdivision?

8 MR. TAKAHASHI: A public hearing process?
9 Correct, there is no public hearing.

10 COMMISSIONER CHANG: Is there a public
11 notice process for subdivision?

12 MR. TAKAHASHI: No.

13 COMMISSIONER CHANG: So the community would
14 not know when there's a subdivision that has been
15 filed?

16 MR. TAKAHASHI: That is correct.

17 MR. LEE: May I respond to that question?

18 CHAIRPERSON SCHEUER: We can leave it for
19 rebuttal.

20 Are there other questions for City and
21 County of Honolulu? No, okay.

22 Office of Planning, Ms. Apuna.

23 MS. APUNA: Thank you, Chair.

24 The purpose of the original district
25 boundary amendment was to facilitate the Petitioner's

1 donation of 79.031 acres to the State of Hawaii for
2 creation of a new State Park Reserve to come under
3 the jurisdiction and management of the DLNR. The
4 area now serves as open space, promotes the
5 historical landscape, view corridors and recreational
6 opportunities of Waimea Valley for the public good.

7 In response to Petitioner's Motion for
8 Order Releasing Specific Conditions of the D&O, OP
9 agrees with Petitioner that Conditions 1, 4, 10 and
10 11 have been fulfilled and therefore may be deleted.

11 Condition 1 required the consolidation,
12 re-subdivision, and conveyance of 79.031 acres, which
13 includes Petition Area A, and adjacent Conservation
14 District Land to DLNR.

15 Condition 4 required the Petitioner's
16 maintenance of the trail system in Petition Area A
17 until it was turned over to DLNR.

18 Conditions 10 and 11 required the
19 recordation of the conditions with the Bureau of
20 Conveyances.

21 However, OP disagrees with Petitioner's
22 request to delete Conditions 7 and 8.

23 Condition 7 requires that Petitioner give
24 notice to the Commission of any intent to sell,
25 lease, assign, place in trust, or otherwise

1 voluntarily alter the ownership interests in the
2 Petition Areas prior to any development of the
3 Petition areas.

4 OP believes that retaining Condition 7
5 would keep the Commission informed of any change in
6 ownership of the Petition Area, whether it be
7 Petition Area A or Petition Area B. If current
8 Petitioner, A Charitable Foundation Corporation,
9 sells Petition Area B, that responsibility would be
10 transferred to the new owner, or in other words,
11 would run with the land.

12 Notably, Op is not suggesting that A
13 Charitable Foundation Corporation be responsible for
14 notifying the Commission of a change in ownership of
15 Petition Area B if it no longer is the owner of
16 Petition Area B.

17 Condition 8 requires Petitioner submit
18 annual reports to the Commission, OP and DPP in
19 connection with the status of the Petition Areas and
20 Petitioner's progress in complying with the
21 conditions.

22 For Condition 8, even though Conditions 1
23 and 4 are fulfilled and Petitioner should be released
24 of those, there are other conditions that continue in
25 effect, which any current or future landowners are

1 subject to, and that Petitioner has not asked for
2 release from.

3 Condition 2 requires for Petition Area B
4 that farm dwellings be consistent with Department of
5 Health's sewage disposal rules and regulations, and
6 any single family dwelling on the lot shall be used
7 in connection with a farm or where agricultural
8 activity provides income to the family occupying the
9 dwelling.

10 Condition 3 requires that any future owner
11 shall not subdivide the retained 15.144 acres into
12 more than two zoning or subdivided lots.

13 Condition 5 requires that the discovery of
14 any burial, archaeological, or historical sites
15 during the course of development of the Petition
16 Areas must stop until issuance of an archaeological
17 clearance.

18 OP suggests that the Commission may want to
19 be aware of compliance with these conditions through
20 annual reports under Condition 8.

21 Ultimately, we defer to the Commission
22 whether it would want or need to be informed of
23 changes in ownership for the Petition Areas or annual
24 report statuses of other continuing conditions. For
25 consistency with other DBA's, we've suggested that

1 these conditions continue to comply. The Commission
2 should determine that even if the Petitioner has
3 transferred the Petition Area A to DLNR, whether it
4 wants to continue its jurisdiction and oversight of
5 the Petition Area through Conditions 7 and 8.

6 I wanted to address that counsel had stated
7 that the annual reports are just with regard to the
8 sale of the Petition Area, and I would -- I think the
9 way that that Condition 8 is written regarding the
10 annual report, I don't think it is limited to just
11 the sale of the Petition Area and its further status
12 of all conditions.

13 CHAIRPERSON SCHEUER: Thank you, Office of
14 Planning.

15 Commissioners, other questions for the
16 Office of Planning? Seeing none.

17 Mr. Lee, you have a chance for brief
18 rebuttal.

19 MR. LEE: What was your question,
20 Commissioner Chang?

21 COMMISSIONER CHANG: I asked the City
22 whether when a subdivision is applied for, is there a
23 public process?

24 MR. LEE: I don't believe so, but as I
25 pointed out in my earlier comment, that we intend to

1 file a declaration of conditions, covenants and
2 restrictions, which provide and reinforce the
3 requirement that there be no further subdivision of
4 the property without this Commission's approval, as
5 well as the Department of Planning's approval.

6 So if an owner of the property, the two
7 lots, wanted to subdivide the property, they would
8 have to go back to you. And that is what we intend
9 to do, that is what we want to do to address that
10 specific question that you have.

11 If there is no public hearing on the City's
12 side, then it would be covered by the jurisdiction of
13 this Commission here, because it expressly says that
14 they must come back to the Commission for that
15 approval.

16 Secondly, we reinforce the Condition No. 2
17 dealing with farm dwellings in that declaration.
18 Again, I would like to emphasize that the Petitioner
19 is an environmentally sensitive entity. It spent the
20 last almost 20 years planning for this to come up
21 with 79 acres of land to be able to convey it to the
22 State. That was its primary purpose.

23 But collateral to that, they were also
24 mindful about concerns about these other two parcels
25 here, and that's the reason for adding the

1 declaration of covenants, which is Exhibit 5, I
2 believe, to our Motion.

3 Again, I would like to emphasize that there
4 is no prejudice to the State or to the public where
5 we haven't put in the declaration that they must come
6 back to you if they want to make any change to those
7 two lots.

8 We feel that we have complied with all of
9 the other conditions except for the ones that we're
10 not asking to be released, but they run with the
11 land. They're on title.

12 So when we convey, or when the Petitioner
13 conveys those two properties, it will be on title.
14 And anyone dealing with that land will have to buy it
15 or acquire it with those conditions on record and
16 have to comply with them.

