Government Relations, Ethics, and Transparency Committee (2025-2027) on 2026-03-10 1:30 PM

Meeting Time: 03-10-26 13:30

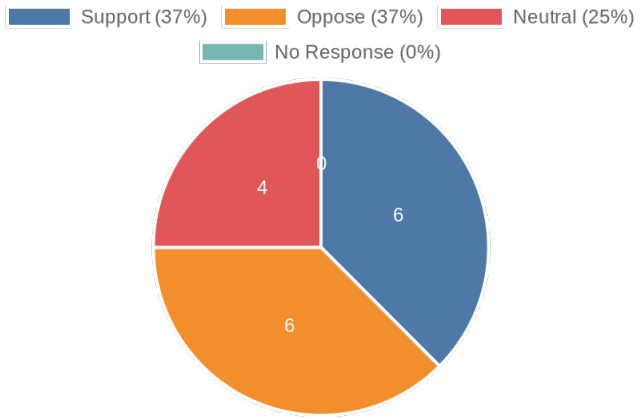
eComments Report

Meetings	Meeting Time	Agenda Items	Comments	Support	Oppose	Neutral
Government Relations, Ethics, and Transparency Committee (2025-2027) on 2026-03-10 1:30 PM	03-10-26 13:30	3	16	6	6	4

Sentiments for All Meetings

The following graphs display sentiments for comments that have location data. Only locations of users who have commented will be shown.

Overall Sentiment



Government Relations, Ethics, and Transparency Committee (2025-2027) on 2026-03-10 1:30 PM

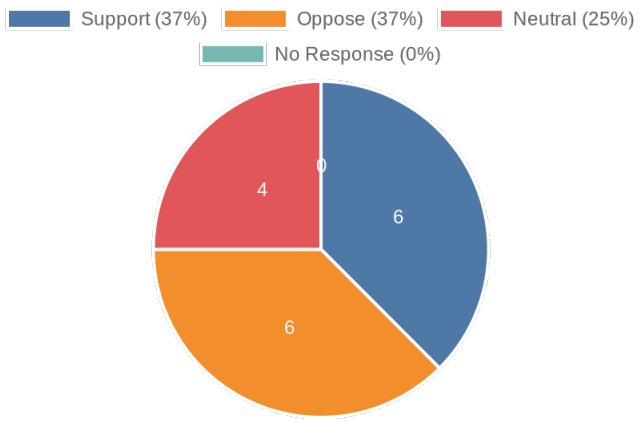
03-10-26 13:30

Agenda Name	Comments	Support	Oppose	Neutral
A G E N D A	2	1	0	1
GREAT-1(1) Reso 26-38 RESOLUTION 26-38, APPROVING THE APPOINTMENT OF JACALYN M.C. TAKAKURA AS DIRECTOR OF PLANNING (GREAT-1(1))	2	1	1	0
GREAT-1(2) Reso 26-39 RESOLUTION 26-39, APPROVING THE APPOINTMENT OF MARGARET T. WILLIS AS DIRECTOR OF HUMAN CONCERNS (GREAT-1(2))	12	4	5	3

Sentiments for All Agenda Items

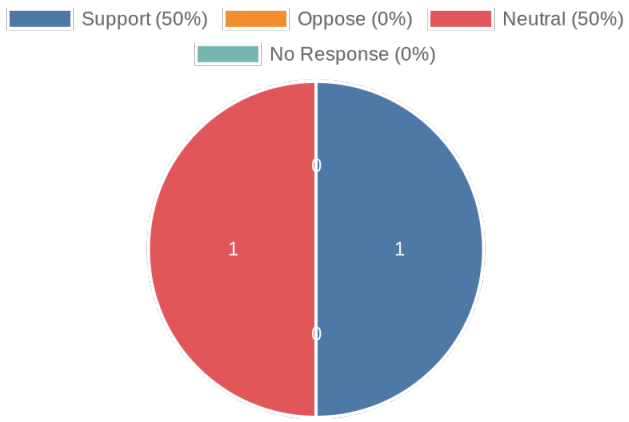
The following graphs display sentiments for comments that have location data. Only locations of users who have commented will be shown.

Overall Sentiment



Agenda Item: eComments for A G E N D A

Overall Sentiment



Sam Small
Location:
Submitted At: 4:08pm 03-10-26

Written Testimony from Sam Small

Maui County Council – Confirmation of Planning Director Jacky Takakura

The key structural issue in Maui County's development approval system is the distinction between ministerial review by the Department of Public Works and discretionary review by the Department of Planning under the Special Management Area (SMA) law.

These two functions operate under different legal authorities, and the gap between them has created a loophole that developers can exploit.

This issue is directly relevant to the Council's consideration of the next Planning Director because closing this loophole requires leadership and coordination between departments.

Ministerial vs. Discretionary Authority

The Department of Public Works primarily performs ministerial approvals.
Ministerial review means that if an application meets the minimum objective standards written in the code, the agency must approve the project.

Public Works cannot impose additional requirements beyond those standards.

Typical Public Works review includes:

• subdivision approvals
• grading and drainage plans

• roadway construction standards
• infrastructure layout
• stormwater compliance
• parking layouts
• utility placement

If a project meets these technical standards, Public Works is legally obligated to approve it.

Public Works cannot deny a project simply because it raises environmental, safety, or policy concerns.

By contrast, the Department of Planning performs discretionary review under the Special Management Area law, implementing Hawai_i's Coastal Zone Management Act.

Planning evaluates environmental impacts, shoreline impacts, infrastructure capacity, public safety, and community character.
Planning may impose conditions of approval beyond minimum code requirements.

Examples include:

• fire hydrants or emergency access improvements
• coastal setbacks
• drainage mitigation
• infrastructure upgrades
• shoreline protection
• limits on building scale or intensity

These conditions are legally binding because they are attached to the project's SMA permit or exemption.

The Structural Enforcement Gap

The loophole arises because subdivision and infrastructure plans later submitted to Public Works are not always routed back to Planning for verification against SMA conditions.

The process can look like this:

A developer obtains an SMA permit or exemption with conditions.

Later the developer submits subdivision or infrastructure plans to Public Works.

Public Works reviews those plans only against engineering standards.

The plans may omit discretionary conditions previously imposed by Planning.

Because Public Works operates ministerially, it approves the plans if they meet minimum standards.

If the plans are not returned to Planning for verification, the SMA conditions may never be confirmed or enforced.

This creates a structural enforcement gap.

The Problem Is Worse for SMA Exemptions

The risk is greater when projects receive SMA exemptions or minor SMA permits, where:

• there may be no Planning Commission review
• oversight is limited
• enforcement relies heavily on developer representations

If projects then proceed through Public Works approvals without verification against SMA conditions, those conditions can effectively disappear.

Public Safety Implications

This gap can affect critical public safety infrastructure.

Conditions intended to protect infrastructure capacity or emergency response can be lost during later approvals.

Examples include:

- required fire hydrants
- emergency access improvements
- drainage infrastructure
- coastal mitigation measures

In at least one documented instance in West Maui, a fire hydrant required as a condition in an SMA permit was later removed during the subdivision approval process.

The hydrant requirement appeared in the Planning Department's SMA approval.
However, when subdivision plans moved through Public Works, the requirement disappeared.

There is no public record explaining the change and no indication that Planning approved it.

Because no agency verified the plans against the SMA approval, the hydrant was never installed.

This demonstrates that the enforcement gap is not theoretical.

Relevance After the Lahaina Fire

After the Lahaina wildfire disaster, the adequacy of fire infrastructure and emergency access has become a critical concern.

However, because the State quickly negotiated a global settlement framework, there was no full discovery process examining Maui County's permitting history.

Discovery could have required production of decades of:

- SMA permits
- subdivision approvals
- infrastructure plans
- correspondence between Planning and Public Works

Such a review might have revealed how often safety conditions imposed during planning review were later omitted during ministerial approvals.

That systemic review never occurred.

As a result, the public still does not know how many instances may exist where required fire hydrants or emergency access improvements were never installed.

Given the devastating loss of life in Lahaina, that unanswered question should concern everyone.

Legal Representations in the Christopher Salem Case

Another troubling dimension emerged during litigation involving former Maui County employee Christopher Salem.

In that case, County attorneys argued that conditions attached to an SMA permit do not independently control Public Works subdivision approvals, and that Public Works approval indicates the developer has satisfied applicable conditions.

This position is problematic.

Public Works approvals are ministerial and limited to engineering standards such as grading, drainage, and infrastructure layout.

Public Works does not evaluate environmental mitigation, coastal protections, or discretionary safety conditions imposed under SMA law. Those responsibilities belong to the Planning Department.

If Public Works approval is treated as proof that SMA conditions were satisfied, the enforcement gap is effectively hidden.

The result is circular logic:

Planning imposes conditions.
Later plans omit them.
Public Works approves the plans.
The County then claims those conditions were satisfied.

But in reality they may never have been verified.

Example: The Napili “Monster House”

The Napili project widely known as the “monster house” illustrates how multiple parts of the permitting system may have been manipulated.

Questions surrounding that project include:

• whether the structure should have qualified for an SMA exemption as a single-family home
• whether planning conditions were later modified or ignored
• whether infrastructure commitments made during early approvals were consistent with plans later approved by Public Works

During construction, Maui inspectors issued Stop Work Orders for violations including height and scale limits.

Under normal enforcement procedures this would trigger a formal Notice of Violation allowing Planning Commission review.

Instead, former Planning Director Michele McLean resolved the matter through a private letter to the developer, and no formal violation was issued.

Without a Notice of Violation, the matter never came before the Planning Commission and the public had no opportunity to review the resolution.

Because the incoming Planning Director served as a deputy director during this period, it is reasonable for the Council to ask whether similar enforcement practices will continue.

County Code Already Requires Verification

Maui County Code already requires Public Works approvals to conform to Planning approvals.

Maui County Code §19.510.090(B)(2) states that no permit or certificate of occupancy may be issued by Public Works unless the development plan has been approved by the Planning Director and conforms to the project

master plan.

In other words, the code already establishes a two-step process:

Planning approves the development plan and attaches conditions.
Public Works verifies that later permits conform to that plan.

If subdivision plans are not verified against Planning approvals, the process described in the code is not being implemented.

The Question for the New Planning Director

The question before this Council is therefore straightforward:

Will the next Planning Director require that subdivision approvals reviewed by Public Works be verified against the conditions imposed under SMA review?

Or will the current system continue — one where discretionary planning conditions can quietly disappear during later ministerial approvals?

Closing this enforcement gap would be a simple administrative reform with significant implications for environmental protection, infrastructure integrity, and public safety.

It is a question the next Planning Director should be asked to answer directly.

Guest User
Location:
Submitted At: 10:49am 03-07-26

March 7, 2026

Aloha Committee Chair Batangan, Vice-Chair U'u-Hodgins, and Committee Members:

I am submitting testimony, on my own behalf, in support of approving Resolution 26-38; the appointment of Jacalyn M.C. Takakura as the Director of Planning.

