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STATE OF HAWAI'I

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAI'I

In the Matter of the Petition of D.R. HORTON – SCHULER HOMES, LLC, a Delaware limited liability company d.b.a. D.R. HORTON-SCHULER DIVISION To Amend the Agricultural Land Use District Boundaries into the Urban Land Use District for Approximately 1,525.516 Acres in Ewa District, Island of Oahu, Tax Map Key Nos. (1) 9-1-017:004 (por.), 059 and 072; (1) 9-1-018:001 and 004	DOCKET NO. A06-771 OFFICE OF PLANNING'S OPPOSITION TO INVERVENOR FRIENDS OF MAKAKILO, INC.'S MOTION THAT THE LAND USE COMMISSION ORDER D.R. HORTON-SCHULER HOMES, LLC TO SHOW CAUSE WHY THE HO'OPILI LAND SHOULD NOT REVERT TO THE AGRICULTURAL DISTRICT; EXHIBITS "1" AND "2"; CERTIFICATE OF SERVICE

OFFICE OF PLANNING'S OPPOSITION TO INVERVENOR FRIENDS OF MAKAKILO, INC.'S MOTION THAT THE LAND USE COMMISSION ORDER D.R. HORTON-SCHULER HOMES, LLC TO SHOW CAUSE WHY THE HO'OPILI LAND SHOULD NOT REVERT TO THE AGRICULTURAL DISTRICT

The Office of Planning opposes Intervenor Friends of Makakilo's ("FoM") Motion for an Order to Show Cause Why the Property Should Not Revert to Its Former Land Use Classification ("Motion for Order to Show Cause").

I. INTRODUCTION

The power to enforce LUC Orders is divided between the LUC and the respective counties. The primary responsibility for enforcement rests with the counties (HRS § 205-12) who may impose fines (HRS § 205-13). See also Lanai Company, Inc. v. Land Use Commission, 105 Hawai'i 296, 319, 97 P.3d 372, 395 (2004) ("The power to enforce the LUC's conditions and orders, however, lies with the various counties") and DW Aina Lea Development, LLC v. Bridge Aina Lea, LLC, 134 Hawai'i 187, 339 P.3d 685 (2014). The LUC does not have the authority to issue fines or cease and desist orders, although it may issue declaratory orders which can be used to clarify the meaning and applicability of conditions imposed by the LUC. See HAR §§ 15-15-98 to 15-15-104. More importantly for this case, the LUC has a significant enforcement role through its power to revert a petition area to its former or more appropriate classification. Lanai Company, Inc. 105 Hawai'i at 314, 97 P.3d at 390 (The LUC has the authority to "downzone" land for violations of its conditions pursuant to implied powers under HRS § 205-4(g)).

The process of reversion includes two steps: (1) a motion for order to show cause and (2) a show cause hearing (sometimes referred to as an Order to Show Cause hearing). A motion for order to show cause (and the hearing to decide this motion) is not a contested case hearing. Aha Hui Malama O Kaniakapupu v. Land Use Commission, 111 Hawai'i 124 (Haw. 2006). It is a decision by the Land Use Commission ("LUC") as to whether to hold a contested case hearing. If granted, the resulting show cause hearing will be a contested case hearing, generally requiring exhibits, witnesses, cross-examination, a decision and order, and judicial appeal. Regardless of the outcome, show cause hearings can have significant impacts, potentially delaying projects or threatening financial viability. A show cause hearing is an important and valuable enforcement

tool which the LUC has at its disposal. But it is also one which should be used with prudence and discretion, keeping in mind that the counties also have the authority to enforce LUC conditions through other means.

This Motion for Order to Show Cause, therefore, is an important threshold test to determine whether a contested case process should begin.

Hawaii Administrative Rules ("HAR") 15-15-93(b) states in relevant part as follows:

> Whenever the commission shall have reason to believe that there has been a failure to perform according to the conditions imposed, or the representations or commitments made by the petitioner, the commission shall issue and serve upon the party or person bound by the conditions, representations, or commitments, an order to show cause why the property should not revert to its former land use classification or be changed to a more appropriate classification.

