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KUNIA LOA RIDGE FARMLANDS

BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Petition of	)	DOCKET No. DR12-49
	)	
KUNIA LOA RIDGE FARMLANDS	)	PETITION FOR DECLARATORY
	)	ORDER TO DESIGNATE
For Declaratory Order to Designate	)	IMPORTANT AGRICULTURAL
Important Agricultural Lands	)	LANDS; VERIFICATION; EXHIBITS
for approximately 854.23 acres at Kunia,	)	"A" - "C-2"
Oahu, Hawaii.	)	
_____	)	

PETITION FOR DECLARATORY ORDER  
TO DESIGNATE IMPORTANT AGRICULTURAL LANDS

Comes now, Petitioner KUNIA LOA RIDGE FARMLANDS ("Petitioner"), by and through its attorneys, SCHLACK ITO, and respectfully petitions the Land Use Commission of the State of Hawaii ("Commission") to issue a declaratory order designating approximately 854.23 acres of land at Kunia, O`ahu, Hawaii ("Property"), more particularly described below, as Important Agricultural Lands ("IAL") pursuant to §§ 205-44 and 45 of the Hawaii Revised Statutes ("HRS") and §§ 15-15-98 and 99 of the Hawaii Administrative Rules ("HAR"). In support of this Petition, Petitioner alleges and avers as follows:

I. Petition Content Requirements.

Contents requirement for Petition for Declaration Order pursuant to HAR § 15-15-99:

A. Name, address, and telephone number of Petitioner. PETITIONER KUNIA LOA RIDGE FARMLANDS is a Hawaii corporation, whose address is 1188 Bishop Street, Suite 1201, Honolulu, Hawaii 96813, and telephone number is (808) 778-8889. Raymond S. Iwamoto and the law firm of Schlack Ito have been appointed to represent the Petitioner pursuant to HAR Section 15-15-35(b). All correspondence and communications in regard to this Petition shall be addressed to, and served upon, Raymond S. Iwamoto, Schlack Ito, LLLC, 745 Fort Street, Suite 1500, Honolulu, Hawaii 96813.

B. Signature of each petitioner. This petition is signed below by Petitioner's attorney who is authorized to sign and file this petition on Petitioner's behalf.

C. Designation of specific question. Whether the lands identified by Petitioner in this Petition should be designated as IAL pursuant to HRS §§ 205-44 and 45.

D. Statement of Petitioner's interest in the subject matter and reason for the submission. Petitioner is the owner in fee simple of those lands located on the island of Oahu, Hawaii, and more specifically identified and described on Exhibit "A" attached hereto ("Property"). Petitioner requests the Commission designate the Property as IAL pursuant to HRS §§ 205-44 and 45.

E. Statement of Petitioner's position or contention. It is Petitioner's position that the Property meets the qualifications for designation as IAL under HRS § 205-44, and that the Commission should issue a declaratory order designating the Property as IAL pursuant to HRS § 205-45.

F. Memorandum of authorities, containing a full discussion of reasons and legal authorities in support of Petitioner's position. HRS § 205-45(c) provides that the petition for declaratory order designating IAL shall be submitted in accordance with subchapter 14 of the Commission's rules and the requirements contained in HRS §-205-45(c). The petition for declaratory order content requirements under subchapter 14 are found at HAR § 15-15-99 and are discussed in Sections A-F herein. The requirements of HRS § 205-45(c) include the following:

1. Tax Map Key Numbers and verification and authorization from the applicable landowners. Petitioner seeks to designate as IAL approximately 854.23 acres of land on the island of O`ahu, Hawaii. Attached hereto and incorporated herein by reference as Exhibit "B" is an Agricultural Feasibility Study identifying the location, Tax Map Key Numbers, and acreage of the Property. Attached hereto and incorporated herein by reference as Exhibits "C-1" and "C-2" are the deed, with the major recorded documents, and the title policy verifying ownership of the Property. The Agricultural Feasibility Study was conducted and the report prepared as required by Section 22-3 of the Revised Ordinances of Honolulu and Section 205-4.5, Hawaii Revised Statutes but includes relevant information and support for this Petition.

2. Proof of qualification for designation as IAL under HRS § 205-44. HRS § 205-44(c) provides the standards and criteria to identify IAL. HRS § 205-44(a) provides that lands identified as IAL need not meet every standard and criteria listed in HRS § 205-44(c); rather, lands meeting any of the criteria in HRS § 205-44(c) shall be given initial consideration, provided that the designation of IAL shall be made by weighing the standards and criteria with each other to meet the constitutionally mandated purposes in article XI, section 3, of the Hawaii Constitution and the objectives and policies for IAL in sections 205-42 and 205-43.

Attached hereto and incorporated by reference herein as Exhibit "B" is the Agricultural Feasibility Study, which describes and illustrates the characteristics of the Property.

The standards and criteria for identifying IAL pursuant to HRS § 205-44(c) are as follows:

a. Land currently used for agricultural production. Property originally consisted of a single parcel all of which is restricted to use for agricultural purposes by recorded Declaration of Covenants, Conditions and Restrictions. The Property for many years was used by Del Monte Foods and Oahu Sugar Company for plantation level pineapple and sugar cane cultivation. After these plantations abandoned such use of the Property, the Property was purchased by the Applicant to be subdivided and sold in leasehold to small farmers in subdivided parcels of a minimum of 5-acres. Approximately 44% (378 acres) of the proposed IAL lands are currently used for agricultural production. Small farmers and ranchers who have been granted long term lot leases are actively prepping the great majority of the remainder of the proposed IAL for eventual agricultural production. The Petitioner's general contractor is about 97% complete in the construction of the Reservoirs and water system and soon a larger percentage of the proposed IAL lands will be in active agricultural production.

