

**GET Committee**

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**From:** Mike J. Molina  
**Sent:** Wednesday, January 30, 2019 2:03 PM  
**To:** GET Committee  
**Subject:** FW: GET confirmation hearings

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**From:** Marian Prosser <mprosser@maui.net>  
**Sent:** Tuesday, January 29, 2019 12:35 PM  
**To:** Mike J. Molina <Mike.Molina@mauicounty.us>  
**Subject:** GET confirmation hearings

Aloha Council member Mike,

We, Daniel Coltart and Marian Prosser, husband and wife, are writing as one, both to thank you for listening to our (bumbling) testimony at the confirmation hearings last week, and to clarify our testimony and refresh our concerns regarding the mayor's nominations of Michele Mclean and Patrick Wong.

Despite all the information we have given to Michele (please see our filed BVA appeal document for details), she has still not admitted that she made a mistake by signing the settlement agreement. She has offered us only a vague apology for how things turned out. She refuses to reveal to us and the rest of the concerned community what it was that went down after "D&S" (i.e., Derek Hoyte, operating as "North Shore Zips") filibustered the floor at the Planning Commission's Special Use Permit hearing. D&S put hours of testimony into the record while at least 20 members of the public patiently waited their turn, then Michele recessed the hearing for a month before we had our turn, and suddenly "settled" with Hoyte before the public ever got the chance to testify.

Suddenly, it was negotiated, signed, and sealed away from the public record, crafted by Pat Wong's office and signed by Michele Mclean. This is the exact opposite of the transparency that this "Government, Ethics, and Transparency" committee was designed to promote. We only found out about the secret settlement when the Maui News phoned our home asking for our comment on 'the decision', a full *five days after* the agreement was signed, eating 5 days into our 30-day appeal window. No member of the public was allowed to know what the agreement contained. The only way we finally obtained a copy was after our lawyer submitted a Freedom of Information Act request, and even then (weeks later), the copy that corporation counsel begrudgingly gave him was heavily redacted, with entire paragraphs blacked out.

I cannot describe the betrayal we and dozens of our fellow affected and LONG-involved community members felt and feel. We will now suffer another half a year plus, on top of our eight years and counting, for our BVA appeal to be scheduled, with the outcome uncertain at that point.

Before D&S's Planning Commission filibuster, I witnessed our attorney Anthony Ranken, who has bravely and respectfully carried our group forward, speak to Patrick Wong's deputy Koa Holiona and offer him our mountain of rock solid, slam dunk testimony and evidence that we had spent literally years carefully and painstakingly (and expensively) amassing, so that Koa could use that evidence in the upcoming BVA hearing on the Notices of Violation against D&S that Koa was in charge of prosecuting. I heard Koa tell Anthony (this is pretty much a direct quote), that he "had no need for any of our evidence because 'zip lining is not a permitted use, period'." But after that he stonewalled us all by refusing to reply to any way that we or our attorney tried to reach

him. And then out of the blue he and Michele McLean perpetrated what our attorney aptly called "one of the most spectacular cave-ins to a developer that Maui has ever seen" -- AT OUR EXPENSE!!! It happened right in the middle of the contested case proceeding before Judge McConnell, where the County was supposed to be enforcing the Notices of Violation issued four years earlier. First Koa forfeited the opportunity to present any of the factual evidence we had given him -- evidence that would have shown that according to all of North Shore Zips' publicity and how they actually run their zipline "tours," the zipline experience they offered had nothing at all to do with historic preservation and that their "principal use" of the property was a thrill ride, pure and simple. Then, without consulting us or our attorney, Koa completely abandoned his prior position that "ziplining is not a permitted use," and he suddenly declared the opposite -- that ziplining was a permitted use of the property, D&S's operation was legal, and they didn't even need a Special Use Permit.

We had the case made in the shade. We had the backing of the previous Planning Commission on a 9-0 vote against granting Derek Hoyte a permit for his zipline. This zipline was right where it belonged, in the SUP application line, before the Planning Commission, hearing testimony of potentially affected community members, and heading for another 9-0 "no" vote, we feel confident. It was a 'no way, Jose' proposition, with the surrounding community and Planning Commission unanimously DENYING the concept of a zipline operating for profit in a quiet residential neighborhood.

