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Media Contact: Crystal Oshiro, 808-599-2436

coshiro@earthjustice.org

Governor Green Reinstates Legal Protections After Community Groups Challenge Emergency Proclamation on Housing

Honolulu, Hawai'i – A community-led legal challenge to the Emergency Proclamation on Housing was withdrawn today after successfully moving Governor Josh Green to concede that legal protections designed to protect natural and cultural resources and ensure public transparency in government decision-making are not root causes of unaffordable housing in Hawai'i. On September 15, 2023, Governor Green issued a revised Emergency Proclamation that eliminated attempts to suspend the state laws requiring public hearings, assessment of environmental impacts, and protections for Native Hawaiian burials. On October 24, 2023, Governor Green further revised his proclamation to restore county council oversight over most affordable housing projects.

“We are keeping a watchful eye to see what the Green Administration does with this new proclamation,” said **Kekai Keahi of Nā ‘Ohana o Lele Housing Committee**, a group formed in the wake of the recent wildfires on Maui to address the immediate and long-term needs of Lahaina’s local families. “It is good that they recognized their mistake and removed the worst of the suspensions included in the original emergency proclamation on housing. We are committed to standing watch over every action the administration takes under this new proclamation to ensure the community’s voice is not ignored.”

While the new proclamation does not suspend the Sunshine Law, burial protections, and environmental review requirements, it still improperly characterizes the lack of affordable housing in Hawaii as an emergency.

“We appreciate that the Governor heard many of our core concerns and appears to have tried to address them in the revised proclamations,” said **David Henkin, Senior Attorney for Earthjustice**, who represents the parties in *Nā ‘Ohana o Lele, et al. v. Governor Green, et al.* “It remains deeply troubling, however, that the Governor continues to claim the authority to suspend laws whenever he feels like it to address longstanding public policy issues, however important.

We are taking a 'wait-and-see' approach. If the governor tries to advance housing projects that are not in the public interest, we will be back in court.”

Nā ‘Ohana, et al. v. Governor Green is withdrawn without prejudice, which means that the community groups could return to court at any time to challenge any future decisions made under the proclamation.

“We know that there are quite a few new housing projects in the works on Kaua‘i and throughout the islands, and we are committed to making sure none of them undermines the public’s interests in protecting our ancestors, our natural resources, and our full involvement in the decisions that affect the quality of our lives,” said **Roslyn Manaikawakea, president of E Ola Kākou Hawai‘i** a plaintiff in the Nā ‘Ohana lawsuit. “Our kūpuna taught us ‘i ka nānā no a ‘ike,’ which means ‘by observing, one learns.’ As the governor, Josh Green needs to observe what is happening, and learn. Learn to see through the eyes of the people.”

The original Emergency Proclamation on Housing issued on July 17th sparked public outrage because it suspended a wide range of laws intended to ensure public participation in decisions related to new construction, safeguard iwi kupuna, protect the environment, and uphold state-level land use goals through the Land Use Commission. In addition, considerable criticism was levied at the original proclamation for citing the hardship many local working families, especially Native Hawaiians, face due to insufficient stocks of affordable housing in Hawai‘i, while doing nothing to require that the new construction it authorized would be affordable or available to local families.

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