17 Now, once Petitioner conveys those lands
18 out, it has no control over the lands, much as the
19 Petitioner has no longer control over the 79 acres
20 which is owned by the State. Again, no prejudice to
21 the State or to the public.

22 Your concern that if there are any changes
23 to this property, is there a public hearing? They're
24 going to have to go back to you and I believe they
25 would have to follow your rules on practices and

1 procedures.

2 COMMISSIONER CHANG: Thank you very much,
3 Mr. Lee. However, you're asking us to release
4 Condition 7 and 8, which are the opportunities for,
5 1) the Commission to know what's going on annually;
6 and then 2) the change of ownership.

7 So the things that you are providing as a
8 safeguard, those are some of the conditions that
9 you're asking us to release.

10 MR. LEE: We believe the safeguards that we
11 put in place address Condition No. 7. Condition No.
12 7 only says that Petitioner must notify the
13 Commission of the intent to transfer. The Petitioner
14 is not a land-owning entity, and it intends to convey
15 those two parcels out, subject to all the conditions
16 imposed by this Commission regarding the use of the
17 land, as well as the declaration that we intend to
18 file limiting any subdivision, and limiting the
19 numbers of farm dwellings that are on the property.

20 This is what was represented to the
21 Commission when the Petitioner came before the
22 Commission -- represented by the Petitioner when it
23 came before the Commission some 12 years ago.

24 COMMISSIONER CHANG: Can I ask what's so
25 onerous about providing -- about keeping Condition 7

1 and 8?

2 MR. LEE: It's just a matter of having to
3 come back year by year. We have no idea when we are
4 going to transfer. But to do so it costs a lot of
5 money. They've spent a lot of money to acquire this
6 land, and over the last 18 years to get this property
7 subdivided.

8 It's been a very onerous expensive
9 proposition for us, and it just cannot afford to
10 continue to be here, next year, and for the following
11 year, depending on when the property is transferred.

12 COMMISSIONER CHANG: But the annual reports
13 don't require an actual presentation to the
14 Commission unless we ask for it.

15 MR. LEE: No, but it's a matter of filing
16 it. They would like to go onto their other
17 charitable activities. So it was basically a matter
18 of economics and practicality that we have put into
19 place sufficient protections for this Commission and
20 the public.

21 CHAIRPERSON SCHEUER: Are there further
22 questions for the Movant?

23 I have some along the line of Commissioner
24 Chang's questions.

25 As I have some familiarity with

1 Conservation transactions where land is set aside for
2 conservation purposes. I certainly do appreciate
3 that through this process we have been able to see
4 land successfully conveyed around to the State as a
5 buffer zone for both Puu O Mahuka Heiau, as well as
6 Waimea Valley.

7 Normally, however, in a Conservation
8 transactions, long-term restrictions would be not
9 done through CC&Rs. They would actually be done
10 through some kind of a Conservation Easement, and the
11 reason for that is that the CC&Rs, even if it runs
12 with the deeded property, you have to have an
13 interested party so there's -- you're restricting the
14 use of the land, right? In the future there is
15 subdivided, the two smaller parcels.

16 The public interest that it's trying to
17 protect, right, is a restriction on the kind of
18 buildings that can be built, the height, the amount
19 of time that the land could be further subdivided.
20 Somebody has to sort of pay attention for the public
21 that this is going on.

22 Normally a land trust, a qualified land
23 trust would have been issued Conservation easement,
24 would have an annual monitoring obligation to make
25 sure that that doesn't occur.

1 In some ways the way this deal has been
2 structured, the LUC has been positioned to keep that
3 eye on things. I certainly don't want to at all step
4 in the way of the Petitioner, the Movant, and move
5 onto other charitable activities and convey these
6 properties away, but at the time these properties are
7 conveyed away, the only person who is going to be
8 knowledgeable about these conditions and monitoring
9 on the daily basis is the landowner of new parcel,
10 who has motivation to not necessarily want to fully
11 comply with the conditions therein.

12 So this is why I feel that the State's
13 interest might not be as fully protected as you
14 presented to us. I don't know if you want to respond
15 to that.

16 MR. LEE: Yes, I do.

17 First of all, we have no control over the
18 Conservation portion, that belongs to the State.

19 CHAIRPERSON SCHEUER: I fully understand.
20 I'm only referring to the future of the two parcels
21 of land which may be, my understanding of the
22 Decision and Order, further subdivided at least once.

23 MR. LEE: I'm sorry, I can't hear.

24 CHAIRPERSON SCHEUER: Further -- the two
25 parcels, if I understood the presentation and the

1 materials, correct me if I am wrong, they can at
2 least be conveyed separately, and it's possible for
3 that to be further subdivided at least once under the
4 conditions?

5 MR. LEE: No. Those are two separately --

6 CHAIRPERSON SCHEUER: But those may be
7 separately conveyed?

8 MR. LEE: They can be separately conveyed.
9 They're two separate lots. Agriculture District,
10 both State Land Use, as well as DPP requirements.
11 Any person acquiring title to that land will be
12 subject to the remaining provisions of the
13 Commission's Decision and Order. It will be subject
14 to the declaration of ag requirements that are
15 recorded in connection with subdivision of the land.

16 So those conditions are recorded right now
17 today. After this hearing we will be filing another
18 declaration of covenants, conditions, restrictions
19 which address the limitation on farm dwellings, as
20 well as further subdivision of the land.

21 And so we believe that that is sufficient
22 for public as well as this Commission's interest to
23 protect the original intent that we acquired.

24 I would also like to point out that the
25 Petition only involved, I think it was 34 acres, of

1 the 94. But we are imposing conditions affecting the
2 rest of the property, primarily the ag side as well,
3 most of which was not subject to the Petition.

4 CHAIRPERSON SCHEUER: But these conditions
5 were --

6 MR. LEE: They were imposed on the entire
7 property, yes. But, again, like anything else, all
8 we had to do is inform the Commission of the intent
9 to convey, which we have done so.

10 I apologize. I have a hard time hearing.

11 CHAIRPERSON SCHEUER: That's okay, I
12 haven't said anything important.

13 Are there other questions for any of the
14 parties, Commissioners? Commission Okuda.

15 COMMISSIONER OKUDA: Thank you, Mr. Chair.

16 Maybe this question is directed more to
17 Office of Planning.

18 Having heard what the Petitioner has
19 represented, does that satisfy the Office of
20 Planning's concerns, or does that not satisfy the
21 Office of Planning's concerns? And if it doesn't
22 satisfy the Office of Planning's concerns, can you
23 please tell us why?

