

LAND USE COMMISSION  
MEETING MINUTES

**January 10, 2013 – 9:00 a.m.**  
**Conference Room #3, Airport Meeting Room**  
**400 Rodgers Boulevard, Honolulu, HI**

COMMISSIONERS PRESENT: Lance Inouye  
Sheldon Biga  
Ernest Matsumura  
Thomas Contrades  
Nicholas Teves, Jr.  
Chad McDonald  
Napua Makua

COMMISSIONERS EXCUSED: Ronald Heller  
Kyle Chock

STAFF PRESENT: Daniel Orodener, Executive Officer  
Scott Derrickson Staff Planner  
Diane Erickson, Deputy Attorney General  
Riley Hakoda, Staff Planner/Chief Clerk

COURT REPORTER: Holly Hackett

AUDIO TECHNICIAN: Walter Mensching

**CALL TO ORDER**

Acting Chair McDonald called the meeting to order at 9:00 a.m.

**APPROVAL OF MINUTES**

Acting Chair McDonald asked if there were any corrections or additions to the December 6, 2012 minutes. There were none. Commissioner Biga moved to approve the minutes. Commissioner Teves seconded the motion. The minutes were unanimously approved by a voice vote (7-0).

## TENTATIVE MEETING SCHEDULE

Executive Officer Orodenker provided the following:

- The regular tentative meeting schedule for the calendar year 2013 was distributed in the handout material for the Commissioners.
- The next LUC meeting is scheduled for January 24, 2013 on Oahu for a status report on DR08-36 Ko Olina Boat Ramp
- The February 7-8, 2013 meeting will be on Maui and Kauai for oral argument and decision-making on A94-706 Ka`ono`ulu Ranch on the 7th and for a site visit and meeting to address the DR14-48 Grove Farms IAL Petition on the 8th.
- The February 21-22, 2013 meeting will include the start of docket A12-796 Waikō Industrial Investment.
- Any questions or concerns- please contact LUC staff.

Acting Chair McDonald requested a motion to amend the agenda to include an Executive Session prior to the start of the scheduled agenda proceedings.

Commissioner Makua moved and Commissioner Inouye seconded the motion for an executive session and by a unanimous voice vote (7-0), the Commission entered executive session at 9:07 a.m. and reconvened at 9:26 a.m.

## **ACTION**

### **A12-795 WEST MAUI LAND COMPANY, INC. - KAHOMA RESIDENTIAL LLC (Maui)**

Acting Chair McDonald announced that these were the proceedings for the adoption of order for Docket No. A12-795-denying the Petition for reclassification of approximately 16.7 acres of land from the Agricultural District to the Urban District at Lāhainā, Maui, Hawai'i for a residential subdivision to provide 68 single-family affordable housing units to families earning less than 160% of the median family income of families in Maui County, Hawai'i, TMK Nos. (2) 4-5-10:005.

## APPEARANCES

James Geiger, Esq., represented West Maui Land Inc.

Heidi Bigelow, West Maui Land Inc.

James Giroux, Esq., Deputy Corporation Counsel, represented County of Maui Planning Department (County)

*(Please refer to LUC Transcript for more details on these matters)*  
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Bryan Yee, Esq., represented State Office of Planning (OP)  
Rodney Funakoshi, OP  
Routh Bolomet, Intervenor

Acting Chair McDonald updated the record and explained the procedures to be followed for the proceedings. There were no questions on the proposed procedures for the day and Acting Chair McDonald called for public witnesses.

PUBLIC WITNESSES:

1. Clare Apana

Ms. Apana expressed her gratitude and provided her perspective of why the denial of the Petition was the appropriate action for the Commission to take.

There were no questions for Ms. Apana.

There were no further public witnesses.

Mr. Geiger stated that he opposed the action being taken by the Commission to adopt the form of the order and argued how he thought HAR § 15-15-82(b) and (c) should be interpreted. Mr. Giroux joined in Mr. Geiger's opposition to the adoption of the order. Mr. Yee shared his perspective of what Mr. Geiger and Mr. Giroux were basing their interpretation on and discussion ensued to clarify the specifics of the objection.