I have known, and previously worked with, Jacky for many years, and she has always impressed me with her work ethic, ability to communicate effectively with staff, government officials, and the public, and tenacity to get through the most difficult of decisions using thoughtful, sound and objective reasoning.

Jacky will be a welcomed and qualified leader to this position. She is approachable, pleasant, and has the technical planning and Maui county government foundation to effectively maneuver through the many demands this position requires. She has been in the department for a good number of years, serving in various positions and divisions including that of deputy director. She also obtained a Professional Planning Certificate from the University of Hawaii, Department of Urban and Regional Planning; and this she did all on her own time and accord in order to garner a more formal education on planning principles. This is just one of the many ways Jacky will go above and beyond to expand her knowledge base and understanding of planning fundamentals in order to bring expertise and integrity to our community. She is very familiar and appreciates the various facets and responsibilities of all the department's divisions, as well as its inner workings, and has the leadership skills the department needs and has already been witness to.

There is much more that I could positively say about Jacky, however I believe her personality, experience, your familiarity with her, and seeing her in action over the course of her county employment both with the Department of Planning and the Department of Water Supply, is truly enough to assure you that approving her appointment is an easy one, or as I like to say, "Duck soup!". :)

Speaking from firsthand experience, while this position and its leader will never be able to make decisions that

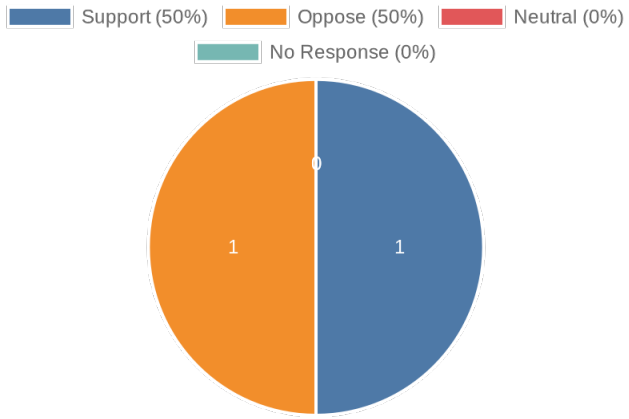
appease everyone, Jacky is certainly someone who will do all that she can to work collaboratively with both public and private individuals and entities in order to come to the best possible (and many times compromised) outcome for all. She has demonstrated this to be true time and time again.

Mahalo for your time and consideration,

Kathleen Ross Aoki

Agenda Item: eComments for GREAT-1(1) Reso 26-38 RESOLUTION 26-38, APPROVING THE APPOINTMENT OF JACALYN M.C. TAKAKURA AS DIRECTOR OF PLANNING (GREAT-1(1))

Overall Sentiment



Guest User
Location:
Submitted At: 5:51pm 03-09-26

Aloha GREAT Committee,

Please accept this testimony in support of Jacky Takakura's appointment to serve as Planning Director.

I had the pleasure of working with Jacky for several years at the Planning Department when I was Deputy Director and Director; she served as Administrative Officer, Administrative Planning Officer, and Deputy Director during my time with the Department. Each of her positions was part of the Senior Management Team; as such, I counted on her and other team members to keep me updated on personnel and operational issues, participate in brainstorming discussions, and provide input and feedback on current issues, concerns, and questions. She was a tremendous asset in this capacity, able to speak candidly and honestly, which I greatly appreciated (not all team members did).

In each position she held, Jacky had a number of regular duties and would also be given ad hoc and special assignments. These were sometimes complex, sensitive, contentious, or otherwise challenging, and Jacky could always be trusted to approach them with intelligence, compassion, understanding, and professionalism. On the rare occasion that this work involved issues that were new to Jacky, she would research them, discuss with colleagues and other resources, and generally become well-informed in no time at all -- her capacity for learning

and understanding is exceptional and unlimited. She has the rare quality of being able to say, "I don't know" which she immediately follows with, "but I will find out" ... and she always did. At this point in her career, though, her knowledge is extensive.

You may also want to know that Jacky does not have a personal agenda, other than wanting to support our community. She cares very deeply about Maui Nui and its residents, and simply wants to serve the public and help people however she can. Becoming the head of the Long Range Planning Division was a very good fit for this, and I believe she is now stepping up to fill the important and difficult position of Director because she cares and wants to help.

Thank you for your consideration of this testimony, and I hope you will support Resolution No. 26-38 to appoint Jacky Takakura as Planning Director. Unfortunately, a scheduling conflict prevents me from offering this testimony in person, but it is no less heartfelt and sincere Emoji

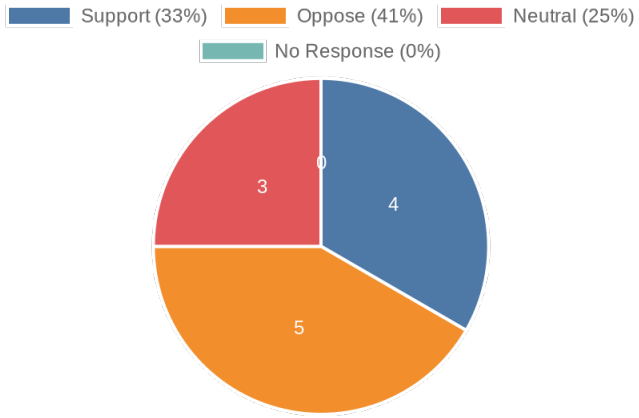
Mahalo,
Michele McLean
38 Hoku Place
Paia, Hawaii 96779
mchouteau@yahoo.com

Johann Lall
Location:
Submitted At: 10:18am 03-06-26

I emailed great.committee@mauicounty.us but the auto reply said to use eComment. Testimony and related documents attached.

Agenda Item: eComments for GREAT-1(2) Reso 26-39 RESOLUTION 26-39, APPROVING THE APPOINTMENT OF MARGARET T. WILLIS AS DIRECTOR OF HUMAN CONCERNS (GREAT-1(2))

Overall Sentiment



Guest User
Location:

Submitted At: 11:22am 03-10-26

Good morning, Chair and Members of the Maui County Council,

I am providing written testimony in opposition of Resolution 26-39, which is written would approve the mayor's appointment of Margaret T. Willis as Director of Human Concerns. There are many aspects related to this appointment that are troublesome. The mayor's office is the entity that assembled the so-called panel of experts that conducted the interviews for the applicants. Given that the now-retired Director Tsuhako is one of the only people on Maui County that can truly be called an expert on matters related to homelessness in Maui County, I'd like to know the qualifications of those that participated in the interview process. I find it hard to believe that out of the 21 applicants that were interviewed, that this team came to the conclusion that not a single resident of the State had comparable qualifications. Waiving the residency requirements based on the arguments of the County's Corporation Counsel is also a concern, given the numerous challenges that have been mounted against their recent legal opinions. Did the interview panel consist of the same experts that the Mayor is relying on to advise him on how to address the sprawling and dangerous homeless encampments at the Old Maui High School and the Cut Mountain bypass? Two sites that are extremely fire prone and rapidly growing into lawless wastelands thanks to the tacit support of this administration. This is not the type of homeless management that the majority of voting residents of Maui County support. Brining in a mainland resident with zero local connections, little, if any, knowledge of our social service agencies, and for a tenure that could possibly last only 6-9 months is asinine. The administration is acting like they've already been reelected. Given all the turmoil of the past 3 years, that is not guaranteed by any means. I cannot support the mayor's decision to waste all this money brining in someone from the mainland, instead of the numerous talented local individuals that applied. Why is this individual relocating for a similar paycheck that they were receiving in California? The cost of living here is much higher, the housing market is extremely constricted, they've only been here on vacation a few times, and despite the statements in the press release, this individual has no understanding of local dynamics and sensitivities. Talking about Nisei heritage in one sentence and then pivoting to talking about mana'o in the next sentence is racial pandering and cringeworthy. Please councilmembers, look at all the negative comments related to this press release on Facebook and other social media sites. The only positive statements regarding this selection come from her friends and former colleagues, not a single resident of Hawaii. Look at the strong opposition of YOUR voting constituents. November will be here before you know it, and it is shaping up to be a very interesting election cycle. Please advise the mayor to revisit this decision and appoint a local applicant that won't take years to train up. A person that can jump into the role and be effective from day one. Approving this individual runs the risk of alienating an already overburdened workforce, thus creating more of the problems that they are supposedly trying to eliminate. I appreciate this opportunity to voice my opinion and thank you for your time.

Guest User
Location:
Submitted At: 10:25am 03-10-26

Resolution 26-39

Hire KAMAAINA!!!!!!!!!!!!!!

Guest User
Location:
Submitted At: 7:55am 03-10-26

As a member of the non-profit community of Maui County that receives generous funding from the County, I oppose the nomination of Margaret Willis to be Director of Human Concerns (Resolution 26-39). There has been so much collaboration, coordination and network building over the past 10+ years. We need continuity in leadership, relationships with trusted partners, a leader who knows us and will call us into action when things need to get done. Please don't make us start from scratch.

Guest User
Location:
Submitted At: 10:18pm 03-09-26

Aloha Chair and Members of the GREAT Committee,

I am submitting testimony on Resolution 26-39. I have concerns that I sincerely hope the committee addresses

before making an informed decision on Ms. Willis's appointment.

As stated in Resolution 26-39, HRS §78-1 states that the one year residency requirement may be waived by the appointing authority when the appointive officer is: (1) Required to have highly specialized or scientific knowledge and training and a qualified applicant who is a resident for at least one year is not available to fill the position.

1) Why are residents of the State for at least one year who applied and were interviewed for this position not considered to be qualified applicants?

2) If residents of the State for at least one year applied and met the minimum qualifications for this position, then a) they are qualified applicants b) their consideration for this appointment is necessary, and c) the residency requirement cannot be waived for Ms. Willis's appointment.

Please provide the public with transparent and honest conversations conducted in a public forum regarding these issues. Mahalo for your consideration and the opportunity to provide testimony.

Guest User
Location:
Submitted At: 9:18pm 03-09-26

Aloha Chair and Members of the Council,

I am writing to provide testimony in opposition to Resolution 26-39, which would approve the appointment of Margaret T. Willis as Director of Human Concerns for the County of Maui.

While some may argue that an outside perspective can bring new ideas, a "fresh perspective" is not necessarily what our community needs. Local experience is NOT a limitation—it is a strength. A local leader who is already familiar with our local community, nonprofit partners, and systems will be better positioned to act quickly and effectively.

The Department of Human Concerns plays a critical role in addressing some of the most pressing issues facing our community – aside from homelessness, the department oversees operations in volunteer coordination for Maui County, social service coordination and programming for our kupuna, immigration services, early childhood resources for our keiki and grant funding for non-profits that support our vulnerable residents across Maui County.