24 MS. APUNA: Well, first I think the CC&Rs,
25 like Chair Scheuer has mentioned, they aren't

1 really -- they're enforceable perhaps by the
2 landowner, but what the conditions in the D&O do is
3 they provide the Commission with greater oversight
4 and accountability. The landowner, and I understand
5 that they're recording these conditions in different
6 forms, but the Condition 7 and 8 are just to keep the
7 Commission abreast of what's going on and whether
8 this landowner or a subsequent landowner.

9 So I mean, we leave it up to you, as the
10 Commission, as to what you would like to see and how
11 much you would like to continue to oversee what
12 happens with the land.

13 CHAIRPERSON SCHEUER: Commission Okuda.

14 COMMISSIONER OKUDA: Thank you, Mr. Chair.
15 This question is directed to Mr. Lee.

16 The deeds, or the conveyance documents may
17 have these conditions or restrictions recorded.
18 Would there be an issue about standing as far as who
19 would have the standing to enforce those conditions?
20 And the reason why I raise that question is, I think
21 there was a Hawai'i Supreme Court or Court of Appeals
22 case involving the Tom family, T-O-M, with respect I
23 think they claimed a right to enforce conditions in
24 one of the properties they previously were involved
25 in a transaction involving, I think it might have

1 been the Waikiki Malia, M-A-L-I-A, Hotel or Resort
2 property. And I think, if my recollection is
3 correct, the Appellate Court said, because they had
4 no present interest in the property or the
5 transaction resulting from the property, because of
6 the passage of time and other events, they had no
7 standing to enforce the covenants or restrictions.
8 So, I mean, can you comment on that?

9 MR. LEE: Waikiki Malia is a case dealing
10 with Land Court property. And in that case the Tom
11 family owned the Aina Aulani Hotel property. They
12 sold it. And they thought there were covenants
13 dealing with the height, if I recall correctly, of
14 the building, and they were concerned about their
15 viewplane on, I guess, adjoining property.

16 The court did say they did not have
17 standing to object to what was happening. But that
18 dealt with a Land Court matter, and it basically said
19 it wasn't on title. The covenants were not on title.
20 They didn't exist, because of the Land Court law.

21 Now, in terms of this particular property,
22 there can be several layers of encumbrances, and it's
23 a real property law issue that a person buying this
24 property -- we intend to sell the property in order
25 to recap some of the expenses that were incurred over

1 the last 20 years -- but anybody buying the property
2 is going to have to examine that title. They're
3 going to have to look at the encumbrances on title.

4 They're going to see the Commission's
5 direct Decision and Order. They're going to see the
6 City's declaration of covenants, conditions and
7 restrictions regarding ag use, and also going to see
8 the declaration of covenants, conditions,
9 restrictions, which we intend to file which restrict
10 the number of farm dwellings that can be placed on
11 the property as well as any further subdivision on
12 this property.

13 So it really becomes a real property law
14 issue with any subsequent owner. They're going to
15 have to examine that title and they're going to see
16 those encumbrances on title.

17 COMMISSIONER OKUDA: That assumes that
18 whoever is the successor in interest to the -- title
19 to the property is going to be a law abiding
20 respectful person or entity.

21 If you have somebody who is not so
22 respectful of the law, then it's a question of who is
23 going to have standing to enforce the covenants.

24 MR. LEE: My client no longer owns the
25 property. I would imagine the public would have

1 standing to argue. I would imagine the North Shore
2 Community would have standing to object, because we
3 were -- when they started up with this, I would say,
4 journey, Petitioner was in contact with North Shore
5 Communities, saying this is what we want to do.

6 So if someone were to come in and violate
7 the law, violate the zoning law, violate the
8 Commission's requirements, I think the State would
9 have standing, the City would have standing, and
10 people in the community would have standing,
11 including adjoining landowners. That's basically
12 when the land use law, as I understand it to mean, is
13 that an adjoining owner has standing.

14 COMMISSIONER OKUDA: My question about
15 standing to enforce the covenant, it's actually a
16 little bit more narrow.

17 I'm not the Supreme Court, so what I think
18 about the Waikiki Malia case may not amount to a hill
19 of beans there, but I think there is a legitimate
20 concern about standing, because if a party doesn't
21 have standing or a significant beef in the dispute,
22 yeah, there could be clear covenants that prohibit
23 certain activities or a clear restriction which
24 restricts certain heights or activities, but if you
25 don't have standing, then the court -- I mean --

1 MR. LEE: Arguably it's -- a deed is matter
2 of contract. I believe my -- filed a claim that
3 you're violating this deed, but that doesn't really
4 involve the Land Use Commission at that point.

5 COMMISSIONER OKUDA: But you would agree
6 that nobody can really say with 100 percent certainty
7 that that North Shore residents or North Shore
8 Community Organization would definitely 100 percent
9 have standing to enforce these covenants or
10 restrictions?

11 MR. LEE: I'm not sure whether I could say
12 they don't have standing, but I would imagine if you
13 find somebody trying to do something that violates
14 these covenants, someone's going to object. And I'm
15 sure the North Shore Community, being as active as
16 they are, are certainly going to come out to say you
17 can't do that.

18 Now, I can say, for example, if you have
19 like Waipio Valley -- not Waipio, but Waipio --
20 Kipapa Ridge, Kipapa area, they're building houses in
21 that area there where they shouldn't be. The State
22 is coming down on them. The City is coming down
23 saying you can't do that.

24 COMMISSIONER OKUDA: My question is more
25 narrow. It's just strictly on the issue of other

1 private entities or persons not directly named in the
2 transaction to have standing to enforce the
3 transaction.

4 But I understand the point. Thank you, Mr.
5 Lee.

6 CHAIRPERSON SCHEUER: Are there other
7 questions for any of the parties from the
8 Commissioners?

9 Commissioner Chang.

10 COMMISSIONER CHANG: Mr. Lee, there's no
11 doubt your client has been noble in acquiring this
12 property and preserving this.

13 My question is, rather than an enforcement
14 issue, wouldn't you agree that notwithstanding all
15 these safeguards about recording all of these
16 covenants with the bureau, that unless someone knows
17 ahead of time that this is going to happen, and
18 unless they go and search, that they won't know.

19 So the one way for the community and the
20 public to be aware that there may be a potential
21 sale, there may be a question regarding compliance of
22 the covenants, it is through these annual reports.

23 The annual reporting in my view is not as
24 onerous. It's not as if you have to come before the
25 Commission. You file a letter updating us on the

1 compliance. But that is a public record that is
2 filed and the community has an opportunity at that
3 point in time, because enforcement after the fact,
4 after something has come up is much more difficult
5 then knowing ahead of time what may have occurred.

6 Wouldn't you agree with that?

7 MR. LEE: No.

8 COMMISSIONER CHANG: Oh, you wouldn't.
9 Okay.

10 MR. LEE: Petitioner has informed the
11 Commission that it intends to convey these properties
12 out today, as soon as possible. We complied with
13 that requirement by notifying the Commission and the
14 Motion that was filed.

