

**BOARD OF VARIANCES AND APPEALS  
REGULAR MEETING  
FEBRUARY 23, 2012**

**A. CALL TO ORDER**

The regular meeting of the Board of Variances and Appeals (Board) was called to order by Chairman Kevin Tanaka at approximately, 1:35 p.m., Thursday, February 23, 2012, in the Planning Department Conference Room, first floor, Kalana Pakui Building, 250 South High Street, Wailuku, Island of Maui.

A quorum of the Board was present. (See Record of Attendance.)

Chairman Kevin Tanaka: Good afternoon. I'll now call the meeting of the Board of Variances and Appeals to order. It is now 1:35 and we have our quorum of five. First item on the agenda, Trisha?

**B. PUBLIC HEARING**

1. **MICHAEL J. ANDERSON requesting variances from Maui County Code, §§19.30A.030, 16.08.060(A) and (E), and 1997 Uniform Building Code, §§501, 503.2, 705, 1006.2.1, and Table 5-A, to allow the western portion an existing dwelling to be on the property line, whereby a six (6) foot and fifteen (15) foot side yard, a roof projection no nearer than three (3) feet to the lot boundary, and one (1) hour fire-resistive construction for exterior walls and projections are required, and to allow roof projections to exceed twelve (12) inches in areas where openings (windows/doors) are prohibited, and unprotected openings in exterior walls, an exterior exit balcony and a stairway to be less than three (3) feet to the property line for property located off of Hana Highway, Pauwela, Haiku, Maui, Hawaii; TMK: (2) 2-7-004:039 (BVAV 20110018).**

Ms. Trisha Kapua`ala read the agenda item into the record. She then presented power point and video presentations of the subject parcel and surrounding properties.

Ms. Kapua`ala: And the applicant I believe is here, Mr. Michael J. Anderson.

Mr. Michael Anderson: My name is Michael Anderson and I'm applying for a variance. She has read over all my notes. It's been a long process, real difficult process for me. Do you have any questions you need to ask me? I'd love to answer them for you.

Chairman Tanaka: I do have a question. You purchased the property in 19 – as far as when it was built and when you purchased the property.

Mr. Anderson: The structure was built in approximately 1990 by Steve Randle. I started the purchasing process in '99. I lived there. I rented first for about six months, and then I went into the

paperwork to actually seeing to buy a percentage of the land. At that time it was – there was no lots that was actually surveyed, so it was just our buying into a hui land is what I thought. So I bought a percentage of land in late '99 is when we started that process.

Chairman Tanaka: So in the late '90s, no one knew that the structure was right on the property line?

Mr. Anderson: No, nobody knew exactly where the lines were because we thought it was just one lot. It was 11.5-something acres. That's what the understanding was when I bought into the property. There was three owners at that time. I was the third buying in.

Mr. Rick Tanner: What prompted the survey?

Mr. Anderson: A hostile takeover by Rush Randle. He started saying that he's going to force everyone to sell their property because he owned 53% of the land. So he started filing for hostile takeover. We all denied. So he actually went into the County and started looking for lot lines to see if there was any survey ever had done. That's when he found out that there was four parcels down there. That's when he started hiring Bruce Lee to do surveying. That was in approximately 2006, 2007. No one wanted to leave the land except for Rush. We all wanted to raise our family and live and die down there. And Rush wanted to force everyone to sell. And he wanted to move to Oahu and none of us wanted to move. That's when it went into mediation with Judge McConnell not too much far after that.

Chairman Tanaka: Board Members?

Mr. Stephen Castro: Yeah, I have a question. So, prior to you getting into this hui, you didn't know that there was four parcels in it?

Mr. Anderson: No, I was informed by the sellers that it was just one 11.5-acre parcel, and I was buying 13% was the first land deal that we made. I'm sure there's a copy. It might be Exhibit B or C of the actual first land deal was made.

Chairman Tanaka: Please– Okay, I see the – as far as the easement granted, which is described as 15 feet that runs–what is it–78 feet along the property line, so that is – and when was that granted?

Mr. Anderson: That was granted in 2010, I believe, right before Rush was trying to sell his parcel he owned. That was part of the mediation agreement was that he gave me a setback. Not a setback, but a– What did he give me? An easement. An easement was granted by Rush in 2010. That was because McConnell made him do that as part of the decision that McConnell came with.

Mr. Tanner: So he gave you the easement because he had to?

Mr. Anderson: Well, he gave me the easement because he said he would. In the mediation, he said that he would agree to give me an easement for my house to sit where it sits. And I didn't even pursue the easement until 2009, I believe. A couple of the County members came down and did a little survey of my land. And they're the ones who said, well, you know, you should maybe get an easement from your neighbor. It might be easier than moving your house closer to the riverbed,

taking a bunch of money to move my house closer to the riverbed, which could be a potential danger. That was Paul Fasi who came out and did a survey. He did an actual – you know, came out and viewed it, and came with Jim Buika. And they suggested that I went for the variance instead of moving the house. It'd probably be easier and less expensive.

I'm just trying to deal with what I got dealt. I was dealt a hand and I'm just trying to fix everything that was given to me. I've done archaeological inventory assessments. I've done new roads. I've done rock walls. I've done SMAs. I've gotten all my grub and grading permits. I've tried to do everything by the book since I've been down there, which the guy previously did not. I've been trying to fix all their mistakes.

Chairman Tanaka: Okay. Board Members, any other questions?

Mr. Tanner: The last one I have is, is there anybody here either for or opposed to your request for a variance?

Chairman Tanaka: With that statement being said, I'll open–

Mr. Anderson: My wife is here. Of course, she's for the variance.

Mr. Tanner: She's for it?

Mr. Anderson: She's for it, yes. We've got a lot invested in this property. A lot of money invested, and I'm looking at another \$50,000 if I want to try and move my house.

Chairman Tanaka: Okay, with that being said, I will officially open for public testimony. If there's anyone who wishes to testify on this matter, please come forward. Seeing none, public testimony is now closed. Board Members, any other questions or discussion? If no other questions for either the applicant or staff, I would entertain a motion.

Mr. Castro: Just one more quick question. So it would cost you basically, around \$50,000 to move the house?

Mr. Anderson: It depends on how far I have to move it. If I only have to move it 15 feet over, I can maybe cut it down to \$20,000, \$25,000. If I have to move it across the lot to a whole different location, it's gonna cost me quite a bit because I have to re-dig to see where it comes up.