Leadership of this department requires someone who possesses the local understanding of all the social, economic, and cultural dynamics that shape the vast and unique needs of our community members - from age keiki to kupuna. Not an individual with allegedly specialized knowledge that can serve ONLY ONE of the SEVEN divisions of the Department of Human Concerns.

I respectfully request that the Council encourage the selection of a qualified local candidate who understands our unique community needs of Maui, Moloka_i, and L_na_i.

Mahalo for the opportunity to provide testimony and thank you for your continued service to our community.

Best,
A Concerned Kahului Resident

Guest User
Location:
Submitted At: 4:26pm 03-09-26

Aloha Chair and Council Members. I listened to Mayor Bissen's State of the County address less than a week ago when he encouraged those of us who are considering leaving Maui to instead stay and continue to make our homes here, to raise our families here, to continue to call Maui our home. I believe the Mayor's campaign slogan was "Kama`aina prosperity". I hope that Mayor is able to explain how his hring of a mainlander without any ties to Maui, is aligned with his campaign promise to us of Kama`aina prosperity. Should I be worried about my parents continuing to receive their Meals on Wheels and other services from Human Concerns, or is Mayor going to

create a "Department of Houselessness" to utilize the nominee's expertise?

Guest User
Location:
Submitted At: 4:11pm 03-09-26

I am pleased to offer my strong support for the hiring of Margaret Willis as the Director of Human Concerns for the County of Maui. Margaret is an exceptional professional whose leadership, compassion, and collaborative approach make her uniquely qualified to serve in this important role.

During Margaret's tenure with the City of Santa Monica, I had the opportunity to see firsthand her ability to work effectively across multiple disciplines and agencies. She consistently demonstrated an outstanding ability to build strong partnerships with city and county government entities, including the Police Department, the City Attorney's Office, and a wide network of community-based service providers. Margaret understands that complex social challenges—particularly those involving vulnerable populations—require coordinated, thoughtful, and sustained collaboration. She excels in bringing diverse stakeholders together to work toward practical and compassionate solutions.

Margaret worked closely with the Santa Monica Police Department, particularly in support of our Homeless Liaison Program (HLP), which focuses on outreach and services for some of the most vulnerable members of our community. Through that partnership, she helped strengthen the coordination between law enforcement and service providers, ensuring that individuals experiencing homelessness were connected with the resources and support they needed. Her approach balanced accountability with humanity, always recognizing the dignity of those being served while maintaining a focus on community safety and well-being.

What sets Margaret apart is not only her professional capability but also her character. She brings genuine empathy and compassion to her work, combined with an exceptional work ethic and a deep commitment to public service. She is thoughtful, solutions-oriented, and unwavering in her dedication to improving outcomes for individuals and families facing difficult circumstances.

I have every confidence that Margaret will bring the same level of professionalism, collaboration, and heart to the County of Maui. She has the experience, leadership, and integrity necessary to effectively guide the Department of Human Concerns and to work productively with government partners, law enforcement, and community organizations.

I strongly support her appointment and believe she will be an outstanding asset to Maui County.

Darrick Jacob
Police Chief
City of Santa Monica

Guest User
Location:
Submitted At: 1:57pm 03-09-26

Aloha Chair and Members of the GREAT Committee,

I am submitting testimony on Resolution 26-39 regarding the appointment of Margaret T. Willis as Director of Human Concerns.
The resolution states that the residency requirement under HRS §78-1 has been waived because no qualified resident applicant allegedly possesses the specialized knowledge needed to address issues related to unsheltered communities. Given the many professionals across Maui County who have spent years working in housing programs, senior services, community outreach, and other services for vulnerable populations, it is reasonable to ask whether the recruitment process fully considered the depth of local experience that already exists within our community.
The Department of Human Concerns oversees a wide range of programs beyond homelessness, including services for our k_puna through the Office on Aging and Kaunoa Senior Services, early childhood programs, immigrant services, and many community partnerships that support residents throughout Maui County. Leading this department requires not only professional expertise, but also a strong understanding of our local communities

and the relationships that support these programs.
The Administration has often spoken about the value “M_lama i ke kahi i ke kahi,” the spirit of caring for and supporting one another within our community. Supporting and developing qualified local leadership within County government can be one way to put that principle into practice.
Leadership in the Department of Human Concerns requires not only experience and qualifications, but also the trust and confidence of the community it serves. Ensuring that local leadership and local candidates are fully considered can help strengthen that trust.
As the Council reviews this appointment, it may be helpful to better understand the recruitment process, including how many applicants applied, how many were Hawai_i residents, and whether current leadership within the County or other qualified local candidates were given the opportunity to apply.

Mahalo for the opportunity to provide testimony.

Guest User
Location:
Submitted At: 1:45pm 03-09-26

I am writing in support of the appointment of Margaret T. Willis to the position of Director of Human Concerns for the County of Maui. Maggie and I worked together in the City of Santa Monica. It may seem odd that a misdemeanor prosecutor with over 15 years of experience would be writing in support of someone seeking this position but that is part of what makes Maggie so impressive. She brings together a diverse group of people to get to the heart of an issue. She is not afraid to hear opposite viewpoints and work hard to get all interest parties to yes to benefit not only those experiencing homelessness but the residence of the City’s where she has worked. She has proven time and time again that she can take on tough issues in a way that is innovative, transparent, and progressive. She brings to this position years of experience not only in human services but also in leadership and government. She will be an excellent addition to the department of Human Concerns.
Jenna Grigsby
Chief Deputy City Attorney
City of Santa Monica

Helen Chin
Location:
Submitted At: 12:50pm 03-09-26

I am writing in unwavering support of the appointment of Margaret T. Willis to the position of Director of Human Concerns for the County of Maui. In my previous position of Assistant to the City Manager on Homelessness for the City of Culver City, I had the pleasure and honor of partnering with Maggie on regional efforts to address housing, homelessness, and to provide care to some of the most vulnerable adults in Los Angeles County. She is a keen observer, a sharp strategist, and most importantly, a warm, empathic, and deeply caring human. Her focus is client-centered, making sure recipients of services are met with care throughout the process. I learned a lot much from her as a colleague, most especially her trauma-informed and community-centered approaches to program development, design, and implementation.

When we think about homelessness, we can be duped into thinking about homelessness as an isolated outcome of bad choices. This is an outdated way to think about unhoused people living on the streets. If we only look at the Point in Time count, we are forgetting about how homelessness is a symptom of multiple systems failures, including the unwillingness to build affordable housing, the lack of investment in our health care systems, and the “pull yourselves up by your bootstraps” mentality that keeps us turning a blind-eye to our collective responsibility, our kuleana, to our neighbors. What’s most important to know is that Margaret understands that homelessness does not occur randomly or in isolation. She brings a systems-thinking lens to this work. She is aware of where the bottlenecks occur, the feedback loops that reinforce bad policy and she has the courageous and bravery from having worked for the City of Santa Monica and the County of Los Angeles, which gives her the specialized qualifications, to be able to make changes, lead with courage, and support the County in advancing its goals to serve the people of Maui.

Los Angeles County is better off because of her service in this sector and I trust that Maui County will be better off too.

Helen Chin

Former Assistant to the City Manager on Homelessness for the City of Culver City
Current Chair of the Los Angeles County Commission on Human Relations

Corri Planck
Location:
Submitted At: 11:04am 03-09-26

I'm writing in support of the appointment of Maggie Willis as the Maui County Director of Human Concerns. I've had the honor of working with Maggie for more than a decade as a treasured and trusted colleague in our respective work addressing homelessness, mental health, housing and poverty.
While we worked for different cities, we were part of regional efforts to address homelessness and mental health issues. Maggie was a key voice of experience and a truly collaborative partner in those efforts.
Due to her experience working for a direct service provider, an influential municipality and now for the largest county government in the United States, Maggie understands how human services systems work and, importantly, how they don't work.
Maggie is thoughtful in her work, and is an intelligent and visionary strategic leader.
She is diligent and forthright with all community stakeholders and is able to work across sectors when others thought it couldn't be done.
Maggie's deep knowledge and experience, coupled with her commitment to those who seek to access government services, make her an ideal candidate for this position.
Maggie Willis is one of the finest public servants I have had the pleasure to work with. The Los Angeles region's loss would most definitely be Maui County's gain.
Corri Planck
Former Human Services Manager, City of West Hollywood, CA

Guest User
Location:
Submitted At: 9:30am 03-04-26

Chair and Members of the Council,
I am writing in regard to Resolution No. 26-39, approving the appointment of Margaret T. Willis as Director of Human Concerns.
I appreciate the Administration's emphasis on addressing homelessness and unsheltered communities as a top priority for Maui County. This is unquestionably one of the most pressing issues facing our island, and it deserves thoughtful, effective leadership.
However, I respectfully ask the Council to carefully examine the justification for waiving the one-year residency requirement under HRS Section 78-1. The statute allows a waiver only when highly specialized knowledge is required AND no qualified resident applicant is available. The resolution indicates there were multiple applicants for this position.
I also understand that the proposed appointee most recently served in Santa Monica, California. While Santa Monica has invested significant resources into addressing homelessness, point-in-time counts show that homelessness there has fluctuated rather than consistently declined over recent years — including increases in 2023 and again in 2025, and only modest decreases in 2024 compared with broader regional trends. Importantly, the number of people living unsheltered has remained persistent despite sustained effort.
Given that record, I respectfully ask the Council to evaluate not only which programs Ms. Willis was responsible for, but also what measurable outcomes resulted from them. If "highly specialized knowledge" is the basis for waiving the residency requirement, it would be helpful to understand the demonstrated success of that specialization in terms of documented, sustained improvements.
If the Council is to approve this appointment, I respectfully request clarity on the following:
• What specific "highly specialized" qualifications were deemed necessary for this role?
• In what ways did resident applicants not meet those qualifications?
• How was the determination made that no qualified resident was available?
This decision is not simply about one individual. It sets a precedent for how residency requirements are interpreted and how local leadership is valued. Transparency and accountability in this process will help maintain public trust.
I urge the Council to fully evaluate whether the statutory standard for waiving residency has truly been met before confirming this appointment.

Thank you for your time and consideration.

Testimony for Resolution 26-38 Johann Lall

Aloha, GREAT Committee,

Mayor Bissen's appointment of Jacky Takakura to the Planning Director position surprised me. Ms. Takakura was my boss as Deputy Director and later my direct supervisor as Administrator of Long Range. Based on her actions in those positions, **I oppose Resolution 26-38** to confirm Jacalyn Takakura as Planning Director.

In 2022 I became aware of a fine reduction "settlement" done without a hearing and approval by Maui Planning Commission which was required by the SMA Rules in place at the time. In 2023 after leaving to start a new job at University of Hawai'i, I filed a UIPA request for the emails that would prove malfeasance, and was initially given an Epstein-style set of emails that were almost totally redacted.