15 Petitioner will not know, and will --
16 certainly Petitioner will not do what you think they
17 might do, they have no intention of -- it has no
18 intention of subdividing or adding more farm
19 dwellings than allowed. I can represent that to you.

20 A person buying a property, we have no idea
21 what their intent is, other than complying with these
22 encumbrances.

23 COMMISSIONER CHANG: And isn't that the
24 whole point, Mr. Lee, is that we have no doubt that
25 your client has no intention to subdivide, but the

1 next owner, we have no idea what their intentions
2 are, so with the filing and with the annual reports,
3 these conditions run with the land, whoever buys it.
4 So the new owner, not your client, but the new owner
5 would be required to provide those updates in an
6 annual report. So we are not necessarily saying your
7 client would provide the annual report, whoever owns
8 the property would provide the annual report.

9 MR. LEE: I understand your point. I hear
10 you.

11 If a person that acquired title to the land
12 wanted to do something else with the property, I
13 believe there is enough safeguards in the documents.
14 They still have to come back to you to change
15 whatever is not allowed under your Decision and
16 Order, or to change whatever is not allowed under the
17 County law.

18 That's what we did by including the Land
19 Use Commission as a party with standing in the
20 declaration of covenants, conditions and restrictions
21 which we intend to file. I can read the language to
22 you on the record.

23 CHAIRPERSON SCHEUER: It's already on the
24 record.

25 COMMISSIONER CHANG: Thank you. You've

1 answered my question.

2 CHAIRPERSON SCHEUER: I have a quick
3 question for the County.

4 If, say, for instance, there was two farm
5 dwellings or buildings allowed under your zoning --
6 I'm making this up, hypothetical.

7 Two dwellings allowed under your zoning,
8 but only one allowed under some CC&Rs and
9 restrictions on the property.

10 If a future landowner comes to you and
11 applies for two building permits for the two units,
12 are you going to look at the deed before issuing them
13 a building permit?

14 MR. TAKAHASHI: The City is not a party to
15 the CC&Rs, County would not enforce the CC&Rs. That
16 would be the difficulty. The rules we're set forth
17 to apply the revised ordinances of Honolulu, and
18 CC&Rs are not a part of it.

19 CHAIRPERSON SCHEUER: Thank you very much.
20 Are there any other questions for any of the parties?
21 If not, I have the sense we might be ready to move
22 into deliberation.

23 Commissioners, what is your pleasure?
24 Commissioner Aczon.

25 COMMISSIONER ACZON: Mr. Chair, after

1 reviewing the record and all the parties' arguments
2 and positions, I would like to make a motion.

3 CHAIRPERSON SCHEUER: Please proceed.

4 COMMISSIONER ACZON: Mr. Chair, I would
5 like to make a motion, move that Conditions 1, 4, 10
6 and 11 be released or deleted, and Conditions 7 and 8
7 must be retained.

8 CHAIRPERSON SCHEUER: A motion has been
9 made by Commission Aczon. Is there a second?

10 VICE CHAIR MAHI: Yes.

11 CHAIRPERSON SCHEUER: Commissioner Mahi,
12 seconded.

13 Is there discussion on the motion?

14 Commission Aczon.

15 COMMISSIONER ACZON: I just thought that
16 the record speaks for itself, so I don't have
17 anything else to say.

18 CHAIRPERSON SCHEUER: Not seeing that I'm
19 interrupting any of my fellow Commissioners, I will
20 just add that, two things in my mind.

21 I think I indicated that the reason why I
22 think in property law in U.S. and in Hawai'i we now
23 have these opportunities to create Conservation
24 Easements is specifically to deal with this kind of
25 situation. That's not what the Land Use Commission

1 prior to this required in this case, so we don't have
2 that remedy available. So somebody has to do this
3 kind of monitoring to protect these lands in the
4 future and the promises that were made.

5 I also feel that I would be much more
6 hesitant if we were asking for the new inclusion of
7 conditions that we were putting -- that the landowner
8 had not already agreed to, but that is not the case.
9 The landowner is simply asking for something to be
10 released, we're simply declining to release two of
11 the things.

12 Any other comments or deliberations?
13 Commissioner Okuda, then Commissioner Cabral.

14 COMMISSIONER OKUDA: Thank you very much,
15 Mr. Chair.

16 First of all, I think we recognize the
17 great public good that the Petitioner has done. And,
18 you know, it's with some hesitancy that I have
19 sometimes where, you know, people do good in the
20 community, and then they face a government agency,
21 and you start maybe having a little bit of thought,
22 well, gee, this is not only looking a gift horse in
23 the matter, but his is criticizing the color of the
24 horse, and what the horse's performance is, and maybe
25 the next time, why should I spend my time and money

1 doing these things for the community?

2 So I hope the decision or the motion is not
3 taken that way. That's really not the intent. And I
4 really hope that us being -- there's no belief that
5 we're being super technical about certain things.

6 I think the one concern I have is basically
7 this. If the identity of the landowner would be you
8 folks for the rest of eternity, then, frankly, it's
9 like these additional conditions may not really be a
10 big deal. Why is that? Because the bottom line many
11 times is the law cannot make people good people. You
12 have good people like you folks protecting the
13 environment, looking out to preserve what we've
14 really lost in this community, well, hey, you know,
15 these good things will happen, notwithstanding what
16 the law says.

17 But unfortunately, you know, more and more
18 we're seeing where these types of good faith actions,
19 the commitment to the community, we cannot guarantee
20 that that's really what is going to be the crystal
21 ball in the future.

22 So I do apologize if for some reason if
23 this motion passes it continues a burden on you which
24 may seem unfair that to carry out the public good,
25 you're still facing some type of burden.

1 But I hope you can see, at least for me
2 personally, I think there is a real legal issue about
3 who would have standing to enforce these provisions
4 if for some reason you folks are no longer around.

5 So for those reasons, I would be voting in
6 favor of the motion.

7 CHAIRPERSON SCHEUER: Thank you,
8 Commissioner Okuda. Commissioner Cabral.

9 VICE CHAIR CABRAL: I am confused, and so
10 I'm still deciding how to vote, because I would be in
11 favor of releasing Condition 7 and 8, because the two
12 parcels that it's applying to, are the ones that are
13 less than 15 acres already, and they have already
14 been through so many different things and they have
15 so many other restrictions on them, that at some
16 point in time I have to start to question at what
17 point does the government get away from controlling
18 everything about every action that someone takes.

