

BENJAMIN J. CAYETANO  
GOVERNOR



ANTHONY J.H. CHING  
EXECUTIVE OFFICER

**STATE OF HAWAII**  
DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

**LAND USE COMMISSION**

P.O. Box 2359  
Honolulu, HI 96804-2359  
Telephone: 808-587-3822  
Fax: 808-587-3827

June 22, 2001

B. Martin Luna, Esq.  
Carlsmith Ball LLP,  
Post Office Box 1086  
Wailuku, Hawaii 96793-1086

Dear Mr. Luna:

Subject: Filing of 2001 Annual Report for LUC Docket No.  
A94-706/Kaonoulu Ranch

This is to acknowledge receipt of your letter dated June 14, 2001, transmitting requested clarification on Petitioner's intention to sell parcels in the Petition Area of the subject docket.

Please keep us apprised of the sale of the Petition Area to a purchaser/developer. We would like to note that pursuant to the Findings of Fact, Conclusions of Law, and Decision and Order issued February 10, 1995 for the subject docket, Petitioner or any successor interest shall perform compliance with conditions and performance of requirements.

Should you require clarification or further assistance in this matter, please contact Russell Kumabe of my staff at (808), 537-3822.

Sincerely,

A handwritten signature in cursive script that reads "Anthony J.H. Ching".

ANTHONY J.H. CHING  
Executive Officer

LC  
R  
UC-app/achy

# CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

ONE MAIN PLAZA, SUITE 400  
2200 MAIN STREET, P.O. BOX 1086  
WAILUKU, MAUI, HAWAII 96793-1086  
TELEPHONE (808) 242-4535 FAX (808) 244-4974  
WWW.CARLSMITH.COM

E-MAIL BML@CARLSMITH.COM

June 14, 2001

Mr. Anthony J. Ching  
Executive Officer  
Land Use Commission  
State of Hawaii  
P. O. Box 2359  
Honolulu, Hawaii 96804-2359

Re: 2001 Annual Report for LUC Docket No. A94-706; Kaonoulu Ranch

LAND USE COMMISSION  
STATE OF HAWAII  
2001 JUN 15 A 10:59

Dear Mr. Ching:

We acknowledge receipt of your letter dated May 24, 2001. We respond to your comments about the 2001 Annual Report for Kaonoulu Ranch as follows:

1. In its representation to the Land Use Commission when it sought approval of the district boundary amendment for the subject property, the Ranch stated that it would seek a developer as a partner or sell the property to a developer. The Ranch has decided that the sale of the property is the more prudent action to take. Accordingly, the Ranch has no present plan to proceed with the development of the property. All improvements to the property will be constructed by the purchaser/developer of said property. At this time, there is no prospective purchaser of the property so no specific entity can be identified to construct the improvements required in the LUC conditions for this docket.

2. Petitioner shall continue to file an annual report to the LUC until such time as the property is sold. As a condition in the sale of the property, Petitioner shall require its successor in interest to file the annual report to the LUC.

Mr. Anthony J. Ching  
June 14, 2001  
Page 2

In closing, I want to thank you for giving me a few more days beyond June 6, 2001 to respond to your May 24 letter. I hope the additional information herein satisfactorily clarifies the Petitioner's position regarding the pertinent provisions in the 2001 annual report.

Sincerely yours,



for B. Martin Luna

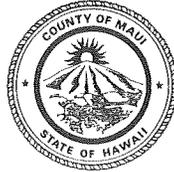
BML:mea

cc: Mr. Henry Rice  
5064808.1.013212-00003

JAMES "KIMO" APANA  
Mayor

JOHN E. MIN  
Director

CLAYTON I. YOSHIDA  
Deputy Director



RE  
EK-gggg  
RLE

COUNTY OF MAUI  
**DEPARTMENT OF PLANNING**

June 12, 2001

2001 JUN 15 A 10:58  
LAND USE COMMISSION  
STATE OF HAWAII

Mr. Anthony J. H. Ching, Executive Officer  
State Land Use Commission  
P. O. Box 2359  
Honolulu, Hawaii 96804-2359

Dear Mr. Ching:

RE: LUC Docket No. A94-706; Kaonoulu Ranch, TMK: 2-2-02:Por of 015  
and 3-9-001:016, Kihei, Maui, Hawaii

The Maui Planning Department has reviewed the above-referenced annual report dated February 9, 2001 and finds that it accurately represents the general progress of the project since its redistricting.

