

WEST MAUI DEVELOPMENT COMPANY LLC
LAND USE COMMISSION
STATE OF HAWAII

2003 APR 21 A 10 25 30
2550 Kekaa Drive, Suite C-1
Kaanapali, Maui, Hawaii 96761
Phone: (808) 661-3232
Facsimile: (808) 661-1921

April 17, 2003

Anthony J. H. Ching
Executive Director
Land Use Commission
State of Hawaii
P O Box 2359
Honolulu, HI 96804-2359

Subject: LUC Docket No. A90-658/AMFAC/JMB Hawaii LLC
The Vintage at Kaanapali - Education Contribution Agreement

Dear Mr. Ching,

I received your letter dated March 31, 2003, requesting that a representative of West Maui Development Corporation, LLC appear before the State Land Use Commission regarding the status of Parcel 21, Kaanapali South Beach Mauka, now known as "The Vintage at Kaanapali" and the status of complying with the LUC condition regarding a fair share contribution for school facilities.

I have set aside Friday, April 25, 2003 to be present at your scheduled meeting. I would appreciate being notified as soon as possible as to the time and place of the meeting so I can make my arrangements in advance.

For your information, my partner, Robert Johnston and I had several phone discussions with Ms. Heidi Meeker of the Department of Education (DOE) office in December, 2002 and January, 2003 regarding this matter. I also spoke to Mr. Kumabe of your office and provided a brief explanation regarding this issue. Unfortunately, the DOE and our development group have not been able to come to agreement regarding this matter.

I would like to provide you and the Commission members a brief history of the circumstances that occurred approximately 3-½ years ago (last quarter of 1999) that brought us to this point.

In 1999, during the period of processing our subdivision and building permit approvals for Parcel 21, I checked with the DOE as to the procedure for negotiating an agreement for education assessment and was told there was no procedure in place and that I should deal directly

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with the County of Maui. I then made inquiries of the Public Works Director, Land Use and Codes Division, Subdivision Review Section and the Planning Director regarding the assessment procedure for DOE contributions. In discussions with County division heads, I received the same comment each time; that the DOE has yet to set a procedure or a fee structure for an educational assessment. We also learned at that time that there were neither a mechanism in place for developers to negotiate an agreement addressing an education assessment with DOE nor a collection procedure for any fees owed under such an agreement.

We received all necessary approvals and permits to develop the project in 1999 and completed the Vintage project in July, 2001. All units in the Vintage have been sold and conveyed to buyers and West Maui Development has no further interest in the Vintage.

In early 2001 we applied for permits for our next project at Kaanapali which is known as "The Summit". The Summit is located on land identified as Kaanapali South Beach Mauka - Parcel 16. This time, the County of Maui instructed us to contact the DOE and negotiate an education assessment agreement. We were given contact information and quickly negotiated and finalized an agreement. It is clear that between the time we applied for permits for the Vintage in 1999 and the time we submitted an application for the Summit in 2001, the County of Maui and the DOE had made arrangements to address the condition for a fair share contribution for school facilities. Furthermore, the DOE had designated an officer to negotiate agreements, something that was not in place in 1999.

It came as a complete surprise to us when we received Ms. Meeker's call in December of 2002 requesting that West Maui Development pay education contribution fees for the Vintage. We believe that we undertook a good faith effort in 1999 to comply with the LUC condition regarding an education assessment. It seems to us that it is unfair and unjustified to let this matter sit for almost two years after completion of the project and then seek payment, especially because we made significant attempts to seek advice and direction from the DOE and the County of Maui.

Sincerely,



Howard S. Kihune, Sr.
President and Principal
Terra Pacific Development Corporation, LLC
Project Manager, West Maui Development Company, LLC

cc: Amfac Land Company Limited