

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In The Matter Of The Petition Of) DOCKET NO. A92-683
)
HALEKUA DEVELOPMENT) ORDER GRANTING MOTION
CORPORATION, A Hawai'i) OF HALEKUA DEVELOPMENT
Corporation) CORPORATION REQUESTING
) LAND USE COMMISSION
) APPROVAL OF TRANSFER OF
To Amend The Agricultural Land) OWNERSHIP OF PROPERTY
Use District Boundary Into The)
Urban Land Use District For)
Approximately 503.886 Acres Of Land)
At Waikele And Hō`ae`ae, `Ewa, O`ahu,)
City And County Of Honolulu,)
Hawai'i, Tax Map Key: 9-4-02: 1,)
Portion Of 52, 70, And 71)
_____)

ORDER GRANTING MOTION OF HALEKUA DEVELOPMENT CORPORATION
REQUESTING LAND USE COMMISSION APPROVAL OF TRANSFER OF
OWNERSHIP OF PROPERTY

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ORDER GRANTING MOTION OF HALEKUA DEVELOPMENT CORPORATION
REQUESTING LAND USE COMMISSION APPROVAL OF TRANSFER OF
OWNERSHIP OF PROPERTY

On February 20, 2007, Halekua Development Corporation, a Hawai'i corporation ("Petitioner"), filed a Motion Requesting Land Use Commission Approval Of Transfer Of Ownership Of Property ("Motion") pursuant to section 15-15-70, Hawai'i Administrative Rules ("HAR").

On February 20, 2007, Petitioner also filed a 2007 Interim Status Report Of Halekua Development Corporation On Conditions To Decision And Order Of Land Use Commission ("2007 Interim Status Report").

On February 22, 2007, Petitioner filed a Declaration Of Herbert K. Horita In Support Of Motion Of Halekua Development Corporation Requesting Land Use Commission Approval Of Transfer Of Ownership Of Property ("Declaration"). In the Declaration, Petitioner stated, among other things, that in order to comply with the request of CMR Mortgage Fund LLC, Petitioner filed the Motion to transfer approximately 161.360 acres of land, identified as TMK: 9-4-02: 71 ("Property"), comprised by the Petition Area in the above-entitled docket to Halekua-Kunia, LLC, a Delaware limited liability company ("Halekua-Kunia"), a special purpose entity to be fully owned by Petitioner and authorized to do business in the State of Hawai`i.

The Land Use Commission ("Commission") considered the Motion at its meeting on February 23, 2007, in Honolulu, Hawai`i.¹ Jonathan S. Durrett, Esq., appeared on behalf of Petitioner. Also present were Delwyn H. W. Wong, Esq., on behalf of HRT Realty, LLC; 300 Corporation, and Honolulu Limited (collectively "Intervenors"); Bryan C. Yee, Esq., and Abe Mitsuda on behalf of the State Office of Planning; and Mike Watkins on behalf of the City and County of Honolulu Department of Planning and Permitting. At the meeting, Petitioner informed the Commission that the docket number reflected in the Motion, the 2007 Interim Status Report, and the Declaration should be corrected to reference A92-683 rather than A76-418. As part of its presentation on the Motion, Petitioner stated, among other things, that the relief sought

¹ Pursuant to section 92-7(b), Hawai`i Revised Statutes, the Commission amended its February 23, 2007, agenda to include consideration of the Motion.

was an underwriting requirement of Petitioner's lenders to ensure that Petitioner does not file for bankruptcy again. Petitioner also noted that the Motion was filed in compliance with Condition Number 21 of the Commission's Amended Findings Of Fact, Conclusions Of Law, And Decision And Order ("Amended Decision And Order") dated October 1, 1996. Petitioner further represented that Halekua-Kunia will assume all of the obligations under the original Findings Of Fact, Conclusions Of Law, And Decision And Order ("Original Decision And Order") dated December 9, 1993, and the Amended Decision And Order, as well as the obligations owed to the Intervenors under the bankruptcy proceedings. Petitioner added that it is anticipated the transfer of the Property to Halekua-Kunia would occur immediately following the emergence of Petitioner from bankruptcy. Upon questioning by the Commission, Petitioner clarified that its Motion also requested the establishment of Halekua-Kunia as the successor to Petitioner for all purposes under both the Original and Amended Decision And Orders.