HAR § 15-15-93(b) reflects the authority provided in Hawaii Revised Statutes ("HRS") 205-4(b) which states in relevant part as follows:

> The commission may provide by condition that absent substantial commencement of use of the land in accordance with such representations, the commission shall issue and serve upon the party bound by the condition an order to show cause why the property should not revert to its former land use classification or be changed to a more appropriate classification.

Implicit within the purpose for a Motion for Order to Show Cause hearing is the determination that if a condition has been violated, there is reason to believe that reversion would be an appropriate remedy. Otherwise, there would be no reason to hold an Order to Show Cause hearing.

II. ARGUMENT

In this case, FoM does not provide a sufficient basis to hold an Order to Show Cause hearing. FoM gives five reasons for its Motion for Order to Show Cause: (1) Petitioner D.R.

Horton-Schuler Homes, LLC ("Petitioner" or "D.R. Horton") has violated Condition 10(b) by failing to obtain approval of the revised Traffic Impact Analysis Report ("TIAR") by the City and County of Honolulu's Department of Transportation Services ("DTS") prior to zoning application; (2) FoM can not get a fair hearing before the City and County of Honolulu, and must file the Motion for Order to Show Cause before the Land Use Commission ("LUC"); (3) Petitioner might violate Conditions 11(a) and 14 in the future because it does not have approval to use Navy lands as part of its stormwater drainage plans; (4) Petitioner has violated Condition 22 by failing to provide notice to the LUC of the transfer of interests in the Petition Area to other parties; and (5) Petitioner has violated Condition 27 by failing to comply with representations relating to the relocation of existing agricultural tenants to other lands, including the Galbraith Estate lands.

A. Petitioner has not violated Condition 10(b) because DTS has accepted Petitioner's TIAR.

Condition 10(b) states as follows:

> Petitioner shall submit an updated Traffic Impact analysis Report ("TIAR") for review and acceptance by the DOT, the City and County of Honolulu Department of Planning and Permitting ("DPP"), and the City and County of Honolulu Department of Transportation Services ("DTS"). The updated TIAR shall include the most current updated traffic data, and shall provide and validate all recommended mitigation measures for potential project-related traffic impacts on State and City facilities to the satisfaction of the DOT, the DPP and the DTS. The updated TIAR shall include the construction status and timeline for the City's rail transit project, and shall specifically address the potential effects on traffic if the rail project does not proceed as anticipated. Petitioner shall obtain acceptance of the updated TIAR from the DOT, the DPP, and the DTS, prior to submittal of a change in zoning application with the City and County of Honolulu.

FoM argues that DTS did not accept the Petitioner's TIAR. There appears to be dispute amongst the other parties as to whether certain documents were sufficient to establish DTS's

acceptance. But it is undisputed that on December 3, 2014, the director of DTS clearly and unequivocally expressed DTS's acceptance of the TIAR. FoM might argue that the acceptance should have come earlier. But even if true, that argument is moot as DTS accepted the TIAR in 2014. There is no reasonable basis to revert the Petition Area even if DTS expressed its acceptance of the TIAR late. Whether DTS should have been clearer in its acceptance of the TIAR or even earlier in its acceptance of the TIAR are issues of form and procedure which do not affect the important substantive fact that DTS has accepted the Petitioner's TIAR.

FoM goes into great detail regarding its substantive objections to the TIAR, like housing projections and traffic growth rates. But the LUC has already considered the adequacy of the TIAR, and determined that the Petition Area should be reclassified, subject to the submission of a revised TIAR with data and proposed mitigation acceptable to DOT, DPP, and DTS. The LUC has no further role in the substantive disagreements between FoM and the Petitioner regarding the TIAR, and FoM cannot relitigate its traffic concerns through a Motion for Order to Show Cause. Those are arguments that could have been raised to the Circuit Court within thirty days after the issuance of the LUC's Decision and Order and were raised to the City during the zoning process.