19 Again, especially in this case where
20 someone has done good, but then we just never quite
21 let them free of our constant oversight, both in
22 regards to the Petitioner and their goodness; and
23 then also, you know, if the land use is going to have
24 its finger forever into everything that it ever
25 touched, then that may never -- nothing ever gets

1 released.

2 I like to think that if both parcels are
3 under 15 acres and they have all these other
4 restrictions on their deeds, any potential buyer is
5 going to see it's not going to easily become a high
6 rise subdivision or condominium or something else.

7 So I would have -- I would be in favor of
8 including 7 and 8 in our release. Thank you.

9 CHAIRPERSON SCHEUER: We've been going
10 about an hour. I want to take a quick break.

11 (Recess taken.)

12 CHAIRPERSON SCHEUER: We're back on the
13 record. Mr. Lee, you have a request?

14 MR. LEE: Yes. I respectfully request that
15 Dr. Druz have the opportunity to say something to the
16 Commission before deliberation.

17 CHAIRPERSON SCHEUER: The request is
18 untimely, but I'm going to ask if there is any
19 objections. County?

20 MR. TAKAHASHI: No objection.

21 MS. APUNA: No objection.

22 CHAIRPERSON SCHEUER: Commissioners?

23 Dr. Druz, do you swear or affirm that the
24 testimony you're about to give is the truth?

25 THE WITNESS: Absolutely.

1 CHAIRPERSON SCHEUER: Thank you. Please
2 proceed.

3 DAVID DRUZ
4 Was called as a witness by and on behalf of the
5 Petitioner, was sworn to tell the truth, was examined
6 and testified as follows:

7 DIRECT EXAMINATION

8 THE WITNESS: Thank you for the opportunity
9 to address the Commission.

10 CHAIRPERSON SCHEUER: Please go close to
11 the microphone, practically kissing it.

12 THE WITNESS: Of course, I'm appealing to
13 you to use common sense, and to release us from No. 7
14 and 8. We've been working on this thing for
15 18 years, and every step of the way it's like running
16 through quicksand, and dealing with things like this
17 it's cost us hundreds and hundreds of thousands of
18 dollars to do this.

19 And as the one Commissioner cited, no, we
20 would never do it again, because of things just like
21 this.

22 No. 7, the Petitioner shall give notice of
23 any intent to sell. We have done that. We have
24 satisfied No. 7. We want to sell this land as fast
25 as we can and recoup expenses that we put into this

1 property so we can do other charitable things with
2 it.

3 That's what we do. We are not land
4 developers. We bought this property to preserve it,
5 to prevent building on this land. When we acquired
6 the property, we got involved because when it was
7 being sold, even though a large portion was
8 Conservation, the seller had already surveyed it and
9 marked it out in 50 lots on the ridge overlooking
10 Waimea Valley to try to encourage a developer to buy
11 that property and develop it. That's why we got
12 involved.

13 And it's taken us 18 years from when we
14 first got involved to reconfigure that property to
15 give all the viewplane sensitive property to the
16 State and preserve it.

17 We've complied with No. 7 exactly as
18 stated. Our intent is to sell.

19 No. 8, these annual reports. They're not
20 free. They cost money. I have got a lawyer and a
21 planner that have to be involved each time. Any
22 penny that we spend on them is money we can't spend
23 to give to the Hawai'i Food Bank, to give to books
24 for schools on North Shore. We contribute money for
25 basketball courts up there that we did. Any money we

1 spend on this kind of bureaucratic red tape is money
2 that can't go for a good purpose.

3 I don't think there's anyone here that
4 truly believes that if someone tried to do something
5 with this property outside all the restrictions that
6 are on it that the North Shore Community wouldn't be
7 up in arms like crazy and bring it to everyone's
8 attention. That's how that place is.

9 There's no way anything is happening on
10 this property outside of all the restrictions without
11 being called out on it. And if you require a
12 subsequent landowner to file an annual report, how
13 are they going to know what's going on with lot a
14 that the State owns? They can't. And you're
15 requiring them, you're putting them in an impossible
16 situation.

17 We're already in an impossible situation,
18 because we don't know what the State is doing with
19 their property. But the annual report says it
20 includes all of the Petition, original Petition Area.

21 So I'm just appealing to your common sense
22 to ask you to please just let this thing go. We've
23 done it all. The property is protected. We're the
24 ones that specifically asked in 2006 of this
25 Commission that those parcels could not ever be

1 further subdivided because we didn't want a developer
2 coming in there and chopping up that land and making
3 lots of little houses and making it worse for the
4 neighbors in the area.

5 So that's basically what I have to say.
6 I'm just asking you. I understand the legal points
7 you've raised, and they're all valid, but I'm just
8 asking you to please use your heart on this, and say,
9 you guys, you did a good job, and you're done.

10 Thank you.

11 CHAIRPERSON SCHEUER: Commissioners, are
12 there questions for the witness? Commissioner Okuda.

13 COMMISSIONER OKUDA: Chair, I would, with
14 the indulgence of the Chair, have a question for
15 Office of Planning to respond. And I have a specific
16 question to ask Office of Planning if the Chair
17 believes at some point in time that's appropriate and
18 allow it.

19 CHAIRPERSON SCHEUER: Thank you. Let me
20 first see if there are any questions for the witness.

21 Commissioner Chang.

22 COMMISSIONER CHANG: Thank you.

23 Mr. Druz, I appreciate hearing from you
24 personally. And thank you to your organization for
25 ensuring that the property is protected.

1 Is it your understanding that once your
2 organization sells the property, that you will --
3 your organization will continue to be responsible for
4 filing the annual reports or notifying the Commission
5 of any new sale or any changes?

6 THE WITNESS: No, that's not my
7 understanding. My understanding is the new owner
8 would have this responsibility.

9 COMMISSIONER CHANG: And is it your
10 position that having the new owner comply with
11 Condition 7 and 8 would be onerous?

12 THE WITNESS: Yeah. I think if they're an
13 honest person, they're going to do it, follow all the
14 rules; and if they're dishonest, they're going to lie
15 to you anyway and not submit it.

16 COMMISSIONER CHANG: Mr. Druz, that's the
17 whole point. The honest person has no problem. The
18 dishonest person may not comply with those
19 conditions. And as you also said, the North Shore
20 Community would be the first ones to be up in arms if
21 something happened that was inconsistent.

22 But these annual reports and this notice
23 also is a way for the community to know ahead of time
24 what may be occurring on that property before it
25 actually occurs so that the North Shore Community

1 doesn't come back and tell LUC, how come? What's
2 going on?

3 THE WITNESS: I understand completely.

4 But the way this is stated, there is no --
5 those annual reports have to cover the entire
6 Petition Area. That's what it says. And whoever
7 buys Lots B and C, those ones that are left, they
8 can't possibly do that. They can't possibly report
9 on what is happening with the State's land.