Thank you for your cooperation in this matter. If further clarification is required, please contact Ms. Ann T. Cua, Staff Planner, of this office at 270-7735.

Very truly yours,

Handwritten signature of John E. Min in black ink.

JOHN E. MIN  
Planning Director

JEM:ATC:cmb

c: B. Martin Luna, Esq.  
Clayton Yoshida, AICP, Deputy Director of Planning  
Office of Planning  
Ann T. Cua, Staff Planner  
Project File  
General File  
(s:\all\ann\kaonoul3.luc)



**STATE OF HAWAII**  
DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM  
**LAND USE COMMISSION**

P.O. Box 2359  
Honolulu, HI 96804-2359  
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May 24, 2001

B. Martin Luna, Esq.  
Carlsmith Ball, LLP  
P. O. Box 1086  
Wailuku, Hawaii 96793-1086

Dear Mr. Luna:

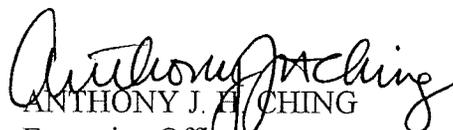
Subject: Filing of 2001 Annual Report for  
LUC Docket No. A94-706/Kaonoulu Ranch

We have reviewed the subject annual report as transmitted by your letter dated January 17, 2001, and we have the following comments:

1. Petitioner should clarify who will be responsible for carrying out the improvements required in the conditions imposed upon the subject docket pursuant to the Commission's Findings of Fact, Conclusions of Law, and Decision and Order issued on February 10, 1995. The Petitioner's subject annual report acknowledged its understanding to comply with the aforementioned conditions but there is no mention of when improvements will start. Also, Petitioner stated in its letter dated January 5, 2001, that it has listed the eighty-eight (88) acres of the Petition Area for sale.
2. In regard to Condition No. 17, Petitioner should clarify if it intends to continue to submit annual reports or transfer the responsibility along with other deed restrictions to any future purchaser of this property.

Please submit the requested information to our office by June 6, 2001. Please feel free to contact Russell Kumabe of my staff at (808) 587-3822, should you require clarification or any further assistance.

Sincerely,

  
ANTHONY J. H. CHING  
Executive Officer

c: County of Maui Department of Planning  
Office of Planning

BENJAMIN J. CAYETANO  
GOVERNOR



ESTHER UEDA  
EXECUTIVE OFFICER

**STATE OF HAWAII**  
DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM  
**LAND USE COMMISSION**

P.O. Box 2359  
Honolulu, HI 96804-2359  
Telephone: 808-587-3822  
Fax: 808-587-3827

May 18, 2001

B. Martin Luna, Esq.  
Carlsmith Ball LLP  
One Main Plaza  
Suite 400, 2200 Main Street  
Post Office Box 1086  
Wailuku, Hawaii 96793-1086

Dear Mr. Luna:

Subject: LUC Docket No. A94-706/Kaonoulu Ranch

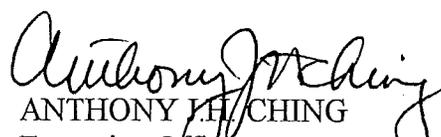
This is to acknowledge receipt of your letter dated January 26, 2001, transmitting requested clarification on Petitioner's intention to sell parcels in the Petition Area of the subject docket.

In regard to your question if Petitioner may require its successor in interest to continue submitting annual reports after land ownership is transferred, Petitioner or its successor shall be required to comply with the conditions imposed by the Commission's Findings of Fact, Conclusions of Law, and Decision and Order for the subject docket issued on February 10, 1995 ("Decision and Order"). If Petitioner or its successor believes that it has satisfactorily completed the requirements specified in the Decision and Order, a motion may be submitted to the Commission to fully or partially release conditions provided in the Decision and Order, pursuant to Section 15-15-70, Hawaii Administrative Rules.

Thank you for your cooperation in addressing this annual reporting requirement to the Commission.

Please feel free to contact Russell Kumabe of my staff at (808) 587-3822, should you require clarification or any further assistance.