As explained by the State Department of Transportation ("DOT"), Petitioner's TIAR was accepted. Acceptance means that with respect to State traffic concerns, the TIAR is sufficient to allow the project to move forward. Some areas of disagreement or uncertainty may still exist because they can be resolved or clarified in the future when the updated TIAR is submitted. See OP Exhibit 1. So, with respect to issues of State traffic concerns for the initial phase of development, the current TIAR is sufficient.

B. FoM's alleged inability to get a fair hearing before the City is not relevant to this proceeding.

FoM's argument that it has no recourse before the City is not relevant to the issue of whether the LUC should issue an Order to Show Cause. FoM's inability to obtain a City hearing does not relate to any "failure to perform a condition, representation, or commitment on the part of the petitioner." HAR 15-15-93(a).

C. Petitioner has not violated Condition 11(a), and therefore, has not violated Condition 14.

Condition 11(a) states as follows:

> a. Prior to any subdivision approval, for lands that may drain onto adjacent Navy lands, the Petitioner shall provide a master drainage plan for review by the State Department of Health ("DOH"), the State Office of Planning ("OP"), and DPP, that either includes a letter of consent from the Navy allowing drainage onto its properties or a specific explanation of strategies to be employed so that drainage onto Navy Lands is not necessary.

Condition 14 states as follows:

> Pursuant to Article XI, Section 7 of the Hawaii State Constitution, Petitioner shall preserve any established access rights of native Hawaiians who have customarily and traditionally used the Petition Area to exercise subsistence, cultural, and religious practices or for access to other areas.

FoM appears to argue that Petitioner has not received a letter of consent from the Navy and its stormwater would have to cross Navy property. FoM also asks that the Petitioner submit the plan to the LUC and demonstrate its adequacy. FoM further argues that a violation of Condition 11(a) will then affect native gathering rights for limu at the beach in violation of Condition 14.[1]

[1] We also note that Condition 14 requires Petitioner to preserve access rights to the Petition Area. The alleged impact is to limu outside of the Petition Area. So, although issues of native Hawaiian gathering rights everywhere are certainly important, Condition 14 does not actually apply to FoM's allegations.

In 2012, the LUC considered the issue of stormwater drainage and determined that "[d]rainage from the Project will not alter the Marine environment along 'Ewa's south shore, including One'ula Beach. With regard to surface water, the stormwater retention/detention mandate imposed by the City for all projects draining into Kaloi Gulch makes it impossible for runoff from the Petition Area to reach the 'Ewa shoreline." See Finding of Fact 414 of the Findings of Fact, Conclusions of Law, and Decision and Order ("Decision and Order") filed on June 22, 2012 in this case. A motion for order to show cause is not a basis to relitigate this issue or to again ask for a review of the Petitioner's stormwater drainage plans. The LUC imposed Condition 11(a) which requires a stormwater drainage plan prior to subdivision approval. Petitioner has not yet obtained subdivision approval. So, it has not violated Condition 11(a). Because it has not violated Condition 11(a), it has not impacted native Hawaiian gathering rights. Further substantive arguments regarding stormwater drainage are now properly addressed through the City's subdivision process.[2]

D. Petitioner has not violated Condition 22.

Condition 22 states as follows:

> Petitioner shall give notice to the Commission of any intent to sell, lease, assign, place in trust, or otherwise voluntarily alter the ownership interests in the Petition Area, any time prior to completion of the development of the Petition Area.

FoM references certain Pacific Business News articles that Petitioner is in negotiations to sell a piece of the Petition Area to the McNaughton Group, and to give away one (1) and (5) acres of land to the Waianae Coast Comprehensive Clinic and the Hawaii Humane Society

[2] OP understands that a stormwater drainage plan has been submitted to the City, and that the drainage plans do not include Navy lands. The Petitioner or City would presumably have to supplement the record to demonstrate these facts. If true, this would be an additional independent basis to determine that Conditions 11(a) and 14 have not been violated.

respectively. FoM argues that Petitioner has failed to give notice of its intent to sell or alter the ownership interests in the Petition Area.