Mr. Castro: And you currently have a cesspool?

Mr. Anderson: Currently I do, yes.

Mr. Castro: Thank you.

Ms. Kapua`ala: Mr. Chair? Staff would like the Board to keep in mind that we have a request from variances from two Titles: 16 and 19. Of course, if you grant one, you have to find a way to grant the other. The Department of Public Works does not provide a recommendation; however, the Department has. So please include in your motion or discussion, your justification for the granting

of both titles. Pay attention to both criteria. Thank you.

Chairman Tanaka: Okay, which makes it more complicated. Now, the Department of Public Works has – they do not have recommendations. They're straightforward and it's just what is there. I guess, James, procedurally, do we – if we're granting a variance from Building Code and a variance from – for both, 19 and 16, procedurally, do we say that the justifications are–? Is it two sets of–? Yeah, if you can–

Mr. James Giroux: Since you're dealing with two codes, I think the only thing you have to look at is that under the standards, it might just be slightly different. But if the reasons are the same, you can use the justifications for both. It's just that, you know, like if it's a subdivision versus a zoning, then it might be different standards. But we can double check and see if there's anything that's hugely different between what your criterias are. Usually you have three criteria that the person has to meet all three. So that would be the only slight difference between the two codes. Otherwise, you can look at the justification and see if they match for both.

Ms. Kapua`ala: Mr. Chair, the Department of Public Works, their standards pertain mostly to health, safety, and welfare. So if you have a find – should find that the applicant's request is not contrary to that, then that would be enough. There is one section in there pertaining to hardship, which Title 19, Planning's report, already addresses pertaining to hardship. Title 19 also focuses on uniqueness of land, which is to us, the primary criteria. So uniqueness; hardship; and if that request being granted would be a detriment to public health, safety, and welfare.

Chairman Tanaka: Board Members, do we grasp that? From what we've been looking at, in the Chair's opinion anyway, this is a hardship. Moving the structure would be at a substantial cost. And it is not because of the applicant's previous actions. And I do not believe that it would be detrimental to public health. So as far as – well, from Planning's report, the three criteria. Okay, here's my attempt to reiterate as far as Zoning. That it is an exceptional, unique physical or geographical condition; reasonable use of the subject property; and this is not the result of a previous action by this owner. So the Chair would propose or entertain a motion towards the granting of looking specifically, at Title 19.

Mr. Tanner: Chairman, I'll make a motion to grant the variance for Title 19 based on the information presented by both the applicant and the staff report with a standard hold harmless agreement.

Mr. Castro: Second.

Chairman Tanaka: Okay, it's been moved and seconded. Do we move forward as far as–?

Mr. Tanner: I agree with the Chairman's position that this does clearly represent a financial hardship for the applicant. That the cause was not that of the current owner, the applicant. That in fact, the surveys weren't done to the point that even when it was done by the builder, was aware of where the lines were without the survey having been done.

Chairman Tanaka: Yes?

Mr. Aaron Shinmoto: I have a question, Mr. Chairman. The building may be over somebody else's

property line. It has not been confirmed, I guess. So you're granting a variance. This person's building over the property line and you not – and I wanna make sure that you guys are not considering or will not be issuing any insurance requirement.

Chairman Tanaka: James, it appears as though we are headed towards a granting of a variance. With the granting of a variance, it is recorded along with the deed, the easement. Now, in the future with a sale of this property takes place and whether it be an inch or so, it's only a setback, or where the building is actually over the property line, because it is recorded with the deed, would that–? You know, the same thing wouldn't happen if he sells it that somewhere down the line, it comes back again and says, oh, wait a minute, the house is on the property line.

Mr. Giroux: Yeah, the variance runs with the land. So it's gonna be recorded on the property. So if he does in the future sell it, the variance will remain. I'm assuming that the easement is also recorded on the land. So it will also remain. But the variance is only for the fact that it's–

Chairman Tanaka: It's sitting where it is.

Mr. Giroux: Sitting, yeah. If in the future it's found– Well, I'm assuming that the easement is taking care of that issue of whether it's sitting on their property or not because what they're requesting is that that be a variance from the setback.

Chairman Tanaka: Now, legally, as far as this parcel where the easement actually sits, if that lot is sold, it is again, a recorded document that an easement does exist around the structure?

Mr. Giroux: Yeah, and they'll stand independently.

Chairman Tanaka: So the person say, buying this parcel would know that there is–?

Mr. Giroux: They'll be on notice that there's an easement and also that there's a setback variance on that property.

Mr. Anderson: Everything has been signed and recorded, and all the easements run with the land.

Ms. Kapua`ala: Mr. Chair, the applicant applied for this variance for this TMK. And the owner of the adjacent property where the easements lies is not a co-applicant. So the variance would only carry for this TMK. And I believe the Department's position is that it would have to be the portion that is encroaching onto the adjacent property would have to be removed.

Chairman Tanaka: If there is an encroachment whether it be an inch or–

Ms. Kapua`ala: There's a sliver that is encroaching.

Mr. Anderson: There is a sliver right now. I know. I am a contractor. And it's just part of my deck and the one portion of the wall that I can cut back in no time, but I didn't wanna do all the extra work if it was going to be granted. If I had to move the house, then there's no reason to cut the deck, cut the wall, cut my eaves.

Ms. Kapua`ala: It's a sliver, but unless the adjacent property is the co-applicant where the variance can run with both parcels, that sliver is in the adjacent property's setback. Does that make sense?

Mr. Anderson: Even though the description if the easement given from the adjacent owner says that they don't mind that my house sits over there, it's just part of the County Code that says my house cannot encroach? Even though he says that I can, the County says that I cannot? Okay.

Ms. Kapua`ala: Right, it's a unilateral – it's an agreement between parties that does not negate County Code.

Mr. Castro: Is this a handshake agreement or a written agreement?

Mr. Anderson: It was written. It's all signed and . . . (inaudible) . . .

Chairman Tanaka: I see we have a copy of that easement agreement. Your agreement with the property owner, is that something in written form signed by both parties?

Mr. Anderson: Just what's written in the easement itself. It's signed by both parties, a description in the easement.

Chairman Tanaka: But that sliver of building that actually sits—?

Mr. Anderson: There's no description on that as what he wanted me to do with that, no. He just said— Actually, the easement was given to me from the corner of my house out. When we wrote that easement, the easement was from the corner of my house whether it went across the line or not. The adjacent owner knows that my house is crossing a little bit 'cause he's got that signed in the recorded easement also. It shows my house sticks out just a sliver, but the easement was given to me 15 feet from the edge of my house. That's what it states in the description of the easement.

