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BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

2013 APR -3 A 8-35  
LAND USE COMMISSION  
STATE OF HAWAII

In the Matter of the Petition of:	)	DOCKET NO. A12-795
	)	
	)	PETITIONER'S POSITION ON LAND
WEST MAUI LAND COMPANY, INC., a Hawaii corporation, and KAHOMA RESIDENTIAL LLC, a Hawaii limited liability company,	)	USE COMMISSION'S PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW, DECISION AND ORDER;
	)	CERTIFICATE OF SERVICE
	)	
To Amend the Land Use District Boundary of certain land situated at Lahaina, Island of Maui, State of Hawaii, consisting of 16.7 acres from the agricultural district to the urban district, Tax Map Key No. (2) 4-5-010:005.	)	
	)	

PETITIONER'S POSITION ON LAND USE COMMISSION'S PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW, DECISION AND ORDER

Petitioner West Maui Land Company, Inc.

("Petitioner"), pursuant to H. Admin. R. § 15-15-82(c), supports the Land Use Commission's Proposed Findings of Fact, Conclusions of Law, Decision and Order ("Proposed FOF/COL").

A. Support of Proposed Findings of Fact, Conclusions of Law, Decision and Order.

Petitioner supports the Land Use Commission's Proposed FOF/COL with two minor exceptions.

Findings of fact and conclusions of law must deal fully and properly with all issues to be decided in the matter under review, must make a reasoned decision, and must enable judicial review of that decision. Application of Hawaii Elec. Light Co., Inc., 60 Haw. 625, 594 P.2d 612 (1979). Findings of fact must be clear, specific, non-conclusory and supportive of the ultimate statutory finding. Id. A finding of fact must leave none of the functions of the administrative agency to be discharged by others but must have all the sufficiency, fullness and perspicuity of a jury verdict. Burr v. Des Moines R.R. & Nav. Co., 68 U.S. 199 (1863).

A conclusion of law is a statement by which the administrative body analyzes facts under applicable common or statutory law. State v. Oaks, 163 N.C. App. 719, 594 S.E.2d 788 (2004).

In its review, the Commission must find upon a clear preponderance of the evidence that the proposed boundary amendment is reasonable, is not violative of H. Rev. Stat. § 205-2, and is consistent with the policies and criteria

established pursuant to H. Rev. Stat. §§ 205-16, 205-17, and 205A-2. H. Admin. R. § 15-15-77.

In the instant matter, the Proposed FOF/COL make a full and complete analysis of the decision making criteria for boundary amendments, make a reasoned decision, and enables the judicial review of that decision. As such, the Proposed FOF/COL served on the parties on March 29, 2013, should be approved with the following modifications.

First, there was an error with regarding to FOF 119. The action meeting held by the Commission on January 10, 2013, occurred in Honolulu, Hawaii, and not in Kahului, Maui. Accordingly, the location of the meeting referenced in FOF 119 should be changed to reflect its proper location.

Second, two typographical errors should be corrected. In FOF 206, the word "Project=s" should be changed to "Project's" and in FOF 216, the word "mile" should be changed to "miles."

For the foregoing reasons, Petitioner respectfully requests that the Proposed FOF/COL be approved with the three requested changes identified above.

DATED: Kahului, Hawai'i, APR -2 2013.

  
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JAMES W. GEIGER  
Attorney for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that on the date hereof I caused a copy of the foregoing to be duly served by depositing same in the United States mail, postage prepaid, to the following at their last known address:

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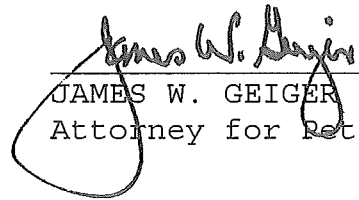
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DATED: Kahului, Hawai'i, APR - 2 2013.

  
\_\_\_\_\_  
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