



BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

LAND USE COMMISSION
STATE OF HAWAII
2015 OCT 28 A 11:00

In the Matter of the Petition of)	DOCKET NO. DR15-53
)	
KA `OHANA O KALAUPAPA)	ORDER GRANTING PETITION
)	FOR DECLARATORY ORDER AND
For A Declaratory Order Under)	PETITIONER'S REQUEST
§§ 15-15-98 <i>et seq.</i> of the Land Use)	TO WAIVE FILING FEE
Commission Rules and Hawai'i)	
Revised Statutes § 91-8)	
)	

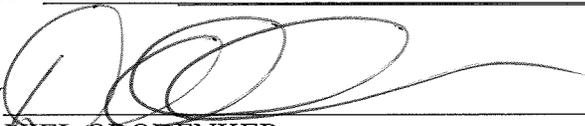
ORDER GRANTING PETITION FOR DECLARATORY ORDER
AND PETITIONER'S REQUEST TO WAIVE FILING FEE

AND

CERTIFICATE OF SERVICE

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.

Date 10/28/15

BY 
 DANIEL ORODENKER
 Executive Officer



BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

LAND USE COMMISSION
STATE OF HAWAII
2015 OCT 28 A 11:06

In the Matter of the Petition of)	DOCKET NO. DR15-53
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ORDER GRANTING PETITION FOR DECLARATORY ORDER
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CERTIFICATE OF SERVICE



BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

LAND USE COMMISSION
STATE OF HAWAII
2015 OCT 28 A 11:07

In the Matter of the Petition of)	DOCKET NO. DR15-53
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KA `OHANA O KALAUPAPA)	ORDER GRANTING PETITION
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ORDER GRANTING PETITION FOR DECLARATORY ORDER
AND PETITIONER'S REQUEST TO WAIVE FILING FEE

On September 9, 2015, Ka `Ohana O Kalaupapa (“Ka `Ohana”), through its attorney Tom Pierce, Attorney at Law, LLC, filed a Petition For Declaratory Order (“Petition”), pursuant to Section 15-15-98 *et seq.*, Hawai`i Administrative Rules (“HAR”), and Section 91-8, Hawai`i Revised Statutes (“HRS”); Exhibits 1 – 17, and Certificate of Service. Ka `Ohana sought a declaratory ruling from the Commission declaring that the proposed Kalaupapa Memorial is a permitted use under Section 205-4.5, HRS. In addition, Ka `Ohana requested a waiver of the Commission’s filing fee as a native Hawaiian non-profit organization.

On September 16, 2015, the Commission mailed a Notice of Docket filing to all potential interested parties as identified by Petitioner.

On September 28, 2015, the State of Hawai`i Office of Planning (“OP”) filed its Response to Ka `Ohana’s Petition for Declaratory Order, Exhibits A-B, and Certificate of Service.

On September 29, 2015, the Commission received public testimony from Clarence “Boogie” Kahilihiwa.

On October 8, 2015, the Commission mailed a Meeting Notice and Agenda for its meeting scheduled for October 16, 2015, in Honolulu, O`ahu, to the Parties, and the O`ahu, Maui, and Statewide mailing lists.

On October 16, 2015, the Commission received public testimony via e-mail from De Gray Vanderbilt.

On October 16, 2015, the Commission met in Honolulu, O`ahu, Hawai`i, to consider the Petition pursuant to Section 15-15-100, HAR. Tom Pierce, Esq., appeared on behalf of Ka `Ohana. The following individuals provided oral and/or written testimony: Clarence “Boogie” Kahilihiwa, De Gray Vanderbilt, and Valerie Munson.¹ The Commission also heard public testimony on the Petition from Bryan C. Yee, Esq., on behalf of OP. There were no representatives for the Department of Health or the County of Kalawao.

Mr. Pierce described that basis for Ka `Ohana requesting a wavier of the filing fee. In its discussion of the request for waiver of the filing fees, the Commission noted, among other things, the nature of Ka `Ohana as a non-profit and past waiver requests.

Thereafter, a motion was made and seconded to GRANT the Petitioner’s request to waive filing fees pursuant to Section 15-15-34(b), HAR. Following discussion by the Commission, a vote was taken on this motion. There being a vote tally of 8 ayes and 0 nays, the motion carried.

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In its deliberations on the Petition, the Commission noted, among other things, that the proposed Kalaupapa Memorial is currently within the State Agricultural District, is an activity

¹ The Commission previously received written testimony on the Petition from Clarence “Boogie” Kahilihiwa.