Ms. Kapua`ala: Mr. Chair, can I verify with the applicant that this has been recorded? This is the unrecorded agreement executed by both parties. This is the executed easement, but it's unrecorded. It's not stamped by the—

Mr. Anderson: That's the agreement of sale.

Ms. Kapua`ala: Oh, I'm sorry.

Mr. Anderson: The easement is A and it is stamped.

Ms. Kapua`ala: Okay.

Chairman Tanaka: Yeah, it is stamped by the Bureau of Conveyances. Yeah, what we are— I guess the easement doesn't matter on the issue of that sliver of the building that sits on or over the property line, actually. That's a technicality, I guess, or the fine print, if you may. For our Board moving forward, if there were a condition that said that along with the easement, which is a recorded document, if there could be a written agreement copied that also states the owner at this

time does not object to that sliver of portion of building in the property. Now, because any variance given runs with your property, that does not run with the next property. So in the event tomorrow, the next door property is sold, the easement still sits there, but the next owner may not – may disagree with that sliver, just to make you aware. We wanna go through and we are– But as far as legally, at least for myself, if there's a written agreement between you and the current property owner, I don't mind that sliver, if your neighbor doesn't.

Mr. Anderson: I'm sure he doesn't. I can approach him. He's been on vacation. He's kind of a hard guy to get a hold of. He travels all around the world, but I think he's coming back sometime this month.

Mr. Tanner: Is your intention to remove the sliver or to seek authorization to keep it?

Mr. Anderson: My intention was to do whatever I was told to do by you. If you guys ask me to remove the sliver, I was going to remove the sliver. If I can get a signed document from my neighbor, then I will go ahead and do that. I was just gonna wait and see what you guys requested of me. And I pretty much had been dealing with this whole property. I've just been doing what I've been told. I've been trying to do everything by the books, and come over here, and ask questions. And that whole thing with Lance Nakamura, that rock wall, and all the grading and grubbing, and . . . (inaudible) . . . guiding me through it, along with Trish. And you guys have been very, very helpful at the County offices. So I've been just going by what you guys been telling me to do.

Chairman Tanaka: Yes, sir?

Mr. Shinmoto: If the variance is granted, we will require that the encroaching portion be removed. The code will require him to take that off. It doesn't matter what you say.

Mr. Tanner: So it doesn't really matter whether the owner next door is fine or not fine, the County wants to see that removed?

Mr. Shinmoto: Correct, unless the adjacent owner seeks a variance.

Ms. Kapua`ala: He wants to join in on the application, then you can grant the variance for both properties. Right now, you only have the authority to grant the variance for one.

Mr. Tanner: So the variance would be based on the removal of that sliver that goes over onto the property?

Mr. Shinmoto: Yep.

Mr. Anderson: Actually, I think that's in that I was going to remove that sliver, if I was–

Ms. Kapua`ala: Can we add that condition in, Mr. Chair?

Chairman Tanaka: Yeah, I believe that we would do that especially, since the applicant already stated that that would be his intention. Do we move to Title 16 and then discuss that?

Mr. Tanner: I'll amend the motion to include the applicant's agreement to remove the sliver that encroaches on the property next door.

Chairman Tanaka: I guess we need a second on the amended motion.

Mr. Castro: Second.

Chairman Tanaka: Okay, it has been moved and seconded. Discussion on the item regarding Title 19.

Mr. Ray Shimabuku: Mr. Chair, even though we have that in the motion, if he decides to go and talk to that other owner, and the other owner is okay with leaving that sliver in there—

Mr. Tanner: Yeah, I think the other owner would have to come in and seek a variance for that, correct?

Ms. Kapua`ala: Procedurally, an easier way to do it would probably be to reopen this case and come in as a co-applicant. You can look at it again. We'd have to re-notice, but I think that would be easier than actually applying for a variance again.

Mr. Tanner: But it would require the participation of the other landowner?

Ms. Kapua`ala: Yes, yes. Right now, we have no authorization from the adjacent property owner, or agreement, signature of the property owner, to say that this variance application is also his.

Mr. Shimabuku: So the worst scenario for the applicant would be to actually remove that sliver if the owner doesn't – the adjacent owner doesn't agree to that sliver on his property.

Chairman Tanaka: Yeah, yeah.

Mr. Anderson: And the adjacent owner actually has to become an applicant, co-applicant with me, correct?

Ms. Kapua`ala: Correct.

Mr. Anderson: So all he'd have to do is sign this paperwork or we'd have to do a whole application?

Mr. Tanner: No, not a new application, reopen this one.

Ms. Kapua`ala: Yeah, I think we can – what we can do is—? What is it called?

Mr. Anderson: I'm sure he'd have no objections. As I said, he's just a hard person to get in touch with.

Mr. Tanner: How difficult is it for you, as a contractor, to perform this work?

Mr. Anderson: Oh, I can do it in no time at all. I can have it done in a day.



Mr. Tanner: It might be worth doing that as opposed to trying to go through the process with the other, but your choice.

Chairman Tanaka: So as part of our discussion regarding this, you have those two choices: go out and remove that sliver of portion of building that's over the – that encroaches; or go back to your neighboring owner and go through the process.

Mr. Anderson: Okay.

Mr. Giroux: You agree with that?

Mr. Tanner: Yeah, I read it in, yeah.

Chairman Tanaka: Well, I guess the statement I just made has to be– I mean–

Mr. Giroux: Yeah, that modifies it a little bit.

Mr. Tanner: Okay, so adding to the motion that the applicant has the option to either remove the portion, or to come back and seek a variance with the co-applicant of the property owner next door to remedy it that way.

Chairman Tanaka: Okay, and now as far as Title 16– Oh, so amended motion.

Mr. Castro: Second.

Chairman Tanaka: Second. Any other discussion regarding–? With that, I'll call for a vote. All those in favor of approval as so stated in the motion, please say aye. The Chair votes aye. Any opposed?

