



BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

LAND USE COMMISSION  
STATE OF HAWAII  
2015 NOV -5 A 7:49

In The Matter Of The Petition Of	)	DOCKET NO. DR08-36
	)	
KO OLINA DEVELOPMENT, LLC	)	ORDER GRANTING MOTION TO
	)	DEFER ACTION ON PETITIONER'S
For A Declaratory Order To Determine	)	STATUS REPORT AND CERTIFICATE
Whether Petitioner's Location Of The	)	OF SERVICE
Public Boat Launch Ramp At Kalaeloa	)	
With The Installation Of The Proposed	)	
Improvements Constitute Substantial	)	
Compliance With Representations	)	
Made To The Land Use Commission	)	
_____	)	

ORDER GRANTING MOTION TO DEFER ACTION ON PETITIONER'S STATUS  
REPORT  
AND  
CERTIFICATE OF SERVICE

This is to certify that this is a true and correct copy of the document on file in the office of the State Land Use Commission, Honolulu, Hawaii.

November 5, 2015 by

Executive Officer



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Improvements Constitute Substantial	)	
Compliance With Representations	)	
Made To The Land Use Commission	)	
_____	)	

ORDER GRANTING MOTION TO DEFER ACTION  
ON PETITIONER'S STATUS REPORT

On October 16, 2015, the State of Hawai'i Land Use Commission

("Commission") held a status report meeting on the construction of the boat launch ramp inside the Ko Olina Marina at the Hawai'i Convention Center, Room 315, in Honolulu, Hawai'i.<sup>1</sup>

<sup>1</sup> By Findings of Fact, Conclusions of Law, and Decision and Order filed on November 7, 2008, this Commission found that Petitioner was not in compliance with the representations in the Findings of Fact, Conclusions of Law, and Decision and Order filed on September 12, 1985, and the Order Granting Petitioner's Motion to Amend Findings of Fact, Conclusions of Law and Decision and Order dated September 12, 1985, filed on May 3, 1994, in Docket No. A83-562/Ko Olina Development, LLC, et al. (formerly West Beach Estates) because there was no boat launch ramp in the Ko Olina Resort Marina that is open to the public. By letter dated July 23, 2015, Petitioner apprised this Commission that the Ko Olina Boat Ramp has been open for public boat launching use at the Ko Olina Marina as of July 20, 2015.

Curtis T. Tabata, Esq., and Ken Williams appeared on behalf of Ko Olina Development, LLC ("Petitioner"). Bryan C. Yee, Esq., and Rodney Funakoshi were also present on behalf of the State of Hawai'i Office of Planning ("OP"). The City and County of Honolulu Department of Planning and Permitting ("DPP") was notified of this Commission's meeting on Petitioner's status report, but no representative from the DPP was present at the proceeding. At the proceeding, the Commission received oral and/or written public testimony on the matter from Rick Nosaka, Christopher Lawton, Ross Y. Kurihara, Creighton Chang, Warren Von Arnswaldt, Bill Chang on behalf of himself and Rodney Ajifu, Ronald Tam, Roy Morioka, and Sweetie Nelson.

Petitioner thereafter provided a status report on the completion and opening of the boat launching ramp for public use at the Ko Olina Marina and further responded to questions raised by the public testifiers and the Commission on matters relating to, among other things, liability insurance, vehicle and trailer length, and daily launch and parking fees.

Following discussion, a motion was made and seconded to defer action on Petitioner's status report for three months and to further request (1) that the Commission's Executive Officer receive questions from the Commissioners that could be addressed in writing by Petitioner and other relevant parties, including the DPP, prior to the next scheduled meeting on the matter; (2) that the Commission's staff and the Commission's deputy attorney general provide a summary on the historical

background on this matter to this Commission; and (3) that Petitioner and the fishermen and public boaters in the community engage in further discussion to determine what greater understanding could be reached among the parties in regard to the use of the Ko Olina Boat Ramp. Following discussion by the Commissioners, a vote was taken on this motion. There being a vote tally of 4 ayes, 1 aye with reservation, 1 nay, and 2 excused, the motion carried.<sup>2</sup>

### ORDER

Having duly considered the status report presentation by Petitioner, the oral arguments by OP, and the oral and written public testimonies, and a motion having been made at a meeting held on October 16, 2015, in Honolulu, Hawai`i, and the motion having received the affirmative votes required by Hawai`i Administrative Rules §15-15-13, and there being good cause for the motion, this Commission ORDERS as follows:

Action on Petitioner's status report on this matter is DEFERRED for three months. During the interim, (1) the Commission's Executive Officer shall receive questions from the Commissioners that could be addressed in writing by Petitioner and other relevant parties, including the DPP, prior to the next scheduled meeting on the matter; (2) the Commission's staff and the Commission's deputy attorney general shall provide a summary on the historical background on this matter to this Commission; and (3) Petitioner and the fishermen and public boaters in the community are requested to engage in further discussion to determine what greater understanding could be reached among the parties in regard to the use of the Ko Olina Boat Ramp.

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<sup>2</sup> There are currently eight sitting Commissioners on the Commission. The one remaining seat is vacant.

ADOPTION OF ORDER


This ORDER shall take effect upon the date this ORDER is certified by this Commission.

Done at Honolulu, Hawai'i, this 5th, day of November, 2015, per motion on October 16, 2015.

LAND USE COMMISSION

APPROVED AS TO FORM

STATE OF HAWAI'I

  
\_\_\_\_\_  
Deputy Attorney General

By   
\_\_\_\_\_  
EDMUND ACZON  
Chairperson and Commissioner

Filed and effective on:

11/5/15

Certified by:

  
\_\_\_\_\_  
DANIEL ORODENKER  
Executive Officer



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_____	)	

CERTIFICATE OF SERVICE

I hereby certify that a copy of the ORDER GRANTING MOTION TO DEFER ACTION ON PETITIONER'S STATUS REPORT was served upon the following by either hand delivery or depositing the same in the U. S. Postal Service by regular or certified mail as noted:

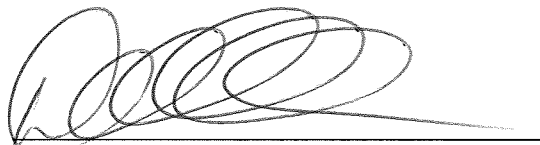
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Dated: Honolulu, Hawaii, November 5, 2015.

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

DANIEL ORODENKER  
Executive Officer