

BOARD OF APPEALS  
COUNTY OF HAWAII

HEARING TRANSCRIPT  
NOVEMBER 14, 2008

The following is public testimony provided by **FRED CACHOLA** regarding the appeal of **KOHALA PRESERVE CONSERVATION TRUST, LLC (BOA 08-000070)** was called to order at 10:10 a.m. in the West Hawai'i Mayor's Office, Conference Room, 75-5706 Kuakini Highway, Suite 103, Kailua-Kona, Hawai'i, with Chairman Joel Gimpel presiding.

PRESENT: Joel Gimpel  
Charlene Hart  
Peter Hendricks  
Karen Maedo  
Kim Tavares

ABSENT AND EXCUSED: David Drury

Renee Schoen, Counsel to the Board  
Alice Kawaha, Staff to the Board

Joel Kam, Esq. representing Appellant  
Christopher Yuen, Planning Director  
Amy Self representing Planning Director

And three people from the public in attendance.

**PETITIONER: KOHALA PRESERVE CONSERVATION TRUST, LLC (BOA 08-000070)** - Continued hearing, including consideration on the Petition to Intervene filed by Kamakani O Kohala Ohana (KAKO`O), on the Appeal of Decision by the Planning Director dated July 3, 2008, to defer action on the application for proposed subdivision and approval of preliminary plat map. The project area consists of approximately 365.5 acres and is located in the vicinity and north of Mahukona Harbor, Kapaaunui, Kou, Kamano, and Mahukona, North Kohala, Hawai'i, TMK: (3) 5-7-2:11, 5-7-3:3 and 10.

CACHOLA: My name is Fred Cachola. My address is 91-485 Kuhialoku Street, Ewa Beach, Hawaii, 96706. As an introductory comment may I say that I'm the first of five speakers, all residents of Kohala, who are very concerned about what's happening at Mahukona. Let me lead off with my testimony and the others will follow. I understand I have four minutes, Mr. Chairman.

GIMPEL: Yes.

CACHOLOA: My first comment is to thank you all for allowing the public to have input on Mahukona. We haven't had this opportunity since October 1993, for many reasons. So thank you very much for allowing us to speak.

My name is Fred Cachola. I speak on behalf of Maika'i Kamakani o Kohala, 501(c)(3) non-profit community organization. And, Mr. Chairman, may I have these copies to distribute if you like, please. Maika'i Kamakani o Kohala is a 501(c)(3) non-profit whose primary goals are to preserve Hawaiian historic sites, cultural practices and traditions with emphasis on the Kohala geographic area. I am also a member of the Kohala Hawaiian Civic Club, the Kohala Senior Citizens and also an advisor to the planning committees for community reunions in the past, for the years 2000 and 2005 and currently for the upcoming community reunion in 2010.

Kohala is my "kula iwi"...this is where I was born and raised. Although I currently reside on Oahu, I maintain a close and continuing association with my childhood friends and actively participate in many community activities and events in Kohala. My family are owners of a parcel of land in the Kaauhuhu Homestead area and we've been there for 40 years; and we intend to be there in perpetuity.

I urge you to deny Kohala Preserve Conservation Trust's appeal of the Planning Director's decision to defer action, and I further urge you to disapprove this application for a subdivision for these reasons:

No. 1, Questionable land title. Mahukona was Crown Lands. It passed on from Kamehameha to Kamehameha IV, then on to his sister Princess Ruth Ke'elikolani, and perhaps on to her cousin, Bernice Pauahi Bishop, which is now the Kamehameha Schools. How it got out of Crown Lands and into private hands is very questionable and disputable. I would urge you to seek carefully search of that title.

No.2, Questionable public access. Mahukona and its coastal environment has been accessible to the public for generations, for many, many years. It was a thriving seaport and railroad terminal during the Plantation era. It was a focal point for everyone and everything coming into and out of Kohala. The coastal region from Kapa'a to Nishimura Bay beyond the Light House all the way down to Lapakahi were favorite camping and picnicking areas for generations of Boy Scouts, social, family groups and Kohala residents. I still have vivid memories of my mother loading me up on the Humuula in Mahukona, no airplanes then, and sailing overnight, landing in Lahaina to go visit my relatives. And each of us did that many, many times on the Humuula. As a Boy Scout, I earned I don't know how many merit badges in the Mahukona area, swimming, hiking, camping, cooking, first aid. The Mahukona and the ancient coastal trails were accessible for hundreds of years to Native Hawaiians, hundreds of years, and for several generations of Kohala, until 1990 when Chalon decided to lock the gates leading to the old docks, leading to Nishimura Bay, on to Holomoana Heiau and the rest of the coastline. And subsequent landowners have maintained those locked gates, presumably using Chalon's original rationale to "protect" historic sites. We question the legality of those locked gates and we call for a clear statement with supporting maps from the appellant that will locate, identify, ensure and maintain the public rights-of-way and access to and along the Mahukona coast.

GIMPEL:                    Could you summarize, please.

CACHOLA:                Yes. No. 3 Questionable historic preservation practices that have not been met. Questionable compliance of permitting conditions that have not been met. Questionable ownership, well, we think it's a travesty that people can hide behind the cloud of Delaware's law that prevents anybody in Hawaii to know who are the owners there. We think it's a travesty.

And so for these reasons, and you have them here, especially the last one, Questionable infringement of traditional native Hawaiian rights, “All land development in Hawaii...all land whether public or private, undeveloped or not ‘substantially’ developed...is subject to the exercise of traditional Native Hawaiian rights guaranteed by the state constitution and affirmed by the state supreme court. These rights include, but are not limited to gathering, access and workshop...all exercisable by anyone with any Hawaiian ancestry, however remote.” And I quote this, and you have my source there.

So we concur wholeheartedly with this. We think there might be some questions of constitutionality here and we think it’s a travesty that Crown Lands have now become owned by somebody unknown to us way off in Delaware, with only local residents who carry out the orders. And we think it’s a travesty that the public has not had anything to say until today since 1993. Thank you very much, Mr. Chairman. If there are any questions I’m sure the others will try to elaborate more of what I said. Thank you.

The testimony concluded at 10:15 a.m.

Respectfully submitted,

Sharon M. Nomura, East Hawaii Secretary