10 And let's suppose they're sold to two
11 different people. They can't possibly be expected to
12 know what the other person is doing. So you're
13 asking for compliance to something that can't be
14 complied with.

15 COMMISSIONER CHANG: How do you report
16 currently what is going on with the State land?

17 THE WITNESS: We can't. We no longer can.
18 We no longer can do it. And this is one of the
19 reasons we're asking for release from the annual
20 reports.

21 COMMISSIONER CHANG: And you can't do it
22 because the State refuses to --

23 THE WITNESS: No, because how are we going
24 to monitor --

25 CHAIRPERSON SCHEUER: If I may, can I ask

1 our Executive Officer to describe what would be
2 required of an annual report if a new landowner no
3 longer the owned the entire Petition Area? Mr.
4 Orodenker.

5 EXECUTIVE OFFICER: The new landowner would
6 only be required to file annual reports with regard
7 to the portion that they owned.

8 CHAIRPERSON SCHEUER: Sorry to interrupt
9 your questioning, Commissioner Chang.

10 COMMISSIONER CHANG: So, Mr. Druz, with
11 that clarification, do you still believe that that
12 would be onerous for the new owner, since they're
13 only required to file the annual report on that
14 parcel that they own?

15 THE WITNESS: Yes. Think about it. They
16 have to get a lawyer or a land planner involved. Who
17 wants to do that? It costs money. It's a hassle.
18 And it makes it actually more difficult to find a
19 landowner or a buyer for the land who would be
20 willing to do it.

21 It's like we already have layers of
22 restrictions on there, oh, and by the way, every
23 single year you have to hire a lawyer or a land
24 planner and send in annual reports on what you do
25 with your property.

1 How many people have properties where every
2 year you have to do something like that? It's just
3 ag land with ag restrictions.

4 And addressing the Chair's comment, our
5 restrictions are simply restating the City and County
6 restrictions, exactly the same. We're not saying
7 anything different so that someone could come in and
8 circumvent that. We're just making sure whoever gets
9 that property knows these are the rules. This is ag
10 land. You can't subdivide it any further. You can't
11 put any more farm dwellings on there. Nothing
12 different, just restating it.

13 And, yes, I do think it's onerous to ask
14 anybody who buys the property to go through the legal
15 hassle every year for the rest of their life for
16 something that is covered in other ways.

17 MR. LEE: May I also add that would also
18 apply to any other subdivision for residential
19 project from an ag to an urban, same condition, a
20 boiler plate condition. So are you going to require
21 every homeowner to say I'm going to do something --

22 CHAIRPERSON SCHEUER: So we are in the
23 middle of deliberation on a motion, counsel. You
24 asked for a special --

25 MR. LEE: I apologize.

1 CHAIRPERSON SCHEUER: -- opportunity for
2 your client to speak. We afforded that.

3 Are there any other questions for Dr. Druz?

4 It not, Commissioner Okuda, you had one
5 question for Office of Planning.

6 COMMISSIONER OKUDA: Yes.

7 Now, having heard what Dr. Druz testified
8 to, does that change the position of the Office of
9 Planning? And if the answer is no, if you can tell
10 us why not.

11 MS. APUNA: I don't think it does change
12 our position. I know Dr. Druz says he needs a lawyer
13 and a planner to provide the annual reports, but
14 there is no requirement that an attorney or planner
15 get involved.

16 We understand annual reports to just be an
17 update of what is happening on the land according to
18 the conditions provided in the Decision and Order.
19 We don't think that requires particular legal or
20 planning expertise. It's just a report of what is
21 happening. We don't believe it is onerous.

22 I would also just -- I didn't find
23 Condition 5 with regard to archaeological and
24 historical sites in the CC&Rs. I could be wrong, but
25 I didn't see that that was covered. As they say it

1 is covered in other protections, but I didn't
2 necessarily see that.

3 So, no, I don't think our position changes
4 as far as Condition 7 and 8.

5 CHAIRPERSON SCHEUER: Commissioners, we're
6 done with questioning. We are in deliberation on the
7 motion.

8 Again, the Motion was to Release Conditions
9 1, 4, 10 and 11, and not release Condition 7 and 8
10 was the way the motion was stated.

11 Is there further deliberation on the
12 motion? Seeing none -- Commissioner Okuda.

13 COMMISSIONER OKUDA: I think as part of
14 this deliberation, I understand and recognize what
15 Dr. Druz says, I think we have a procedural issue
16 now, that if anyone votes against this motion because
17 they agree with Dr. Druz' presentation, then we
18 probably will not have six votes sufficient to --
19 which may be necessary to pass the motion.

20 So if I may, Mr. Chair, I would like to
21 make a motion to amend the present motion. And if it
22 is seconded or if it dies without a second, then
23 fine.

24 CHAIRPERSON SCHEUER: Please proceed. So
25 what we will do is you may state the motion to amend

1 the motion. We need a second on that. Then the
2 movant and the seconder of the original motion will
3 have to agree.

4 COMMISSIONER OKUDA: Or the Commission can
5 vote on my motion to amend the motion and vote it up
6 or down. I'll leave it to the Chair.

7 CHAIRPERSON SCHEUER: We will do it the
8 first way.

9 COMMISSIONER OKUDA: I would make a motion
10 to amend the prior or underlying motion to delete the
11 requirement for the annual report, and also to deem
12 the fact or the condition that requires that the
13 intent to sell the parcels, to have that condition be
14 deemed satisfied by the presentation and notice given
15 here today.

16 CHAIRPERSON SCHEUER: So let me -- I'm not
17 understanding your proposed amendment.

18 Can you please phrase it in terms of which
19 conditions you're proposing for releasing?

20 COMMISSIONER OKUDA: Let me withdraw that
21 proposed motion and restate it more clearly.

22 The Motion to Amend that I'm making is to
23 grant the Petitioner's relief that they are
24 requesting in their Petition in whole as to all the
25 conditions that they were requesting relief from

1 today.

2 CHAIRPERSON SCHEUER: So, respectfully,
3 Commissioner, I think the way that procedurally might
4 be the clearest for us, if my feel of where we are at
5 is good, would be for the initial motion to be
6 amended to drop references to 7 and 8, to simply have
7 a motion right now that would be release conditions
8 1, 4, 10 and 11 and make no reference to 7 and 8, and
9 then we can take up 7 and 8 separately.

10 COMMISSIONER OKUDA: That's acceptable
11 also.

12 CHAIRPERSON SCHEUER: So that's a
13 suggestion by the Chair. Does the movant,
14 Commissioner Aczon, and the seconder, Commissioner
15 Mahi, agree that the motion can amended to simply
16 state that it is to release Conditions 1, 4, 10 and
17 11, and subsequently we can take up a discussion, any
18 motion on 7 and 8?

