

PURSUANT TO CHAPTERS 91 AND 92, HAWAII REVISED STATUTES, AS AMENDED; NOTICE IS HEREBY GIVEN OF A PUBLIC HEARING OF THE MAUI COUNTY BOARD OF VARIANCES AND APPEALS (BVA)

Members: Juanita Reyher-Colon (Chair), Raymond Sung (Vice-Chair), Max Kincaid Jr., Jeffrey Borge, William Kama'i, Trisha Egge, Ray Shimabuku, Emmanuel Baltazar, Stephen West

AGENDA
(HYPERLINKS TO MEETING MATERIALS ADDED)

DATE: **October 24, 2019**

TIME: **12:00 p.m.**

PLACE: Planning Department Conference Room, First Floor, Kalana Pakui Building, 250 South High Street, Wailuku, Hawaii

A. CALL TO ORDER

B. CONTESTED CASES

The following Appeals of Notices of Violation are contested cases in which the Board is exercising its adjudicatory function pursuant to Section 92-6 (a)(2) Hawaii Revised Statutes and therefore Section 92-3 ["Open Meetings"] Hawaii Revised Statutes does not apply in such circumstances. Accordingly, the Board is not required to allow the public to testify with respect to such following Appeals.

1. **AOAO OF MAUI SUNSET** appealing the decision of the Director of Environmental Management dated June 5, 2018 related to the use of R1 recycled water for property located at 1032 South Kihei Road, Kihei, Maui, Hawaii; TMK: (2) 3-9-001:002 (BVAA 2019/0010) (C. Keliikoa)

[Appeal Application](#)

[Supplemental Info for Board Members](#)

[County of Maui, Director of Environmental Management's Witness and Exhibit List](#)

2. **CAIN & HERREN** on behalf of **MARIA FATIMA GINNEBAUGH** appealing Notices of Violations for Advertising and Operating a Short-Term Rental Home located at 885 Nahiku Road, Haiku, Maui, Hawaii; TMK: (2) 1-2-002:018; (BVAA 2019/0021 & BVAA 2019/0022) (C. Keliikoa)

Pre-hearing scheduling conference. The Board will consider the possible appointment of a Hearings Officer to preside over the above appeal, as well as motions deadlines and other scheduling matters.

[Appeal Application](#)

3. **IN THE MATER OF THE APPEAL OF MARIAN PROSSER, ET AL.** (aka Affected Residents of Haiku), regarding zipline activity within the County's Agricultural District for property located at 2065 Kauhikoa Road, Haiku, Hawaii, Tax Map Key (2)2-7-012:086 from (1) the Department of Planning's Letter dated December 6, 2018 and (2) the Settlement Agreement dated December 6, 2018, related to Maui County Code §19.30A.050.

- a. [Appellee Director of Planning's Petition to Dismiss Appeal, filed July 18, 2019 \(no action taken by the Board on July 25, 2019\)](#)
- b. [D&S Ventures Ltd., LLC's Motion to Dismiss Appeal](#)
- c. [Appellee Director of Planning's Supplemental Memorandum in Support of Motion to Dismiss](#)
- d. [Appellant's Memorandum in Opposition Motion\(s\) to Dismiss \(Consolidated\)](#)
- e. [Appellee Director of Planning's Reply to Appellants' Opposition to Appellees' Petition to Dismiss Appeal \(August 23, 2019\)](#)
- f. [D&S Ventures Ltd., LLC's Reply Memorandum in Support of its Motion to Dismiss Appeal](#)
- g. [D&S Ventures Ltd., LLC's Objection and Motion to Review Recommendation to Grant in Part and Deny in Part Motions to Dismiss](#)
- h. [D&S Ventures, Ltd., LLC's Appeal to Chair's Refusal to Place the Objection Dated September 6, 2019 on the Agenda](#)

The Board Chair and Vice-Chair were appointed as hearings officers by the Board on July 25, 2019. The hearings officers are in receipt of the above-entitled motions and related filings, and hereby inform the Board of the receipt of the above filings for the Board's determination of setting the matters for further hearing/consideration. No oral argument will be allowed by the parties. An executive session is anticipated to allow the Board to consult with its legal advisor.

C. DISCUSSION

1. Board discussion of Board powers, duties, and/or procedures, including without limitation regarding: contested hearing procedures; hearing officer assignments; status of and anticipated timetable for availability of written minutes (including substantially full transcripts of portions relevant to, and in advance of, anticipated D&O review and discussion and approval) of previous Board meetings; timing and method of distribution of relevant materials to Board members for review in advance of meetings; issues relating to quorum (or lack thereof); miscellaneous questions & answers and/or feedback with Staff and Corporation Counsel.

a. Board Member Introductions

Public testimony may be received by the Board.

D. NEXT MEETING DATE: November 7, 2019

E. ADJOURNMENT

AN EXECUTIVE SESSION MAY BE CALLED IN ORDER FOR THE BOARD TO CONSULT WITH ITS ATTORNEY ON QUESTIONS AND ISSUES PERTAINING TO THE BOARD'S POWERS, DUTIES, PRIVILEGES, IMMUNITIES AND LIABILITIES, PURSUANT TO SEC. 92-5 (a)(4), HRS.

ANY PETITION TO INTERVENE AS A FORMAL PARTY IN THE PROCEEDINGS BEFORE THE BOARD MUST CONFORM TO RULE 12-801-18, RULES OF PRACTICE AND PROCEDURE FOR THE

Board of Variances and Appeals
Agenda-October 24, 2019
Page 2

BOARD OF VARIANCES AND APPEALS, AND BE FILED WITH THE BOARD AND SERVED UPON THE APPLICANT WITHIN A REASONABLE TIME BEFORE THE MEETING IN WHICH THE SUBJECT MATTER OF THE INTERVENTION IS TO BE HEARD. THE ADDRESS OF THE BOARD IS NOTED BELOW.

THOSE PERSONS REQUESTING SPECIAL ACCOMMODATIONS DUE TO DISABILITIES, PLEASE CALL THE DEPARTMENT OF PLANNING AT 270-7735 (MAUI) OR 1-800-272-0117 (MOLOKAI) OR 1-800-272-0125 (LANAI) OR NOTIFY THE DEPARTMENT OF PLANNING IN WRITING AT ONE MAIN PLAZA, 2200 MAIN STREET, SUITE 315, WAILUKU, MAUI, HAWAII 96793 OR BY FAX NUMBER 270-7634 AT LEAST SIX (6) BUSINESS DAYS BEFORE THE SCHEDULED MEETING.

PLEASE NOTE: If any member of the Board is unable to attend the scheduled meeting, please contact the Department of Planning at least one day prior to the meeting date. Thank you for your cooperation.

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