Sincerely,

  
ANTHONY J. CHING  
Executive Officer

c: County of Maui Department of Planning  
Office of Planning

# CARLSMITH BALL LLP

ATTORNEYS AT LAW

A LIMITED LIABILITY LAW PARTNERSHIP

ONE MAIN PLAZA, SUITE 400

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TELEPHONE (808) 242-4535 FAX (808) 244-4974

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January 26, 2001

Mr. Bert Saruwatari  
Acting Executive Officer  
Land Use Commission  
State of Hawaii  
P. O. Box 2359  
Honolulu, Hawaii 96804

Re: LUC Docket No. A-94-7067/Kaonoulu Ranch

Dear Mr. Saruwatari:

Thank you for your letter of January 24, 2001.

With respect to your first inquiry, Kaonoulu Ranch would prefer being relieved of preparing the annual reports after the property is sold. May Kaonoulu Ranch require its successor in interest, whomever it may be, to continue to submit the annual reports to the Land Use Commission after the 88 acres are sold?

Please be assured that Kaonoulu Ranch will keep you informed of the progress made in the sale of the subject property

Sincerely,



B. Martin Luna

BML:mea  
5060554.1.013212-00003

cc: Henry Rice

BENJAMIN J. CAYETANO  
GOVERNOR



**STATE OF HAWAII**  
DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

**LAND USE COMMISSION**

P.O. Box 2359  
Honolulu, HI 96804-2359  
Telephone: 808-587-3822  
Fax: 808-587-3827

May 18, 2001

Mr. John Min  
Director  
Department of Planning  
County of Maui  
250 South High Street  
Wailuku, Hawaii 96793

Dear Mr. Min:

Subject: Filing of the 2000 Annual Report for LUC Docket No. A94-706

On February 12, 2001, the Land Use Commission received the 2000 annual report from Kaonoulu Ranch filed pursuant to Condition No. 17 of the Findings of Fact, Conclusions of Law, and Decision and Order issued on February 10, 1995 for the above-referenced docket. As required by said conditions, we understand that the County of Maui, Department of Planning has been served with a copy of the annual report.

We request your assistance in reviewing the 2000 annual report and provide us with any comments you may have regarding the Kaonoulu Ranch's compliance with conditions.

We request that any comments that your agency may have be submitted to our office with a copy to the Kaonoulu Ranch by June 29, 2001.

Please feel free to contact Russell Kumabe of my staff at (808) 587-3822, should you require clarification or any further assistance.

Sincerely,

ANTHONY J. H. CHING  
Executive Officer

BENJAMIN J. CAYETANO  
GOVERNOR



**STATE OF HAWAII**  
DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

**LAND USE COMMISSION**

P.O. Box 2359  
Honolulu, HI 96804-2359  
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Fax: 808-587-3827

May 16, 2001

B. Martin Luna, Esq.  
Carlsmith Ball LLP  
One Main Plaza, Suite 400  
Wailuku, Hawaii 96793-1086

Dear Mr. Luna:

Subject: Filing of the 2000 Annual Report for LUC Docket No. A94-706

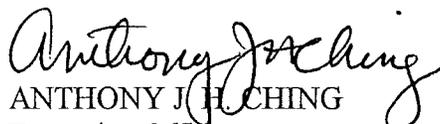
This is to acknowledge receipt of the 2000 annual report for the subject docket as transmitted by your letter dated February 9, 2001.

Upon completion of our review of the annual report we will submit our comments to you, if necessary.

Please note that we have requested the County of Maui, Department of Planning to review and comment on the annual report. Any comments that they may have will be provided to you.

Please feel free to contact Russell Kumabe of my staff at (808) 587-3822, should you require clarification or any further assistance.