There is no evidence that any land has been actually transferred, and newspaper articles are not a reliable basis for reversion. At most, FoM alleges that there may be an intent to transfer land; but even if there is a violation of Condition 22, reversion of the Petition Area is an excessively harsh and inappropriate remedy. The City has the power to issue a notice that a violation has occurred, and to require correction within not more than sixty days to cure the violation. If correction is not made, the City then has the power to impose a monetary penalty. See HRS § 205-13.

OP understands that the Petitioner and Intervenor may be in disagreement as to whether a violation has occurred, specifically whether the transaction is certain enough that an "intent" to transfer property as defined by Condition 22 exists. If the City is uncertain about whether a violation has occurred, it can always file a request for a declaratory order asking the LUC to clarify its requirements.

Based purely upon the newspaper articles, OP does not believe there is a reasonable basis to believe that Condition 22 has been violated, and even if violated would not form the basis for reversion. This issue is best left to the City for enforcement, and the City may come back to the LUC if they have questions about the meaning of Condition 22.

E. Petitioner is not in violation of Condition 21.

Condition 21 states as follows:

> Petitioner shall develop the Petition Area in substantial compliance with the representations made to the Commission. Failure to so develop the reclassified area may result in reversion of the reclassified area to its former classification, or change to a more appropriate classification.

FoM appears to interpret Condition 21 as an opportunity to relitigate the issue of whether the reclassification of the Petition Area will significant impact the agricultural industry. But Condition 21 is a requirement that binds the Petitioner to its promises. It is not a guarantee that predictions about the future will come true.

In this case, the Petitioner made representations relating to Ho'opili's Urban Agricultural Initiative. See Findings of Fact 350-352 of the Decision and Order. In light of the importance of the agricultural issues, these representations were then specifically required as Conditions 1 and 2 of the Decision and Order. Notably, FoM does not argue that these representations and conditions are being violated.

FoM instead disputes Petitioners' arguments during the initial hearings in 2012 that the reclassification of the Petition Area would not significantly impact the agricultural industry. But the LUC has already considered these arguments. The LUC found that "[t]he Project will have little or no adverse impact on Hawai'i's agricultural production, as other farmland is available on the island of O'ahu to accommodate the relocation of the existing 'Ewa farms, as well as to accommodate the future growth of diversified crop farming. Land is available because of the contraction of agriculture." This is not a representation by Ho'opili.

FoM bases its argument on a number of allegations regarding the adequacy of the Galbraith lands. But this is a project of the Department of Agriculture ("DOA"), not the Petitioner. See Finding of Fact 428 of the Decision and Order. Furthermore, OP understands that farmers have not been evicted from the Petition Area. If true, the reclassification of the Petition Area does not have any current negative impact on the agricultural industry, and any delay in the leasing out of the Galbraith Lands is irrelevant. Furthermore, FoM presents an incomplete and misleading description of the progress made by DOA with the Galbraith lands.

See OP Exhibit 2 for a fuller description of the work being done on the Galbraith lands, the contributions by D. R. Horton, and the lands offered to Petition Area tenants.

III. CONCLUSION

For all the aforementioned reasons, the Office of Planning recommend that FoM's Motion for Order to Show Cause be denied.

DATED: Honolulu, Hawai'i, August 24, 2015.

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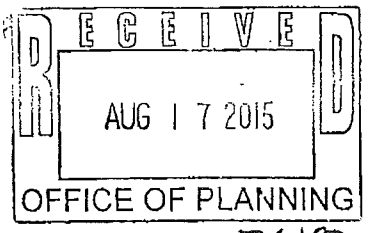

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FORD N. FUCHIGAMI
DIRECTOR

DEPUTY DIRECTORS
JADE T. BUTAY
ROSS M. HIGASHI
EDWIN H. SNIFFEN
DARRELL T. YOUNG

IN REPLY REFER TO:
HWY-PS 2.0442

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

August 12, 2015

TO: MR. LEO ASUNCION, ACTING DIRECTOR
OFFICE OF PLANNING
DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM

FROM: FORD N. FUCHIGAMI
DIRECTOR OF TRANSPORTATION

SUBJECT: A06-771 D.R. HORTON SCHULER HOMES (HO'OPILI) MOTION FOR ORDER TO SHOW CAUSE (OSC)

