

BOARD OF APPEALS
COUNTY OF HAWAI‘I

TRANSCRIPT
February 14, 2025

The County of Hawai‘i Board of Appeals took up the petition for **JOAQUIN BELISARIO (PL-BOA-2024-000101)** at 10:33 a.m. This was a hybrid meeting held in person at the West Hawai‘i Civic Center Council Chambers, Building A, 74-5044 Ane Keohokālōle Highway, Kailua-Kona, Hawai‘i 96740 and via the Zoom online platform. This petition was called to order with Chair Pro-Tem Stacey Aguiar presiding.

MEMBERS PRESENT IN PERSON: Rachel Able, Stacey Aguiar (Chair Pro-Tem), and Scott Martin.

MEMBERS PRESENT ON ZOOM: Cathy Lewis and Lisa McNamarra.

ALSO IN ATTENDANCE: Sylvia Wan, Esq. (Deputy Corporation Counsel for the Board), Bethany Morrison (Staff to the Board), and Ashley DeVera (Board Secretary).

JOAQUIN BELISARIO (PL-BOA-2024-000101)

ORDER TO DISMISS

Appeal of Decision by the Director of Public Works Dated February 20, 2024, Regarding Finding of No Violation (DPW24-009).

Location: 76-785 Hualalai Road, Kailua-Kona, HI 96740

TMK: (3) 7-6-009:045

PARTIES PRESENT: Joaquin Belisario (appellant), Sierra Hagg (standby counsel for appellant), and Sinclair Salas-Ferguson (Deputy Corporation Counsel for the Department of Public Works).

[There were no members of the public in attendance.]

AGUIAR: May I, Bethany or Ashley, check if we have any public testifiers for this agenda item.

MORRISON: No public testifiers, Chair.

AGUIAR: Thank you and if I can have the parties appearing please introduce themselves, starting with appellant Mr. Belisario. Thank you.

WAN: Mr. Belisario, can you please turn on your mic and—and introduce yourself one more time for the record. Thank you.

BELISARIO: Joaquin Belisario, appellant.

AGUIAR: Thank you, for the Department.

SALAS-FERGUSON: Deputy Corporation Counsel Sinclair Salas-Ferguson for Public Works.

AGUIAR: Thank you. At this time, I will note that the Board did receive the written testimony also from Mr. Belisario yesterday.

SALAS-FERGUSON: Chair, I think Mr. Belisario's attorney is also online, Ms. Hagg.

HAGG: Hi, I'm his limited counsel attorney Sierra Hagg appearing via Zoom.

AGUIAR: Thank you for your introduction. So, today we're here to adopt the form of the order to dismiss and if I may ask the Board Members if everyone has read the proposed findings of facts, conclusions of law, decision and order granting Public Works motion to dismiss submitted by DPW's counsel, as well as the appellant's objections and comments received.

ALL BOARD MEMBERS: [*all acknowledged*].

AGUIAR: I have affirmation that all the Board Members acknowledge that they've reviewed all of the documentation. At this time, I am entertaining a motion to approve the proposed order to dismiss as stated or with any amendments.

LEWIS: I move to approve the form of the order with the following amendment. I believe that a different person will have to sign as Chair. I don't know how to do that. I guess we'll talk about that in—during discussion, but other than that I would move to adopt the form of order.

AGUIAR: Doing a second first.

WAN: Yes.

AGUIAR: So, can I get a—is there a second on—

MCNAMARRA: I'll second it.

AGUIAR: So, we have a motion by Cathy Lewis and a second by Lisa McNamarra on that motion. If I may offer to correct and it should be also corrected in addition to the motion the designation of the term intervenors on the form of the order if that can be corrected to state "landowners". So, we have a motion on the table—

WAN: Chair—

AGUIAR: Any—

WAN: I'm sorry, Deputy Corporation Counsel Sylvia Wan. Chair, are you offering a suggestion for a friendly amended to Ms. Lewis, who is the mover?

AGUIAR: Yes.

WAN: Thank you.

MARTIN: I second.

