

PC Committee

From: Lawrence Carnicelli <GAD@RAMaui.com>
Sent: Thursday, March 09, 2017 1:36 PM
To: PC Committee; Kelly King; Elle Cochran; Stacy S. Crivello; Donald S. Guzman; Riki Hokama; Yukilei Sugimura; Mike White
Cc: Alika A. Atay; Robert Carroll
Subject: 3/9/2017 Planning Committee Testimony on PC-06

Aloha Chair King,

With your permission, I would like to formally withdraw the written testimony I submitted today March 9, 2017 on item PC-06. If you allow, I would prefer the record show I stand solely on the oral testimony given in person at today's meeting.

Mahalo for your consideration.

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March 9, 2017
TESTIMONY

My name is Lawrence Carnicelli on behalf of the Realtors Association of Maui, in opposition to item PC-06. The planning commissions are where the rights of private property owners intersect with the public's responsibility to protect public resources. Property owners appearing before these commissions deserve a fair and impartial hearing. Should there be a permanent commissioner position given solely for his or her bias then every action taken would greatly reduce the chances of that fair, unbiased hearing from happening.

The Planning Department shared that roughly 5% of the items brought before the Maui Planning Commission *might* have a culturally sensitive nature. However, there has been no evidence showing any action taken was culturally insensitive. So there still has been no evidentiary reason given for this proposed action other than "why not" and that something might happen.

The original drafter of this bill has stated on the record that the proposed language was simply cut and pasted from the state Board of Land Natural Resources without showing basis or means testing to confirm any need for it on the Planning Commissions. As I have previously stated, the BLNR deals primarily with conservation lands and often deals with culturally sensitive issues. There is nothing overtly cultural about the function of the Planning Commissions.

It should also be pointed out that Maui County already has a full commission dedicated to cultural resources, and other bodies like the Burial Councils, each of which supplies cultural guidance when needed. That is why they exist and actually what one of the functions of the Cultural Resources Committee is; to be the expert in these matters and to deal with culturally sensitive items for the Planning Commissions when needed.

Therefore it is important to note that it is *not* the role of any commissioner to be an "expert" at anything. Commissioners are supposed to be unbiased observers. Should there be a need for any type of expertise it is important that the commission ask for the help and/or opinion from a competent outside source. As soon as any commissioner acts as an expert they have tainted their objectivity and open up their vote to appeal.

RAM acknowledges that there needs to be sensitivity to all practices and beliefs; especially that of our Hawaiian host culture. RAM also agrees that it's proper to have persons with special knowledge of Hawaii's cultural heritage on these commissions. RAM would even encourage anyone with this background to apply and volunteer at that level. If Commissioners happen to have the knowledge it's great and an asset. However, once that person is appointed *because* of a special reason it changes their perspective and objectivity.

Lastly I would like to point out that when this exact very same bill was proposed last year it was me, personally, that made the suggestion to support the very nice compromise that all commissioners have that knowledge. A consensus was reached and agreed to that each member participate in the Native Hawaiian Law Training Course. Therefore the Commission already has nine sitting members that will have such education.

RECEIVED AT PC MEETING ON MAR 9 2017