b. Land with soil qualities and growing conditions that support agricultural production of food, fiber, or fuel- and energy-producing crops. The University of Hawai'i, Land Study Bureau ("LSB") developed the Overall Productivity Rating, which classified soils according to five (5) levels, with "A" representing the class of highest productivity soils and "E" representing the lowest. These letters are followed by numbers which further classify the soil types by conveying such information as texture, drainage, and stoniness. Approximately 9.71 acres of the Property are rated "A," 49.73 acres are rated "B," 179.18 acres

are rated "C," 260.89 acres are rated "D," and 354.71 acres are rated "F." See the attached Exhibit B.

c. Lands identified under agricultural productivity ratings systems, such as the agricultural lands of importance to the State of Hawaii (ALISH) system adopted by the board of agriculture on January 28, 1977. In 1977, the State Department of Agriculture developed a classification system to identify Agricultural Lands of Importance to the State of Hawai'i ("ALISH"). The classification system is based primarily, though not exclusively, upon the soil characteristics of the lands. The three (3) classes of ALISH lands are: "Prime," "Unique," and "Other," with all remaining lands termed "Unclassified". When utilized with modern farming methods, "Prime" agricultural lands have a soil quality, growing season, and moisture supply necessary to produce sustained crop yields economically. "Unique" agricultural lands possess a combination of soil quality, growing season, and moisture supply to produce sustained high yields of a specific crop. "Other" agricultural lands include those that have not been rated as "Prime" or "Unique". Under the ALISH system, approximately 8.32 acres is designated "Prime Agricultural Land." Eastern portions of the site, approximately 123.70 acres are classified as "Unique Agricultural Land." The steep and or rocky western portions of the site, approximately 351.04 acres are Unclassified Land. The remaining portions of the site, approximately 371.16 acres, are classified as "Other Important Agricultural Land." See the attached Exhibit B.

d. Land types associated with traditional native Hawaiian agricultural uses, such as taro cultivation, or unique agricultural crops and uses, such as coffee, vineyards, aquaculture, and energy production. The small and manageable size of the to be subdivided lots and the availability of water following completion of the delivery system encourages smaller

scale diversified agriculture some of which may include traditional native Hawaiian agricultural uses. These could include seed corn, fruits such as bananas, flowers, nursery products, including ti leaf, ginger, ferns, `Ōlena, Pepeiao, bird of paradise, other native trees such as A'ali'i, Alahe'e, Hapu'u, Lo`ulu, Noni, and others listed in Exhibit B.

e. Lands with sufficient quantities of water to support viable agricultural production. The Property belongs to the Kunia Water Association which operates the Kunia Water System; The Kunia Water System is the former Del Monte Foods pineapple plantation water system. It has three well sources, Dell Monte 1 (State No. 2703-01), Del Monte 3 (State No. 2803-05) and Del Monte 4 (State No. 2803-07) and a 2.0 million gallon (MG) volume reservoir. Two or three additional reservoirs will be constructed on the site to provide onsite storage volume to accommodate the maximum day irrigation use (approximately 4 million gallons). The Property's allocated share of water from the Kunia Water System is substantially greater than actual irrigated use of the Property by previous users. See Exhibit B.

f. Land whose designation as Important Agricultural Lands is consistent with general, development, and community plans of the County. The Property is entirely classified within the State Land Use Agricultural District and zoned by the City and County of Honolulu as AG-1 Restricted Agricultural. See Exhibit B and Exhibit B Figures 4 and 5.

g. Land that contributes to maintaining a critical land mass important to agricultural operating productivity. Petitioner seeks to designate approximately 854.23 acres of land as IAL on O`ahu, approximately 56% of which will be used for diversified agriculture and the remaining lands for ranching and grazing. The Property is strategically located in central O`ahu to provide appropriately small sized farm operations in close proximity to existing

highways and water sources which are ideally suited to accommodate the cultivation of diversified agriculture for local markets. Unlike monocrops, diversified agriculture is normally comprised of smaller farms, and with the demise of large scale plantations, the State of Hawaii encourages diversified agricultural use by small farmers.

h. Land with or near support infrastructure conducive to agricultural productivity, such as transportation to markets, water, or power. Existing or in the process of being completed infrastructure servicing the Property include water storage, irrigation delivery systems, roadways, and a connector road to Kunia Road, which in turn will connect to other transport systems, and markets and necessary facilities to support diversified agriculture.

3. The current or planned agricultural use of the area sought to be designated as IAL. As described above, all of the Property is intended and restricted to agricultural use and the great majority to be used for diversified agriculture and the remaining areas for ranching.

## II. Waiver of 85/15 Reclassification Incentive

Petitioner is not seeking a reclassification of land pursuant to HRS 205-45(b) in conjunction with this Petition to designate IAL. Furthermore, Petitioner hereby voluntarily waives any and all rights to assert, claim, or exercise any credits pursuant to HRS § 205-45(h), as effective as of the date of this petition, that may be earned by Petitioner in the event of and as a result of this Petition being granted. This waiver is limited to the use of credits for the sole purpose of reclassifying other lands that are not the subject of this Petition to the Urban, Rural, or Conservation Districts pursuant to HRS § 205-45(h), as effective as of the date of this petition, and shall not apply to any other credits, incentives, rights, or privileges that Petitioner may possess now or in the future, whether known or unknown, which are hereby expressly reserved.

Based on the foregoing, Petitioner respectfully requests that the Commission find that the Petition meets the standards for designating Important Agricultural Lands pursuant to HRS § 205-44 and 45, and designates the Property as Important Agricultural Lands.

DATED: Honolulu, Hawai'i, December 31, 2012



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RAYMOND S. IWAMOTO  
Attorney for Petitioner  
KUNIA LOA RIDGE FARMLANDS