It was moved by Mr. Tanner, seconded by Mr. Castro, then

**VOTED: To grant the variance for Title 19 as stated.**

**(Assenting: R. Tanner, S. Castro, R. Shimabuku, P. De Ponte,  
K. Tanaka.)**

**(Excused: R. Phillips, B. Santiago, B. Vadla, J. Haraguchi.)**

Chairman Tanaka: **So the motion carries.** We will move forward with the Title 16 portion of the variance application. Let me give this a try again. We're moving in this direction of approval, but referring directly to the requirements of Title 16. We had in our packets, the response from Public Works. Although they do not make recommendations, there is the analysis. The four standards, anyway, or four items would be that – would be – would result in practical difficulty or unnecessary hardship to the applicant; shall not be detrimental to public health, safety and welfare; that this would not be injurious to adjoining lots and buildings; and not contrary to the purposes of this code and public interest. Board Members?

Mr. Tanner: I would like to make a motion to grant the variance for Public Works, Chapter 16, on

the basis that it meets the necessary criteria that has been set forward based on the information provided in an analysis of the staff report and the applicant's information with the standard hold harmless agreement.

Chairman Tanaka: We have a motion. Any second?

Mr. Castro: Second.

Chairman Tanaka: Okay, it has been moved and seconded. Discussion? Now, would the same—?

Mr. Shinmoto: Mr. Chair, again, speaking about insurance, and again, I'm not – I'm in the Planning Department, but the Building Code and the Housing Code, those are health, life, safety codes. The closer you get to the property line, they don't mind you going close to the property line, but you just gotta make the building more fire-resistant, because you don't want fire spreading. Now, you allowing a building right on that line. We wanna make sure that you not gonna require the insurance – because we may be opening ourselves up to possible liability, if the building's there and something happens.

Chairman Tanaka: I'd like to ask Jarvis if he can address—

Mr. Jarvis Chun: Thank you, Chair. If you look at page 5, Criteria No. 2, the proposal is based on an easement providing for the setback and fire-resistant requirements. So you just leave at that, that that easement is the key to your granting of this variance. So I know you mentioned earlier about the recordation, the owners, but if you read the staff analysis that maybe you would wanna put that as one of the conditions.

Chairman Tanaka: If you can explain further? Any amendments to the submitted grant of easement shall be approved by the BVA, is that what you are referring to?

Mr. Chun: That's correct.

Chairman Tanaka: So putting in wording that would – a condition by this Board to add to the easement, the recorded easement, is that what you're saying?

Mr. Chun: No, to the variance. Add a condition to the variance.

Mr. Tanner: Add the condition of insurance.

Mr. Chun: That's correct.

Mr. Tanner: I would add to the motion the condition that the applicant add the homeowner's insurance as well as the hold harmless agreement.

Chairman Tanaka: Do you have an amount?

Mr. Shinmoto: The standard County liability amount is one million dollars. And if you're gonna use the homeowner's insurance, I suggest you add the County of Maui as an additional insured.

Mr. Tanner: Okay, so they would– Okay.

Chairman Tanaka: Rather than adding an amount.

Mr. Anderson: I've already – I've got a million-dollar liability policy on my property already.

Mr. Tanner: Okay, so then the condition would be that you would add the County of Maui as an additional insured.

Mr. Anderson: I've got that because I have to drive through A&B land, I have to drive through three other parcels, so I have to hold a million-dollar policy at all times. In case one of my friends drive off the road, or runs into somebody's house, I always hold a million-dollar liability policy on my property and access to my property.

Chairman Tanaka: Okay, so that would be your amendment to the motion. I need a second to the amended–

Mr. Chun: Chair, could I ask a question for Corp. Counsel? Could they dispose of the easement without–? Between the two parties, could they dispose of the easement?

Mr. Giroux: I think it's possible by agreement, but once it's filed on the land, if it's sold, then it would run with the land.

Mr. Chun: But if each party decided not to – to remove it from the adjacent property?

Mr. Giroux: That's possible.

Chairman Tanaka: Oh, okay, so if both parties were to get together and resolve the easement. Okay. Procedurally, the variance would need to have that wording in there that the easement shall remain as long as the variance exists?

Mr. Giroux: Yeah.

Chairman Tanaka: Yes. Okay. Okay, adding to the motion that is in front of us now would be the wording that along with this variance that the easement before us, the recorded easement, shall remain with the life of the variance.

Mr. Tanner: Accepted.

Chairman Tanaka: Okay, so the amended, amended motion. Do we have a second?

Mr. Castro: Second.

Chairman Tanaka: Okay, any other discussion? Okay, with that, I'll call for a vote. All those in favor of approving the variance as so stated, please say aye. The Chair votes aye. Any opposed?

It was moved by Mr. Tanner, seconded by Mr. Castro, then

**VOTED: To grant the variance for Title 16 as stated with the amended conditions.**

**(Assenting: R. Tanner, S. Castro, R. Shimabuku, P. De Ponte, K. Tanaka.)**

**(Excused: R. Phillips, B. Santiago, B. Vadla, J. Haraguchi.)**

Chairman Tanaka: **So the variance is granted with those stated conditions.**

Mr. Anderson: Thank you very much.

Chairman Tanaka: Thank you. Okay, the next item on our agenda, before we proceed with that, did we want to have that discussion, or do we bring it up, and then—? Okay, sorry, I know it's been a while. You've been waiting, but let's take a three-minute break.

(A recess was then taken at 2:22 p.m. and the meeting reconvened at 2:28 p.m.)

Chairman Tanaka: Okay, the meeting is now back in order.

## **C. APPEALS**

### **1. To determine a hearings officer to preside over the following matter:**

**ROBERT H. THOMAS, ESQ., MARK M. MURAKAMI, ESQ., & MATTHEW T. EVANS, ESQ. of DAMON KEY LEONG KUPCHAK HASTERT, representing HANS-JUERGEN GERHARD BECKER & LYNN SUSAN BECKER appealing the Department of Public Works' decision to not approve two (2) after-the-fact building permit applications (B T2011/0205 & 0206) for the mauka and makai lanai enclosures of unit #G-303 of the Kaanapali Royal Condominium located at 2560 Kekaa Drive, Lahaina, Maui, Hawaii; TMK: (2) 4-4-008:023 (CPR 0049) (BVAA 20110004).**

- a. **Department of the Corporation Counsel, County of Maui's stipulation to continue date for hearing of appeal application from January 12, 2012 to February 23, 2012.**
- b. **Appellee Jeffrey A. Murray, Chief, Department of Fire and Public Safety, County of Maui's motion to dismiss appeal filed on November 29, 2011.**
- c. **James A. O'Brien & Margaret Mary O'Brien as Trustees under the James A. O'Brien & Margaret Mary O'Brien Joint Revocable Living Trust Agreement dated June 20, 1994's petition to intervene.**
- d. **Maui Partners, LLC's petition to intervene.**
- e. **Gretchen Christine von Helms' petition to intervene.**
- f. **Robert & Wendy Patrucco's petition to intervene.**
- g. **APC Resources LLC's petition to intervene.**
- h. **Donna Dixon's petition to intervene.**

