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LAND USE COMMISSION
STATE OF HAWAII

2016 APR -6 A 11:07

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April 6, 2016

VIA HAND DELIVERY

Daniel Orodener
Executive Officer
Land Use Commission, State of Hawai'i
State Office Tower
Leiopapa A Kamehameha Building
235 South Beretania Street, Room 406
Honolulu, Hawai'i 96813

Re: Olowalu Town LLC/Olowalu Ekolu LLC Petition for District Boundary
Amendment - Closing of LUC Docket A10-786

Dear Mr. Orodener:

On May 13, 2010, on behalf of Olowalu Town LLC, and Olowalu Ekolu LLC, my former law partner, Blaine J. Kobayashi filed with the State Land Use Commission a Petition for District Boundary Amendment and Exhibits 1 through 10, and on May 17, 2010, he filed with the Commission a notarized affidavit of mailing with Exhibits A and B, and a certificate of service, in LUC Docket No. A10-786. By letter dated May 24, 2010, a copy of which is enclosed, the LUC acknowledged receipt of the filing and determined that "the Petition shall not be deemed a proper filing and accepted for processing until the LUC accepts the Final EIS and the other petition content requirements are met pursuant to section 15-15-50, Hawaii Administrative Rules (HAR)." This letter is to inform you that Olowalu Town LLC, and Olowalu Ekolu LLC do not intend to pursue the district boundary amendment that was proposed in the 2010 Petition, and that the Commission should close Docket No. A10-786.

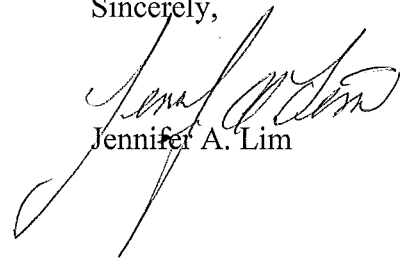
As you know, on December 11, 2015, the Commission issued its Findings of Fact, Conclusions of Law, and Decision and Order Denying Acceptance of a Final Environmental Impact Statement in this Docket. The Petition that was filed in 2010 was never deemed a proper filing under HRS § 205-4(b) and HAR § 15-15-50. Under HAR § 15-15-50.6(a), a petitioner

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may withdraw a petition *without prejudice* at any time before a petition for district boundary amendment is deemed a proper filing. As such, the limitation under HAR § 15-15-76(b) does not apply here, where the Petition was never deemed a proper filing.

We appreciate the time and effort that you, your staff and the Commission put into this matter. If you have any questions, please feel free to contact me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jennifer A. Lim".

Jennifer A. Lim

JAL/jah
Enclosure

cc: Olowalu Town LLC/Olowalu Ekolu, LLC
Munekiyo Hiraga
4812-2415-0575

LINDA LINGLE
Governor

JAMES R. AIONA, JR.
Lieutenant Governor

THEODORE E. LIU
Director

MARK K. ANDERSON
Deputy Director



LAND USE COMMISSION

Department of Business, Economic Development & Tourism
State of Hawai'i

ORLANDO "DAN" DAVIDSON
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May 24, 2010

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2200 Main Street
Wailuku, Hawaii 96793-1691

Mr. William Frampton
Olowalu Town LLC
2073 Wells Street, Suite 101
Wailuku, Hawaii 96793

Dear Messrs. Kobayashi and Frampton:

Subject: Docket No. A10-786/Olowalu Town LLC and Olowalu'Ekolu LLC

This is to acknowledge receipt of the following documents filed on May 13, 2010:

- 1) Petition for District Boundary Amendment (Petition); and
- 2) Exhibits "1" through "10."

We further acknowledge receipt of the following documents filed on May 17, 2010:

- 1) Notarized Affidavit of Mailing;
- 2) Exhibits "A" and "B"; and
- 3) Certificate of Service.

We understand that the Petition proposes the reclassification of lands from the State Land Use Agricultural District to the State Land Use Rural and Urban Districts. We further understand that the Environmental Assessment/Environmental Impact Statement Preparation Notice (EA/EISPN) (Exhibit "8") has been included with the Petition to address the requirements of chapter 343, Hawaii Revised Statutes, to the extent that the Proposed Olowalu Town Master Plan for which the Petition has been

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filed will involve an amendment to the West Maui Community Plan, the use of State lands, the use of lands in the State Land Use Conservation District, and the construction of wastewater treatment facilities, and may generate significant impacts upon the environment to warrant the preparation of an Environmental Impact Statement (EIS).

