

LU Committee

From: Marilyn Pascher <pascher@hawaii.rr.com>
Sent: Wednesday, November 01, 2017 8:55 AM
To: LU Committee
Subject: Makila Kai Bill 67

Our daughter was born and raised on Maui. She is a public school teacher whose income does not qualify for market priced housing. This is an opportunity for her to anchor herself in the community she works in. With all the out of state investors in and around this area it seems right to give an opportunity those that work in our community.

Traffic issues are exasperated by tourist and short term rentals including the recent North Beach developments. The Makila Kai developer is going to great lengths to mitigate environmental run off concerns, water sources, and open space.

Please give our own an opportunity to live and work here on Maui.

Michael and Marilyn Pascher

LU Committee

From: Amy Fonarow <afonarow@yahoo.com>
Sent: Wednesday, November 01, 2017 9:53 AM
To: LU Committee; Mark Deakos
Subject: LU-35 Bill 67 Testimony on Behalf of Dr. Mark Deakos
Attachments: Deakos_Makila_Kai_Testimony_Amy_Read_1NOV2017.docx.pdf

Aloha Land Use Committee Members,

Please see the attached testimony by Dr. Mark Deakos. References are included.

I (Amy Fonarow) am testifying in person on his behalf today; Dr. Deakos is out of the country at the moment.

Please contact Dr. Deakos at deakos@hawaii.edu with any questions.

Mahalo,
Amy Fonarow

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Amy Fonarow  
808.838.9527  
[afonarow.wixsite.com/settingthingswrite](http://afonarow.wixsite.com/settingthingswrite)

Mark Deakos (Napili)

I am deeply concerned about the approval of the Makila Kai Project and asking you to defer a decision on Bill 67 for the boundary amendment. Here are some of my greatest concerns:

- 1. A decision should be deferred until the issues surrounding the current lawsuit on this project is resolved.**
- 2. The law states that a boundary amendment requires a decision from the State Land Use Commission and not just the County Land Use Committee, which could result in more litigation.**
- 3. The Maui News today (7) had a headline stating “Bacteria Levels Skyrocketing in Waters off West Maui.” These headlines are becoming more regular as we ignore the problem and are not good for public health, tourism or West Maui businesses. We should not be approving more septic system developments (including ATU septic systems), especially when Launiupoko is already suffering sewage contamination. As Maui continues to be linked with contaminated beaches, it’s reputation as one of the best vacation destinations in the world will be tarnished.**
4. University of Hilo and Nature Conservancy research has clearly shown that any septic system is a poor choice in Hawaii due to the porous nature of lava rock (14).
5. Makila East and Polanui Gardens are two additional proposals that have been submitted for approval in Launiupoko, also on septic, who’s cumulative impacts must also be considered.
- 6. Dr. Colbert from U.H. Hilo tracked green dye flushed down 10 toilets in Puako on the Big Island (4 cesspools, 4 ATUs and 2 septic systems) and die from all systems reached the shoreline within 10 days, some within 5 hours (14).**
- 7. The cost per household to maintain an ATU system is \$300/month (14). For low income families, maintaining their ATU will not likely to be a priority. Unmaintained ATUs are equivalent to cesspools, which were banned by the governor in 2017 (15) because of their impacts to drinking water.**
8. 201H is the biggest threat to West Maui because it is enabling our elected leaders to fastrack irresponsible development, exempt from environmental review, community plans and zoning (to name a few), while hiding under the guise of “supporting affordable housing.” Affordable housing in perpetuity solves affordable housing, not 201H.