The Hawaii Department of Transportation (DOT), Highways Division reviewed the subject Motion for OSC filed by The Friends of Makakilo with the Land Use Commission on July 23, 2015, and offers the following comments:

The Decision and Order (Docket No. A06-771) Condition No. 10 requires the Petitioner (Horton) to obtain acceptance of the updated Traffic Impact Analysis Report (TIAR) from the DOT prior to submittal of a change in zoning application with the City and County of Honolulu, Section IV of the subject Motion for OSC titled "Conditions Ordered By The Commission Which Have Not Been Performed Or Satisfied" includes Condition No. 10.

The DOT accepted the updated TIAR dated May 30, 2014, for the processing and inclusion in the zone change application on July 1, 2014 (letter attached). "Acceptance" of a TIAR does not necessarily mean that the DOT is in agreement with every aspect of the TIAR. "Acceptance" indicates that the DOT believes the TIAR is sufficient to allow the project to proceed. There may be some unresolved issues which do not affect the relevant conclusions for the DOT and other issues which may be resolved through future updates. In this case, the DOT was agreeable to a phased development. Horton is required to provide roadway and traffic mitigation measures for Phase 1 of the Ho'opili development (consisting of 3,373 residential units, 1,040,000 sq. ft. of commercial/retail space, and 200 acres of agricultural use) as set forth in the updated TIAR. The proposed mitigation and corresponding development thresholds must all be agreeable to the DOT. A subsequent updated TIAR must then be accepted by the DOT before proceeding beyond Phase 1 limits. A formal Memorandum of Agreement is also required and is being prepared between Horton and the DOT, "documenting all aspects of the agreed-upon improvements required to mitigate project generated and/or related transportation impacts to State transportation facilities."

EXHIBIT "1"

Our Department finds that with respect to the State DOT's acceptance requirement, the Petitioner is in compliance with Condition No. 10 and will continue to work with Horton to ensure the planning, design and construction of all traffic improvements required to mitigate local and regional project-generated related traffic impacts are funded by the developer.

If you have any questions, please contact Edward Sniffen, Highways Deputy Director, at (808) 587-2156. Please reference file review number PS 2015-155 in all contacts and correspondence regarding these comments.

Attachment

c: Land Use Commission

FILE COPY

NEIL ABERCROMBIE
GOVERNOR

FORD N. FUCHIGAMI
INTERIM DIRECTOR

Deputy Directors
RANDY GRUNE
AUDREY HIDANO
ROSS M. HIGASHI
JADINE URASAKI

IN REPLY REFER TO:
HWY-PS 2.7537

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

July 1, 2014

Mr. Cameron Nekota
Vice President
D.R. Horton - Schuler Homes
130 Merchant Street, Suite 112
Honolulu, Hawaii 96813

Dear Mr. Nekota:

Subject: Acceptance of Revised Draft Final Traffic Impact Analysis Report for Hoopili Development, Issued on April 25, 2013, Revised May 30, 2014 ("TIAR")
Ewa, Oahu, TMK: (1) 9-1-017:04(POR), 59 and 72; (1) 9-1-018:001 and 004

Pursuant to the State Land Use Commission (LUC) Decision and Order (D & O) dated June 21, 2012, (Docket No. A06-771), Condition 10.b states that Petitioner ("Horton"):

"b. Petitioner shall submit an updated Traffic Impact Analysis Report ("TIAR") for review and acceptance by the DOT, the City and County of Honolulu Department of Planning and Permitting ("DPP"), and the City and County of Honolulu Department of Transportation Services ("DTS") . . . Petitioner shall obtain acceptance of the updated TIAR from the DOT, the DPP, and the DTS, prior to submittal of a change in zoning application with the City and County of Honolulu." [emphasis added].

