

IN THE SUPREME COURT OF THE STATE OF HAWAII

Electronically Filed  
Supreme Court  
SCPW-22-0000078  
11-MAR-2022  
11:58 AM  
BK 08 DEC

WILLIAM M. HICKS; RALPH BOYEA;  
MADGE SCHAEFER; MICHAELA  
IKEUCHI; KIMEONA KANE; MAKI  
MORINOUE; ROBERTA MAYOR;  
DEBORAH WARD; JENNIFER  
LIENHART-TSUJI; LARRY S. VERAY; and  
PHILIP BARNES,

Petitioners,

vs.

THE 2021 HAWAII REAPPORTIONMENT  
COMMISSION AND ITS MEMBERS; THE  
STATE OF HAWAII OFFICE OF  
ELECTIONS; and SCOTT NAGO, in his  
official capacity as Chief Elections Officer,  
State of Hawaii,

Respondents.

ORIGINAL PROCEEDING

DECLARATION OF LORI N.  
TANIGAWA

DECLARATION OF LORI N. TANIGAWA

I, LORI N. TANIGAWA, declare that:

1. I am a Deputy Attorney General with the Department of the Attorney General, State of Hawaii, and I am counsel of record for the 2021 Hawaii Reapportionment Commission and Its Members, the State of Hawaii Office of Elections, and Scott Nago, in his official capacity as Chief Elections Officer, State of Hawaii (collectively, the "Respondents"). I am duly licensed to practice before all Courts in the State of Hawaii. I make this declaration based upon personal knowledge and knowledge gained through my official duties.

2. The official website of the 2021 Hawai‘i Reapportionment Commission (“2021 Commission”) is publicly available at <https://elections.hawaii.gov/about-us/boards-and-commissions/reapportionment/>. For each meeting held by the 2021 Commission, the website includes agendas, the meeting materials provided to the Commissioners in advance of each meeting (including written testimony and presentations to be made by the Reapportionment Project Office to the Commissioners), and any supplemental materials that were made available after a meeting (including any last second testimony or the actual presentations presented). A link to a video recording of each meeting, along with a written summary of the video with time stamps is also posted on the website. The redistricting plans proposed by the 2021 Commission’s Technical Committee Permitted Interaction Group (“Technical Committee”) have also been posted on the website.

3. As directed by HRS § 25-8, the 2021 Commission kept a written record of its meetings and hearings and submitted a written report to the legislature before the 2022 legislative session convened. The entire Final Report and Reapportionment Plan of the 2021 Reapportionment Commission (“Final Report”) is available on the 2021 Commission’s website at: <https://elections.hawaii.gov/wp-content/uploads/2021-Reapportionment-Commission-Final-Report-952-pages-February-25-2022.pdf> (last accessed on March 11, 2022).

4. The Final Report is a very large PDF file, 952 pages long and over 390 MBs. It is impractical to upload the entire Final Report using the JEFS system. For the Court’s convenience, attached hereto as Exhibit “1” is a true and correct copy of the first 208 pages of the Final Report, which contains its Table of Contents, Executive Summary,

the text of the Final Report, and its Appendix A, which consists of the written minutes and summaries of all 2021 Commission meetings.

5. As mentioned, the materials for each meeting of the 2021 Commission are publicly available on the 2021 Commission’s website. For the Court’s convenience, attached hereto as Exhibit “2” is a true and correct copy of the meeting materials for the 2021 Commission’s July 20, 2021 meeting. The materials are also available at: <https://elections.hawaii.gov/wp-content/uploads/Meeting-Materials-20210720.pdf> (last accessed March 11, 2022). The 2021 Rules of the Reapportionment Commission recommended by the Rules Permitted Interaction Group begin on page 12 of Exhibit “2”.

6. As directed by HRS § 25-2, on November 3, 2021, the 2021 Commission issued a public notice of the reapportionment plans proposed by the 2021 Commission. A true and correct copy of the November 3, 2021 public notice is attached hereto as Exhibit “3.” It is also available on the 2021 Commission’s website at: <https://elections.hawaii.gov/wp-content/uploads/2021-Reapportionment-Public-Hearing-Notice-for-Signing-by-Chair-on-November-3-2021-part-1-signed.pdf> (last accessed March 11, 2022).

7. As mentioned, the reapportionment maps proposed by the Technical Committee are publicly available on the 2021 Commission’s website. These not only include downloadable PDF versions of the maps, but also interactive maps hosted by the Hawaii Statewide GIS Program maintained by the State of Hawai‘i Office of Planning.