Sincerely,

  
ANTHONY J. H. CHING  
Executive Officer

BENJAMIN J. CAYETANO  
GOVERNOR



BERT SARUWATARI  
ACTING EXECUTIVE OFFICER

**STATE OF HAWAII**  
DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

**LAND USE COMMISSION**

P.O. Box 2359  
Honolulu, HI 96804-2359  
Telephone: 808-587-3822  
Fax: 808-587-3827

January 24, 2001

B. Martin Luna, Esq.  
Carlsmith Ball  
Attorneys At Law  
One Main Plaza, Suite 400  
2200 Main Street  
Post Office Box 1086  
Wailuku, Maui, Hawaii 96793-1086

Dear Mr. Luna:

Subject: LUC Docket No. A94-706/Kaonoulu Ranch

This is to acknowledge receipt of your letter dated January 5, 2001, notifying us of the intended sale of 88 acres of land in the subject docket, pursuant to Condition 16 of the Findings of Fact, Conclusions of Law, and Decision and Order dated February 10, 1995.

We have the following comments:

1. Please clarify if Petitioner will continue to submit annual reports in the subject docket after the 88 acres are sold.
2. Please keep us apprised of the status of the land sales in the Petition Area.

If you have questions regarding this matter, please contact me or Russell Kumabe of our office at 587-3822.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bert Saruwatari".

BERT SARUWATARI  
Acting Executive Officer

BS:RK:aa

Of Counsel:  
CARLSMITH BALL LLP

ORIGINAL

LAND USE COMMISSION  
STATE OF HAWAII

2001 FEB 12 A 9:12

B. MARTIN LUNA 865  
2200 Main Street, Suite 400  
Wailuku, Maui, Hawaii 96793

Attorney for Petitioner Kaonoulu Ranch

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Petition of )  
 )  
 KAONOULU RANCH )  
 )  
 To Amend the Agricultural Land Use )  
 District Boundary into the Urban )  
 Land Use District for )  
 approximately 88 acres at )  
 Kaonoulu, Makawao-Wailuku, )  
 Maui, Hawaii; Tax Map Key Nos. )  
 2-2-02;por. of 15 and 3-9-01:16 )  
 )

Docket No. A94-706

SIXTH ANNUAL REPORT OF KAONOULU RANCH

AND

CERTIFICATE OF SERVICE

BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Petition of )  
 ) Docket No. A94-706  
 KAONOULU RANCH )  
 )  
 To Amend the Agricultural Land Use )  
 District Boundary into the Urban )  
 Land Use District for )  
 approximately 88 acres at )  
 Kaonoulu, Makawao-Wailuku, )  
 Maui, Hawaii; Tax Map Key Nos. )  
 2-2-02;por. of 15 and 3-9-01:16 )  
 \_\_\_\_\_ )

SIXTH ANNUAL REPORT OF KAONOULU RANCH

TO THE HONORABLE LAND USE COMMISSION OF THE STATE OF  
HAWAII:

COMES NOW KAONOULU RANCH, a Hawaii limited partnership,  
Petitioner herein, and pursuant to Condition No. 17 of the Findings of Fact,  
Conclusions of Law, and Decision and Order issued on February 10, 1995, hereby  
submits its Sixth annual report of compliance with the conditions established by said  
approval as follows:

General Progress of the Project

The Petitioner has obtained its Community Plan Amendment and  
Change in zoning.

Report on Compliance with Conditions Imposed by Commission

The following states whether the conditions in the approval have been met:

1. The Petitioner shall obtain a Community Plan Amendment and Change in Zoning from the County of Maui.

The Community Plan Amendment was approved on March 20, 1998, and the Change in Zoning application was approved by the Maui County Council and became effective on May 25, 1999.

2. Petitioner shall cooperate with the State Department of Health and the County of Maui Department of Public Works and Waste Management to conform to the program goals and objectives of the Integrated Solid Waste Management Act, Chapter 342G, Hawaii Revised Statutes.

Petitioner intends to cooperate with the State Department of Health and the Department of Public Works and Waste Management.

3. Petitioner shall contribute its pro-rata share to fund and construct adequate wastewater treatment, transmission and disposal facilities, as determined by the State Department of Health and the County of Maui Department of Public Works and Waste Management.

Petitioner understands its obligation to contribute its pro-rata share to fund and construct adequate wastewater treatment, transmission and disposal facilities.

4. Petitioner shall fund and construct adequate civil defense measures as determined by the State and County Civil Defense agencies.

Petitioner understands its obligation to fund and construct adequate civil defense measures.

