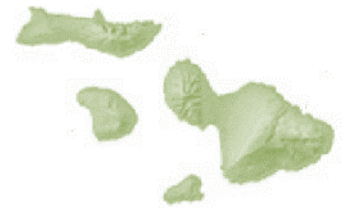
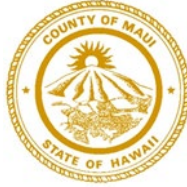


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Mayor

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September 10, 2025

Unites States Supreme Court  
1 1<sup>st</sup> Street, NE  
Washington D.C. 201543  
Attention: Supreme Court Clerk

Re: *Spirit of Aloha Temple, et al. v. County of Maui, et al.*, U.S. S.Ct. No.  
24-1327

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Dear Court Clerk:

Pursuant to the Rules of the Supreme Court of the United States, Rule 30.4, Respondent County of Maui respectfully requests that the time to file its brief in opposition to Petitioners Spirit of Aloha Temple and Fredrick R. Honigs' (the "Petitioners") Petition for a Writ of Certiorari be extended for an additional fourteen (14) days from September 29, 2025 to **October 13, 2025**.

Petitioners' Writ of Certiorari ("Petition") was docketed on June 30, 2025. Absent an additional extension of time, the brief in opposition would be due on September 28, 2025. This is Respondent's second request for an extension of time. Respondent's first request was made on July 21, 2025. Petitioners have consented to the additional fourteen (14) day extension of time currently requested.

### **Substance of the Petition**

The Petition asks the Court to review a March 28, 2025 opinion by the Ninth Circuit Court Appeals, that effectively affirmed an October 11, 2023 civil jury verdict rendered in the United States District Court for the District of Hawai'i as consistent with the required legal outcome of this case. Petitioners did not appeal the jury verdict to the federal circuit court of appeals, and do not contest it in the current Petition. Rather, the Petitioner disputes a legal holding made by the federal circuit court of appeals with which the jury verdict was found to be consistent, but which is

certainly not the only substantive factual basis on which the jury could have rendered its verdict against Petitioners as Plaintiffs in the district court, and certainly not the only legal basis requiring the outcome of the case against Petitioners. Petitioners pose the question as follows:

Must a religious organization seeking to build a church prove that it is precluded from using other sites within a municipality's jurisdiction and/or that the municipality's reasons for denying a permit are arbitrary before it can establish that a zoning permit denial to use property as a church imposed a substantial burden on its religious exercise under RLUIPA, or should substantial burden be established by the totality of the circumstances?

Respondent's brief in opposition to the Petition will demonstrate that the Petition's presentation of this narrow legal question as the purported basis for this Court's review fails to account for the other independent legal bases requiring the same outcome with which the jury's verdict against Petitioners as Plaintiffs is consistent. Moreover, the underlying jury trial was conducted upon a voluminous amount of substantive factual evidence demonstrably independent of the narrow issue presented by the Petition.

### **Background of the Underlying Case**

In 1994 Petitioner FRED HONIG purchased an eleven (11) acre parcel of land in Haiku, Maui (the "property") he was aware is zoned for agricultural use, designated with the state agricultural and conservation district, and subject to environmental protections for coastal lands. Spirit of Aloha Temple, et al., et al. v. County of Maui, 49 F.4th 1180, 1184 (2022). After extensively developing, improving, and building on the land without any necessary development permits, regulatory approvals or oversight, HONIG incorporated a non-profit entity through which the property was publicly marketed, advertised on the internet, and used as a venue to conduct commercial tourist destination weddings, vacation rentals, retreats, and special events.

HONIG's unpermitted and unregulated commercial operations in the agricultural zone and conservation district were eventually brought to the attention

of Maui County’s Planning Department, which put HONIG on notice that his operations were in violation of zoning and environmental regulations and advised HONIG further that a state Special Permit was required to allow for certain non-agricultural uses on land zone for agriculture. HONIG subsequently submitted applications for a state Special Permit, labeling his commercial operation a “church” and asserting entitlement to the land use permit under protections afforded by the Religious Land Use and Institutionalized Persons Act (“RLUIPA”).