The other parties present in this proceeding had no objections to the Motion.

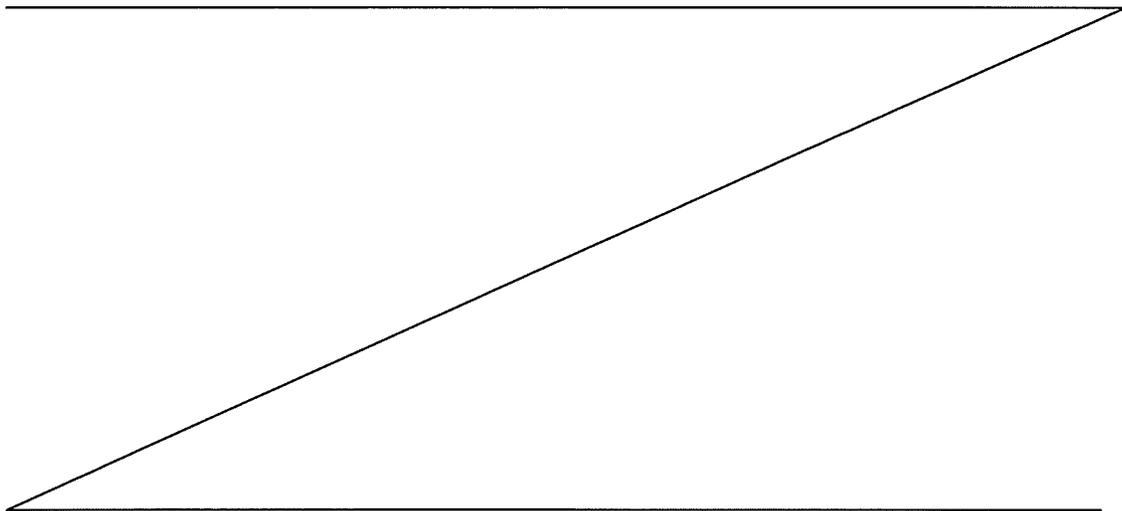
Following discussion, a motion was made and seconded to grant Petitioner's Motion to establish Halekua-Kunia as the successor to Petitioner in this docket and to approve the transfer of ownership of the Property from Petitioner to

Halekua-Kunia. There being a vote tally of 6 ayes, 2 absent, and 1 abstention², the motion carried.

ORDER

This Commission, having duly considered Petitioner's Motion, the arguments of the parties present in the proceeding, and a motion having been made at a meeting on February 23, 2007, in Honolulu, Hawai'i, and the motion having received the affirmative votes required by section 15-15-13, HAR, and there being good cause for the motion,

HEREBY ORDERS that Petitioner's Motion to establish Halekua-Kunia as the successor to Petitioner in this docket and to approve the transfer of ownership of the Property from Petitioner to Halekua-Kunia be GRANTED.



² Commissioner Reuben S. F. Wong previously represented the Intervenors before this Commission prior to his appointment to the Commission. Consequently, Mr. Wong recused himself from this proceeding and, in fact, was not present at the meeting.

Done at Honolulu, Hawai'i, this 16th day of
March, 2007, per motion on February 23,, 2007.

APPROVED AS TO FORM

Dean Jackson
Deputy Attorney General

LAND USE COMMISSION
STATE OF HAWAII

By Lisa M. Judge
LISA M. JUDGE
Chairperson

Filed and effective on
MAR 16 2007

Certified by:
Anthony J. H. Ching
ANTHONY J. H. CHING

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OF THE STATE OF HAWAII

In The Matter Of The Petition Of) DOCKET NO. A92-683
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HALEKUA DEVELOPMENT) CERTIFICATE OF SERVICE
CORPORATION, A Hawai'i)
Corporation)
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To Amend The Agricultural Land)
Use District Boundary Into The)
Urban Land Use District For)
Approximately 503.886 Acres Of Land)
At Waikele And Hō`ae`ae, `Ewa, O`ahu,)
City And County Of Honolulu,)
Hawai'i, Tax Map Key: 9-4-02: 1,)
Portion Of 52, 70, And 71)
_____)

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Order Granting Motion Of Halekua Development Corporation Requesting Land Use Commission Approval Of Transfer Of Ownership Of Property 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, MAR 16 2007.



ANTHONY J. CHING
Executive Officer