Acting Chair McDonald moved and Commissioner Teves seconded the motion for an executive session. By a unanimous voice vote (7-0), the Commission entered into executive session at 9:35 a.m. and reconvened at 9:51 a.m.

Acting Chair McDonald commented that Mr. Geiger and Mr. Giroux's objections were noted for the record and stated that he overruled Mr. Geiger's objection and would entertain a motion to adopt the form of the order. Commissioner Biga moved to adopt the form of the order and Commissioner Teves seconded the motion.

The Commission voted as follows to adopt the form of the order.

Ayes: Commissioners Biga, Teves, Matsumura, Inouye (form only), Contrades (form only), Makua, and Acting Chair McDonald (form only). (Commissioner Inouye stated for the record that he did not agree with all of the proposed Findings of Fact and Conclusions of Law contained in the order, but that the form of the order correctly reflected the Commission's action.)

Nays: none

The motion passed 7-0 with 2 excused.

Acting Chair McDonald thanked the Parties and declared a recess at 9:55 a.m. to prepare for the next agenda item and reconvened the meeting at 10:00 a.m.

## **ACTION**

### **A99-728 HOUSING AND COMMUNITY DEVELOPMENT CORPORATION OF HAWAII (O`ahu) Department of Hawaiian Home Lands**

Acting Chair McDonald announced that this was an action meeting on the adoption of order for A99-728 Housing and Community Development Corporation of Hawaii granting Petitioner, The State of Hawaii Department of Hawaiian Home Lands' ("DHHL") Motion for Order amending the Findings of Fact, Conclusions of Law, and Decision and Order Dated September 8, 1999 to:

- 1) Recognize DHHL's standing to seek and obtain the relief requested by Petition
- 2) Re-designate a new docket (A99-728 (c)), covering that portion of the Petition Area identified as Tax Map Key No. (1) 9-1-016;142 comprising approximately 67.184 acres of land (Petition Area "C" or the Subject Property) separate and apart from the remaining 715 acres reclassified under Docket No. A99-728
- 3) Release the Petition Area "C" from the conditions of the 1999 Decision and Order and
- 4) Issue a new Findings of Fact, Conclusions of Law, and Decision and Order for the subject property.

## **APPEARANCES**

Craig Iha, Esq., represented DHHL  
Collette Honda Esq. represented HCDCH  
Don Kitaoka, Esq., represented City and County of Honolulu  
Department of Planning and Permitting (DPP)  
Tim Hata, DPP  
Bryan Yee, Esq., represented State Office of Planning (OP)  
Rodney Funakoshi, OP

Acting Chair McDonald updated the record and described the procedures to be followed for the hearing. There were no comments or objections to the procedures and Acting Chair McDonald announced that public testimony would be taken.

## **PUBLIC WITNESSES**

*(Please refer to LUC Transcript for more details on these matters)*  
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None

Acting Chair McDonald entertained a motion to adopt the form of the order for Docket No. A99-728 ( c ). Commissioner Inouye moved to adopt the form of the order with corrections to various typographical errors and amended wording for Conclusion of Law 22, page 61 and shared the details of his suggested changes to the form of the order. Commissioner Inouye stated that he would like to add at the end of the first sentence “, as reflected in these Findings of Fact, Conclusions of Law and Decision and Order”. Commissioner Matsumura seconded the motion.

Discussion occurred regarding the details of Commissioner Inouye’s suggested changes. Mr. Yee clarified that the use of the term “avigation” was the desired term that OP wanted to have included and not “aviation”. Commissioner Inouye acknowledged Mr. Yee’s comment and withdrew his suggested use of the term “aviation”. Commissioner Matsumura concurred with the change to the motion.

The Commission voted 7-0 with 2 excused to adopt the form of the order.

Acting Chair McDonald thanked the Parties and LUC staff; and announced that the Administrative Rules discussion scheduled on the agenda would be deferred due to delays in receiving responses from various agencies; and that the next LUC meeting would be on January 24, 2013. There being no further business, Acting Chair McDonald adjourned the meeting at 10:07 a.m.