Eventually in 2024 with the help of Law Center for the Public Trust (formerly Civil Beat Law Center), I was able to obtain an email chain that was still missing some documents but adequately showed the improper fine reduction.

From the 2024 release, I first learned that the fine reduction was authorized by Jacky in her role as Deputy Director. I can anticipate that if this comes up at GREAT Committee or full Council, the administration or Jacky may refer to it as an "allegation" or an "accusation". However, the emails document the improper action with surprising clarity.

In 2021, Alpha Construction was working on the Iwa 'Ike Subdivision on Makena Rd between Makena State Park and Ahihi Kina'u NAR. They performed ground altering work without an archaeological monitor as required by SMA conditions. The archaeological conditions were meant to protect burials and historic resources that might be encountered These violations were witnessed and photographed by ZAED inspectors on two separate dates. In November 2021, a fine for $65,000 was issued and later contested by lawyers for the violator, Cal Chipchase and Christopher Goodin.

Over the next few months there were lengthy discussions, at times contentious, between Jordan and the violator's agents. As soon as Jacky took office as Deputy Director in July 2022, she was contacted by Chipchase to wrap things up. Inexplicably, she offered a choice between having a settlement agreement for $15,000 approved by Planning Commission **(as required by SMA Rules at the time)**, or rescinding the original fine and reissuing a new one with the lower amount (the illegal method):

>>> Jacky Takakura 7/27/2022 2:35 PM >>>
Hello Cal and Chris

I believe you have already been in discussion on this subject, and have agreed to a reduced fine of $15,000.
Do you want us to rescind the NOV and reissue a new one with this amount?
Or do you prefer a settlement which must be approved by the Maui Planning Commission?
Please advise at your convenience and we'll work on next steps.

Thank you

Jacky

Jacky Takakura
Deputy Director
Maui County Department of Planning

The Planning Department has taken the position that the rescind-reissue was simply to correct a mistake. But the fine calculator spreadsheet, emails, and nature of the violation do not support that claim. The inspector, who I believe is Native Hawaiian and took her job as a regulator seriously, documented the violations carefully. She calculated a fine that was appropriate for the risk created by the violations, the repeat violation even after verbal warning, lack of mitigating circumstances beyond the violator's control, size of the company, etc.

Concurrently with the email discussions, the fine calculator spreadsheet was altered to reach a lower sum. However the spreadsheet itself has no authority, it's only a guide. The violator could have asked Maui Planning Commission to hold a public hearing and reduce the fine to $15,000.

Iwa 'Ike chose to go with Jacky's second option, to rescind and reissue the fine which was done in November 2022.

Jacky offering the choice of a settlement approved by MPC shows that she understood that there wasn't a mistake to be fixed. If there was a *true mistake* like an extra zero or the wrong address listed, I believe that would justify rescinding and reissuing.

But just because a violator convinced the Deputy Director that fine was excessive doesn't mean there was a mistake. This was obviously a "settlement agreement" that still required Planning Commission approval. The SMA Rules were later changed in 2024 and now up to $50,000 fine reductions are allowed with only Director approval. This did not legalize the 2022 rescind-reissue.

In policing, reducing or removing a violation improperly is known as "ticket fixing". There have been many scandals in recent years. A court even ruled that a Tennessee police officer was wrongly fired for whistleblowing on ticket fixing:
https://www.courthousenews.com/tenn-court-rules-for-ex-cop-in-ticket-fixing-case/

In 2023, before I obtained the emails, I reported this along with other ethical issues to DMD Josiah Nishita and MD Kekuhaupio Akana. I thought the former deputy police chief and the mayor, a retired judge, would take ethics seriously and understand that this is the same as ticket fixing.

As far as I know, the only person to face any consequences for reporting this to the Bissen administration was myself. The Planning Department opened an investigation into me for "sharing confidential information outside the Department" which I consider a clear violation of HRS § 378.

The Bissen administration did choose to investigate Planning for retaliation, but contracted a Honolulu lawyer who specializes in getting employers off the hook for complaints from employees. As expected, she found no wrongdoing.

I don't believe the fine reduction was ever investigated, nor any other ethical violations that I brought to the attention of the administration.

A more in-depth discussion of the Alpha rescind-reissue and other subjects can be found in my Substack article: https://johannlall.substack.com/p/normalized-corruption-in-maui-planning

I have also attached the email chain and NOVs to make sure they are part of the record. It is confusing because the emails are out of order but I attempted to make it readable by removing the archaeological report attachments and several pages of duplicated signatures.

In addition to rescind-reissue, I am aware of instances in which Jacky Takakura retaliated against Planning Department employees but those individuals are unlikely to come forward. There have also been concerning statements made by Ms. Takakura that I believe show lack of sufficient knowledge of planning and related subjects required of a Planning Director.

Surprisingly, the Acting Director has not been at Maui Planning Commission since taking office. For important topics, Directors Blystone, McLean, and Aoki were present at MPC to answer questions and provide guidance.

On February 24th, MPC reviewed Resolution 25-230. I support CM Tom Cook's bill to create H-3 and H-4 zoning and give Minatoya owners due process to attempt to retain their current usage on a case-by-case basis. I believe I was the only Minatoya phase-out supporter who also testified in favor of 25-230.

Acting Director Takakura was absent from the H-3/H-4 meeting, and instead the meeting was staffed by Current Division Administrator, Danny Dias. Commissioners, seeming to lack full understanding of the bill, voted 5-1 against against recommending approval.

I suggest that Council ask the administration the following questions:

1. Why has Acting Director Takakura been absent from MPC meetings and will she be present or remotely connected going forward?
2. Does the administration believe that legal requirements for Planning Commission approval of certain settlements can be bypassed by rescinding and reissuing a fine?
3. Does AD Takakura have a Bachelor's or higher degree in Planning or a related field?
4. Is Acting Director Takakura a certified planner?
5. How many investigations have there been into AD Takakura for Equal Employment Opportunity (EEO) related allegations?
6. How many investigations have there been into AD Takakura for retaliation as defined by HRS § 378?
7. Under previous administrations did AD Takakura participate in personnel actions that resulted in employees being fired and later rejoining the County after successful lawsuits or settlements?
8. Did one consultant have special privileges during the South Maui Community Plan process which were not granted to other consultants and developers?
9. Was the moratorium on sand mining in the Sand Hills put in place because Native Hawaiians "want the sand for themselves"?

I expect that Acting Director Jacky Takakura will be approved but I hope that ethics issues and qualifications for the Planning Director position are addressed during the Council meetings. Any Planning staff reading this should be aware that per state law they are totally within their rights to report malfeasance to Mayor Bissen, the Managing Director, County Council members, the State of Hawai'i AG, or any government body that has oversight authority over the Planning Department.

Thank you,
Johann Peter Lall

cades · schutte
A LIMITED LIABILITY LAW PARTNERSHIP

Calvert G. Chipchase
1000 Bishop Street, Suite 1200
Honolulu, Hawai'i 96813-4212
Direct Line: (808) 521-9220
Direct Fax: (808) 540-5021
Email: cchipchase@cades.com

Christopher T. Goodin
1000 Bishop Street, Suite 1200
Honolulu, Hawai'i 96813-4212
Direct Line: (808) 521-9296
Direct Fax: (808) 540-5090
Email: cgoodin@cades.com

COMMUNICATION SUBJECT TO HAWAI'I RULE OF EVIDENCE 408 PLANNING COMMISSION RULE § 12-201-68

December 20, 2021

BY EMAIL AND CERTIFIED MAIL

Jordan E. Hart
Deputy Director
Department of Planning
County of Maui
2200 Main Street, Suite 315
Wailuku, Maui, Hawai'i 96793
Email: planning@mauicounty.gov

Re: File No. NOV 2021/0058; Notice of Violation: Special Management Area - Maui dated September 8, 2021; Confidential Settlement Offer

Dear Deputy Director Hart:

I represent Iwa 'Ike LLC ("**Iwa 'Ike**") with respect to the above-referenced Notice of Violation ("**NOV**"), which imposed a fine of $65,000. I write to propose a resolution of the NOV. This communication is made subject to Hawai'i Rule of Evidence 408 and Maui Planning Commission Rules of Practice and Procedure § 12-201-68.

1. Background. To assist the Department of Planning (the "**Department**") in reviewing this offer and the SMA Initial and daily Fine Calculator Worksheet (the "**SMA Worksheet**"), we provide the following background.

By letter dated December 31, 2020, the Department issued an amended SMA Minor Permit approval for the Iwa 'Ike Subdivision on Makena-Keoneoio Road, which is identified by Tax Map Key No. (2) 2-1-005:118 (the "**Project**"). The approval was made on the condition that "a qualified archaeological monitor shall be present during all ground-altering activities in order to document any historic properties which may be encountered during the proposed undertaking and to preserve those known significant sites."

Prior to obtaining the SMA approval, Iwa ʻIke retained the services of an archeological consultant, Erik Fredericksen, Ph. D., of Xamanek Researches, LLC. Xamanek is listed by the State of Hawaiʻi Department of Land and Natural Resources Historic Preservation Division ("**SHPD**") as a permitted archeological firm.[1] He prepared an Archaeological Monitoring Plan dated July 16, 2019, for the Project. The plan contemplated monitoring for "subsurface earthmoving activities." The plan was accepted by SHPD by letter dated July 29, 2019.

During work on the Project on August 24, 2021, drilling and digging work was performed in the rocky road shoulder area that had a previously disturbed rock base. Prior to conducting this work, Mr. Newbro discussed with Dr. Fredericksen whether an archeological monitor would be required. Dr. Fredericksen indicated that an archaeological monitor was not necessarily required because the work was occurring on the road shoulder. Based on its licensed archaeological consultant's assessment, Iwa ʻIke began the work without an archaeological monitor. To the extent that an archaeological monitor should have been present for the work, Iwa ʻIke proceeded under the good faith belief that it was acting in compliance with its permit obligations.

After receiving notice from the Department regarding the August 24 issues, Iwa ʻIke changed archaeological consultant firms to Scientific Consultant Services, Inc. ("**SCS**"), for which Michael F. Dega, Ph. D. is the principal investigator. SCS is also listed by SHPD as a permitted archeological firm.

On August 27, 2021, SCS representatives conducted monitoring as well as a field inspection of the Project area, including the area where the work had occurred on August 24.[2] During the field assessment of that area, SCS assessed whether any historic or possibly pre-contact sites were impacted. SCS Archaeologist Derek Butler concluded that no sites of any kind were impacted. He noted that sediments consisted of extremely rocky, dark yellowish brown to brown clay/sandy loam and bedrock matrix. He noted that there was evidence of prior disturbance, as would be expected in an area of prior utility and road work. We hope that the Department

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[1] *See* SHPD's Archeological Consultants in the State of Hawaiʻi for Calendar Year 2021, *available at* https://dlnr.hawaii.gov/shpd/files/2021/04/2021_Permit-List_6-1.pdf.