5. Petitioner shall fund, design and construct necessary local and regional roadway improvements necessitated by the proposed development in designs and schedules accepted by the State Department of Transportation and the County of Maui. Petitioner shall provide traffic signals at the intersection of Piilani Highway and Kaonoulu Street, and shall submit a warrant study in coordination with the Department of Transportation. Petitioner shall also install a fence and appropriate screening, i.e. landscaping, etc., along the highway right-of-way in coordination with the State Department of Transportation. Petitioner shall provide for a frontage road parallel to Piilani Highway and other connector roads within the Petition area, in coordination with other developments in the area with the review and approval of the State Department of Transportation and the County of Maui.

Petitioner understands its obligation to comply with this condition.

6. Petitioner shall fund and construct adequate potable and non-potable water source, storage, and transmission facilities and improvements to accommodate the proposed project. Water transmission facilities and improvements shall be coordinated and approved by the appropriate State and County agencies.

Petitioner understands its obligation to fund and construct adequate potable and non-potable water source, storage, and transmission facilities and improvements to accommodate the proposed project.

7. Petitioner shall participate in an air quality monitoring program as determined by the State Department of Health.

Petitioner intends to participate in an air quality monitoring program if required by the Department of Health.

8. Petitioner shall fund the design and construction of its pro-rata share of drainage improvements required as a result of the development of the Property, including oil water separators and other filters as appropriate, and other best management practices as necessary to minimize non-point source pollution into Kulanihakoi Gulch, in coordination with appropriate state and county agencies, such as the following:

a. All cleaning, repairs and maintenance of equipment involving the use of industrial liquids, such as gasoline, diesel, solvent, motor oil, hydraulic oil, gear oil, brake fluid, acidic or caustic liquids, antifreeze, detergents, degreasers, etc., shall be conducted on a concrete floor, where roofed or unroofed. The concrete floor shall be constructed so as to be able to contain any drips or spills and to provide for the recovery of any spilled liquid. Water drainage from these concrete floors, if necessary, shall pass through a separator sump before being discharged.

The Petitioner understands its obligation to comply with this condition.

b. All employees shall be instructed to immediately collect and contain any industrial liquid spills on the concrete floor and should be informed against discharging or spilling any industrial liquids. Employees shall be instructed to prevent any industrial liquid spills onto the bare ground.

The Petitioner understands its obligation to comply with this condition.

c. Barrels for the temporary storage of used oil or other industrial liquids shall be kept on a concrete surface. The surface shall be bermed to prevent the loss of liquid in the event of spills or leaks. The barrels shall be sealed and kept under shelter from the rain. (The Department of Labor and Industrial Relations' Occupational Safety and Health regulations, sections titled, "Housekeeping Standards" and "Storage of Flammable or Combustible Liquids," shall be followed, along with the local fire code.)

The Petitioner understands its obligation to comply with this condition.

9. Should any human burials or any historic artifacts, charcoal deposits, or stone platforms, pavings or walls be founds, the Petitioner shall stop work in the immediate vicinity and contact the State Historic Preservation District. The significance of these finds shall then be determined and approved by the Division, and an acceptable mitigation plan shall be approved by the Division. The Division must verify that the fieldwork portion of the mitigation plan has been successfully executed

prior to work proceeding in the immediate vicinity of the find. Burials must be treated under specific provisions of Chapter 6E, Hawaii Revised Statutes.

The Petitioner understands its obligation to comply with this condition.

10. A long term preservation plan for the petroglyph stone (Site 50-10-3746) that was removed from the project area shall be reviewed and approved by the State Historic Preservation Division. Long term preservation measures shall be implemented within 60 days after final approval of the preservation plan.

As stated in the Fifth Annual Report, the Petitioner has prepared a long term preservation plan which has been approved by the State Historic Preservation Division, Department of Land and Natural Resources, State of Hawaii, a copy of which was transmitted to the Land Use Commission.

11. Petitioner shall contribute its pro-rata share to a nearshore water quality monitoring program as determined by the State Department of Health and the State Division of Aquatic Resources, Department of Land and Natural Resources.

Petitioner understands its obligation to contribute its pro-rata share to a nearshore water quality monitoring program as it is determined.

12. Petitioner shall implement effective soil erosion and dust control methods during construction in compliance with the rules and regulations of the State Department of Health and the County of Maui.

Petitioner understands its obligation to implement effective soil erosion and dust control methods during construction.