- i. Angelo Toppiano's petition to intervene.
- j. Harold & Vivian Hyman's petition to intervene.
- k. Jurgen Vahrenkamp's petition to intervene.
- l. George Basil Millan's petition to intervene.
- m. June J. Delany, Tr's petition to intervene.
- n. Edward James Kelly & Annette Leah Kelly's petition to intervene.
- o. Jeffrey & Patricia Caputo, Trustee's petition to intervene.
- p. Gina & Peter Shugar's petition to intervene.
- q. Renee Miklethun's petition to intervene.
- r. Thomas Edward Perkins' petition to intervene.
- s. Richard L. & Lauri T. Beck, Ronald R. & Jennifer J. Beck, and Lewis & Julia Beck's petition to intervene.
- t. Rodney D. & Deborah D. Conklin's petition to intervene.
- u. Glenn William Bodinson's petition to intervene.
- v. Francis C. Wadell's petition to intervene.
- w. Anthony Chan & Ellen D. Chan, members of Worldco Holding, LLC's petition to intervene.
- x. Michael & Deborah Ebert's petition to intervene.
- y. William D. & Ann C. Flint's petition to intervene.
- z. Dan Cantore's petition to intervene.
- aa. David Berger's petition to intervene.
- bb. Thomas G. & Sandra J. Johnson's petition to intervene.
- cc. Robert J. & Carol L. Hickel's petition to intervene.
- dd. William & Shaun Kane's petition to intervene.
- ee. Charles & Meri Fedak's petition to intervene.
- ff. Rick Laforet's petition to intervene.
- gg. Thomas Bryski's petition to intervene.
- hh. Joseph & Kata Magdic's petition to intervene.
- ii. Matthew J. Kinney's petition to intervene.
- jj. Kevin & Gina Webb's petition to intervene.
- kk. Sharon Bounds' petition to intervene.
- ll. Fred & Pamela Harris' petition to intervene.
- mm. Tom Butler's petition to intervene.
- nn. Paul Londynski's petition to intervene.
- oo. Charles Delzer's petition to intervene.
- pp. William F. Brown's petition to intervene.
- qq. Wendell Payne's petition to intervene.
- rr. Michael Allan Smith's petition to intervene.
- ss. James & Marrietta Gillogly's petition to intervene.
- tt. Sommerville/Olsson Trust's petition to intervene.
- uu. J101 Trust's petition to intervene.
- vv. 686624 B. C. Ltd.'s petition to intervene.
- ww. Mike C. Burns' petition to intervene.
- xx. James Arbuckle's petition to intervene.

Chairman Tanaka: Before we proceed with even the reading of the item, we must first address the

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County's motion to dismiss and the memorandum in opposition to dismiss. I guess, yeah, can we get both attorneys?

Ms. Mary Blaine Johnston: Deputy Corporation Counsel, Mary Blaine Johnston, representing the Chief of the Department of Fire and Public Safety of the County of Maui.

Mr. Mark Murakami: Good afternoon, Chair. Mark Murakami on behalf of the Beckers. Mr. Becker is present in the hearing room today.

Chairman Tanaka: Okay. So how do we—? Okay, Mr. Murakami, as far as the motion to dismiss, anyway, you have filed, I guess, a memorandum in opposition to this.

Mr. Murakami: Yes, your honor.

Chairman Tanaka: The timing, I guess, is the main issue.

Mr. Murakami: Our memorandum brought forth a couple reasons why the Board should not dismiss this appeal. The first one, which we didn't wanna waive was that the appellant received improper notice because it happened so quickly. I did not want to waive it or any of the rest of our arguments should the Board dismiss that argument. And so we did address subsequently what we think are the main reasons why the appeal is right and valid. And we set forth those in our papers.

Chairman Tanaka: So I guess the question is, would you want more time in order to address what you have just stated?

Mr. Murakami: Chair, I'm not sure that more time would add to the arguments that we have in the brief. There is a – this matter has been going on a very long time, and that's one of the things we're – reasons why we are arguing that the County has defacto denied these building permits. And so I wouldn't want to be in a position where I say it's okay to give more time. We are prepared to argue today, and go forth on the substance of the appeal, and argue substantively against the County's motion.

Mr. Giroux: This is just for clarity's sake just because of the procedure. So in essence, you are waiving your right for more time in order to do a more argument on that issue? We need a yes or no. I mean, because what we're giving you is we are giving you right now the option so you can say, hey, I wanna do a better job on articulating my point in writing; or you're gonna waive it, and we're gonna go forward today.

Mr. Murakami: I waive that – I don't want the Board to continue this till next month. I don't want the Board's rules to be . . . (inaudible) . . . by the County, and so I did note that it is the Board, or the Chair's, or the Hearing Officer's decision to set motions, not the County. And so with that objection noted, I am ready to move on and waive further briefing of this issue.

Chairman Tanaka: Okay, we must first attack these two things: the County's motion to dismiss, and the opposition of the motion to dismiss. So this Board must decide on this one item first. So we need to hear, I guess, Ms. Johnston, if you want to—?

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Ms. Johnston: Thank you. First of all, I do object to the phrase that the County has . . . (inaudible) . . . the rules. I checked the rules and the only time limits for filing of memos was that the respondent had to file at least two days before the hearing date, and he did that. He had a week on our motion. So the motion was not placed on the calendar by me. The motion was delivered to the Planning Department and they placed it on the agenda. So just to get that clear.

Anybody can file anything with the Board, with the court, but the threshold question is, does this Body have jurisdiction over this claim? And it's the County's position that you do not, according to your rules. I filed a very brief motion. The – your rules require that an order or decision that's being appealed from first has to be in writing; and second, the appeal has to be filed no more than 30 days after that—the day of the written decision or order. The appeal application that was filed has – the only decision it has attached to it is the March 14<sup>th</sup>, 2011-letter signed by Fire Plans Examiner, Scott English, for the Fire Department. That was again, dated March 14<sup>th</sup>, 2011. And this appeal was filed more than seven months after that on November 29<sup>th</sup>. So under your rules, it's untimely.