HONIG’s permit application was denied and ten (10) years of litigation, including two district court trials, three federal circuit court appeals, and this Petition pursuant to RLUIPA, have followed.

### **Reasons for Granting an Extension of Time**

Respondent requests the time for Respondent to file a brief in opposition to the Petition should be extended for an additional fourteen (14) days, to **October 12, 2025**, for several reasons:

1. As required by Sup. Ct. R. 15.2, the brief in opposition will be presenting “perceived misstatement[s] of fact or law in the petition that bears on what issues properly would be before the Court if certiorari were granted,” as well as “objection[s] to consideration of [the] question presented based on what occurred in the proceedings below[.]” The brief in opposition will require careful, extensive review, and concise excerpting of multiple trial transcripts, testimony, and exhibits admitted into evidence and deliberated on by the jury.
2. Maui County has identified and will be in the process of retaining U.S. Supreme Court counsel to consult and assist with the opposition to the Petition, and possibly have that counsel handle this matter if this Court were to grant the Petition.
3. The undersigned had to make an unexpected exigent trip to the mainland (Georgia from Hawai’i) from **August 7<sup>th</sup> through August 25<sup>th</sup>** to care for his newly widowed 87-year old mother following an accident she had at home, in the wake of his 86-year old father’s passing this past **July 4<sup>th</sup>**.<sup>1</sup> The trip and visit immediately

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<sup>1</sup> Retired U.S. Army Colonel Ralph W. Bilberry passed on July 4, 2025.

turned into two weeks of essentially 24-hours a day attention and caregiving for the undersigned's mother.

4. During that two-week period away, a number of unrelated professional matters (in addition to this case) that the undersigned was either unable to work on and/or that were newly assigned became pressing and have conflicted the undersigned's present schedule and time. Of most significant concern is **1)** this case pending response to Spirit of Aloha Temple, et al.'s Petition for Writ of Certiorari, **2)** Maui County's Defense to an Endangered Species Act lawsuit, *Conservation Council for Hawai'i, et al. v. Hawaiian Electric Company, Inc., et al.*, Civil No. 1-24-cv-00494 MWJ-WRP, and **3)** the State of Hawai'i Department of Health's issuance of an NPDES permit for Maui County's Lahaina Waste Water Facility's injection wells that are the subject of the U.S. Supreme Court's decision in *County of Maui v. Hawaii Wildlife Fund, et al.*, 590 U.S. 165 (2020).

In the Endangered Species Act case, Maui County now has rebuttal expert reports due on **September 24<sup>th</sup>**, and case-in-chief reports due on **October 10<sup>th</sup>**. The liability issues and proof on causation in the case are complex and is requiring much of my time and collaboration with Maui County's consultants and trial experts.

In response to issuance of the NPDES Permit by the State of Hawai'i's Department of Health for the Lahaina Waste Water Facility injection wells, Maui County is compelled to prepare and file a detailed request for an agency contested case to the Director of the Department of Health as well as an administrative Notice of Appeal to Maui County's environmental court for preliminary relief, both by or before **October 1, 2025**.

Both of these unrelated matters are proving unexpectedly time consuming following the two weeks of personal time I had to take to tend to the personal family matters identified above.

Supreme Court Clerk,  
United State Supreme Court  
September 10, 2025  
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5. No prejudice would arise from the extension. As noted above, Petitioners' counsel has graciously consented to the extension.

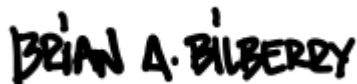
The undersigned is otherwise confident the additional fourteen (14) days requested for the brief in this case will be sufficient to complete and have Maui County's Opposition to Plaintiffs/Appellants' Petition professionally printed and filed.

### **Conclusion**

For the foregoing reasons, Respondent respectfully requests that the time to file its brief in opposition to the Petition for a Writ of Certiorari in this matter be extended fourteen (14) days to and including **October 13, 2025**.

Your prompt attention and action on this request will be greatly appreciated.

Very truly yours,

A handwritten signature in black ink that reads "BRIAN A. BILBERRY". The letters are bold and slightly slanted, with some ink bleed-through visible.

Brian A. Bilberry  
Deputy Corporation Counsel

cc Roman Storzer  
Jonathan Durrett  
Adam Lang