[2] SCS representatives also conducted further monitoring on August 30 and September 4, 17, and 20-23, 2021.

considers the efforts to assess the area where the work occurred on August 24 and the findings of the assessment as mitigating circumstances in this matter.

On September 3, 2021, Iwa ʻIke's contractor drilled into an existing concrete electrical jacket. This jacket had been poured by Iwa ʻIke's contractor. Prior to performing this work, Iwa ʻIke consulted with SCS and was advised that a monitor was not required for the work performed on the concrete jacket because the work did not qualify as ground-altering or subsurface earthmoving activity.

Although Iwa ʻIke consulted with and followed the advice of its archaeological consultants at every stage, it received the NOV from the Department based on the August 24 work. Iwa ʻIke has disputed the NOV and timely requested a hearing with the Director.

2. SMA Worksheet. We offer our assessment under the SMA Worksheet.

As to criterion 1, we agree that there was no prior violation and the ranking score of 0 is appropriate.

As to criterion 2, any "damage to the environment" in the context of the NOV would be the risk of encountering archeological items. The comments in the SMA Worksheet do not address archaeological issues. Instead, the focus is on water issues. The NOV was not issued for water issues. Accordingly, a ranking score of 0 is appropriate.

To the extent the archaeological issues are considered, there is no evidence of any damage to a historical property. Moreover, Iwa ʻIke's acted in accordance with the advice of its archaeological consultants. Since there was no damage to the environment, a ranking score of 0 is appropriate.

As to criterion 3, we understand that our contractor was cooperative with the Department. The Department gave a stop work order on August 26, 2021, until a monitor was obtained, and the contractor complied. As noted above, at that point, Iwa ʻIke retained a new archaeological consultant. Given the cooperation and the decision to retain a new consultant, the ranking score of 4 should be reduced to 0.

As to criterion 4, the "amount necessary to deter future violations" is modest. As noted, we retained an archeological consultant at the outset, acted in reliance on the consultant's advice and promptly changed consultants once the Department raised an issue with the August 24 work. Iwa ʻIke will continue to follow the monitoring

requirements with expert guidance from SCS. The ranking score of 10 should be reduced to 1.

As to criterion 5, "circumstances beyond the control of the violator," Iwa ʻIke relied on the expert advice of permitted archeological firms. While we accept responsibility for their advice, the fact remains that Iwa ʻIke acted in good faith. Accordingly, the ranking score of 10 should be reduced to 1.

As to criterion 6, "[w]hether the violator knew or should have known that permits, approvals, or assessments were needed," Iwa ʻIke believed that monitoring was not required for the August 24 work because it involved the rocky road shoulder area. Monitoring was not required for the September 3 work because it involved drilling into concrete and the road. Iwa ʻIke was guided by its archeological experts. Accordingly, the ranking score of 10 should be reduced to 1.

3. Proposal. Based on these considerations and mitigating circumstances and subject to Hawaiʻi Rule of Evidence 408 and Maui Planning Commission Rules of Practice and Procedure § 12-201-68, we respectfully propose the following terms to resolve this matter:

a. The Department withdraws the NOV;

b. The Department issue a new NOV to Iwa ʻIke setting a fine of $5,000; and

c. Iwa ʻIke will pay the fine of $5,000.

We would welcome an opportunity to discuss this matter with you. Thank you very much for your consideration.

Very truly yours,

Calvert G. Chipchase
Christopher T. Goodin
for
CADES SCHUTTE
A Limited Liability Law Partnership

Jordan Hart - FW: Iwa'ike NOV Update

From: Mike <mike@scshawaii.com>
To: Cal Chipchase <cchipchase@cades.com>
Date: 1/26/2022 6:03 PM
Subject: FW: Iwa'ike NOV Update

To: County of Maui and Mr. Newbro
I have read over the NOV and your letter is correct.

Per September 3, 2021, SCS did not conduct archaeological monitoring as the work crew broke concrete jackets in the project area. We did not monitor because this is not ground altering disturbance and no soil was impacted during the activity. SCS only monitors when ground altering work occurs and this did not occur on that date.

Thank you,
Mike

Michael Dega, Ph.D.
Senior Archaeologist
Scientific Consultant Services, Inc. (SCS)
1357 Kapiolani Blvd., Suite 850
Honolulu, HI 96814
(808) 597-1182 tel
(808) 597-1193 fax
mike@scshawaii.com

From: Mike <mike@scshawaii.com>
To: Cal Chipchase <cchipchase@cades.com>
Date: 2/5/2022 1:52 PM
Subject: Iwa'Ike, concrete

Mr Chipchase

SCS and other archaeological forms in Hawaii are not required to monitor when construction crews are only breaking up concrete. The only instance would be if monitoring is required on a project and concrete breaking proceeded into soil layers below the concrete. In this instance, only concrete was being broken with no intrusion into soil contexts.

Mahalo,

Mike

Michael Dega, PhD
Senior archaeologist
SCS, Inc

Sent from my iPhone

XAMANEK RESEARCHES, LLC
P.O. BOX 880131
PUKALANI, MAUI, HI 96788
Phone/Fax: 808-572-8900
E-mail: xamanekresearchesllc@gmail.com

Jordan Hart, Deputy Director
County of Maui
Department of Planning
200 South High Street
Wailuku, Maui
Phone: 808-270-7735

Attn: Jordan Hart, Deputy Director **1 May 2022**

Subject: Working Draft document for on-site portion of the 'Iwa'ike Subdivision archaeological monitoring project, Makena, Maui.

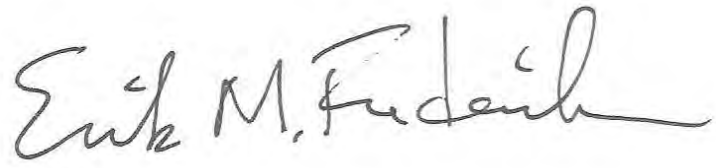
Aloha Jordan,

Per the request of Michael Newbro, Makai Properties, I am providing you with information regarding the on-site portion of the 'Iwa'ike Subdivision archaeological monitoring project. Xamanek Researches LLC monitored all on-site earthmoving activities associated with the proposed subdivision. Monitored activities included initial and overall grubbing, as well as excavation of post holes for the dust fence sections, grading for the access road, pads, and excavation for buried on-site electrical and water lines, and the retention basin.

During the on-site portion of the monitoring project, no significant material culture remains were identified. Initial on-site monitoring occurred in August 2019 - general vegetation clearing (handheld tools only). The remainder of the on-site monitoring program was carried out over the months of January, February and early March 2021. As noted above, a monitor was present for all on-site disturbance activities. A working Draft document of the on-site monitoring program is included on the following pages.

Please contact me if you have any questions regarding the following Draft document.

Sincerely,



Erik M. Fredericksen

Created by Universal Document Converter

Jordan Hart - Fwd: RE: File No. NOV 2021/0058

From: Jordan Hart
To: Jacky Takakura
Date: 8/17/2022 9:32 AM
Subject: Fwd: RE: File No. NOV 2021/0058

I support that option.

We identified errors in our calculation upon further review which would be more appropriately resole by rescinding the NOV that was improperly issued.

>>> Christopher Goodin <cgoodin@cades.com> 8/16/2022 1:32 PM >>>
Jacky, Jordan, I wanted to follow up to see if we can resolve this along the lines of what Jacky described: rescind the NOV and reissue in the amount of $15,000, which we will pay. Please let us know. Thanks.

-----Original Message-----
From: Jacky Takakura <Jacky.Takakura@co.maui.hi.us>
Sent: Wednesday, July 27, 2022 3:51 PM
To: Jordan Hart <Jordan.Hart@co.maui.hi.us>
Cc: Cal Chipchase <cchipchase@cades.com>; Christopher Goodin <cgoodin@cades.com>
Subject: RE: File No. NOV 2021/0058

sorry about that!

>>> Jordan Hart 7/27/2022 3:45 PM >>>
Sorry Jacky, point of clarification, the only agreement in concept that was expressed was that it was reasonable for the Department not to reduce the deterrence score in the calculator down to zero (it is now 1).

There was not final agreement on a specific dollar amount.

Jordan E. Hart
Department of Planning, ZAED Chief
County of Maui
Jordan.Hart@co.maui.hi.us
(808) 270-7821

>>> Jacky Takakura 7/27/2022 2:35 PM >>>
Hello Cal and Chris

I believe you have already been in discussion on this subject, and have agreed to a reduced fine of $15,000.
Do you want us to rescind the NOV and reissue a new one with this amount?
Or do you prefer a settlement which must be approved by the Maui

Planning Commission?
Please advise at your convenience and we'll work on next steps.

Thank you

Jacky

Jacky Takakura
Deputy Director
Maui County Department of Planning
2200 Main Street, Suite 315
Wailuku, HI 96793
phone (808) 270-7743

>>> Cal Chipchase <cchipchase@cades.com> 7/25/2022 12:20 PM >>>

Hi Jacky - Checking in. Is it possible to bring this one to conclusion?

From: Cal Chipchase <cchipchase@cades.com>

Sent: Wednesday, July 06, 2022 1:41 PM
To: Jacky Takakura <Jacky.Takakura@co.maui.hi.us>

Cc: Jordan Hart <Jordan.Hart@co.maui.hi.us>; Shaina Hipolito <Shaina.M.Hipolito@co.maui.hi.us>; Michele Chouteau McLean <Michele.McLean@co.maui.hi.us>; Christopher Goodin <cgoodin@cades.com>

Subject: Re: File No. NOV 2021/0058

Hi Jacky - Hope all is well with you.

Before Jordan jumped with ZAED, we were close to wrapping up this notice of violation. The last item is the level for factor 4. Could we bring this one to closure soon.