END

References:

High bacteria counts at Launiupoko reported:

1. <http://khon2.com/2017/03/07/waters-off-two-maui-beaches-show-high-bacteria-count/>
2. <http://www.lahainanews.com/page/content.detail/id/543596/Researchers-explain-ocean-water-quality-advisories.html?nav=19>

3. <http://www.staradvertiser.com/2017/03/07/breaking-news/high-bacteria-levels-prompt-warning-signs-at-big-isle-maui-beaches/>
4. <http://www.bestplaces.net/health/city/hawaii/launiupoko>
5. <https://maui.surfrider.org/what-we-do/blue-water-task-force/>
6. <http://emdweb.doh.hawaii.gov/cwb/wqd/viewer/Map.aspx> (or see attached DOH water quality spreadsheet for Launiupoko)
7. <http://www.mauinews.com/news/local-news/2017/11/advisory-posted-as-bacteria-levels-skyrocket-in-waters-off-west-maui/>

Science showing cesspools/septic/ATU contaminate waters and shorelines

8. <https://www.nature.org/ourinitiatives/regions/northamerica/unitedstates/hawaii/honolulu/puako-lpb-update.pdf>
9. [http://dlnr.hawaii.gov/coralreefs/files/2014/12/TNC\\_Puako\\_FinalReport\\_103014.pdf](http://dlnr.hawaii.gov/coralreefs/files/2014/12/TNC_Puako_FinalReport_103014.pdf)
10. <http://www.southkohalacoastalpartnership.com/uploads/2/5/7/1/25718612/puako-uhh-tnc-2015-3v-revised-ab2.compressed.pdf>
11. <http://www.hawaiiibusiness.com/water-warning/>
12. [http://coral.org/wordpress/wp-content/uploads/2014/11/Puako\\_PCA\\_mt\\_11\\_2014.pdf](http://coral.org/wordpress/wp-content/uploads/2014/11/Puako_PCA_mt_11_2014.pdf)
13. [http://health.hawaii.gov/wastewater/files/2015/09/OSDS\\_NI.pdf](http://health.hawaii.gov/wastewater/files/2015/09/OSDS_NI.pdf) (map page 10)
14. <http://coral.org/wordpress/wp-content/uploads/2017/01/PuakoPERAmendment011017.pdf>
15. <http://governor.hawaii.gov/newsroom/latest-news/doh-news-release-hawaii-bans-new-cesspools-and-offers-upgrade-tax-credit/>

Some direct quotes from this last report on ATUs:

"Unlike the other options discussed in later sections, however, the ATUs will still have a direct discharge into the groundwater through the drain fields, which then flows quickly into the ocean and around the reef, due to the geology described in Section 1.1. The likelihood of the remaining nutrients in the treated wastewater reaching the ocean is high. It is also worth noting that if ATUs are not maintained and serviced regularly, the ability to treat wastewater to the quality described above is significantly reduced, resulting in even more nutrients and biological contaminants reaching the ocean. The primary maintenance costs for each ATU consists of pumping solids, general equipment maintenance and replacement, and electrical cost to operate blowers and pumps. The scheduled and emergency service should be contracted locally. It is anticipated that the ATUs will need to be pumped annually (\$3,600/yr, \$300/month). The operational costs of the ATU system are highest based on the annual requirements to service and pump the systems as prescribed by the County. The option of installing ATUs at each residence would be better than doing nothing and can be implemented for the lowest capital cost. However, due to the high O&M costs, over a 20-year period and because it provides the least benefit from an environmental standpoint, this may not be the best option. While these units can be as successful in the removal of nitrogen and phosphorous as a centralized treatment facility, the remaining nutrients and organic material is still discharged into the groundwater and quickly into the ocean. This option provides a lack of adequate protection to the reef by allowing wastewater with some remaining nutrients from entering the ocean. - Because of this wastewater entering the ocean, a lack of protection to human health may also exist. While the ATUs provide a certain degree of treatment, this is somewhat contingent upon regular maintenance and adjustments based on water quality testing. While a service contract can and should be established in connection with this option, if this contract is maintained, or if adequate service is not provided, the quality of treatment is lessened, and risk to the coral reef and human health increases."

## LU Committee

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**From:** Albert Perez <director.mauitomorrow@gmail.com>  
**Sent:** Wednesday, November 01, 2017 11:19 AM  
**To:** LU Committee  
**Subject:** Testimony re. Bill 67 (2017)  
**Attachments:** MakilaKaiDBA\_20171101.pdf

Aloha Chair Carroll and members of the Land Use Committee,

Attached please find a copy of the testimony that I presented today before the committee.