D&S had only met two or debatably three of the eight criteria ALL of which are necessary to permit such a business. Michele Mclean told me to my face that "community opposition is weighty".

The next thing we know, Poof! it is SETTLED. Just. Like. That. With what happened sealed from public view, so the community can't see what's going on. Michele McLean and Pat Wong do NOT stand for transparency in government. If you want to live up to your name as the Transparency Committee, this alone is grounds to reject their appointments.

All that is most valuable to us in this world is still on the line and on hold for another costly appeal because of this reckless decision -- a decision that has far greater ramifications than our front-line experience, and that pokes at the heart of corruption and misuse of power.

It is our conclusion after years of researching -- and experiencing -- the effects of human screaming on the psyche, that this is a dire and serious effect that no one would want to have curling through every room in their home, all day, every day of the year, with no breaks.

When Derek Hoyte won his settlement with the County he came over to our house smiling, with a "Christmas present" of two pairs of Bose noise-canceling headphones. The obvious message: he won, we lost, the zipline screaming will continue and all we can do now is wear noise-canceling headphones in our home to block out all sound -- the birds, our music, each other's voices.

We will now have to spend thousands more dollars to try to do the job that Koa and Michele and Pat Wong would not do because, as stated in the settlement agreement that Michele signed, the County desires "to avoid the time, burden, and expense associated with the BVA Proceeding and the Planning Commission Proceeding." (This appears at the top of page 2 of the Settlement Agreement, which is attached to our Appeal Application as Exhibit "A".) Seriously?!! They've sold out our peace and quiet -- our sanity! -- to avoid "time, burden, and expense"? Isn't that what we pay taxes for -- so that our County government will take on the time, burden, and expense of policing our communities, enforcing the laws, and protecting the citizens?

The utter callousness and disrespect of not only the 'decision' but the way these two handled their community members felt and feels like a hard, sobering slap in the face.

Now, we have had to fund our own lawyers to clean up the shambled mess of a misdeed by someone who is slated here today to be in charge of COMMUNITY PLANNING?? And this is how they treat their community members?

This feels and looks exactly like bowing down to the almighty dollar, stealing the country out of upcountry, and *selling it to big business*. Is this not exactly what you as council members are here to guard and protect against?

We had been fighting this battle by proper procedure and at great cost for YEARS. Then Michele McLean and the corporation counsel's office worked with D&S and a handful of 'insiders,' behind the backs of our community, and signed away all that is most precious to us, in one stroke of a pen.

It gives us chills to imagine that there may now be no recourse for this never-ending screaming carnival that has been fraudulently billed as some reenactment of Marine training exercises that existed at other Marine bases on the mainland (not at camp Maui which occupied the lot and hundreds of other acres in the area for eighteen months back in the 1940s.) No one in our group of researchers has ever validated any zipline ever existing here or anywhere. The only thing D&S has been able to produce to validate their claim of historic relevance are some pictures of military training in North Carolina around the same area, where soldiers worked their feet along a tightrope while holding another higher rope with their hands. A far cry from the exercise of hanging effortlessly from a zipline while you zoom along at 40 mph.

In our mind, the only way this Council should even consider confirming Michele McLean and Patrick Wong is if they were to realize and admit their grievous mistake and stand on our side of the BVA appeal. We've given them the chance to do that, and they've had plenty of time to consult with each other and with the mayor and make that decision, but it's now apparent that they are sticking to their guns. They have declined our request to help us win our appeal. They are refusing to let our lawyer talk to the key players and get answers to our questions about the settlement and about the discussions with D&S that led to that settlement. And they are declining to let us see the documents from their files that would inform us of what happened behind the scenes leading to this settlement – documents that our attorney says are crucial to our chances in the BVA appeal.

Maui and its people deserve the transparency of government that this very committee is commissioned to protect. The Governance, Ethics, and Transparency committee should not approve candidates for office who have demonstrated by their actions that they do not believe in the principle of government transparency.

Thanks for reading this long e-mail. Mahalo for your careful consideration and for your SERVICE!!

Sincerely,

Marian Prosser and Daniel Coltart