Best,

Cal

On Jun 6, 2022, at 12:34 PM, Christopher Goodin <cgoodin@cades.com<cgoodin@cades.com>> wrote:

Jordan, just following up on this one. Please let us know. Thanks.
From: Christopher Goodin
Sent: Tuesday, May 10, 2022 10:29 AM

To: 'Jordan Hart'
Cc: Cal Chipchase ; Lori Chong Kee ; Jacky Takakura ; Shaina Hipolito
Subject: RE: File No. NOV 2021/0058
Jordan, here's a memo from the archaeologist stating on the first page that he performed monitoring in August 2019 and January through March 2021. We appreciate your consideration of our request regarding factor 4.
Thanks,
Chris Goodin
Christopher T. Goodin
Partner

Cades Schutte LLP
Cades Schutte Building
1000 Bishop Street, Suite 1200
Honolulu, HI 96813
(t) 808.521.9296 | (f) 808.540.5090
cgoodin@cades.com<mlee@cades.com> |
https://protect2.fireeye.com/v1/url?k=31323334-50bba2bf-31360632-4544474f5631-3383cc900dab1f11&q=1&e=b232e6e1-2849-4db9-94e2-3b36bde31309&u=http%3A%2F%2Fwww.cades.com%2F<https://protect2.fireeye.com/v1/url?k=31323334-50bba2bf-31360632-4544474f5631-3383cc900dab1f11&q=1&e=b232e6e1-2849-4db9-94e2-3b36bde31309&u=http%3A%2F%2Fwww.cades.com%2F>

From: Jordan Hart
<Jordan.Hart@co.maui.hi.us<Jordan.Hart@co.maui.hi.us>>

Sent: Monday, May 2, 2022 10:56 AM
To: Christopher Goodin <cgoodin@cades.com<cgoodin@cades.com>>

Cc: Cal Chipchase <cchipchase@cades.com<cchipchase@cades.com>>;
Lori Chong Kee <lchongkee@cades.com<lchongkee@cades.com>>; Jacky Takakura
<Jacky.Takakura@co.maui.hi.us<Jacky.Takakura@co.maui.hi.us>>;
Shaina Hipolito
<Shaina.M.Hipolito@co.maui.hi.us<Shaina.M.Hipolito@co.maui.hi.us>>

Subject: RE: File No. NOV 2021/0058
Chris,
Please forward or reforward a statement from the project archaeologist that was engaged at the time stating that they were on site on and monitoring the days mentioned below.
I am open to reducing this item, but not to zero. Some level of deterrence is appropriator in this situation.
Thank you
Jordan E. Hart, Deputy Director
Department of Planning
County of Maui
Jordan.Hart@co.maui.hi.us<Jordan.Hart@co.maui.hi.us>

(808) 270-7821
>>> Christopher Goodin <cgoodin@cades.com<cgoodin@cades.com>>
5/2/2022 10:40 AM >>>

Jordan,
We appreciate the Department's cooperation and willingness to work with us. Respectfully, we ask the Department to look at factor 4, which states, "Amount necessary to deter future violations." The Department's analysis on this factor states,
Violations created by Alpha Inc., on behalf of owner. It is under the assumption from SHPD that no monitor was ever there prior to the site visit on 08/24/21. This TMK also has lots on it to construct, which means that there is a high potential that they could possibly continue to ground alter without any type of archeological monitor there as stipulated in the SMA.
I have confirmed with our former archaeologist that we had a monitor prior to the site visit on August 24, 2021. Specifically, we had a monitor on site in August 2019 and January through March 2021. Between March 2021 and August 24, 2021, we did not engage in ground disturbing activities.
The incident on August 24, 2021, was an honest misunderstanding. We retained a new archaeological consultant once we received notice from the Department. And we have worked with the Department to comply since that time. Accordingly, the "[a]mount necessary to deter future violations" is not significant in this case. Therefore, with respect to factor 4, we would respectfully ask for a reduction to zero points.
Thanks,
Chris Goodin
Christopher T. Goodin
Partner

Cades Schutte LLP
Cades Schutte Building
1000 Bishop Street, Suite 1200
Honolulu, HI 96813
(t) 808.521.9296 | (f) 808.540.5090
cgoodin@cades.com<https://protect2.fireeye.com/v1/url?k=fcc0e462-a35bdd6e-fcc4d164-0cc47a335c28-3696fa1661497c56&q=1&e=1ba8c71b-ad00-492b-9497-4e25f2e9e61b&u=http%3A%2F%2Fmlee%40cades.com%2F>

|
https://protect2.fireeye.com/v1/url?k=31323334-50bba2bf-31360632-4544474f5631-3383cc900dab1f11&q=1&e=b232e6e1-2849-4db9-94e2-3b36bde31309&u=http%3A%2F%2Fwww.cades.com%2F<https://protect2.fireeye.com/v1/url?k=31323334-50bba2bf-31360632-4544474f5631-3383cc900dab1f11&q=1&e=89e8acc7-d3bd-4301-9101-80f80defc7aa&u=http%3A%2F%2Fwww.cades.com%2F>

From: Cal Chipchase
<cchipchase@cades.com<cchipchase@cades.com>>

Sent: Wednesday, April 27, 2022 12:16 PM
To: Jordan Hart
<Jordan.Hart@co.maui.hi.us<Jordan.Hart@co.maui.hi.us>>

Cc: Christopher Goodin <cgoodin@cades.com<cgoodin@cades.com>>;
Lori Chong Kee <lchongkee@cades.com<lchongkee@cades.com>>; Jacky
Takakura
<Jacky.Takakura@co.maui.hi.us<Jacky.Takakura@co.maui.hi.us>>;
Shaina Hipolito
<Shaina.M.Hipolito@co.maui.hi.us<Shaina.M.Hipolito@co.maui.hi.us>>

Subject: Re: File No. NOV 2021/0058
No worries, Jordan. Thanks much. I appreciate the second look. We'll
review and get back to you soon.
Best,
Cal

On Apr 27, 2022, at 12:04 PM, Jordan Hart
<Jordan.Hart@co.maui.hi.us<Jordan.Hart@co.maui.hi.us>>
wrote:

Hi Cal,

I apologize for the delay. Shaina completed this a while ago but I
didn't have an opportunity to engage it.

See attached revised fine calculation for the amount due reflecting a
single occurrence.

Jordan E. Hart, Deputy Director
Department of Planning
County of Maui
Jordan.Hart@co.maui.hi.us<Jordan.Hart@co.maui.hi.us>

(808) 270-7821

>>> Cal Chipchase <cchipchase@cades.com<cchipchase@cades.com>>
4/20/2022 10:55 PM >>>

Hey - Checking in.
From: Cal Chipchase
Sent: Sunday, March 13, 2022 9:40 PM
To: 'Jordan Hart'
<Jordan.Hart@co.maui.hi.us<Jordan.Hart@co.maui.hi.us>>

Cc: Christopher Goodin <cgoodin@cades.com<cgoodin@cades.com>>;
Lori Chong Kee <lchongkee@cades.com<lchongkee@cades.com>>; 'Jacky Takakura'
<Jacky.Takakura@co.maui.hi.us<Jacky.Takakura@co.maui.hi.us>>;
'Shaina Hipolito'
<Shaina.M.Hipolito@co.maui.hi.us<Shaina.M.Hipolito@co.maui.hi.us>>

Subject: RE: File No. NOV 2021/0058
Hi Jordan - Just checking in.
From: Cal Chipchase
Sent: Sunday, March 6, 2022 6:39 PM
To: 'Jordan Hart'
<Jordan.Hart@co.maui.hi.us<Jordan.Hart@co.maui.hi.us>>

Cc: Christopher Goodin <cgoodin@cades.com<cgoodin@cades.com>>;
Lori Chong Kee <lchongkee@cades.com<lchongkee@cades.com>>; Jacky Takakura
<Jacky.Takakura@co.maui.hi.us<Jacky.Takakura@co.maui.hi.us>>;
Shaina Hipolito
<Shaina.M.Hipolito@co.maui.hi.us<Shaina.M.Hipolito@co.maui.hi.us>>

Subject: RE: File No. NOV 2021/0058
Not at all, Jordan. We're all trying to keep above water.
I appreciate the department's willingness to revisit the application of repeat behavior in the calculation.
I agree that the work on August 24 did not involve breaking concrete.
The failure to have a monitor present on August 24 was the result of an honest mistake. We accept responsibility for the mistake. We only ask the department to consider that the violation was not intentional and that we tried to confirm the correct course before we proceeded with the work.
In an earlier letter, I proposed a fine for the department's consideration. I think the fine accounts for the fact of the violation while recognizing that the violation was not intentional and was not repeated. Indeed, we immediately changed archaeological consultants after learning that we had committed a violation. Under the circumstances, would the department consider the resolution that I proposed?
Best,
Cal
From: Jordan Hart
<Jordan.Hart@co.maui.hi.us<Jordan.Hart@co.maui.hi.us>>

Sent: Friday, February 25, 2022 12:53 PM
To: Cal Chipchase <cchipchase@cades.com<cchipchase@cades.com>>

Cc: Christopher Goodin <cgoodin@cades.com<cgoodin@cades.com>>;
Lori Chong Kee <lchongkee@cades.com<lchongkee@cades.com>>; Jacky Takakura
<Jacky.Takakura@co.maui.hi.us<Jacky.Takakura@co.maui.hi.us>>;

Shaina Hipolito
<Shaina.M.Hipolito@co.maui.hi.us<Shaina.M.Hipolito@co.maui.hi.us>>

Subject: RE: File No. NOV 2021/0058
Hi Cal,

I apologize for the delay in replying.

The date of the violation was August 24th. Active excavation (not concrete breaking) was observed and photographed by our inspectors, with no archaeological monitor present.
Our inspectors were also on the site on September 3rd to observe additional subsurface work without a monitor. We did use September 3rd as an indication of repeat behavior in the SMA calculation. However, per the information provided on the nature of that work and the consultation done to determine if monitoring would be needed, we are open to reconsidering that as a relevant factor to the fine calculation.
If you have any further information that would explain why the work observed and documented on August 24th was not in violation we are open to discussing and reviewing.

Thank you,
Jordan E. Hart, Deputy Director
Department of Planning
County of Maui
Jordan.Hart@co.maui.hi.us<Jordan.Hart@co.maui.hi.us>

(808) 270-7821
>>> Cal Chipchase <cchipchase@cades.com<cchipchase@cades.com>>
2/5/2022 4:47 PM >>>

Hi Jordan - Attached is an email from Dr. Dega and a picture of the concrete work.
From: Cal Chipchase
Sent: Friday, February 4, 2022 10:51 PM
To: 'Jordan Hart'
<Jordan.Hart@co.maui.hi.us<Jordan.Hart@co.maui.hi.us>>

Cc: Christopher Goodin <cgoodin@cades.com<cgoodin@cades.com>>;
Lori Chong Kee <lchongkee@cades.com<lchongkee@cades.com>>; Jacky Takakura
<Jacky.Takakura@co.maui.hi.us<Jacky.Takakura@co.maui.hi.us>>;
Shaina Hipolito
<Shaina.M.Hipolito@co.maui.hi.us<Shaina.M.Hipolito@co.maui.hi.us>>

Subject: RE: File No. NOV 2021/0058
Thanks, Jordan.
Mr. Fredrickson's statements were to Mike, and he relied on them. Mr. Fredrickson will not be providing a statement. The point is that even if reasonable people can differ about what was required, the actions were taken in good faith and without the intent to violate the conditions.