Mahalo,

Albert Perez  
Executive Director  
Maui Tomorrow Foundation, Inc.

To: Maui County Council Land Use Committee

From: Albert Perez, Executive Director  
Maui Tomorrow Foundation

Date: November 1, 2017

Re: Bill 67 (2017) Relating to Amending the State Land Use District Classification from Agricultural District to Rural District for Property Situated at Launiupoko, Lahaina, Maui, Hawaii (LU-35)

Aloha Chair Carroll and Committee Members:

Affordable homes should not be constructed in locations that are dangerous, such as Makila Kai, which is known to be prone to fire, with only one road out, and an inadequate water supply. There is another road to Hokiokio that could easily be finished, but the landowner is unwilling to make that happen. Completion of that road should be a minimum condition of this project for life safety.

This project was designed to run "under the radar" of various requirements that would trigger an environmental assessment. We have testified on this in the past.

The project includes a proposed underpass beneath the Lahaina Bypass. This is state land, and this is a trigger for an environmental assessment.

Construction of fifty or more individual wastewater units is another trigger. So is the subdivision of lands. Both are also EA triggers.

In addition, this project has been processed incorrectly, and has been segmented from Polanui Gardens and Makila Rural East, both of which were part of the Makila project that was formerly before the LUC; this is among many of the reasons that a lawsuit was filed.

In their comments on Makila Kai, the State Land Use Commission stated that the County could not exempt the project from HRS chapter 205, the project should be required to obtain a DBA, the DBA should be required for the entire 79.5 acre development, and that Makila Kai should be required to show that the proposed market rate agricultural lots are an appropriate use in the Agricultural district. The LUC also identified the Makila Kai project as a portion of the larger Makila Rural development that was withdrawn from LUC consideration, and noted that parcelization of the property into separate developments was unwarranted.

No statute authorizes the HFDC to delegate its 201H authority to DHHC. This is a fatal flaw that renders this application invalid.

Finally, I want to point out that our housing department is not the applicant for the most recent Wailuku Apartment Rental Housing 201H Project. The previous 201H projects had DHHC as the applicant. It is good to see that it is now being done correctly, but why did they suddenly start listing HFDC as the applicant on the project instead of DHHC? Could it be that they realized the lawsuit filed in the Makila Kai 201H resolution was correct in pointing out that DHHC could not process 201H applications?

Bottom line is this 201H application has been processed incorrectly by DHHC instead of HFDC, Makila Kai, Polanui and Makila Rural East should have been processed together, and the DBA should have been processed by the LUC instead of the Council. This DBA is not properly before you, so it is not appropriate for you to either approve or deny this DBA. I urge you to file this bill.

## LU Committee

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**From:** Dennis Barger <surfnshred@hotmail.com>  
**Sent:** Wednesday, November 01, 2017 12:55 PM  
**To:** LU Committee  
**Subject:** opposition to building at Launiupoko

To whom it may concern,  
Aloha Kakou,

Please do not approve the risky development of 49 properties near Launiupoko (Makila and Polanui Gardens):

Maui and Hawaii in general is not an appropriate place to use septic system to handle effluent waste. The risk of even these so-called "advanced" systems is too great to the ground water and healthy reefs. Please stop this plan until the developer agrees to use a sewer system to handle human waste.

***Rev. Dennis Barger, M.Div., MPH***  
***Kihei, Hawaii***



## LU Committee

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**From:** Dennis Barger <surfnshred@hotmail.com>  
**Sent:** Wednesday, November 01, 2017 12:59 PM  
**To:** LU Committee  
**Subject:** Malkila Kai Bill 67

AS I NOTED IN AN EARLIER E-MAIL I AM STRONGLY OPPOSED TO THIS  
BILL/DEVELOPMENT

*Dennis Barger, M.Div., MPH*

## LU Committee

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**From:** Angela Domingo <mauiangela@gmail.com>  
**Sent:** Wednesday, November 01, 2017 1:10 PM  
**To:** LU Committee  
**Subject:** Makila Kai Bill 67

Aloha,

Please put a stop to septic systems in Maui. The amount of effluent spills into the ocean is already too high. Our family has to make extra efforts to pay attention to water quality as I have a daughter who surfs 4-5 times a week. She often has cuts on her legs and feet that get infected if she ignores the warnings of contamination after a storm or due to sewage. The health of our reefs and water quality should be of utmost importance - no short cuts should be allowed to occur when we already know there is a problem. Have the time into a sewer system or don't allow the development.