WAN: I'm sorry, I think Ms. Lewis would have to adopt that and—and—[*indecipherable*]

LEWIS: I do adopt that—I do adopt that and—and I'm not sure the protocol here, but it does say proposed on the one that I'm in possession of in two places. I don't know if we were provided with one that doesn't say proposed. Obviously—

WAN: No, you do not because at this point the filing before you is just proposed, kind of like a draft. Once the Board approves, me as your counsel, would basically re-draft based off of your approved language and the word proposed would be dropped as a matter of administration. So, but at this point to your question, if you would like to adopt that friendly amendment, can you please move to adopt said amendment and then we can move forward.

LEWIS: I move to adopt the friendly amendment and—and thus the proposed order as amended.

MARTIN: Second.

AGUIAR: And there was a second by—

MCNAMARRA: I'll second it, Lisa McNamarra.

AGUIAR: Scott Martin on that. Any discussion by Board Members on the amended motion. Seeing none. Can we go to vote, Bethany?

MORRISON: Chair, on the motion to approve the order with amendments as stated.

WAN: Sorry, it's just a motion to amend.

AGUIAR: So, we're only voting on the amendment, then we'll go back into discussion on the corrected motion.

MORRISON: Understood. Thank you. On the motion to amend, Board Member Cathy Lewis.

LEWIS: Aye.

MORRISON: I'm sorry, on the motion to approve the order.

AGUIAR: It's a motion to approve the amended motion by Cathy Lewis.

MORRISON: Okay, motion to approve the amended order by Cathy Lewis.

LEWIS: Thank you, yes, aye.

MORRISON: Board Member Lisa McNamarra.

MCNAMARRA: Aye.

MORRISON: Board Member Scott Martin.

MARTIN: Aye.

MORRISON: Board Member Rachel Able.

ABLE: Aye.

MORRISON: And Board Member Stacey Aguiar.

AGUIAR: Aye.

MORRISON: Motion passes.

AGUIAR: Thank you. So, motion passes on the amended motion and now we are back in deliberation on the amended motion.

WAN: The motion as amended. Chair, if it would help facilitate, I'll restate—

AGUIAR: Yes, please.

WAN: Ms. Lewis's motion as it presently is amended. My understanding, and please Ms. Lewis correct me if I'm wrong. The motion on the table is that the Board approves the proposed findings of fact, conclusion of law, and decision and order, granting Public Works motion to dismiss with the following amendments. First amendment that the Chair be at the signatory line be adjusted and reflect the appropriate Chair at this time, which I believe would be the Chair Pro-Tem and second would be removal of the word intervenors and insertion of the word "landowners" instead. Is that correct?

LEWIS: Yes.

WAN: Okay, that is up for discussion for the Board presently.

AGUIAR: Any comments from the Board or discussion? Seeing none. Can we take a vote on the motion?

MORRISON: On the motion to approve the proposed findings of fact, conclusions of law with amendments. Board Member Cathy Lewis.

LEWIS: Aye.

MORRISON: Board Member Stacey McNamarra.

MCNAMARRA: Lisa McNamarra, aye.

MORRISON: Sorry, Lisa McNamarra. Thank you. Board Member Rachel Able.

ABLE: Aye.

MORRISON: Board Member Stacey Aguiar.

AGUIAR: Aye.

MORRISON: And Board Member Scott Martin.

MARTIN: Aye.

MORRISON: Chair, motion is approved.

AGUIAR: Thank you. So, motion passes. Thank you, Mr. Belisario; thank you to the Department for appearing. The final form of the order will be distributed by our Corporation Counsel Sylvia Wan to all parties.

WAN: Yes, Deputy Corporation Counsel Sylvia Wan. So, I'll be tasked with making the amendments to the order as approved by the Board and I will circulate for Chair's signature, which would be the Chair Pro-Tem today, and once that is signed, we will file that and provide a copy to all parties. Thank you.

AGUIAR: Thank you.

[This matter concluded at 10:42 a.m.]

Respectfully submitted,

Ashley DeVera, Board Secretary