19 VICE CHAIR MAHI: No, maintain the original
20 motion.

21 CHAIRPERSON SCHEUER: No. So, Commissioner
22 Mahi, the motion you seconded said we agree to
23 release 1, 4 10 and 11 and not release 7 and 8. So
24 I'm suggesting that right now procedurally for this
25 body, since there seems to be, by my reading, no

1 disagreement that we should release 1, 4, 10 and 11.
2 Let's do a motion just on that, and then entertain
3 after a motion on 7 and 8. So that's my suggestion
4 for the amended motion.

5 VICE CHAIR MAHI: I'm good.

6 COMMISSIONER ACZON: Yes.

7 CHAIRPERSON SCHEUER: The motion is solely
8 to release Conditions 1, 4, 10 and 11, amendment to
9 the motion.

10 So the motion amended made by Commissioner
11 Aczon, seconded by Commissioner Mahi, amended by
12 myself with their agreement, is to release Conditions
13 1, 4, 10 and 11.

14 Is there any further discussion on this
15 motion? If not, Mr. Orodener, please poll the
16 Commission.

17 EXECUTIVE OFFICER: Thank you, Mr. Chair,
18 for the clarification. We are voting on the
19 amendment, proposed amendment to the motion that was
20 originally made; is that correct?

21 CHAIRPERSON SCHEUER: I apologize to
22 everybody for the confusion that this has caused in
23 my attempt to add clarity. I am welcome to the
24 opinion on counsel on how to best handle this.

25 I've been advised, and it would actually be

1 clearest on the record if the original motion was
2 withdrawn.

3 COMMISSIONER ACZON: Mr. Chair, I was going
4 to do that. Permit me to withdraw my original motion
5 and make another motion.

6 CHAIRPERSON SCHEUER: Does the seconder
7 agree to that?

8 VICE CHAIR MAHI: Yes.

9 CHAIRPERSON SCHEUER: So the original
10 motion has been withdrawn.

11 Commissioner Aczon.

12 COMMISSIONER ACZON: So making another
13 motion to release Conditions 1, 4, 10 and 11.

14 CHAIRPERSON SCHEUER: Commissioner Aczon
15 has made a motion to release 1, 4, 10 and 11.

16 VICE CHAIR MAHI: Second.

17 CHAIRPERSON SCHEUER: Seconded by
18 Commissioner Mahi. Any discussion? Hearing none,
19 Orodenker, please poll the Commission.

20 EXECUTIVE OFFICER: Thank you, Mr. Chair.

21 Once again, the motion is to release
22 Conditions 1, 4, 10 and 11.

23 Commissioner Aczon?

24 COMMISSIONER ACZON: Yes.

25 EXECUTIVE OFFICER: Commissioner Mahi?

1 VICE CHAIR MAHI: Aye.

2 EXECUTIVE OFFICER: Commissioner Okuda?

3 COMMISSIONER OKUDA: Yes.

4 EXECUTIVE OFFICER: Commissioner Cabral?

5 VICE CHAIR CABRAL: Yes.

6 EXECUTIVE OFFICER: Commissioner Chang?

7 COMMISSIONER CHANG: Yes.

8 EXECUTIVE OFFICER: Chair Scheuer?

9 CHAIRPERSON SCHEUER: Aye.

10 EXECUTIVE OFFICER: Thank you, Mr. Chair,
11 the motion passes unanimously.

12 CHAIRPERSON SCHEUER: I'll now entertain
13 another motion separately to Condition 7 and 8 or one
14 motion on both.

15 Commissioner Okuda.

16 COMMISSIONER OKUDA: Mr. Chair, I move that
17 Condition 7 be deleted from requirements moving
18 forward on this docket.

19 CHAIRPERSON SCHEUER: For everybody's
20 benefit, Condition 7 regards notification of intent
21 to sell.

22 There is a motion to release Condition 7.

23 VICE CHAIR CABRAL: I will second that.

24 CHAIRPERSON SCHEUER: Seconded by
25 Commissioner Cabral. Is there any discussion on this

1 motion?

2 COMMISSIONER OKUDA: Mr. Chair, very
3 briefly and without going over what has already been
4 stated.

5 I think the plain English of the condition
6 just requires the intention to be given, not
7 necessarily all the details of the transaction. The
8 plain English or statement of the condition doesn't
9 require those other matters, so I believe on the
10 record here today, that intention was so stated, so
11 notification has been granted.

12 And I believe also the evidence shows,
13 especially the supplemental testimony of Dr. Druz,
14 that the benefit to the community of keeping this
15 condition is really outweighed by the cost, which
16 also includes the matters that Dr. Druz testified
17 about.

18 CHAIRPERSON SCHEUER: There is a motion.
19 There is no second yet -- oh, Commissioner Cabral
20 seconded.

21 We're now in discussion on the motion.
22 Commissioner Chang.

23 COMMISSIONER CHANG: So, Commissioner
24 Okuda, is it your intention that when the property is
25 sold, that this condition would not run to the new

1 landowner? So that the new landowner would not have
2 to notify LUC of any change of their intent to sell,
3 lease, assign or place in trust when they own the
4 property?

5 COMMISSIONER OKUDA: Yes, that's correct.
6 And let me explain why I believe that the benefit to
7 the community of keeping that condition running with
8 the land is not worth the cost.

9 I agree with Dr. Druz' testimony that
10 there's probably going to be an impact on the sell
11 price and possibly marketability of the property if
12 the condition is there. I think from our common
13 experience, two parcels of land being equal, we would
14 either pay a lot less or not even consider as
15 carefully a parcel that has additional cost attached,
16 especially a reporting cost to the government.

17 Now, it's true that, you know, a dishonest
18 person, or somebody who's not that careful may simply
19 ignore the condition. However, I think when we view
20 marketability of the property and the type of cost,
21 we would have to take into account, or assume that
22 the buyer will take action based on all available
23 knowledge and information.

24 The other thing that I find very persuasive
25 in Druz' testimony is his testimony that given the

1 perils in compliance that this charitable entity
2 faced here, they would not maybe do this ever again,
3 and I'm not saying that the standard should be
4 loosened or lessened just because someone claims to
5 be a charitable institution. That's not what I'm
6 saying.

7 If the law requires compliance, then it's
8 our duty to ensure compliance. But in this type of
9 situation with respect to releases of conditions, we
10 have the discretion to determine whether or not a
11 petitioner has really gone the route to comply with
12 these conditions.