The theory that somehow there was a decision by a non decision by the Director of Public Works is fantasy. You're bound by these rules. If you look at the appeal application, the issues that are appealed from, one, two, and three, all have to do with the letter by the Fire Plans Examiner, nothing to do with the Department of Public Works. So the County argues that this is an untimely appeal. This Body doesn't have jurisdiction to hear it. And this appeal should be dismissed. Now, having said that, there are other ways that the issues can come back before the Board, but it would have to be done properly and accord with the Board's own rules. Thank you.

Mr. Murakami: Chair, thank you for hearing us today. If such rules exist that can make the County follow this Board's decision from 2010 in the Schulz matter, we have yet to identify them. After – and some of the Members weren't here for when the Schulz matter was heard, but the same project. Uwe Schulz, who's here in the audience today, applied for a building – an after-the-fact building permit for a lanai enclosure. Kaanapali Royal is a very big condo project down there. Some owners, but not all, have enclosed their lanais. Some bought with them enclosed. And there was a big hubbub in 2008 where the County came out and issued notice of violations to anybody that had enclosed lanais whether they did it themselves, whether they bought it in that condition. So the owners applied for after-the-fact building permits to bring their units into compliance with the law. Back then, the Fire Plans Examiner sent a letter, and very quickly thereafter, the Public Works Department denied the building permit application, and Mr. Schulz's appeal was taken. We had a contested case before Judge McConnell. He found for Mr. Schulz and my clients who had intervened. Some of my clients intervened, not Mr. Becker. And then the Board unanimously back in 2010, upheld the decision to require to issue the permits. The Board actually said in the decision the County shall issue building permits.

To date, I think there's been about two building permits granted. And there's a host of issues. There's an SMA issue. There's a segmentation of building permit application issue. But the core legal principle, which was established in the Schulz matter was that the enclosure of a lanai at Kaanapali Royal does not trigger the need to install fire sprinklers. The Fire Plans Examiner said in his letter back then in 2008, he said it again last year, that the enclosure of the lanai requires the sprinkling of the entire project, not just the unit in question, not just the building in question, but the entire project. We litigated that issue, and the Fire Department's position was not the decision of the County as set forth in the 2010 decision by this Board, the unanimous decision by this Board.

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So here we are today in 2012. Last year, many Kaanapali Royal owners applied for after-the-fact building permits to get their units in compliance with the County Code. And they have yet to receive a decision on that building permit. They received the letter from the Fire Plans Examiner, but we – Mr. Becker and the owners applied for building permits, and those permits, as of yet have not been either granted or denied. It's a code issue. Building permits are supposed to be mandatory. It's a nondiscretionary permit. If the plans meet the code, then they're supposed to issue the permit. Here we are 12 months later, near 12 months, next week it'll be 12 months, and there's no decision. And so our papers put forth the proposition that under the Charter, this Board has the power and authority to review decision and orders of the County. And we suggest that after 12 months, the County's decision is plain as day. They just did not give us a piece of paper saying that we're denying your building permit. And so we're here today to appeal that decision. And you'll note later on that several members of the Kaanapali Royal owners' group have petitioned to intervene because nobody wants to do this again next time. The Schulz matter, Mr. Schulz appealed. I represented about six folks who intervened. I think there's over a hundred units out there. And I recollect that there's about 70-plus that have enclosed lanais. So if the County wants to hold the specter of the notice of violation over these owners, then they're gonna come seek their due process and try to get after-the-fact building permits. And then if they're denied, and it's been a year, they have to have some forum by which to complain of this defacto denial of their permit applications.

And it's baffling to me that the Board's decision in the Schulz matter was plain as day. And why the County wants to have this fight again is beyond me. As Mr. Chun and Mr. English can attest, it's no fun to have depositions from Mark Murakami, and getting examined in a contested case over the course of two days over a legal issue. And that legal issue is whether the Kaanapali Royal project is grandfathered because it was built before fire sprinklers were required for buildings of its kind. We think that the Schulz matter resolved that issue, that it is grandfathered, and it should be grandfathered. And we would've hoped that the County would've agreed with that. They haven't. They haven't acted on our building permits after near a year. And we think that under the Maui County Charter and the provisions set forth in my papers that we are aggrieved by this decision, and we should have the right and ability to raise that grievance at the Board. That's all. If you want us to answer questions, Chair.

Chairman Tanaka: Board Members, any questions for either—?

Mr. Murakami: Murakami.

Chairman Tanaka: Either – yeah, sorry.

Mr. Tanner: Unless I'm mistaken, I think the Kaanapali Royal has about 259 units. No?

Unidentified Member in the Audience: One hundred and five.

Mr. Tanner: One hundred and five. I might be thinking of a different property. What percentage of those have enclosed lanais?

Unidentified Member in the Audience: Seventy percent.



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Mr. Tanner: Seventy percent do. And how many owners have you represented—six?

Mr. Murakami: I think I had six the first time with the Schulz matter, and I just have Mr. Becker today. I think the rest of the intervenors are coming in pro se. But among the list, I don't think that even if all these people intervene, I think there is another group of folks that are probably just watching the scene. They don't wanna hire an attorney or go through this process. And so even if we fast forward a year, and we actually get a victory here, I don't think the matter will be done once and for all if the County doesn't change its position that we all have to apply for after-the-fact building permits and we all have to go through this process. Plainly, the Board's decision in the Schulz matter wasn't enough to change County policy. I'm not sure what else we could've done. We prevailed to the Board and that decision is final as of today.

Chairman Tanaka: I do have a question for Mr. Chun. The after-the-fact building permits, it is applied for, it is reviewed, and either approved or denied. Upon that time, is there an official response that goes out back to the applicant that says approved, come down, pay us your money, we'll give you the permit; or sorry, you have been denied for these reasons? Is there a timeframe associated with any building permit and notification, I guess?

Mr. Chun: Chairman, a person applies for a building permit through our DSA Permit Section. It's then routed to different agencies. They have a matrix depending on what the type of project and where. From there, the agencies pick up their plans, or they send the plans and the application. The next step is each agency independently writes them, if it does not comply, a comment letter. So once it leaves DSA, no, there's no followup from DSA. When all the agencies approve, then the applicant is notified at the end.

Chairman Tanaka: So if there are five agencies and one of those agencies do not respond, it is still in limbo, basically?

Mr. Chun: That is correct.