Thanks you for all you do to up hold the constitution of Hawaii that states:

# HE CONSTITUTION OF THE STATE OF HAWAII ARTICLE XI

## CONSERVATION, CONTROL AND DEVELOPMENT OF RESOURCES

## CONSERVATION AND DEVELOPMENT OF RESOURCES

**Section 1.** For the benefit of present and future generations, the State and its political subdivisions shall conserve and protect Hawaii's natural beauty and all natural resources, including land, water, air, minerals and energy sources, and shall promote the development and utilization of these resources in a manner consistent with their

conservation and in furtherance of the self-sufficiency of the State.

All public natural resources are held in trust by the State for the benefit of the people. [Add Const Con 1978 and election Nov 7, 1978]

Mahalo

Angela and Renato Domingo

## LU Committee

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**From:** P. Denise PDL La Costa <pdenise@lacostarealtyhawaii.com>  
**Sent:** Wednesday, November 01, 2017 3:15 PM  
**To:** LU Committee  
**Subject:** Makila Kai

Aloha Committee Members,

Unfortunately, I am off island and unable to testify in person at the hearing scheduled this month. However, I think it is imperative that you know that not only is the County of Maui under an emergency drought situation, but all of Launiupoko is under strict water rationing. We received a letter and map last month showing on which days we can water; and, my non-potable water valve has been shut off at the road by the water company on many occasions to ensure I don't water on the 'off days'. It stands to reason: If the existing subdivision does not have enough water, how can a new subdivision or two or three possibly have enough water?

I implore you to enforce the "show me the water" statute which was enacted for this very reason. We all know Makila Kai cannot show you the water!

I don't know if you're aware of it, but our potable water is being used by Hawaiian Dredging and other companies during the construction of the bypass. It seems irresponsible to use drinking water for construction. Does it also to all of you? Soon, we will not have enough potable water for our homes!

Additionally, septic systems at Makila Kai and that low on the hill will absolutely create problems with the ground water and eventually contaminate Launiupoko Beach Park. As you are well aware, the contamination levels at LBP have reached more than 10 times and upward and 50 times the safe water requirements by the state over the past years, especially when we have strong rain. More septic tanks means a much higher probability that continued contamination will occur and we will be unable to use our beautiful park and beach.

201H developments are NOT the answer to affordable housing. Because only some of the properties are "affordable" and the rest are "gentleman farms". By sticking in some The affordable sections in new developments, it is a cagey way to get past a full EIS and is the way of allowing the Fox in the henhouse. There are many other places in West Maui to build truly affordable housing subdivisions that can use County water and sewer, thereby alleviating contaminating our ground water and beaches.

I so appreciate your taking the time to read my letter and giving strong consideration to the information above. To reiterate: "Show me the water" - of which there is very little- needs to be enforced here AND. A full and independent EIS will surely show these very important issues for a NO vote. MAHALO NUI LOA,

P. Denise La Costa  
Maui resident since 1990  
Launiupoko Owner since 2003  
Launiupoko Resident since 2010.

Sent from my iPhone with Aloha,

P. Denise La Costa RB#17578  
(808) 280-2132. CALL OR TEXT  
Principal Broker-Owner  
La Costa Realty Hawai'i, LLC  
Accredited Buyers

Representative (ABR)  
Short Sale Resource (SRS)  
[pdenise@lacostarealtyhawaii.com](mailto:pdenise@lacostarealtyhawaii.com)  
2013 President Realtors Assn of Maui  
2015-2016 Hawai'i State Chair RPAC

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## LU Committee

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**From:** kaiolohia24@gmail.com  
**Sent:** Wednesday, November 01, 2017 5:32 PM  
**To:** LU Committee  
**Subject:** About my testimony (LU-35) this morning

Aloha e,

Mahalo e Land Use Committee for hearing all the testimonies given today and for all your efforts to make a good, sound decision on the Makila Kai zoning amendment. My name is Kamalani Uehara and I gave my testimony earlier this morning in support of the amendment to change the zoning.