With this understanding and based on the belief that the Land Use Commission (LUC) will require the preparation of an EIS, the Petition shall not be deemed a proper filing and accepted for processing until the LUC accepts the Final EIS and the other petition content requirements are met pursuant to section 15-15-50, Hawaii Administrative Rules (HAR).

Accordingly, we will defer our comprehensive review of the Petition for completeness at this time. However, we would like to point out the following areas that should be addressed as part of the technical requirements for all petitions:

- 1) In accordance with section 15-15-48, HAR, the petitioner shall serve copies of the Petition to all persons with a property interest in the subject property (i.e., Petition Area) as recorded in the county's real property tax records at the time the Petition is filed. According to the parcel history sheet for TMK: 4-8-03: 108, it appears that Olowalu Cultural Reserve was granted a lease for non-profit, educational, cultural, and religious purposes (Easement 23). There is also reference in the parcel history sheet for TMK: 4-8-03: 124 to Easement R-1 apparently for the same Cultural Reserve. If these easements are, in fact, located within the Petition Area, Petitioner should serve the Olowalu Cultural Reserve with a copy of the Petition, and an amended Affidavit of Service of Petition for District Boundary Amendment and an amended Certificate of Service should be filed.

Additionally, review of the applicable tax map indicates that there are various greenway, drainage, access, roadway, and burial site easements identified in the area. If the grantees of these easements have a property interest in the Petition Area by virtue of the easements' location, they should similarly be provided with a copy of

the Petition if they have not already been served and the above service requirements would apply.

- 2) In accordance with section 15-15-50(c)(3), HAR, a description of the Petition Area, including the tax map that identify the area under petition, is required. We request that an original *full-sized* tax map (i.e., 36" x 24", border to border) be provided with the Petition Area clearly identified. The required 15 copies may be a reduction of the full-sized map but should still include border to border coverage.

Section 15-15-50(c)(3), HAR, also requires the submission of a metes and bounds map and description that is dated, signed, and stamped by a registered professional land surveyor where the Petition Area consists of a portion of a parcel as appears to be the case in this docket. We request that all exclusions, easements, kuleanas, and other interests be reflected on the map. The map should also delineate in metes and bounds the specific areas within the Petition Area that are proposed to be reclassified to the State Land Use Rural and Urban Districts.

We note that the 320-acre Petition Area in the Petition is described as *Portions of Tax Map Key Nos. (2) 4-8-003: 084, 098-118, and 124*. However, it is unclear what specific parcels are being referenced to as portions. Does the Petition Area consist of portions of all the above parcels? By contrast, the EA/EISPN describes the site in the context of the much larger 636.480-acre Olowalu Town Master Plan area and identifies only parcels 104, 108, and 118 as consisting of portions.

In the interest of clarity, we strongly suggest that the Petition (including caption and text) clearly describe the Petition Area by its exact acreage and tax map key number (either portion or whole of each parcel). The EA/EISPN should likewise be consistent when the Petition Area is described and clearly differentiate it from the larger Master Plan area.

- 3) In accordance with section 15-15-50(c)(8), HAR, a statement describing the financial condition together with a current balance sheet and

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income statement is required. We acknowledge that evidence of Petitioners' financial condition will be provided in the form of current balance sheet and income statements upon completion of the Final EIS.

- 4) In accordance with section 15-15-50(c)(19), HAR, a schedule for development of the total project in increments together with a map identifying the location of each increment, with each such increment to be completed within no more than a ten-year period, is required. Consistent with section 15-15-50(c)(3), HAR, the increments should be delineated in a metes and bounds map and description prepared by a registered professional land surveyor. The incremental plan should be consistent with the anticipated 30-year time horizon for the project.

Please be advised that in the event a notice of intent to intervene is filed with the LUC pursuant to section 15-15-52(b), HAR, the Petition should be served upon the potential intervenor and an affidavit of petitioner or his agent attesting to his compliance with section 15-15-48(b), HAR, should be filed.

We have no further comments to offer at this time. Your attention to these matters is requested.

Please feel free to contact Bert Saruwatari of our office at 587-3822 should you require clarification or any further assistance.

Sincerely,



ORLANDO DAVIDSON
Executive Officer

c: Office of Planning
County of Maui Department of Planning