We acknowledge that we have received and reviewed the above referenced Revised Draft Final TIAR, prepared by Austin, Tsutsumi & Associates, Inc. for the Hoopili Project and have worked with Horton toward the satisfactory mitigation of traffic impacts resulting from the development of the project.

Pursuant to the aforementioned LUC Docket A06-771 D &O Condition No. 10.b, the above referenced Revised Draft Final TIAR is acceptable to the Department of Transportation (DOT) for processing and inclusion in the zone change application; provided that:

1. Horton shall provide the Hoopili Project Phase I (3,373 residential units, 1,040,000 sq. ft. of commercial/retail space, and 200 acres of agricultural use) recommended roadway and traffic mitigation measures as set forth in the above referenced Revised Draft Final TIAR and that corresponds to development thresholds, as agreeable to the DOT, and at no cost to the State.

2. Horton shall continue to coordinate with the DOT to insure that all traffic impacts are adequately addressed and shall correct any recommended mitigations that are not operating to the DOT requirements at the build-out of Phase 1.

3. Horton shall provide one additional lane in each direction on H-1 Freeway from Kunia Interchange to Waiawa Interchange prior to the completion of the 5000th residential unit. Although the recommended H-1 Freeway improvements are acceptable to the DOT in concept, the design and design exceptions shall be subject to the DOT requirements and approval. Horton shall also evaluate the feasibility of providing an additional lane in each direction on H-1 Freeway between the Kunia Interchange and Kualakai Interchange.

4. A subsequent updated TIAR shall be completed by Horton and Horton shall obtain our Departments acceptance of the updated TIAR prior to the construction of more than 3,373 residential units and more than 1,040,000 sq. ft. of commercial/retail space.

5. Pursuant to LUC Docket A06-771 D & O Condition No. 10.a.vii, Horton shall "contribute additional lands for the Kunia Interchange as requested by the DOT". Horton and the DOT will reach an agreement on the approximate amount of land required to accommodate a south bound loop on ramp from Kunia Road to the east bound H-1 Freeway or other improvements in the southwest quadrant of the Kunia Interchange and additional lanes along the west side of Kunia Road between the H-1 Freeway and Farrington Highway, prior to the sale or development of the lands in that area.

Pursuant to LUC Docket A06-771 D & O Condition No. 10.e, a formal Memorandum of Agreement shall be established between Horton and the DOT, "documenting all aspects of the agreed-upon improvements required to mitigate project generated and/or related transportation impacts to State transportation facilities."

Horton shall satisfy all other conditions in the LUC Docket A06-771 D & O.

If there are any questions, please contact Alvin Takeshita, Highway Administrator, Highways Division, at (808) 587-2220. Please reference File Review No: 2013-102C in all contacts and correspondence regarding these comments.

Very truly yours,

FORD N. FUCHIGAMI
Interim Director of Transportation

c: Mr. George I. Atta, City & County of Honolulu, DPP

DAVID Y. IGE
Governor

SHAN S. TSUTSUI
Lt. Governor

JAMES J. NAKATANI
Executive Director

STATE OF HAWAII
AGRIBUSINESS DEVELOPMENT CORPORATION
235 S. Beretania Street, Room 205
Honolulu, HI 96813
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August 24, 2015

Mr. Leo Asuncion
Acting Director
Office of Planning
235 S. Beretania Street
Honolulu, Hawaii 96813

Dear Mr. Asuncion:

The Agribusiness Development Corporation is a public corporate body and politic, and an instrumentality of the State of Hawaii ("ADC"). It has been brought to the attention of the ADC that the Friends of Makakilo has filed a Motion for an Order to Show Cause Why the Ho'opili Property Should Not Revert to its Former Land Use Classification in the instant proceeding. Although the ADC is not involved with D.R. Horton-Schuler Homes LLC ("D.R. Horton") with respect to development of the Ewa lands, the ADC offers the following information concerning D.R. Horton's efforts to relocate current tenant farmers, and its contribution to agriculture in Central Oahu.