I thought it was important for me to let you know that after hearing the testimonies about people's lives that this project would be affecting and the fact that the result would actually not be the solution for many working people looking for affordable homes, I now believe that how the Makila Kai project is currently planned out is not something that I support.

I will still be hoping and waiting for an affordable housing project that reaches more than 8 families with less than \$73k/year income (like my own) and would not be infringing on the access and kuleana of Hawaiian 'ohana just to get an ocean view. Hopefully other developers and the Browns can learn from this experience and make something much more positively impactful in the near future. We all know Maui needs more affordable housing and I am encouraged that we are heading in a good direction.

Mahalo nui for listening to our voices,  
Kamalani Uehara

## LU Committee

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**From:** Kim Falinski <kimfalinski@gmail.com>  
**Sent:** Wednesday, November 01, 2017 5:48 PM  
**To:** LU Committee; Robert Carroll; Donald S. Guzman; Stacy S. Crivello; Elle Cochran; Kelly King; Mike White; Riki Hokama; Alike A. Atay; Yukilei Sugimura  
**Subject:** Laniupoko

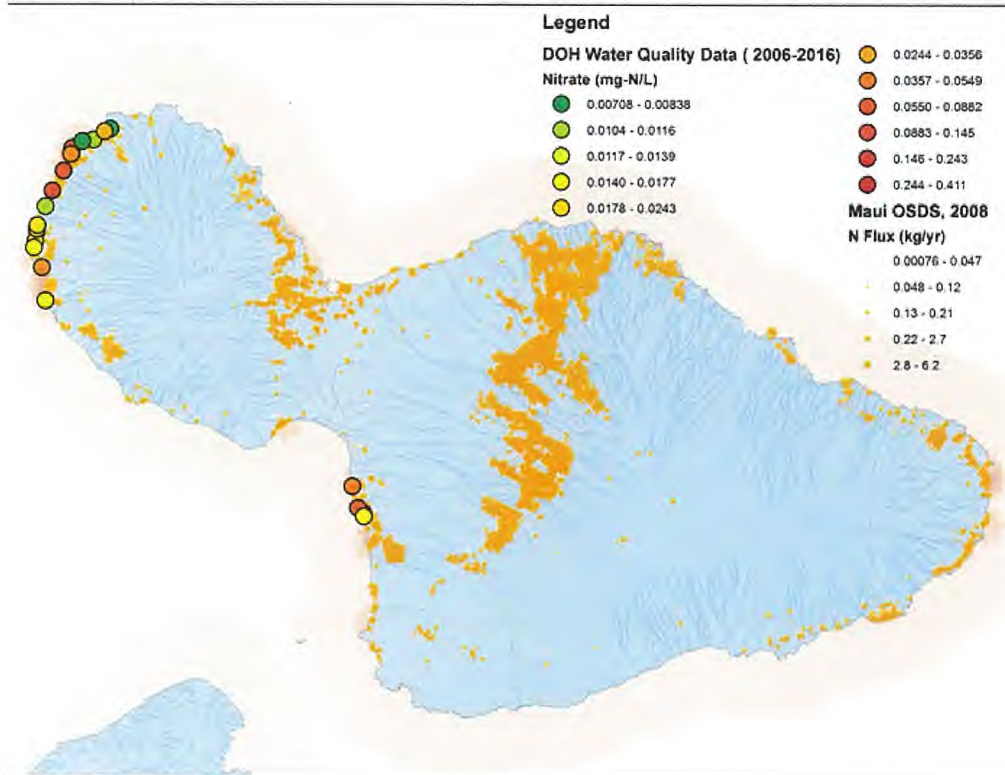
Hello everyone,

I am writing to give testimony in opposition to additional development at Laniupoko. I work as the technical lead for Hui o Ka Wai Ola, a community group that collects DOH-quality water quality data. The map below is a collection of DOH and Ocean Tipping Points data - and shows where the data suggest higher nitrate levels in coastal water. The orange dots are the cess pools on Maui. Just last week, the DOH advised against swimming at Laniupoko because of higher than accepted bacteria counts.

