

PURSUANT TO CHAPTERS 91 AND 92, HAWAII REVISED STATUTES, AS AMENDED; NOTICE IS HEREBY GIVEN OF A PUBLIC MEETING 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 Kamai, Trisha Egge, Ray Shimabuku, Emmanuel Baltazar, Stephen West

AGENDA
(HYPERLINKS TO MEETING MATERIALS ADDED)

DATE: **January 9, 2020**

TIME: 1:30 p.m.

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

A. CALL TO ORDER

B. PUBLIC HEARING

MUNEKIYO HIRAGA on behalf of **HAWAIIAN CEMENT** requesting a variance from Maui County Code §19.62.060.A.3.a and 19.62.060.G. 1, 3, 6 & 7, in order to relocate the Kahului Harbor Hawaiian Cement Facility; Kahului, Maui, Hawaii; TMK: (2) 3-7-010:009 (BVAV 20190003)

1. **Public Hearing:** To avoid unnecessary cumulative evidence or to ensure that each individual has an equal amount of time to testify, testimony is limited to three (3) minutes. Should members of the Board or a Party wish to question a public testifier, seek leave of the Chair.

[Variance application and Exhibits](#)

[Staff Report](#)

C. **APPEAL OF BVA DECISION TO CIRCUIT COURT**

1. **D&S VENTURES LTD, LLC VS. MAUI BOARD OF VARIANCES AND APPEALS, ET AL.**, filed November 12, 2019, in the Second Circuit Court, State of Hawaii, 2CCV-19-0001031, related to the BVA appeal identified in Section D, below.

Deputy Corporation Counsel Iwalani Mountcastle Gasmen, representing the Board of Variances and Appeals, will provide a status update to the Board in executive session.

D. **APPEAL OF DIRECTOR'S DECISION – Hearing on Motions**

1. **IN THE MATTER 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. (BVAA 2019/0015)

- a. [Intervenor D&S Ventures LTD, LLC's Motion to Recuse or Disqualify Hearing Officer](#)
- b. [Intervenor D&S Ventures LTD, LLC's Motion to Dismiss the Notice of Appeal as to the Request for Reversal of the October 30, 2018, Stipulation](#)

E. 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.

No public testimony will be received.

F. NEXT MEETING DATE: January 23, 2020

G. 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, 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.