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Community Asks Court To Stop Sharks Cove Developer's Intimidation Tactics

North Shore, O'ahu – On March 13, 2020, the **Save Sharks Cove Alliance** (the “Alliance”) filed an “Anti-SLAPP” motion against developer **Hanapohaku LLC**'s counterclaims in our pending Circuit Court lawsuit. The Alliance's motion asks the court to dismiss the developer's strong-arm tactics that seek to derail the public interest lawsuit over the City and County of Honolulu's development approvals for a proposed commercial mall and food truck cluster across from Sharks Cove.

Hanapohaku's counterclaims are a type of “Strategic Lawsuit Against Public Participation” (SLAPP), intended to censor, intimidate and silence community voices. In the “Anti-SLAPP” motion, the Alliance is fighting back against Hanapohaku's unsupported claim that the community groups and leaders owe the developer \$13 million in alleged “damages” for harming its future business interests.

According to Alliance attorney **Tim Vandever**, *“Hanapohaku's punitive SLAPP claims make the plaintiffs even more determined to have their day in court to shine light on this outrageous tactic. Our motion highlights the urgent need for protection of community groups and individuals who actively participate in government processes, and indicates this particular developer's hostility toward listening to the community. If this developer were to prevail, such strategies by powerful interests could kill, not just chill, civic engagement and public interest environmental litigation in Hawai'i.”*

He added: *“Precisely to prevent this type of attack on civic-minded community members after Hawai'i began to experience what started as a dangerous wave of developer SLAPP suits on the continent, in 2002, our Hawaii Legislature passed a bill (Hawaii Revised Statutes Chapter 634F) specifically designed to stop private developers from making baseless claims that seek to suppress the public's free speech on matters of public importance.”*

Donna Wong, Executive Director of Plaintiff Hawaii's Thousand Friends, one of the non-profit members of the Alliance, added, *“The U.S. Constitution's great safeguard of our democracy is the right of the public to participate in governmental decision-making, and courts have found time and again that SLAPP suits seek to deprive us of that right. Our State legislature recognized the importance of ensuring that citizens be unafraid to exercise their First Amendment right to petition their government for redress of grievances, and we at HTF support using Hawai'i law to uphold our rights to ensure participation in our government.”*

Plaintiff **Larry McElheny**, a 50-year North Shore resident and community leader, an individual plaintiff targeted by the developer's SLAPP claims, added, *“The developer sued us in response to folks speaking out on behalf of their community. This can happen to anyone who has the courage to stand up and speak out for what is right, anyone who tries to protect our fragile ecosystem for future generations. We are fighting back and showing this developer that we won't be intimidated, because our Constitution and laws specifically give us that right and encourage us to do so.”*

The Honorable Judge James Ashford, First Circuit Court, is scheduled to hear the motion on April 28, 2020, 9:00 am in Circuit Court. (Note that the hearing is likely to be rescheduled due to the judiciary's orders for hearings in response to COVID-19.)

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Read More Here:

- The Alliance Anti-SLAPP [motion](#)
- The Alliance [lawsuit](#)
- About the [Alliance](#)

Additional Background

The Alliance, comprised of three concerned residents and several Hawai'i/North Shore environmental organizations, filed a public interest lawsuit in early 2019 primarily against the City and County of Honolulu for fast-tracking and rubber-stamping Hanapohaku's proposed two-story 34,500 square-foot commercial mall on a 2.7-acre parcel directly across Kamehameha Highway from City Pūpūkea Beach Park and State Marine Life Conservation District (MLCD) on the North Shore of O'ahu.

According to the Alliance, Hanapohaku's proposed \$18 million commercial complex, featuring retail outlets and six food trucks facing Kamehameha Highway, was inadequately vetted, does not align with the North Shore Sustainable Communities Plan, coastal protection and zoning laws, and attracts thousands of tourists a day to the area meant to primarily serve the community and has detrimental impacts on the ecologically sensitive park and marine area as well as on the well-being of the neighboring community.

The Alliance's civil lawsuit also alleges claims against Hanapohaku for past and continuing polluted surface runoff from the site in violation of state water quality laws, that current food truck operations have created a public nuisance for the neighborhood, and have been in violation of the State Coastal Zone Management and City Special Management Area (SMA) laws since the owners started illegal operations in 2016 with eight food trucks designed to pull in tourists for food and retail operations. The Alliance's lawsuit is currently set for trial in February 2021.

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