Laniupoko's proposed new development will be on septic - which does not reduce nutrients from the wastewater leaching into the groundwater system. The reefs offshore of Laniupoko are some of the most productive in the state.

I recommend against continued development at Laniupoko unless a clear plan is made to reduce the impacts from septic systems, golf courses and landscaping that come with additional development.

Thank you,  
Dr. Kim Falinski



## LU Committee

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**From:** Edward Aloï <ealoi@hawaii.edu>  
**Sent:** Thursday, November 02, 2017 8:07 AM  
**To:** LU Committee  
**Subject:** Makila Kai Bill 67

**Please defer the zoning decision of Bill 67 until the effluent contamination at Launiupoko Beach can be addressed and more information can be gathered on restorative development designs that work together with nature, not against it.**

**Ed Aloï  
45 Stephen Lane  
Lahaina**



## LU Committee

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**From:** thairapy 808 <thairapy808@yahoo.com>  
**Sent:** Thursday, November 02, 2017 10:16 PM  
**To:** LU Committee  
**Cc:** Hana Valle  
**Subject:** Makila Kai Bill 67

On October 30th at approximately 9:45am an email came in from the Executive Development assistant of Brown Development sending out information if we planned to email a testimony please do so by October 31st at noon. I realize October 31st came and went (so I type this email with full understanding that it may or may not be read). Please know that I have been on the fence about this project before I filled out an application, submitted my pre qualification letter and pressed send. For many reasons may I add, and I will list them below in priority.

- 1.) I am a native Hawaiian.
- 2.) I understand the importance of our resources and water supply and the demand we have being on an isolated island.
- 3.) I am also aware of all of Maui's affordable and unaffordable housing and have been since 2005.
- 4.) I am a firm believer in you get what you pay for.
- 5.) I feel obligated as a native Hawaiian and a Maui girl born and raised to speak for myself and no one else.
- 6.) This project is very sensitive to a lot of people I am related to, know, or are guilty by acquaintance with.
- 7.) Last but not least, if I did not apply for this project someone else would, and I was not about to let that happen and miss an opportunity to own land in Maui.

Obviously Maui is prime real estate, if not this Makila Kai project would not be of discussion or make front page of the Maui News. To own land in Maui, let alone a 1 bedroom, 1 bath condo ranging approximately 500-700 square feet you pay a pretty price. Not to mention have at least 20 % of a down payment already in hand. That may seem very affordable to many, and inexpensive to live in paradise but to a lot unaffordable. Not only is Makila Kai affordable, it is practical. It is convenient for me to get to and from work, enjoy a beautiful day off and near by surf, it also is important to me. I left Maui 12 years ago to further my education, "spread my wings" as my mom would call it, and see what else was out there. I've lived on different islands, in different states, and have traveled to multiple countries, cities, and continents, and trust me when I say there is no place like home. And here I am full circle back and so grateful to be home. Owning a home on Maui is a dream come true to me, and I am certain to so many. I strongly believe that you should be born and raised here to even be considered for the Makila Kai Project, than qualify for affordable at which most of us already do, but I am fully aware I am not the developer. I am simply an applicant pursuing an affordable home in a place very special to me.

Please know there are options to live in Maui that I am fully aware of, I could build a house on family land like most natives do (which is not ideal, but considered), I could buy a house at full value and do what ever it takes which most families are doing to make it work. Or put my application out there and hope and pray I am selected for true affordable housing.

\*affordable;

able to be afforded; having a cost that is not too high

- *affordable* housing [housing that is not too expensive for people of limited means]

Mahalo for your time & consideration,  
Kacyn Nailimalani Figueira