Regarding the second day, the work was not merely in a previously disturbed area; it was breaking concrete. I'm not aware that breaking concrete ever requires monitoring. But I'll inquire with SCS all the same.
Best,
Cal
From: Jordan Hart
<Jordan.Hart@co.maui.hi.us<Jordan.Hart@co.maui.hi.us>>

Sent: Friday, February 4, 2022 3:26 PM
To: Cal Chipchase <cchipchase@cades.com<cchipchase@cades.com>>

Cc: cgoodin@cades; Lori Chong Kee
<lchongkee@cades.com<lchongkee@cades.com>>; Jacky
Takakura
<Jacky.Takakura@co.maui.hi.us<Jacky.Takakura@co.maui.hi.us>>;
Shaina Hipolito
<Shaina.M.Hipolito@co.maui.hi.us<Shaina.M.Hipolito@co.maui.hi.us>>

Subject: RE: File No. NOV 2021/0058
Hi Cal,

Sorry for the delay.
We will review the letter and reply further.
My initial questions:
The statements of Mr. Fredrickson are being referenced second hand. Is he providing a statement?
Regarding the statement from SCS, is there any record of communication and coordination of the work being done and monitoring needs with one of the archaeologists in the time period that the work was occurring?
I have heard that SHPD can call for monitoring of previously disturbed areas. Can there be more specific information or reference provided on that subject with regard to this situation?
Thank you
>>> Cal Chipchase <cchipchase@cades.com<cchipchase@cades.com>>
2/3/2022 10:28 PM >>>

Hi Jordan - Checking in.
From: Cal Chipchase
Sent: Wednesday, January 26, 2022 7:59 PM
To: 'Jordan Hart'
<Jordan.Hart@co.maui.hi.us<Jordan.Hart@co.maui.hi.us>>;
'cgoodin@cades' ; Lori Chong Kee
<lchongkee@cades.com<lchongkee@cades.com>>

Cc: 'Jacky Takakura'
<Jacky.Takakura@co.maui.hi.us<Jacky.Takakura@co.maui.hi.us>>;
'Shaina Hipolito'
<Shaina.M.Hipolito@co.maui.hi.us<Shaina.M.Hipolito@co.maui.hi.us>>

Subject: RE: File No. NOV 2021/0058

Hi Jordan - See the attached email from SCS and the attached letter from Mike Newbro summarizing his understanding.
From: Cal Chipchase
Sent: Tuesday, December 28, 2021 4:41 PM
To: 'Jordan Hart' <Jordan.Hart@co.maui.hi.us<Jordan.Hart@co.maui.hi.us>>; cgoodin@cades; Lori Chong Kee <lchongkee@cades.com<lchongkee@cades.com>>

Cc: Jacky Takakura <Jacky.Takakura@co.maui.hi.us<Jacky.Takakura@co.maui.hi.us>>; Shaina Hipolito <Shaina.M.Hipolito@co.maui.hi.us<Shaina.M.Hipolito@co.maui.hi.us>>

Subject: RE: File No. NOV 2021/0058
Thanks, Jordan. I'll reach out to SCS.
Happy New Year!
From: Jordan Hart <Jordan.Hart@co.maui.hi.us<Jordan.Hart@co.maui.hi.us>>

Sent: Tuesday, December 28, 2021 4:23 PM
To: cgoodin@cades; Cal Chipchase <cchipchase@cades.com<cchipchase@cades.com>>; Lori Chong Kee <lchongkee@cades.com<lchongkee@cades.com>>

Cc: Jacky Takakura <Jacky.Takakura@co.maui.hi.us<Jacky.Takakura@co.maui.hi.us>>; Shaina Hipolito <Shaina.M.Hipolito@co.maui.hi.us<Shaina.M.Hipolito@co.maui.hi.us>>

Subject: Fwd: File No. NOV 2021/0058
Hi All,
Per attached there is a position that monitoring was not required when it was not occurring.
Pleases clearly outline the specific work scope being referring to. Photos and or diagrams would be ideal. Once that is established, please provide a written statement from your archaeologist that the monitoring was not required for that work scope, per SHPD criteria. Please reference the scope and the relevant dates. It may be most efficient to confirm the work scope with Shaina before proceeding.
We may need to reconcile the specific language of the condition, but if your archaeologist's official position is that monitoring was not warranted, and or was properly carried out, that would be a significantly different conversation.
Mahalo,
Jordan E. Hart, Deputy Director
Department of Planning
County of Maui
Jordan.Hart@co.maui.hi.us<Jordan.Hart@co.maui.hi.us>

(808) 270-7821

>>> planning 12/23/2021 10:02 AM >>>
>>>
From:

Lori Chong Kee <lchongkee@cades.com<lchongkee@cades.com>>

To:

"'planning@mauicounty.gov'"
<planning@mauicounty.gov<planning@mauicounty.gov>>

CC:

Cal Chipchase <cchipchase@cades.com<cchipchase@cades.com>>,
Christopher Goodin <cgoodin@cades.com<cgoodin@cades.com>>

Date:

12/20/2021 11:36 AM

Subject:

File No. NOV 2021/0058

Dear Deputy Director Hart,
I am attaching a letter to you from Cal Chipchase and Christopher Goodin, dated December 20, 2021, relating to the above-referenced matter. A hard copy will also be mailed to you.
Please let me know if you have any issues opening the attachment. Thank you.
Lori
Lori A.K. Chong Kee
Legal Assistant to Kelly G. LaPorte, Esq.
and Christopher T. Goodin, Esq.

Cades Schutte LLP
Cades Schutte Building
1000 Bishop Street, Suite 1200
Honolulu, HI 96813
(t) 808.521.9200 | (d) 808.521.9285 | (f) 808.521.9210
lchongkee@cades.com<lchongkee@cades.com> |
https://protect2.fireeye.com/v1/url?k=31323334-50bba2bf-31360632-4544474f5631-3383cc900dab1f11&q=1&e=b232e6e1-2849-4db9-94e2-3b36bde31309&u=http%3A%2F%2Fwww.cades.com%2F<https://protect2.fireeye.com/v1/url?k=99912154-c60a184b-99951452-8630ffab37ab-e05716859195accf&q=1&e=ac9acc3d-3932-498f-a5af-923efb47bee1&u=http%3A%2F%2Fwww.cades.com%2F>

Original:

	SMA INITIAL AND DAILY FINE CALCULATOR
Date:	3-Sep-21
Prepared by:	INSPECTOR: Shaina Hipolito
TMK:	2-2-1-005:118-0000
RFS:	21-0001311
Purpose:	Analysis of potential initial fines for 'Iwa 'Ike Subdivision, Makena-Keoneoio Rd., Kihei, HI 96753
Violation:	SM2 2019/0005 was granted for a four-lot rural residential subdivision to include a roadway, water distribution, fire protection system and underground utilities. Numerous complaints came in about this project and they broke condition #3 which stated that a qualified archeological monitor shall be present during all ground-altering activities in order to document any historic properties which may be encountered during the proposed undertaking and to preserve those known significant sites. No monitor was present on 08/24/21 during a spot check and drilling/ground work was being done. There is potential violation of condition #4, as water was viewed in the hole that was dug, and water had filled the hole 2 days later on 08/26/21, in which some kind of utility box is going to be dropped into that hole.
CODE:	HRS 205A

Criteria used to determine severity of violation and calculate applicable fines:		Rank on a scale of 0 through 10
(1) Previous violations by the same person;	Comments: *No prior violation by current owner for property*	0
(2) The risk or severity of damage to the environment, including the damage to the shoreline and marine resources;	Comments: *Drilling into the ground showed water filling the hole, and a painted utility box to be lowered and buried into the water filled hole. Somewhat high potential for environmental impact.*	5
(3) The degree of cooperation provided by the violator during the enforcement process; 1=Very Cooperative 10=Very Uncooperative	Comments: *Alpha Inc. somewhat cooperative, they saw it as no violations as they had an SMA permit. Workers on site were compliant and helpful during the site visits.*	4
(4) Amount necessary to deter future violations;	Comments: *Violations created by Alpha Inc., on behalf of owner. Alpha Inc. is a large company with many jobs across the island, and it is under the assumption from SHPD that no monitor was ever there prior to the site visit on 08/24/21. This TMK also has lots on it to construct, which means that there is a high potential that they could possibly continue to ground alter without any type of archeological monitor there as stipulated in the SMA.*	10
(5) Evidence, if any, of circumstances beyond the control of the violator;	Comments: *None*	10
(6) Whether the violator knew or should have known that permits, approvals, or assessments were needed.	Comments: *Approved SMA with conditions, owner and Alpha Inc. knew. On 08/26/21, verbal stop work order was given for any ground altering work without an archeological monitor on site. Then on 09/03/21, viewed Alpha Inc. digging/drilling into the ground without any archeological montior on site. 2nd time viewing work without monitor.*	10
	Total Ranking	39

USE	**Initial Fine**	$ 65,000.01
	Other mitigating factors not considered above	100%
	Note:	
	FINAL INITIAL FINE	$ 65,000.01
DO NOT USE	**Daily Fine**	
	Other mitigating factors not considered above	
	Note:	
	FINAL DAILY FINE	$ -

Notes regarding expectations and/or responsibilities of the violator that are consistent to all enforcement cases:

SMA/SSA Application is required to come into compliance.

Costs incurred to reverse negative impacts are the sole responsibility of owner.

Maximum Initial Fine allowable is $100,000 / Maximum Daily Fine allowable is $10,000.

NOTES: Water was viewed in the hole, no monitor was seen on the site at the time of digging on 08/24/21. Digging extended from subject TMK and extended down the roadway to the adjacent TMKs 00-1-005:141, 2-1-005:117, and 2-1-005:116. Concerete was seen in the trenches as well, and digging went under 2 established driveways.

