

ORIGINAL

TSUKAZAKI YEH & MOORE
A Limited Liability Law Company

THOMAS L.H. YEH
100 Pauahi Street, Suite 204
Hilo, Hawaii 96720
Telephone No.: 808/961-0055

Attorneys for Petitioners
DAVID EARL GREER and
DORIS ROCHELLE GREER

2000 MAY 15 A 9:35
LAND USE COMMISSION
STATE OF HAWAII

BEFORE THE LAND USE COMMISSION

STATE OF HAWAII

| | | |
|--|---|--------------------------------|
| In the Matter of the Petition of |) | DOCKET NO. A92-680 |
| |) | |
| C. BREWER PROPERTIES, INC., |) | MOTION TO WITHDRAW LAND |
| a Hawaii corporation |) | USE COMMISSION APPROVALS |
| |) | AND REVERT LAND USE DISTRICT |
| To Amend the Land Use District |) | BOUNDARY CLASSIFICATION TO |
| Boundary of Certain Lands situated at |) | AGRICULTURE; MEMORANDUM |
| Puueo, Island of Hawaii, State of Hawaii,) |) | IN SUPPORT OF MOTION; |
| Consisting of approximately 288.240 |) | AFFIDAVIT OF DAVID EARL GREER; |
| acres from the Agricultural to the Urban |) | AFFIDAVIT OF DORIS ROCHELLE |
| District. |) | GREER; |
| |) | CERTIFICATE OF SERVICE |

MOTION TO WITHDRAW LAND USE COMMISSION APPROVALS
AND REVERT LAND USE DISTRICT BOUNDARY
CLASSIFICATION TO AGRICULTURE

DAVID EARL GREER and DORIS ROCHELLE GREER, Petitioners herein, by
and through their undersigned attorney, and pursuant to Section 15-15-70 of the Land
Use Commission Rules, hereby respectfully move to withdraw the Land Use
Commission approvals in the above-referenced docket and to revert the district boundary
classification for the subject 288.240 acres from its current "Urban" classification to the

“Agriculture” classification.

Petitioners also move for authorization to reverse and rescind conditions previously recorded against the subject property in conjunction with the “urban” classification.

This motion is based upon the memorandum filed in support of this motion and the Affidavits of David Earl Greer and Doris Rochelle Greer, attached hereto and made a part hereof, as well as the files and records of the above-referenced docket.

DATED: Hilo, Hawaii, May 12, 2000.

TSUKAZAKI YEH & MOORE

By



THOMAS L.H. YEH
Attorneys for Petitioners
DAVID EARL GREER and
DORIS ROCHELLE GREER

BEFORE THE LAND USE COMMISSION

ORIGINAL

STATE OF HAWAII

| | | |
|--|---|-----------------------------|
| In the Matter of the Petition of |) | DOCKET NO. A92-680 |
| |) | |
| C. BREWER PROPERTIES, INC., |) | MEMORANDUM IN SUPPORT OF |
| a Hawaii corporation |) | MOTION; AFFIDAVIT OF |
| |) | DAVID EARL GREER; AFFIDAVIT |
| To Amend the Land Use District |) | OF DORIS ROCHELLE GREER |
| Boundary of Certain Lands situated at |) | |
| Puueo, Island of Hawaii, State of Hawaii,) |) | |
| Consisting of approximately 288.240 |) | |
| acres from the Agricultural to the Urban |) | |
| District. |) | |
| _____ |) | |

2000 MAY 15 A 9:59
 LAND USE COMMISSION
 STATE OF HAWAII

MEMORANDUM IN SUPPORT OF MOTION

DAVID EARL GREER and DORIS ROCHELLE GREER (“the Greers”),
 Petitioners/Movants in the above-referenced matter, hereby respectfully submit this
 memorandum in support of their Motion To Withdraw Land Use Commission Approvals
 And Revert Land Use District Boundary Classification To Agriculture and to authorize
 the Petitioners’ revocation and rescission of conditions previously recorded against the
 subject real property.

The real property which is the subject of this motion consists of approximately
 288.240 acres of land at Puueo, District of South Hilo, Island and County of Hawaii,
 State of Hawaii, more particularly identified as Hawaii Tax Map Key Nos. (3) 2-6-08:17,
 26, 27, 29 36 & 39, and Portions of 28, 31, 32, 33, 34, 37 & 38, and 2-6-29:14 & 15.