13 I believe that the record has shown that
14 they have. They've done the things to preserve the
15 viewplanes and the natural resources and beauty of
16 the State, the Constitution requires us to look at.
17 And I think that detriment to the community, the real
18 detriment to the community is that if people of good
19 faith feel that they're going to face burdens which
20 really don't result in real benefit to the community,
21 then they may spend their time doing other things
22 which is not going to really help the community.

23 So that's my long drawn out, I believe as
24 succinct as I can, reasons why I think the release of
25 the condition is worth the long-term benefit.

1 CHAIRPERSON SCHEUER: Is there other
2 discussion on the motion? Commissioner Aczon.

3 MR. LEE: May I ask a quick --

4 CHAIRPERSON SCHEUER: We are in
5 deliberation.

6 COMMISSIONER ACZON: I'm really struggling
7 on this. From a layman's perspective, when the
8 original motion, when the Petitioner was granted in
9 2006, it's between the Land Use Commission and the
10 Petitioner. So when you sold the property --

11 COURT REPORTER: You need to speak up.

12 COMMISSIONER ACZON: -- if we release this
13 condition, we don't have any enforcement to our
14 agreement between the Petitioner and Land Use
15 Commission not to (indecipherable) my understanding
16 is whatever conditions we have, Petitioner is still
17 liable.

18 And the second thing, if we do this, it
19 might create some precedence to the new petitions
20 that would follow; that we provide special
21 considerations to one party, and then what happens to
22 the other party? So I'm struggling on this one.

23 CHAIRPERSON SCHEUER: Thank you.
24 Commissioner Cabral.

25 VICE CHAIR CABRAL: I'm in support of this

1 release in part because it's a land mass we're
2 talking about under 15 acres, and not really being
3 really clear on all of that ancient history, but the
4 fact right now, if they were individual parcels, they
5 would not ever have to come before us, because
6 they're under 15 acres of agriculture.

7 So because of the evolution of this, to
8 maintain control of it into the future seems
9 unnecessary. Thank you.

10 CHAIRPERSON SCHEUER: Commissioners,
11 further discussion? Commissioner Chang.

12 COMMISSIONER CHANG: I am inclined to vote
13 against the motion. I believe that this was a
14 condition that was agreed to by the Petitioner, and
15 they knew that it would run with the land whether
16 they sold it. I believe it's not onerous. I believe
17 that the risk of it affecting real property, the
18 value of the property versus having the Land Use
19 Commission continue to have some oversight which
20 provides the community the opportunity to know what
21 is going on with the property, outweighs that. So I
22 am going to vote against it. Thank you.

23 CHAIRPERSON SCHEUER: I'm also inclined to
24 vote against the motion for these two reasons.

25 First of all, the future landowner or

1 owners will be able to get these conditions released.
2 They have that opportunity as well. And, in fact, if
3 the lands are sold to separate entities, they get to
4 go to the County, they don't have to come to the Land
5 Use Commission, because it's going to be under
6 15 acres.

7 Secondly, Condition 7 and 8, in my mind,
8 actually run together. In my past experience with
9 the Land Use Commission, sometimes when this happens,
10 the landowner has sold the property, not informed the
11 LUC, and then we haven't gotten the annual report
12 required. We've inquired with the landowner, and
13 they said, oh, yeah, we sold the property.

14 Only the information that the property has
15 been sold has allowed us to know who is then
16 responsible for filing the annual reports.

17 Further deliberation on this motion? If
18 not, Mr. Orodener, please poll the Commission on the
19 motion to release Condition 7.

20 EXECUTIVE OFFICER: Thank you, Mr. Chair.
21 The motion is for Condition 7 to be deleted.

22 Commissioner Okuda?

23 COMMISSIONER OKUDA: Yes.

24 EXECUTIVE OFFICER: Commissioner Cabral?

25 VICE CHAIR CABRAL: Yes.

1 EXECUTIVE OFFICER: Commissioner Chang?

2 COMMISSIONER CHANG: No.

3 EXECUTIVE OFFICER: Commissioner Mahi?

4 VICE CHAIR MAHI: A'ole.

5 EXECUTIVE OFFICER: Commissioner Aczon?

6 COMMISSIONER ACZON: No.

7 EXECUTIVE OFFICER: Chair Scheuer?

8 CHAIRPERSON SCHEUER: No.

9 EXECUTIVE OFFICER: Thank you, Mr. Chair.

10 The motion does not carry.

11 CHAIRPERSON SCHEUER: Commissioner Okuda.

12 COMMISSIONER OKUDA: Thank you, Mr. Chair.

13 I move that Condition No. 8, which requires
14 annual reports, also be deleted.

15 CHAIRPERSON SCHEUER: There has been a
16 motion to delete Condition 8 or remove it. Is there
17 a second?

18 VICE CHAIR CABRAL: I will second that
19 motion.

20 CHAIRPERSON SCHEUER: Commissioner Cabral
21 seconds the motion. Discussion on the motion?
22 Commissioner Okuda.

23 COMMISSIONER OKUDA: Thank you. I
24 incorporate by reference my earlier statements. I
25 don't think there is any need to repeat.

1 CHAIRPERSON SCHEUER: Is there further
2 discussion on the motion? If not, there is a motion
3 before us to delete Condition 8. Mr. Orodenker,
4 please poll the Commission.

5 EXECUTIVE OFFICER: Thank you, Mr. Chair
6 Commissioner Okuda?

7 COMMISSIONER OKUDA: Yes.

8 EXECUTIVE OFFICER: Commissioner Cabral?

9 VICE CHAIR CABRAL: Yes.

10 EXECUTIVE OFFICER: Commissioner Mahi?

11 VICE CHAIR MAHI: A'ole.

12 EXECUTIVE OFFICER: Commissioner Aczon?

13 COMMISSIONER ACZON: No.

14 EXECUTIVE OFFICER: Commissioner Chang?

15 COMMISSIONER CHANG: No.

16 EXECUTIVE OFFICER: Chair Scheuer?

17 CHAIRPERSON SCHEUER: No.

18 EXECUTIVE OFFICER: Thank you, Mr. Chair.
19 The motion does not carry.

20 CHAIRPERSON SCHEUER: With that, we've
21 addressed the entirety of the request from the
22 movant, and I believe that we have no other business
23 that needs attention. Commissioners? Seeing none, I
24 declare this -- one moment, please. A very brief
25 recess.

(Recess taken.)

CHAIRPERSON SCHEUER: We are at recess and
we are adjourned.

(The proceedings adjourned at 11:09 a.m.)

CERTIFICATE

STATE OF HAWAII)
) SS.
COUNTY OF HONOLULU)

I, JEAN MARIE McMANUS, do hereby certify:

That on July 11, 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 11th day of July, 2019, in Honolulu,
Hawaii.

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