13. Petitioner shall create a buffer zone between lands designated as SF (Single-Family) by the County's Kihei-Makena Community Plan and industrial uses on the Property to mitigate impacts between future residential activities and the proposed industrial development.

The Petitioner understands its obligation to comply with this condition.

14. In the event Petitioner sells its interest in the Project, Petitioner shall subject the Property to deed restrictions to run with the land which shall require the successors and assigns to comply with the terms and conditions set forth in the Commission's Decision and Order.

By letter dated January 5, 2001, Petitioner has informed the Commission that it has listed the Property with real estate brokers and intends to sell said Property. If the Property is sold, it will be subjected to deed restrictions requiring the purchaser to comply with the terms and conditions set forth in the Commission's Decision and Order.

15. Petitioner shall develop the Property in substantial compliance with the representations made to the Commission. Failure to so develop the Property may result in reversion of the Property to its former classification, or change to a more appropriate classification.

Petitioner understands its obligation to comply with this condition.

16. Petitioner shall give notice to the Commission of any intent to sell, lease, assign, place in trust, or otherwise voluntarily alter the ownership interests in the Property, prior to development of the Property.

As stated in Paragraph 14 above, Petitioner has informed the Commission that it has listed the Property for sale.

17. Petitioner shall timely provide without any prior notice, annual reports to the Commission, the Office of Planning, and the County of Maui Planning Department in connection with the status of the subject Project and Petitioner's progress in complying with the conditions imposed herein. The annual report shall include written documentation from each State and County agency responsible, indicating that the terms of the condition(s) are progressing satisfactorily or have been completed to the satisfaction of the agency. The annual report shall be submitted in a form prescribed by the Executive Officer of the Commission.

Petitioner understands its obligation to comply with this condition, and submits this annual report in compliance therewith.

18. Petitioner shall record the conditions imposed herein by the Commission with the Bureau of Conveyances pursuant to Section 15-15-92 Hawaii Administrative Rules.

Petitioner has recorded a Notice of Imposition of Conditions with the Bureau of Conveyances of the State of Hawaii pursuant to Section 15-15-92 Hawaii Administrative Rules.

19. Within seven (7) days of the issuance of the Commission's Decision and Order for the subject reclassification, Petitioner shall (a) record with the Bureau of Conveyances a statement that the Property is subject to conditions imposed herein by the Land Use Commission in the reclassification of the Property; and (b) shall file a copy of such recorded statement with the Commission.

Petitioner has recorded a Document Listing Conditions to Reclassification of Land with the Bureau of Conveyances of the State of Hawaii and has filed a copy of the recorded document with the Commission.

20. The Commission may fully or partially release the conditions provided herein as to all or any portion of the Property upon timely motion and upon the provision of adequate assurance of satisfaction of these conditions by the Petitioner.

The Petitioner understands that the Commission may fully or partially release the conditions provided herein.

Except as stated above, the responses in the Fifth annual report are still correct and remain unchanged.

Dated: Wailuku, Hawaii, February 9, 2001.

A handwritten signature in cursive script, appearing to read "B. Martin Luna", written over a horizontal line.

B. Martin Luna  
Attorney for KAONOULU RANCH

CERTIFICATE OF SERVICE

I hereby certify that due service of a copy of the within document was made by depositing the same with the U.S. mail, postage prepaid, or by hand delivery, on February 9, 2001, addressed to:

DAVID BLANE, Director  
Office of Planning  
State of Hawaii  
P. O. Box 2359  
Honolulu, Hawaii 96804

BY MAIL

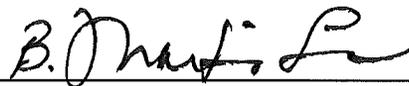
ABE MITSUDA, Administrator  
Land Use Division  
Office of Planning  
State of Hawaii  
P. O. Box 2359  
Honolulu, Hawaii 96804

BY MAIL

JOHN MIN, Director  
Planning Department  
County of Maui  
250 South High Street  
Wailuku, Maui, Hawaii 96793

BY HAND DELIVERY

Dated: Wailuku, Hawaii, February 9, 2001.



---

B. Martin Luna  
Attorney for Petitioner KAONOULU  
RANCH