The Land Use Commission, herein called the “LUC” amended the land use district
 boundary classification for the subject 288.240 acres of the site from “Agriculture” to

“Urban” in Docket No. A92-680.

The approval contained a number of conditions. The substance of the conditions were recorded as conditions running with the land in the Bureau of Conveyances of the State of Hawaii through that certain Declaration Of Conditions recorded on May 1, 1994, as Document No. 94-036384, and by that certain First Amended Declaration Of Conditions recorded on August 28, 1996, as Document No. 96-124026.

The Petitioners purchased the real property from Hawaii Land and Farming Company, Inc., under that certain Deed, dated September 16, 1999, and recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 99-157447, on September 30, 1999. None of the previous owners proceeded with the physical development of the property, although C. Brewer Homes, Inc., formerly known as C. Brewer Properties, Inc., did obtain rezoning approval from the County of Hawaii on May 2, 1996, under Ordinance No. 96 48.

The Petitioners, as the current owners of the subject real property, have no intention of developing the 288.240 acres within the Land Use “Urban” district into residential or commercial lots, as represented by the original applicant. Instead, Petitioners have already begun to implement plans to plant and harvest tropical fruit trees on the subject property. Towards this end, they have coordinated their efforts with the assistance of the Natural Resources and Conservation Service of the U.S. Department of Agriculture and have begun to clear and plant the land with tropical fruit trees and windbreaks. Moreover, the costs of development in accordance with current conditions

imposed by various governmental agencies, coupled with market conditions, do not justify the residential or commercial development. This is evidenced in part by the former owner's failure to develop the property and its subsequent sale to Petitioners.

The Petitioners do not know of any objections to the removal of the "Urban" district classification of the 288.240 acres in view of the Petitioners' decision not to proceed with residential or commercial development on the property.

In the absence of any known objections, the Petitioners believe that the most expeditious manner of removing the reclassification to "Urban" of the 288.240 acres is through the instant motion.

Petitioners have also filed a request with the County of Hawaii to similarly repeal Ordinance No. 96 48 to revert the zoning of the subject real property from residential and commercial to its former agricultural and open zoning designations.

Accordingly, the Petitioners respectfully request the granting of their motion to obtain the desired results with the minimum of cost, expense, and inconvenience to all parties.

DATED: Hilo, Hawaii, May 12, 2000.

TSUKAZAKI YEH & MOORE

By 

THOMAS L.H. YEH
Attorneys for Petitioners
DAVID EARL GREER and
DORIS ROCHELLE GREER

BEFORE THE LAND USE COMMISSION

ORIGINAL

STATE OF HAWAII

In the Matter of the Petition of)
)
 C. BREWER PROPERTIES, INC.,)
 a Hawaii corporation)
)
 To Amend the Land Use District)
 Boundary of Certain Lands situated at)
 Puueo, Island of Hawaii, State of Hawaii;))
 Consisting of approximately 288.240)
 acres from the Agricultural to the Urban)
 District.)
 _____)

DOCKET NO. A92-680

AFFIDAVIT OF DAVID EARL GREER;
EXHIBIT "A"

LAND USE COMMISSION
 STATE OF HAWAII
 2000 MAY 15 A 9:59

AFFIDAVIT OF DAVID EARL GREER

STATE OF HAWAII)
) SS.
 COUNTY OF HAWAII)

DAVID EARL GREER, being first duly sworn on oath, deposes and says as follows:

1. I am one of the owners of the real property which is the subject of the above-referenced petition. The other owner of the real property is my wife, Doris Rochelle Greer.

2. I have reviewed the Motion To Withdraw Land Use Commission Approvals And Revert Land Use District Boundary Classification To Agriculture to which this affidavit is attached, and am in support of and have authorized filing of said motion.

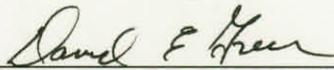
3. All of the contents of the motion herein and the Memorandum In Support

Of Motion are true and correct to the best of my knowledge and belief.

4. I understand that in the event the Land Use Commission approves said motion, that a petition to amend the boundaries of the subject real property would need to be filed, considered and heard in conjunction with all applicable laws and rules and regulations in the event that we decide to once again amend the boundaries from Agriculture to Urban property.

