



ORIGINAL

BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAI'I

In The Matter Of The Application Of The	)	DOCKET NO. SP09-403
	)	
DEPARTMENT OF ENVIRONMENTAL	)	ORDER GRANTING
SERVICES, CITY AND COUNTY OF	)	APPLICANT'S ORAL MOTION
HONOLULU	)	TO FILE WRITTEN BRIEFS AND
	)	CERTIFICATE OF SERVICE
For A New Special Use Permit To	)	
Supersede Existing Special Use Permit To	)	
Allow A 92.5-Acre Expansion And Time	)	
Extension For Waimānalo Gulch Sanitary	)	
Landfill, Waimānalo Gulch, O`ahu,	)	
Hawai'i, Tax Map Key: 9-2-03: 72 And 73	)	
_____	)	

LAND USE COMMISSION  
STATE OF HAWAII

2012 JUL 12 A 10:03

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TO FILE WRITTEN BRIEFS  
AND  
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ORDER GRANTING APPLICANT'S ORAL MOTION  
TO FILE WRITTEN BRIEFS

On July 5, 2012, the State Land Use Commission ("LUC") met in Honolulu, Hawai`i, to discuss and deliberate the procedural issues arising from Civil No. 09-1-2719-11.<sup>1</sup> Dana Viola, Esq., appeared on behalf of the Applicant.

<sup>1</sup> This matter arose from the Department of Environmental Services, City and County of Honolulu ("Applicant"), appeal from the October 19, 2010, final judgment of the First Circuit Court in support of its September 21, 2010, Order affirming the LUC's Order Adopting The City And County Of Honolulu Planning Commission's Findings Of Fact, Conclusions Of Law, And Decision And Order With Modifications ("LUC Order") filed October 22, 2009. The LUC Order granted, among other things, a 92.5-acre expansion and time extension of the existing Waimānalo Gulch Sanitary Landfill located at Waimānalo Gulch, O`ahu, Hawai`i (County Special Use Permit File No. 2008/SUP-2 ("SUP-2")). On May 4, 2012, the State Supreme Court issued its

Calvert G. Chipchase, Esq., and Christopher T. Goodin, Esq., appeared on behalf of Intervenors the Ko Olina Community Association and Maile Shimabukuro. Richard Wurdeman, Esq., appeared on behalf of Intervenor Colleen Hanabusa. Bryan C. Yee, Esq., and Rodney Funakoshi were also present on behalf of the State Office of Planning (“OP”).<sup>2</sup>

At the meeting, the LUC heard public testimony from Ian Sandison, Esq., who represents Schnitzer Steel Hawai`i Corp. (“Schnitzer Steel”), an intervenor in the Applicant’s application before the City and County of Honolulu Planning Commission to delete Condition No. 14 of the LUC’s Order.

Following the receipt of public testimony, the parties provided oral argument on the procedural issues and options available to the LUC in this matter. During its presentation, the Applicant orally moved for an additional two weeks for the parties to file written briefs with the LUC to more fully address the procedural issues arising from Civil No. 09-1-2719-11. Following

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decision, which vacated the circuit court’s judgment affirming the LUC’s approval of SUP-2 and remanded the matter to the circuit court with instructions that the circuit court remand this matter to the LUC for further proceedings.

<sup>2</sup> Prior to the receipt of public testimony, the LUC’s Deputy Attorney General, Sarah Hirakami, disclosed that she, along with two other Deputy Attorneys General, represents members of the 2011 Reapportionment Commission, including commission member Mr. Chipchase, in their official capacities in Joseph Kostick v. Scott Nago, Federal District Court Civil No. CV 12-00184. Ms. Hirakami stated that she did not have any actual bias regarding Mr. Chipchase, and that she could perform her duties as the LUC’s counsel in an impartial and unbiased manner. None of the parties raised objections to Ms. Hirakami’s participation in the proceeding.

discussion, a motion was made and seconded to grant the Applicant's oral motion. There being a vote of 5 ayes and 3 excused, the motion carried.

ORDER

The LUC, having duly considered the Applicant's oral motion, the oral arguments presented by the parties, and a motion having been made and seconded at a meeting on July 5, 2012, in Honolulu, Hawai'i, and the motion having received the affirmative votes required by section 15-15-13, Hawai'i Administrative Rules, and there being good cause for the motion,

HEREBY ORDERS that the Applicant's oral motion for an additional two weeks for the parties to file written briefs with the LUC to more fully address the procedural issues arising from Civil No. 09-1-2719-11 be and is hereby GRANTED. Accordingly, the parties shall file the written briefs with the LUC by the close of business on July 19, 2012. OP and Schnitzer Steel are also free to file written briefs with the LUC by the aforementioned date.

ADOPTION OF ORDER

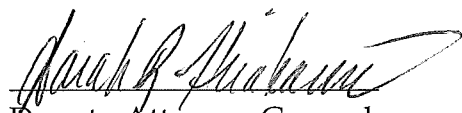
This ORDER shall take effect upon the date this ORDER is certified by this Commission.

Done at Honolulu, Hawai'i, this 12th, day of July, 2012, per motion on July 5, 2012.

LAND USE COMMISSION

APPROVED AS TO FORM

STATE OF HAWAI'I

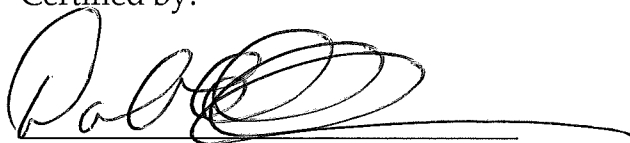
  
Deputy Attorney General

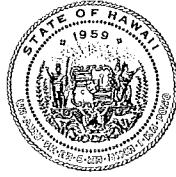
By   
RONALD HELLER  
Vice-Chairperson and Commissioner  
(Chair Chock delegated Vice-Chair Heller to sign order)

Filed and effective on:

7/12/12

Certified by:

  
DANIEL ORODENKER  
Executive Officer



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Supersede Existing Special Use	)	WRITTEN BRIEFS;
Permit To Allow A 92.5-Acre	)	CERTIFICATE OF
Expansion And Time Extension For	)	SERVICE
Waimānalo Gulch Sanitary Landfill,	)	
Waimānalo Gulch, O`ahu, Hawai`i, Tax	)	
Map Key: 9-2-03: 72 And 73	)	
	)	
	)	
	)	
	)	

CERTIFICATE OF SERVICE

I hereby certify that a copy of the ORDER GRANTING APPLICANT'S ORAL MOTION TO FILE WRITTEN BRIEFS 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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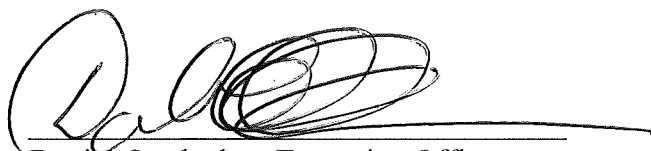
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Dated: July 12, 2012 , Honolulu , Hawaii.

  
Daniel Orodener, Executive Officer