Chairman Tanaka: Okay, well, addressing the motion to dismiss, this is our first hurdle.

Mr. Johnston: The one thing you didn't hear from Mr. Murakami is addressing the issue that I raised in my motion. And that is, the 30 days to file an appeal from the decision related to Mr. Becker has long expired. That's the only issue before you. What happened in the other case is not before this Board. What may happen in the future is not properly before this Board. He cite – nothing – he says the Charter gives you the right. You didn't hear any Charter provisions. In fact, the findings of fact and conclusions of law that were issued in the previous one went specifically to Uwe Schulz and the seven intervenors. That's all. It doesn't cover anybody else. They haven't been before the Board. They haven't filed an appeal. There are other ways to handle it. The County, both the previous Administration when Mayor Tavares was in office recognized the problem, that there is a problem here. No notice of violations have been issued to anybody. No fines have started running to any of the occupants or owners in the Kaanapali Royal. The current Administration, one of the first things that Mayor Arakawa did is hold a meeting, encouraged us to – to those of us who hadn't done a site visit out at Kaanapali Royal, to go out there. Mr. Becker graciously allowed us to go through his unit. The Administration is very concerned and very aware that there are a lot – this problem isn't gonna go away. There are ways to resolve it. We have a plan. I will talk to Mr.

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Murakami. He hasn't bothered to call me and ask me, but the point I wanna make it is these issues are not before you. The appeal from Mr. Becker is not properly before you. And I urge you to grant the motion to dismiss, and then we can pursue what we need to pursue. If they wanna try to come back again with a proper appeal, then they can do that.

Chairman Tanaka: Okay, I guess you'd like to respond.

Mr. Murakami: Chair, the Fire Department doesn't have the authority under the Charter to deny building permits. It's our position that – and the way the – the one for a building permit that I know was granted from Kaanapali Royal after the Schulz matter was my client, Brian Mallard. And the way it was handled was after we reapplied again, the Fire Department still wouldn't sign off on it. And Jarvis can correct me if my recollection is wrong, but I recollect that the note on the form was that per Board of Variances and Appeals decision dated on this lot, the permit's approved. So the fact that the Fire Department sent us a letter in March is entirely irrelevant because the Building Department is – the Public Works Department is the one who grants or denies a building permit, not the Fire Department. And so our argument is that at some point in time, and Jarvis can– You know, once a month I called him, and said has there been any change? I think my last call was in August. But I'm trying to comply with the law. And yes, we had a big meeting. And we had Planning, and the new Public Works' Director, and everybody. And they said, okay, we'll come up with something. And yet, 9, 10, 11 months go by and nothing's changed. No decision. And so we took an appeal. I think it was filed in November. At some point in time, someone has to say that the Fire Department's interpretation of the grandfathering aspect of the Building Code is incorrect. And we thought the Board said that in the Schulz matter. It didn't change County policy and so here we are again. We are not appealing from the Fire Department because the Fire Department didn't deny our building permit application. We say that over time, it's defacto that the Public Works Department had denied it. I don't know when, but it's been a year. And finally, on page 4 of my memo, I did cite the Charter provision. I set it out for the Board on how we think that the Charter gives you the authority. Thank you.

Chairman Tanaka: For this Board, the issue of even jurisdiction has been brought up. So we would like to go into an executive session to discuss within the Board Members what rights, duties, and liabilities.

(The Board then went into an executive session at 2:50 p.m. and ended at 3:14 p.m.)

Chairman Tanaka: Back to order. Out of executive session. It was discussed, our jurisdiction, basically. And while we – well, I agree with and disagree with some of the statements that have been made by both attorneys, there is the question that, in my mind anyway, and I believe the Board by the Board Members whether this should be in front of us at this time to begin with. While I understand, Mr. Murakami, I understand what your intent and the people you represent that this is a – by no response meaning sitting there and waiting, there is frustration, and apparently by a lot of people by the amount of people would wish to intervene, but it has been discussed by the Board, and I guess I'll entertain a motion from the Board.

Mr. Tanner: Chairman, I'd like to make a motion. I would like to make a motion to grant the dismissal as the decision – as no decision has been made in a written appeal that we can take jurisdiction over.

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Mr. Castro: Second.

Chairman Tanaka: It has been moved and seconded. Any discussion by Board Members or—? Okay, it has been moved and seconded. With that, I'll ask for a vote by the Board. All those in—

Mr. Tanner: Yeah, I certainly sympathize with the applicant and understand the frustration that they're going through—the inaction. Unfortunately, for this Board, I feel that we do need a written appeal in order to take jurisdiction over that, over this case. Our hope certainly is that the applicant does still receive what they're looking for, and that this action by the County that they can move forward and see resolution in this matter. And I think we even received indication from the County Council that there is some resolution that they believe can be reached. And our hope is that that will be the case and it will be very soon. And we're happy to assist when and if we are called upon to do that. But at this time, I believe it's the feeling of my fellow Board Members that unless there is a decision in a written format and a written appeal that we simply couldn't take jurisdiction over this at this time.

Chairman Tanaka: I'll agree. And just in our – in my mind, I guess I should say, anything that comes before us, an appeal, would be that someone would be notified that there was something and served notice, a notice of violation, and fines are started, and then you appeal that, then it'll come to us. At this point, the way it – the process that it's sitting before us at this time, I don't think this Board has the jurisdiction. We shouldn't jump into something that hasn't been – hasn't gotten to that point yet. So that's pretty much a unanimous view of the Board Members that are here now. Okay, so it has been moved and seconded to – I wanna word this correctly.

Mr. Tanner: Grant?

Chairman Tanaka: Grant the motion to dismiss and seconded. So with that, I guess I'll call for a vote. All those in favor, please say aye. The Chair votes aye. Any opposed? Seeing none.

It was moved by Mr. Tanner, seconded by Mr. Castro, then

**VOTED: To grant the motion to dismiss.**

**(Assenting: R. Tanner, S. Castro, R. Shimabuku, P. De Ponte, K. Tanaka.)**

**(Excused: R. Phillips, B. Santiago, B. Vadla, J. Haraguchi.)**

Chairman Tanaka: **The motion to dismiss is granted.** The next as part of this would be we have this stack of petitions to intervene. Because of the fact that this Board will not be taking action, we need to dismiss these petitions, or to deny the petitions to intervene. So with that, we need a motion and a second.

Mr. Murakami: Chair, if I may address the Board?

Chairman Tanaka: Okay, can we get through this item first, and then I'll give you a chance?