² As of this date the Commission has one vacant position.

related to and would occur on property on the National Register of Historic Places, and is a permitted use under Section 205-4.5(a)(8), HRS, and under Section 15-15-25(b), HAR.

Thereafter, a motion was made and seconded to GRANT the Petition pursuant to Section 15-15-100(a)(2), HAR. Following discussion by the Commissioners, a vote was taken on this motion. There being a vote tally of 8 ayes and 0 nays, the motion carried.

ORDER

Having duly considered the Petition and the written and oral arguments presented by KA `OHANA O KALAUPAPA, the pleadings filed by OP, as well as public comments received, and a motion having been made at a meeting conducted on October 16, 2015, in Honolulu, O`ahu, 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, this Commission ORDERS that the Petition be GRANTED and it is declared that under the particular facts of this case, the Kalaupapa Memorial, as presented to this Commission, is a permitted use on the property described in the Petition.

ADOPTION OF ORDER

This ORDER shall take effect upon the date this ORDER is certified by this Commission.

Done at Honolulu, Hawai'i, this 28th, day of October, 2015, per motion on
October 16, 2015.

LAND USE COMMISSION

APPROVED AS TO FORM

STATE OF HAWAI'I



Deputy Attorney General

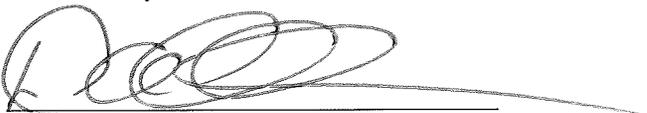
By 

EDMUND ACZON
Chairperson and Commissioner

Filed and effective on:

10/28/15

Certified by:



DANIEL ORODENKER
Executive Officer



BEFORE THE LAND USE COMMISSION
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Revised Statutes § 91-8)	
_____)	

CERTIFICATE OF SERVICE

I hereby certify that a ORDER GRANTING PETITION FOR DECLARATORY ORDER 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:

CERTIFIED MAIL: TOM PIERCE, Esq.
PETER MARTIN, Esq.
PO Box 798
Makawao, Hawai`i 96768
Petitioner Representative

DEL.: LEO ASUNCION, Acting Director
State Office of Planning
P. O. Box 2359
Honolulu, Hawai`i 96804-2359

REGULAR MAIL: BRYAN C. YEE, Esq.
Deputy Attorney General
425 Queen Street
Honolulu, Hawai`i 96813
Attorney for State Office of Planning

REGULAR MAIL: SUZANNE CASE, Chairperson
Department of Land and Natural Resources
State of Hawai`i
Post Office Box 621
Honolulu HI 96809

REGULAR MAIL: CURT COTTRELL, Administrator
State Parks Division
Department of Land and Natural Resources
State of Hawai`i
1151 Punchbowl Street
Honolulu HI 96813

REGULAR MAIL: VIRGINIA PRESSLER, M.D. Director
Department of Health
State of Hawai`i
1250 Punchbowl Street
Honolulu HI 96813

REGULAR MAIL: ANDREA J. ARMITAGE, Deputy Attorney General
Department of the Attorney General
425 Queen Street
Honolulu HI 96813
Attorney for State of Hawai`i Department of Health

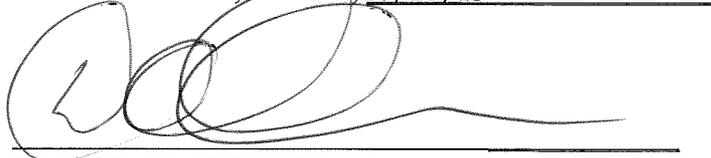
REGULAR MAIL: ERIKA STEIN ESPANIOLA, Superintendent
National Park Service
United States Department of the Interior
Kalaupapa National Historical Park
P.O. 2222
Kalaupapa HI 96742

REGULAR MAIL: MOST REVEREND LARRY SILVA, Bishop of Honolulu
Diocese of Honolulu Office of the Bishop
1184 Bishop Street
Honolulu HI 96813-2859

REGULAR MAIL: CHARLES BUCK, Conference Minister
Hawai`i Conference
United Church of Christ
15 Craigsid e Place
Honolulu HI 96817

REGULAR Office of Hawaiian Affairs
MAIL: State of Hawai'i
711 Kapiolani Boulevard, Suite 500
Honolulu HI 96813

Dated: Honolulu, Hawai'i, 10/28/15

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke at the end, positioned above a horizontal line.

DANIEL ORODENKER

Executive Officer