8. For the Court’s convenience, attached hereto as Exhibit “4” are true and correct pages of (1) the Proposed Final Congressional Plan, (2) the Proposed Hawai‘i Island Senate District Plan, (3) the Proposed O‘ahu Senate District Plan, (4) the Proposed

Hawai‘i Island House District Plan, and (5) the Proposed O‘ahu House District Plan presented by the Technical Committee at the 2021 Commission’s December 22, 2021 meeting. All meeting materials from the December 22, 2021 meeting, including all proposed plans, are also available at: <https://elections.hawaii.gov/wp-content/uploads/Meeting-Materials-20221222C.pdf> (last accessed March 11, 2022).

9. For the Court’s convenience, attached hereto as Exhibit “5” is a true and correct copy of the meeting materials for the 2021 Commission’s January 6, 2022 meeting. The materials are also available at: <https://elections.hawaii.gov/wp-content/uploads/Meeting-Materials-20220105E.pdf> (last accessed March 11, 2022). The Reapportionment Project Office’s Powerpoint presentation explaining its proposed changes to the permanent resident population base begins on page 24 of Exhibit “5”.

10. For the Court’s convenience, attached hereto as Exhibit “6” are true and correct pages of (1) the Proposed Final Congressional Plan, (2) Proposed Hawai‘i Island Senate District Plan, (3) Proposed O‘ahu Senate District Plan, (4) Proposed Hawai‘i Island House District Plan, and (5) Proposed O‘ahu House District Plan presented by the Technical Committee at the 2021 Commission’s January 13, 2022 meeting. All meeting materials from the January 13, 2022 meeting, including all proposed plans, are also available at: <https://elections.hawaii.gov/wp-content/uploads/Meeting-Materials-20220111F2.pdf> (last accessed March 11, 2022).

11. For the Court’s convenience, attached hereto as Exhibit “7” are true and correct pages of (1) the Proposed Final Congressional Plan, (2) the Proposed Final Hawai‘i Island State Senate Plan, (3) the Proposed Final Hawai‘i Island State House Plan, (4) the Proposed Final O‘ahu State Senate Plan, and (5) the Proposed Final O‘ahu

State House Plan presented by the Technical Committee at the 2021 Commission's January 28, 2022 meeting. All material from the January 28, 2022 meeting, including all proposed plans, are also available at: <https://elections.hawaii.gov/wp-content/uploads/Meeting-Materials-20220127F2.pdf> (last accessed March 11, 2022).

12. Attached hereto as Appendix "A" is a copy of an excerpt of the Proceedings of the Constitutional Convention of Hawaii of 1968, Volume I, containing Standing Committee Report No. 58 and Supplementary Standing Committee Report No. 58. The entire Volume I is available at: <https://library.lrb.hawaii.gov/cgi-bin/koha/opac-retrieve-file.pl?id=72e996a30539928bfef7f6ddc4c945a0> (last accessed March 11, 2022).

13. Attached hereto as Appendix "B" is a copy of *Oamilda v. 2011 Council Reapportionment Commission*, No. SCPW-12-0000058, 2012 WL 432272 (Haw. Feb. 9, 2012).

14. Attached hereto as Appendix "C" is a copy of Act 51 of the 1979 Haw. Session Laws. Act 51 is available at: [https://www.capitol.hawaii.gov/slh/Years/SLH1979/SLH1979\\_Act51.pdf](https://www.capitol.hawaii.gov/slh/Years/SLH1979/SLH1979_Act51.pdf).

15. Attached hereto as Appendix "D" is a copy of the State of Hawai'i Office of Information Practices (OIP) Opinion Letter No. 06-02, 2006 WL 1308299 (Apr. 28, 2006).

16. Attached hereto as Appendix "E" is a copy of Act 267 of the 1996 Hawaii Session Laws. Act 267 is available at: [https://www.capitol.hawaii.gov/slh/Years/SLH1996/SLH1996\\_Act267.pdf](https://www.capitol.hawaii.gov/slh/Years/SLH1996/SLH1996_Act267.pdf).

17. The Respondents respectively request that this Court take judicial notice of the exhibits attached hereto as well as the material available on the 2021

Commission's official website as public records and government documents. Judicial notice is mandatory when requested by a party and the court is supplied with the necessary information. Hawai'i Rules of Evidence 201(d). "Under Rule 201, the court can take judicial notice of public records and government documents available from reliable sources on the Internet, such as websites run by governmental agencies."

*Gerritsen v. Warner Bros. Ent. Inc.*, 112 F. Supp. 3d 1011, 1033 (C.D. Cal. 2015) (internal citations, quotation marks, and brackets omitted) (discussing Federal Rules of Evidence Rule 201, which is virtually identical to HRE 201). *See also Kaho'ohanohano v. State*, 114 Hawai'i 302, 328, 162 P.3d 696, 722 (2007) (taking judicial notice of reports that were a matter of public record).

I, LORI N. TANIGAWA, declare under penalty of law that the foregoing is true and correct.

DATED: Honolulu, Hawai'i, March 11, 2022.

/s/ Lori N. Tanigawa  
LORI N. TANIGAWA