

PIA Committee

From: Denise Fernandez
Sent: Monday, August 29, 2016 4:02 PM
To: PIA Committee
Subject: PIA Committee Meeting, August 29, 2016 - Testimonial form
Attachments: R Kaye Written testimony.pdf; M Peary testimonial form.pdf; R Kaye testimonial form.pdf; J Ornellas testimonial form.pdf; D DelaCruz testimonial form.pdf; S Kaye Written testimony.pdf; S Kaye testimonial form.pdf

Please find the attached testimonial forms and written testimony for Sally Kaye and Robin Kaye.

Denise



Citizens United for Lana'i

July 23, 2016

Mayor Alan Arakawa
200 S. High St.
Kalana O Maui Bldg 9th Fl.
Wailuku, HI 96793

William Spence
Director, County Office of Planning
2200 Main Street
One Main Plaza, Suite 315
Wailuku, HI 96793

Council Member Riki Hokama and All Members of the Maui County Council
200 South High Street
Wailuku, HI 96793-2155

Dear Mayor, Director Spence and Council Members:

The Lana'i Planning Commission is a critical component of Maui County's local government process. As you know, it has very clear responsibilities, among which are:

- *Advising the Mayor, County Council, and Planning Director in matters concerning planning programs.*
- *Reviewing other proposed land use ordinances and amendments prepared by the Planning Director or by the County Council, and after public hearings, transmits findings and recommendations to the County Council for consideration and action.*
- *Acting as the authority in all matters relating to the Coastal Zone Management Law.*
- *Adopting rules pursuant to land use ordinances or law.*

The Lana'i Planning Commission's history, performance and composition have, up until recently, broadly reflected a reasonable profile of the Lana'i community. Its nine members have traditionally presented a balanced perspective, one that reflects the interests of multiple employers in our community - from the majority landowner to state and non-profit agencies, as well as long-time and retired-but-fully-engaged residents. Unfortunately, the Mayor's last four appointments have attempted to completely derail this broad representation by selecting only ILWU/Four Seasons/Pulama Lana'i employees, three of whom have demonstrated little-if-any interest whatsoever in community issues, nor appeared at a single Lana'i Planning Commission meeting.

The Mayor's most recent nominee, also a hotel employee, further exemplifies this attempt to "stack" the Commission.

Making this situation even more troublesome, we recently learned that Mayor Arakawa has directly and personally asked a senior executive at Pulama Lana'i to recruit individuals for a Maui County Commission, shattering any remaining pretense of objectivity and balance.

We urge you, Mayor, Director Spence and Council Members to take the following steps:

- Withdraw the nomination of Adela Oblinado.
- Select from a pool of previous applicants, or if an insufficient list currently exists, call for a new round of submittals immediately.
- Make a concerted and continuous effort to provide balance to those who serve on the Lana'i Planning Commission, so that viewpoints and broad community interests are represented, not just those of one employer.

We feel these are very reasonable requests that represent both a balanced democratic process and assuring transparency in Lana'i's only form of "self-government."

We also wish to make it clear that these kind of unbalanced nominations could bring the work of the Lana'i Planning Commission to a virtual halt. We will raise a "conflict of interest" issue with each vote the four Pulama/ILWU/Four Seasons employees cast on agenda items submitted by Pulama Lana'i. We will, as is our right under Maui county Charter, Article 10, request a Board of Ethics ruling which could invalidate any such vote, or at least cause a significant delay in LPC work.

We believe that any employee of Four Seasons/Pulama Lana'i has a fundamental and inherent conflict of interest when reviewing and/or voting on, for example, a permit application from their employer. Those commissioners who are simultaneously employees quite clearly have a financial interest, pursuant to Commission rules:

§12-401-25 Disclosure of conflict. Whenever a conflict of interest or other ethical question is raised by anyone regarding any member of the commission, the affected member shall promptly make a full disclosure of the circumstances to the commission. If the commission member has a financial interest in any matter that may be affected by an action of the commission that member shall be disqualified from voting in all actions relating to such matters. [Eff 7/23/93] (Auth: HRS §91-2) (Imp: HRS §91-2)

Ms. Thompson from the Office of Corporation Counsel confirmed this view in the Minutes from Commission's July 15, 2015 meeting:

"So the Maui County Charter has certain ethical restrictions....if you have financial interest or your spouse has a financial interest in an applicant's business. So say an application is before the board for an SMA application, and your husband works for the company, the applicant's company, you'd want to disclose that on the record, and probably you would recuse yourself from voting because you have a direct financial interest in the outcome. Your, you know, husband will do better and his company will do better if that application is passed. So that would be a pretty clear instance of recusing yourself from voting....And if you have a question, we do have a Board of Ethics. So if you have a specific question that you feel needs an official determination, you can request that determination from our Board of Ethics..."

We are concerned that the work of the LPC could come to a complete stop. Should the current nominee be approved, and the next appointment follow the recent path and also be an employee of Pulama Lana'i or an ILWU member, a clear majority of commissioners will have a conflict of interest. We will not allow that to go unchallenged, and would seek a Board of Ethics ruling on each and every vote — bringing the work of the LPC to a screeching and avoidable halt.

You can easily assure that does not happen by insuring the appointment of representatives of the broader community and restoring balance to the Commission by not allowing the Mayor to simply nominate only employees of the largest employer, while ignoring other valid applications. Allowing the Mayor to hand over his legal responsibility to nominate members to boards and commissions to a private landowner representative is especially offensive and must stop.

We look forward to your cooperation on this; we know you can do better for Lana'i.

Signed by these Lana'i residents:

Kathy Brindo

Maggie Daub

Deborah Dela Cruz

John Dela Cruz

Lisa Galloway

Butch Gima

Bruce Harvey

Sally Kaye

Robin Kaye

Cory Lovejoy

Ron McComber

Pierce Myers

Stacie Nefalar

John Ornellas

Susan Osako

Warren Osako

Nicholas Palumbo

Margaret Peary

Diane Preza

Chris Richardson

Diana Shaw

Michael Shaw

Donna Stokes

Doug Weidman