



DEPARTMENT OF THE ATTORNEY GENERAL

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ATTORNEY GENERAL

For Immediate Release
December 8, 2017

News Release 2017-173

**UH AND THIRTY METER TELESCOPE ASK THAT LAND BOARD
NOT START CONTESTED CASE REGARDING SUBLEASE**

HONOLULU – The University of Hawaii at Hilo (UH) and TMT International Observatory, LLC (TMT), in a letter to the Hawaii Attorney General, have asked that the state Board of Land and Natural Resources (BLNR) not initiate at this time a contested case hearing regarding BLNR’s consent to a sublease to Thirty Meter Telescope builders on Maunakea.

On December 16, 2016, Hilo circuit court judge Greg Nakamura, now retired, vacated BLNR’s consent to a sublease by UH to TMT because no contested case was held. A contested case had been requested by E. Kalani Flores. UH and BLNR appealed Judge Nakamura’s decision and the appeal is now pending before the Hawaii Supreme Court.

In a separate appeal, several parties including E. Kalani Flores have asked the Hawaii Supreme Court to overturn BLNR’s approval of a conservation district land use permit to UH, after a lengthy contested case proceeding before retired state judge Riki May Amano, to build the Thirty Meter Telescope on Maunakea.

In today’s request that a contested case hearing regarding the sublease not be started, lawyers for UH and TMT state:

Given the passage of time, the [Flores] case is pending before the Hawaii Supreme Court on appeal, and the full contested case hearing in [the conservation district land use permit] has been completed, with Mr. Flores’s full participation. While initiating a contested case proceeding was not limited by any court, as a matter of judicial economy and to avoid duplication or conflicting results it is appropriate to allow the Supreme Court to fully consider the fully briefed appeal and await the decision-making process.”

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A copy of the letter from attorneys for UH and TMT to Attorney General Doug Chin, with a courtesy copy to the attorney for E. Kalani Flores, is attached.

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HAND DELIVERY

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Department of the Attorney General
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Honolulu, Hawai'i 96813

Re: **Flores v. Board of Land and Natural Resources, et al., Civil No. 14-1-324**

Dear Attorney General Chin:

On behalf of the University of Hawai'i at Hilo and TMT International Observatory, LLC, we submit our collective request that the Board of Land and Natural Resources ("**Board**") not initiate at this time a contested case proceeding for the above-referenced matter. Given the passage of time, the case is pending before the Hawai'i Supreme Court ("**Court**") on appeal, and the full contested case hearing in BLNR-CC-16-002 has been completed, with Mr. Flores's full participation. While initiating a contested case proceeding was not limited by any court, as a matter of judicial economy and to avoid duplication or conflicting results, it is appropriate to allow the Supreme Court to fully consider the already briefed appeal and await the decision-making process.

We would be happy to provide additional information or answer any questions the Board may have about the pending processes to avoid proceeding while the underlying issue about the applicability of a contested case hearing is pending with the Supreme Court.

Sincerely,

CARLSMITH BALL LLP



Ian L. Sandison

WATANABE ING LLP



J. Douglas Ing

cc: David Kopper, Esq., Attorney for Petitioner
Julie China, Deputy Attorney General

HONOLULU

HILO

KONA

MAUI

LOS ANGELES