

From: Tina Lia tinalia@live.com
Subject: Sunshine Law Appeal
Date: March 27, 2023 at 11:05 AM
To: oiip@hawaii.gov

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RE: Sunshine Law Appeal

Attn.: Office of Information Practices (OIP)

I'm requesting an investigation by the OIP into the Board of Land and Natural Resources (BLNR) for their violation of the Sunshine Law [HRS §92-7 Notice \(d\)](#) at their meeting on Friday, March 24, 2023.

Per HRS §92-7 Notice:

“(d) No board shall change the agenda, less than six calendar days prior to the meeting, by adding items thereto without a two-thirds recorded vote of all members to which the board is entitled; provided that no item shall be added to the agenda if it is of reasonably major importance and action thereon by the board will affect a significant number of persons. Items of reasonably major importance not decided at a scheduled meeting shall be considered only at a meeting continued to a reasonable day and time.”

At the [BLNR meeting on 3/24/23](#), I provided video testimony. In my video testimony, I requested a contested case hearing for agenda item C-2 on behalf of our environmental nonprofit Hawaii Unites. Our organization represents over 2,600 signatories who are demanding an Environmental Impact Statement for the agenda item C-2. [My written testimony](#) on agenda item C-2 includes information and peer-reviewed studies about the serious risks of the proposed project to our environment, native birds, wildlife, and public health. It also includes documentation of procedural errors, specific conflicts of interest, potential interstate transport of pathogens and lack of permitting, failure to receive EPA approval for use of the biopesticide prior to assuring the public of safety, and EPA discreditation of the article cited in the Final Environmental Assessment asserting that the biopesticide poses no risk to human health.

Without having received or viewed my petition for a contested case hearing, which is to be submitted to the BLNR within 10 days of my 3/24/23 request for a hearing, the BLNR added my request for a contested case hearing to the agenda that same day during the 3/24/23 meeting. The BLNR then voted unanimously to deny my request for a hearing.

The BLNR's action of adding my request for a contested case hearing to the agenda at the 3/24/23 meeting is a violation of the Sunshine Law. This agenda item was of a reasonably major importance and action thereon by the board will affect a significant number of persons. The public, including the 2,600-plus signatories our organization represents, was denied the right to testify on this agenda item of major importance to our environment, native birds, wildlife, and public health. Our organization was denied the right to testify on the agenda item and the right to submit documentation supporting the request prior to its addition as an agenda item, including our petition for a contested case hearing.

The project discussed in BLNR 3/24/23 agenda item C-2 has been publicly contested for at least nine months, with overwhelming opposition to the plan moving forward without an Environmental Impact Statement. The documentation that has been provided by myself, our organization, and other testifiers and commenters regarding the risks of the project has not been adequately studied or addressed. It is my belief that the BLNR improperly added my request for a contested case hearing to the agenda on 3/24/23 in order to vote to deny the request and avoid discussion of the very serious information provided in my written testimony on agenda item C-2 (testimony which was never acknowledged or addressed by the BLNR at the meeting).

I ask that the OIP investigate this matter thoroughly, as this BLNR violation of the Sunshine Law has caused an egregious infringement of the public's right to open governmental processes.

Mahalo,
Tina Lia
Founder and President
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