Mr. Murakami: It was about the petitions but—

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Chairman Tanaka: Okay, you know what? Go ahead.

Mr. Murakami: There's a pretty not insignificant cost associated with filing those petitions. And it is our intention to take an appeal from this Board's decision to circuit court. So perhaps in lieu of denying it, the Board could hold in abeyance or something so that all the petitioners don't have to file the 25 copies and registered mail.

Chairman Tanaka: No, no, no, but correct me if I'm wrong, because it's a motion to intervene to the BVA, now what you need to do is it's a motion to intervene to the circuit court.

Mr. Murakami: We would be – excuse me, we would be appealing the Board's decision dismissing our – just for the Beckers. But my point is that if you actually rule upon the petitions to intervene now, these folks, if we are successful in circuit court, and if we come back to the Board, they have to re-file, and that's several hundred dollars in mail and stuff.

Chairman Tanaka: Okay, so with that being said, and to be accommodating–

Mr. Tanner: Yeah, Chairman, I'll make a motion to defer all petitions to intervene at this time.

Chairman Tanaka: Okay, it has been moved. Do we have a second?

Mr. Shimabuku: Second to that.

Chairman Tanaka: Okay, it has been moved and seconded that the petitions to intervene have been deferred at this time by this Board. Okay, it has been moved and seconded. With that, I'll call for a vote. All those in favor, say aye. The Chair votes aye. Any opposed? None.

It was moved by Mr. Tanner, seconded by Mr. Shimabuku, then

**VOTED: To defer all petitions to intervene at this time.**

**(Assenting: R. Tanner, R. Shimabuku, S. Castro, P. De Ponte,  
K. Tanaka.)**

**(Excused: R. Phillips, B. Santiago, B. Vadla, J. Haraguchi.)**

Chairman Tanaka: **Okay, the petitions have been deferred.**

Mr. Giroux: Can the County attorney produce a findings of fact and conclusions of law, and serve it upon the other party, and then have that executed by the Chair? If there's any objections by the – can you – how do guys wanna deal with that? Do you wanna be served with that document and have a chance to comment on it?

Mr. Murakami: . . . (inaudible) . . . days go by, we don't sign, and she can submit to the Chair, and I get to file my objections to the Chair.

Ms. Johnston: We can even talk to each other about–

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Mr. Murakami: Yeah, please.

Mr. Giroux: We would like to see that.

Chairman Tanaka: Yes, yes, please. Just for myself and the Board as part of our discussions, we feel for you, all who are in attendance, but we would hate to move forward, make some decision, and that ultimately, it is ruled somewhere down the line that we should never have been – we had no authority to take any kind of action. So we understand your frustration and more time that it's taking you. And we apologize for that and wish you luck in the process moving forward. So this item has been dismissed and petitions have been deferred. Thank you very much. The next item on our agenda would be the Director's report.

**E. DIRECTOR'S REPORT**

**1. Status Update on BVA's Contested Cases**

Ms. Kapua`ala: Sir, there are no updates on appeals at this moment.

Chairman Tanaka: Okay.

**F. NEXT MEETING DATE: March 8, 2012, Thursday**

Chairman Tanaka: Our next meeting date is March 8, 2012. Do we know what we have on that agenda, or an update on what we canceled on our last meeting?

Mr. Shimabuku: Mr. Chair, the last item on that–

Chairman Tanaka: Oh, thank you. Missed that. We need to approve the last meeting's minutes.

**D. APPROVAL OF THE MEETING MINUTES OF JANUARY 26, 2012**

Mr. Tanner: I make a motion that the minutes to the January 23<sup>rd</sup> meeting be approved.

Chairman Tanaka: Well, it says "26<sup>th</sup>." The last meeting was January 26<sup>th</sup>. Is that correct? Yeah.

Mr. Tanner: Okay, I would make a motion that the minutes for the January 26<sup>th</sup> meeting be approved.

Chairman Tanaka: Do we have a second?

Mr. Patrick De Ponte: Second.

Chairman Tanaka: Okay. It's been moved and seconded. All those in favor, say aye. Aye.

It was moved by Mr. Tanner, seconded by Mr. De Ponte, then

**VOTED: That the January 26, 2012 meeting minutes be approved.**

(Assenting: R. Tanner, P. De Ponte, R. Shimabuku, S. Castro,  
K. Tanaka.)  
(Excused: R. Phillips, B. Santiago, B. Vadla, J. Haraguchi.)

Chairman Tanaka: **Okay, meeting minutes have been approved.**

**F. NEXT MEETING DATE: March 8, 2012, Thursday**

Chairman Tanaka: March 8<sup>th</sup>, our next meeting, do we know what we have? And as far as the last meeting that was canceled, have we had any correspondence or discussion on – it was regarding the – was it specific to the timing issues that this Board reviews?

Ms. Kapua`ala: Oh, the proposed rule amendments, it was pertaining to timing, but also, we wanted to introduce into the Board's rules an order to show cause section, which means basically giving the Board the authority to also revoke variances and modify conditions for variances. All of it is currently under review by the Director. We're probably gonna amend some things before we bring it to you again.

Chairman Tanaka: Okay.

Mr. Shinmoto: Mr. Chair, right now, there's nothing for the next meeting unless something suddenly shows up, but probably not.

Chairman Tanaka: Okay. So otherwise, it would be two weeks after that would be our next meeting?

Mr. Shinmoto: Yes.

Chairman Tanaka: Okay. Anything else, Members? Any discussion items? Thank you very much. Meeting is adjourned.

**G. ADJOURNMENT**

There being no further business to come before the Board, the meeting adjourned at approximately, 3:29 p.m.

Respectfully submitted by,

TREMAINE K. BALBERDI  
Secretary to Boards and Commissions II

**RECORD OF ATTENDANCE**

**Members Present:**

Kevin Tanaka, Chairman  
Rick Tanner, Vice-Chairman  
Stephen Castro  
Ray Shimabuku  
Patrick De Ponte

**Members Excused:**

Bart Santiago  
Bernice Vadla  
Rachel Ball Phillips  
Jacqueline Haraguchi

**Others:**

Aaron Shinmoto, Planning Program Administrator, Planning Department  
Trisha Kapua`ala, Staff Planner, Planning Department  
James Giroux, Deputy Corporation Counsel, Department of the Corporation Counsel  
Jarvis Chun, Supervising Land Use and Plans Examiner, Department of Public Works