

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

In the Matter of the Petition of)
MOANA CORPORATION)
To Amend the Agricultural Land Use)
District Boundary into the Urban)
Land Use District For Approximately)
457.54 Acres of Land Situated at)
Poipu, Island of Kauai, State of)
Hawai'i, TMK: 2-8-14: 05, 07, 08,)
por. 19, 20, 21, 26-36; 2-8-15: 77;)
2-8-29: 1-94)

DOCKET NO. A76-418
ORDER DENYING MOTION TO
DISMISS LAND USE
COMMISSION'S ORDER TO
SHOW CAUSE PROCEEDING

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.

JUL 15 1996

Date

by

Esther Reed
Executive Officer

ORDER DENYING MOTION TO DISMISS
LAND USE COMMISSION'S ORDER TO SHOW CAUSE PROCEEDING

JUL 15 9 38 AM '96
LAND USE COMMISSION
STATE OF HAWAII

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

In the Matter of the Petition of)	DOCKET NO. A76-418
MOANA CORPORATION)	
To Amend the Agricultural Land Use)	ORDER DENYING MOTION TO
District Boundary into the Urban)	DISMISS LAND USE
Land Use District For Approximately)	COMMISSION'S ORDER TO
457.54 Acres of Land Situated at)	SHOW CAUSE PROCEEDING
Poipu, Island of Kauai, State of)	
Hawai'i, TMK: 2-8-14: 05, 07, 08,)	
por. 19, 20, 21, 26-36; 2-8-15: 77;)	
2-8-29: 1-94)	
_____)	

ORDER DENYING MOTION TO DISMISS
LAND USE COMMISSION'S ORDER TO SHOW CAUSE PROCEEDING

On June 14, 1996, First Hawaiian Bank, as Trustee of the Eric A. Knudsen Trust, and Hawaiian Trust Company, Limited, as Trustee of the Augustus F. Knudsen Trust (collectively "Knudsen Trusts"), filed a Motion To Dismiss Land Use Commission's Order to Show Cause Proceeding ("Motion").

The Motion requested the Land Use Commission ("Commission") to terminate and dismiss the Order to Show Cause proceedings because the Commission lacks legal authority to initiate the proceedings.

On June 20, 1996, Sports Shinko (Kauai) Company, Ltd. and Intervenor Milohae Limited Partnership, Baldwin-Knudsen Family Partnership, and Moir Family Partnership filed Joinders to the Motion.

On June 21, 1996, Intervenor KVH Partners and CGB Partners filed its Joinder to the Motion.

On June 26, 1996, the County of Kauai Planning Department filed its Memorandum in Opposition to First Hawaiian Bank and Hawaiian Trust Company, Ltd.'s Motion to Dismiss.

On June 27, 1996, the Office of State Planning filed its Joinder in County of Kauai's Memorandum in Opposition to First Hawaiian Bank and Hawaiian Trust Company, Ltd.'s Motion to Dismiss.

The Commission, having considered the arguments presented by the parties and Intervenors, both written and oral, and having reviewed the entire record for the subject docket to date, and with good cause shown;

NOW HEREBY DENIES the Motion to Dismiss Land Use Commission's Order to Show Cause Proceeding due to the following reasons:

- 1) The Commission has met statutory requirements for notice of the proceeding as provided by Chapter 91, Hawai'i Revised Statutes;
- 2) Pursuant to section 205-4(g), Haw. Rev. Stat., and section 15-15-93, Hawai'i Administrative Rules, the Commission is authorized to conduct an Order to Show Cause proceeding;
- 3) Condition No. 9 specifically provided that the "Petitioner substantially complete within five years from the date of this Decision and Order all off-site and on-site improvements, landscaping, all of the single-family residential homesites, at least 300 multi-family residential units,...";

- 4) The Commission has reason to believe that development of the subject property is not in compliance with the provision of Condition No. 9 for 12 years;
- 5) The purpose of the Order to Show Cause proceeding is to provide all parties the opportunity to refute this Commission's reasonable belief that Petitioner has failed to perform according to Condition No. 9; and
- 6) The respective Motions to Modify Condition No. 9 filed by the Knudsen Trusts and Sports Shinko (Kauai) Company, Ltd., is currently pending before this Commission, and no decision has been rendered with respect to the Motions to Modify Condition No. 9.

DOCKET NO. A76-418 - MOANA CORPORATION

Done at Honolulu, Hawaii, this 15th day of July 1996,
per motion on June 28, 1996.

LAND USE COMMISSION
STATE OF HAWAII

By Allen K. Hoe
ALLEN K. HOE
Chairperson and Commissioner

By Trudy K. Senda
TRUDY K. SENDA
Vice Chairperson and Commissioner

By Rupert K. Chun
RUPERT K. CHUN
Commissioner

By M. Casey Jarman
M. CASEY JARMAN
Commissioner

By Lloyd F. Kawakami
LLOYD F. KAWAKAMI
Commissioner

By (absent)
MERLE A. K. KELAI
Commissioner

By (absent)
EUSEBIO LAPENIA, JR.
Commissioner

Filed and effective on
July 15, 1996

Certified by:

Executive Officer
Executive Officer

By (absent)
JOANN N. MATTSON
Commissioner

By Elton Wada
ELTON WADA
Commissioner

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

In the Matter of the Petition of) MOANA CORPORATION) To Amend the Agricultural Land Use) District Boundary into the Urban) Land Use District For Approximately) 457.54 Acres of Land Situated at) Poipu, Island of Kauai, State of) Hawai'i, TMK: 2-8-14: 05, 07, 08,) por. 19, 20, 21, 26-36; 2-8-15: 77;) 2-8-29: 1-94) <hr style="width: 100%; border: 0.5px solid black;"/>	DOCKET NO. A76-418 CERTIFICATE OF SERVICE
---	--

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Order Denying Motion to Dismiss Land Use Commission's Order to Show Cause Proceeding was served upon the following by either hand delivery or depositing the same in the U. S. Postal Service by certified mail:

CERT. SEIJI F. NAYA, Acting Director
Office of Planning
P. O. Box 3540
Honolulu, Hawaii 96811-3540

CERT. DEE CROWELL, Planning Director
Planning Department, County of Kauai
Suite 473, Building A
4444 Rice Street
Lihue, Hawaii 96766

CERT. HARTWELL H.K. BLAKE, ESQ.
County Attorney
Office of the County Attorney
County of Kauai
4396 Rice Street, #202
Lihue, Hawaii 96766

CERT. D. SCOTT MACKINNON, ESQ., Attorney for Sports Shinko
McCorriston Miho Miller Mukai
Five Waterfront Plaza, Suite 400
500 Ala Moana Boulevard
Honolulu, Hawaii 96813

CERT. GRACE NIHEI KIDO, ESQ., Attorney for Knudsen Trusts
Cades Schutte Fleming & Wright
P. O. Box 939
Honolulu, Hawaii 96808-0939

CERT. GARY M. SLOVIN, ESQ.
CAROL A. EBLEN, ESQ.,
Attorneys for KVH Partners and CGB Partners
1800 Ali'i Place
1099 Alakea Street
Honolulu, Hawaii 96813

CERT. DENNIS M. LOMBARDI, ESQ.
PETER L. CRUDO, ESQ.,
Attorneys for Milohae Limited Partnership, Baldwin-
Knudsen Family Partnership and Moir Family Partnership
Case Myrdal Bigelow & Lombardi
2600 Mauka Tower
737 Bishop Street
Honolulu, Hawaii 96813

DATED: Honolulu, Hawaii, this 15th day of July 1996.



ESTHER UEDA
Executive Officer