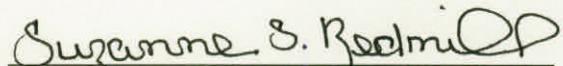
And, further, your Affiant sayeth not.

DATED: Hilo, Hawaii, May 2, 2000.

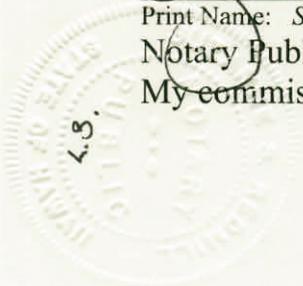


DAVID EARL GREER

Subscribed and sworn to before me
this 2nd day of May, 2000,



Print Name: *Suzanne S. Redmill*
Notary Public, State of Hawaii
My commission expires: June 11, 2000



BEFORE THE LAND USE COMMISSION

ORIGINAL

STATE OF HAWAII

In the Matter of the Petition of)
)
 C. BREWER PROPERTIES, INC.,)
 a Hawaii corporation)
)
 To Amend the Land Use District)
 Boundary of Certain Lands situated at)
 Puueo, Island of Hawaii, State of Hawaii;))
 Consisting of approximately 288.240)
 acres from the Agricultural to the Urban)
 District.)
 _____)

DOCKET NO. A92-680
 AFFIDAVIT OF DORIS ROCHELLE
 GREER; EXHIBIT "A"

LAND USE COMMISSION
 STATE OF HAWAII
 2000 MAY 15 A 10:00

AFFIDAVIT OF DORIS ROCHELLE GREER

STATE OF CALIFORNIA)
)
 COUNTY OF Alameda)

SS.

DORIS ROCHELLE GREER, being first duly sworn on oath, deposes and says as follows:

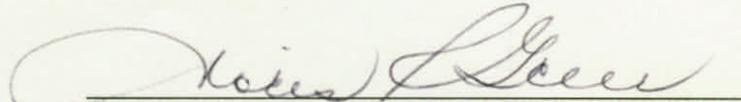
1. I am one of the owners of the real property which is the subject of the above-referenced petition. The other owner of the real property is my husband, David Earl Greer.
2. I have reviewed the Motion To Withdraw Land Use Commission Approvals And Revert Land Use District Boundary Classification To Agriculture to which this affidavit is attached, and am in support of and have authorized filing of said motion.
3. All of the contents of the motion herein and the Memorandum In Support

Of Motion are true and correct to the best of my knowledge and belief.

4. I understand that in the event the Land Use Commission approves said motion, that a petition to amend the boundaries of the subject real property would need to be filed, considered and heard in conjunction with all applicable laws and rules and regulations in the event that we decide to once again amend the boundaries from Agriculture to Urban property.

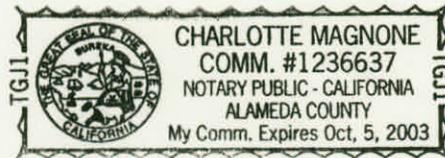
And, further, your Affiant sayeth not.

DATED: Fremont, California, 5/8, 2000.


DORIS ROCHELLE GREER

Subscribed and sworn to before me
this 8th day of May, 2000,

Charlotte Magnone
Print Name: Charlotte Magnone
Notary Public, State of California
My commission expires: Oct 5, 2003



ORIGINAL

CERTIFICATE OF SERVICE

In accordance with §15-15-45(b), Service of Process, Land Use Commission Rules, I hereby certify that a copy of the foregoing document was duly served upon the following parties at their last known address by U.S. certified mail (return receipt requested), postage prepaid, on this date:

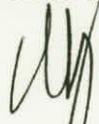
HAWAII COUNTY PLANNING DEPARTMENT
25 Aupuni Street, Hilo HI 96720

HAWAII COUNTY PLANNING COMMISSION
25 Aupuni Street, Hilo HI 96720

STATE OF HAWAII OFFICE OF PLANNING
P.O. Box 2359, Honolulu HI 96804-2359

DATED: Hilo, Hawaii, May 12, 2000.

TSUKAZAKI YEH & MOORE



THOMAS L.H. YEH
Attorneys for Petitioners
DAVID EARL GREER and
DORIS ROCHELLE GREER

LAND USE COMMISSION
STATE OF HAWAII
2000 MAY 15 A 10:00