Revised:

	SMA INITIAL AND DAILY FINE CALCULATOR
Date:	3-Sep-21
Prepared by:	INSPECTOR: Shaina Hipolito
TMK:	2-2-1-005:118-0000
RFS:	21-0001311
Purpose:	Analysis of potential initial fines for 'Iwa 'Ike Subdivision, Makena-Keoneoio Rd., Kihei, HI 96753
Violation:	SM2 2019/0005 was granted for a four-lot rural residential subdivision to include a roadway, water distribution, fire protection system and underground utilities. Numerous complaints came in about this project and they broke condition #3 which stated that a qualified archeological monitor shall be present during all ground-altering activities in order to document any historic properties which may be encountered during the proposed undertaking and to preserve those known significant sites. No monitor was present on 08/24/21 during a spot check and drilling/ground work was being done. There is potential violation of condition #4, as water was viewed in the hole that was dug, and water had filled the hole 2 days later on 08/26/21, in which some kind of utility box is going to be dropped into that hole.
CODE:	HRS 205A

Criteria used to determine severity of violation and calculate applicable fines:		Rank on a scale of 0 through 10
(1) Previous violations by the same person;	Comments: *No prior violation by current owner for property*	0
(2) The risk or severity of damage to the environment, including the damage to the shoreline and marine resources;	Comments: *Drilling/excavation into the ground showed water filling the hole, and a painted utility box to be lowered and buried into the water filled hole. Somewhat high potential for environmental impact.*	2
(3) The degree of cooperation provided by the violator during the enforcement process; 1=Very Cooperative 10=Very Uncooperative	Comments: *Alpha Inc. somewhat cooperative, they saw it as no violations as they had an SMA permit. Workers on site were compliant and helpful during the site visits.*	1
(4) Amount necessary to deter future violations;	Comments: *Violations created by Alpha Inc., on behalf of owner. It is under the assumption from SHPD that no monitor was ever there prior to the site visit on 08/24/21. This TMK also has lots on it to construct, which means that there is a high potential that they could possibly continue to ground alter without any type of archeological monitor there as stipulated in the SMA.*	3
(5) Evidence, if any, of circumstances beyond the control of the violator;	Comments: *None*	0
(6) Whether the violator knew or should have known that permits, approvals, or assessments were needed.	Comments: *Approved SMA with conditions, owner and Alpha Inc. knew. On 08/26/21, verbal stop work order was given for any ground altering work without an archeological monitor on site.*	5
	Total Ranking	11

USE	**Initial Fine**	$ 18,333.34
	Other mitigating factors not considered above	100%
	Note:	
	FINAL INITIAL FINE	$ 18,333.34
DO NOT USE	**Daily Fine**	
	Other mitigating factors not considered above	
	Note:	
	FINAL DAILY FINE	$ -

Notes regarding expectations and/or responsibilities of the violator that are consistent to all enforcement cases:

SMA/SSA Application is required to come into compliance.

Costs incurred to reverse negative impacts are the sole responsibility of owner.

Maximum Initial Fine allowable is $100,000 / Maximum Daily Fine allowable is $10,000.

NOTES: Water was viewed in the hole, no monitor was seen on the site at the time of digging on 08/24/21. Digging extended from subject TMK and extended down the roadway to the adjacent TMKs 00-1-005:141, 2-1-005:117, and 2-1-005:116. Concerete was seen in the trenches as well, and digging went under 2 established driveways.

COUNTY OF MAUI
DEPARTMENT OF PLANNING
ZONING ADMINISTRATION AND
ENFORCEMENT DIVISION
ONE MAIN PLAZA
2200 MAIN STREET, SUITE 315
WAILUKU, MAUI, HAWAII 96793
Telephone: (808) 270-7253
Facsimile: (808) 270-7634
Email:planning@mauicounty.gov

FILE NO	NOV 2021/0058
RFS NO	21-0001311
DATE OF NOTICE	September 8, 2021
DATE OF VIOLATION	August 24, 2021
CONTINUING VIOLATION	[ ] YES [X] NO
COLLECTED FINE	NONE
CERTIFIED RECEIPT NO	*MULTIPLE ADDRESSES

NOTICE OF VIOLATION: SPECIAL MANAGEMENT AREA - MAUI

TO:			
	*7021 1970 0001 0541 7122 Iwa 'Ike LLC P.O. Box 1518 Kihei, Hawaii 96753	*7021 1970 0001 0541 7139 Michael Newbro Paia, Hawaii 96779	*7021 1970 0001 0541 7146 Alpha Inc. P.O. Box 330449 Kahului, Hawaii 96733

RE:			
	TMK	(2) 2-1-005:118-0000	PERMIT NO: SMX 2018/0407, SM2 2019/0005, EAE 2020/0080
	ADDRESS	Iwa 'Ike Subdivision – Makena Road, Kihei, Hawaii 96753	

I have inspected the above described structure(s) and/or premises and have found the following violation(s) of §12-202-12(a) Special Management Area Rules for the Maui Planning Commission ("SMA Rules"), as amended, and Hawaii Revised Statutes §205A-28:

NATURE AND EVIDENCE OF THE VIOLATION(S)	Failure to comply with the conditions set forth in the approved amended Special Management Area (SMA) approval dated December 31, 2020

Evidence of the aforementioned violation(s) include(s): Photographs of drilling/digging without an archeological monitor on site, site visit, and verbal testimony from State Historic Preservation Department Archeologist – Andrew McCalister

ORDER

Pursuant to §12-202-23 and §12-202-25, SMA Rules, and §205A-32 Hawaii Revised Statutes (HRS), as amended, you are hereby ordered as follows:

X	Cease and desist all activity immediately.		
X	Stop any activity that is in violation, and submit an SMA Assessment, obtain an exemption or approval, and remove or retain any work that is in violation.		
X	Pay an initial civil fine in the amount of:	**$65,000.00**	To the Department of Planning ("Planning") by **October 8, 2021**
X	Pay a daily civil fine in the amount of:	**$0.00**	Per day beginning on **September 15, 2021** to Planning if the corrective action described above is completed by **December 8, 2021**
X	Pay a daily civil fine in the amount of:	**$0.00**	Per day beginning on **December 9, 2021** to Planning if the corrective action described above is not completed by **December 8, 2021**

Pursuant to §205A-32 and Chapter 91, Hawaii Revised Statutes, as amended, these fines are not imposed until you have had an opportunity for a hearing. If you wish to contest any provision of this Notice of Violation and Order (NOV), then within thirty days of the certified mailing of this NOV, you must submit a request for hearing with the director as required by Title MC-12, Chapter 202, §12-202-23(d)(4), Maui Planning Commission ("MPC") Special Management Area Rules ("SMA Rules"); or submit an appeal to the MPC as required by Title MC-12, Chapter 201, Subchapter 8 of the MPC Rules of practice and Procedure. Pursuant to §91.95, Hawaii Revised Statutes, as amended, if you submit a timely request for hearing or a timely appeal, we will notify you of the hearing date and time. If you do not submit a timely request for hearing or appeal, this Order will become final pursuant to §12-202-23(d)(2), MPC SMA Rules. Submitting a timely request for a hearing or appeal does not stay any provision of this Order. If the director has held a requested hearing, then within 10 days after receiving the director's written decision, you may submit an appeal for the director's decision to the MPC, pursuant to §12-202-26, MPC SMA rules. Pursuant to §12-202-31, MPC SMA rules, an appeal hearing by the MPC is governed by Subchapter 8 of the MPC Rules of Practice and Procedure.

FOR THE PLANNING DIRECTOR

Print Administrator's Name	JOHN S. RAPACZ	Administrator's Signature	
Print Supervisor's Name	JAY ARAKAWA	Supervisor's Signature	
Print Inspector's Name	SHAINA HIPOLITO	Inspector's Signature	

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COUNTY OF MAUI
DEPARTMENT OF PLANNING
ZONING ADMINISTRATION AND
ENFORCEMENT DIVISION
ONE MAIN PLAZA
2200 MAIN STREET, SUITE 315
WAILUKU, MAUI, HAWAII 96793
Telephone: (808) 270-7253
Facsimile: (808) 270-7634
Email:planning@mauicounty.gov

FILE NO	NOV 21-00001311(SMA)
RFS NO	21-0001311
DATE OF NOTICE	September 5, 2022
DATE OF VIOLATION	August 24, 2021
CONTINUING VIOLATION	[ ] YES [X] NO
COLLECTED FINE	NONE
CERTIFIED RECEIPT NO	*MULTIPLE ADDRESSES

NOTICE OF VIOLATION: SPECIAL MANAGEMENT AREA - MAUI

TO:			
	Certified Receipt No. 7017 3380 0000 8999 6730 Iwa 'Ike LLC P.O. Box 1518 Kihei, Hawaii 96753	Certified Receipt No. 7018 2290 0001 0723 6633 Michael Newbro Paia, Hawaii 96779	Certified Receipt No. 7019 2970 0000 5318 0903 Alpha Inc. P.O. Box 330449 Kahului, Hawaii 96733

RE:			
	TMK	(2) 2-1-005:118-0000	PERMIT NO: SMX 2018/0407, SM2 2019/0005, EAE 2020/0080
	ADDRESS	Iwa 'Ike Subdivision – Makena Road, Kihei, Hawaii 96753	

I have inspected the above described structure(s) and/or premises and have found the following violation(s) of §12-202-12(a) Special Management Area Rules for the Maui Planning Commission ("SMA Rules"), as amended, and Hawaii Revised Statutes §205A-28:

NATURE AND EVIDENCE OF THE VIOLATION(S)	Failure to comply with the conditions set forth in the approved amended Special Management Area (SMA) approval dated December 31, 2020

Evidence of the aforementioned violation(s) include(s): Photographs of drilling/digging without an archeological monitor on site, site visit, and verbal testimony from State Historic Preservation Department Archeologist – Andrew McCalister.

ORDER

Pursuant to §12-202-23 and §12-202-25, SMA Rules, and §205A-32 Hawaii Revised Statutes (HRS), as amended, you are hereby ordered as follows:

X	Cease and desist all activity immediately.		
X	Stop any activity that is in violation, and submit an SMA Assessment, obtain an exemption or approval, and remove or retain any work that is in violation.		
X	Pay an initial civil fine in the amount of:	**$15, 000.00**	To the Department of Planning ("Planning") by **October 5, 2022**
X	Pay a daily civil fine in the amount of:	**N/A**	Per day beginning on **September 12, 2022** to Planning if the corrective action described above is completed by **October 5, 2022**
X	Pay a daily civil fine in the amount of:	**N/A**	Per day beginning on **October 6, 2022** to Planning if the corrective action described above is not completed by **October 5, 2022 (SAME AS ABOVE)**

Pursuant to §205A-32 and Chapter 91, Hawaii Revised Statutes, as amended, these fines are not imposed until you have had an opportunity for a hearing. If you wish to contest any provision of this Notice of Violation and Order (NOV), then within thirty days of the certified mailing of this NOV, you must submit a request for hearing with the director as required by Title MC-12, Chapter 202, §12-202-23(d)(4), Maui Planning Commission ("MPC") Special Management Area Rules ("SMA Rules"); or submit an appeal to the MPC as required by Title MC-12, Chapter 201, Subchapter 8 of the MPC Rules of practice and Procedure.

Pursuant to §91.95, Hawaii Revised Statutes, as amended, if you submit a timely request for hearing or a timely appeal, we will notify you of the hearing date and time. If you do not submit a timely request for hearing or appeal, this Order will become final pursuant to §12-202-23(d)(2), MPC SMA Rules. Submitting a timely request for a hearing or appeal does not stay any provision of this Order. If the director has held a requested hearing, then within 10 days after receiving the director's written decision, you may submit an appeal for the director's decision to the MPC, pursuant to §12-202-26, MPC SMA rules.

Pursuant to §12-202-31, MPC SMA rules, an appeal hearing by the MPC is governed by Subchapter 8 of the MPC Rules of Practice and Procedure.

FOR THE PLANNING DIRECTOR

Print Administrator's Name	JORDAN E HART	Administrator's Signature	
Print Supervisor's Name	GAIL DAVIS	Supervisor's Signature	
Print Inspector's Name	SHAINA HIPOLITO	Inspector's Signature	

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