The state-owned lands of the Galbraith Estates encompasses approximately 1,700 acres, 1,200 or so of which are now owned by the ADC. The Trust for Public Lands was instrumental in bringing together all of the interested parties and the funding to purchase the lands and the various interests thereon. In order to complete the funding of the purchase, the ADC and D.R. Horton entered into a Memorandum of Understanding ("MOA") in 2013. Pursuant to the terms of the MOA, D.R. Horton agreed to contribute up to $1,000,000 towards the $25,000,000 purchase price of the Galbraith Estates and the construction, installation and restoration of various agricultural infrastructure on the lands. In exchange for the funding, the ADC agreed to make approximately 500 acres of the Galbraith Estates available to the agricultural tenants of D.R. Horton.

At the time of the closing of the purchase, D.R. Horton provided $500,000 towards the purchase price. An additional $500,000 (aggregate $1,000,000) remains outstanding, and is earmarked for agricultural infrastructure after D.R. Horton obtains its small lot subdivision approval from the City and County of Honolulu ("City").

As a further condition of the MOU, the ADC granted to D.R. Horton a right of first refusal to approximately 500 acres of the Galbraith lands to accommodate displaced Ewa farmers. The ADC Board has approved applications for land license for approximately 500 acres of the Galbraith Estates to various farmers, including 230 acres to Larry Jefts and 50 acres to Ho Farms. Approximately 150 additional acres is pending approval to

EXHIBIT "2"

Aloun Farms after a complete application is submitted. A number of farmers will have small lots, consistent with the City's goal of encouraging small farmers. The City also contributed to the purchase of the Galbraith Estates in exchange for a conservation easement.

Although the land licenses have yet to be executed, the small farmers are currently attending, or will be attending, classes hosted by the ADC on food safety, pesticide use, and other farm management and land stewardship practices. The ADC has cleared and graded and is also amending and preparing the land for the incoming tenants by increasing the ph level which is currently too low (acidic) for many types of crops. Once this first phase is completed, the ADC is prepared to award the remainder of the available lands to qualified farmers.

The ADC has also replaced the pump for well water on the land, and is currently improving and upgrading the irrigation water distribution system. Possible future plans for irrigation water include the use of water from the City's treatment facility which is currently being emptied into Lake Wilson. The ADC is currently working with the City to develop the funding, design, planning and hopefully, the construction of the project.

The plans and designs for farming the ADC lands in Central Oahu are expansive and aggressive. To the extent D.R. Horton is able to complete its reclassification of the Ewa lands, it, too, will contribute to the infrastructure in Central Oahu. The recapture by the State of former pineapple and sugar lands, and the ability of the State to make the lands readily available to diversified agriculture, are just the beginning of the revitalization of the Wahiawa area. D.R. Horton has proven to be committed to helping the State and the interested farmers in realizing that objective.

Sincerely,

James J. Nakatani
Executive Director

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAI'I

In the Matter of the Petition	)	DOCKET NO. A06-771
	)	
of	)	CERTIFICATE OF SERVICE
	)	
D.R. HORTON – SCHULER HOMES, LLC, a Delaware limited liability company d.b.a. D.R. HORTON-SCHULER DIVISION	)	
	)	
To Amend the Agricultural Land Use District Boundaries into the Urban Land Use District for Approximately 1,553.844 Acres in Ewa District, Island of Oahu, Tax Map Key Nos. (1) 9-1-017:004 (por.), 059 and 072; (1) 9-1-018:001 and 004	)	

CERTIFICATE OF SERVICE

I hereby certify that due service of a copy of **OFFICE OF PLANNING'S OPPOSITION TO INVERVENOR FRIENDS OF MAKAKILO, INC.'S MOTION THAT THE LAND USE COMMISSION ORDER D.R. HORTON-SCHULER HOMES, LLC TO SHOW CAUSE WHY THE HO'OPILI LAND SHOULD NOT REVERT TO THE AGRICULTURAL DISTRICT**, was made by hand-delivery or by depositing the same with the U. S. mail, postage prepaid, on August 24, 2015, addressed to:

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DATED: Honolulu, Hawai'i, August 24, 2015.

BRYAN C. YEE
Deputy Attorney General