

November 23, 2016

2016 NOV 25 A 9: 22

Daniel E. Orodenerker
Executive Officer
Land Use Commission
Department of Business, Economic Development & Tourism
P.O. Box 2359
Honolulu, Hawaii 96804

Re: 2015-2016 Annual Progress Report Docket No. A81-525
Original Petitioner: Y-O Limited Partnership
Successor Petitioner: RCFC Kaloko Heights, LLC
TMK Nos: (3) 7-3-009:019, 032, 057, 058, 059, 060, 061 and 062

Dear Mr. Orodenerker:

This annual progress report is submitted on behalf of RCFC Kaloko Heights, LLC ("RCFC Kaloko"), Successor Petitioner in Land Use Commission (the "Commission") Docket No. A81-525. By Findings of Fact, Conclusions of Law and Decision and Order filed on January 19, 1983, amended, the Commission reclassified approximately 213.473 acres of land from the Agricultural District to the Urban District ("Increment I"), and granted incremental Urban redistricting to approximately 195.246 acres of land ("Phase II"), all of which is located in Kaloko and Kohanaiki, North Kona, Island of Hawaii. Increment I and Phase II are hereinafter referred to as the "Subject Property."

Since its acquisition of the Subject Property on January 22, 2013, RCFC Kaloko has been involved in preparing development and phasing options for the proposed development. At the current time, its consultants are completing topographic studies and preparing plans for phased development which considers residential preferences, and is developing a final product that is geared towards meeting future housing demand and which is in substantial compliance with the terms of the Decision and Order, as amended.

As to compliance with the affordable housing condition of said Decision and Order (Condition 1), RCFC Kaloko has entered into an agreement with the Hawaii Island Housing Community Development Corporation ("HICDC"), a Hawaii non-profit corporation with substantial experience in the development of affordable housing projects on Hawaii Island, to develop a minimum of eighty (80) affordable housing units on Increment I of the Subject Property, primarily consisting of rental and "self help" units. In conjunction with this plan and in recognition of the need for affordable rental housing in West Hawaii, on October 13, 2016, the Commission approved an amendment to Condition 1 which expressly authorizes the development of such rental units to satisfy the affordable housing condition. HICDC is now proceeding forward to obtain necessary entitlements and permits needed for its project to occur.

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As to infrastructure development, RCFC Kaloko is in the process of designing the entrance and first section of the primary arterial road serving the Increment I development. In addition, as of June, 2014, the County of Hawaii Department of Water Supply confirmed that the prevailing facilities charge for 1,494 water units to serve both the Increment I and Phase II projects had been satisfied, and the total amount of payments and credits with DWS is now \$9,090,990.00. Upgrades to an existing water tank and pump system located on the water tank site previously dedicated to the County are being completed for further dedication to the County, which will soon be conducting flow tests on the system for inclusion and operation as part of the DWS' integrated water system for the area. Upon DWS approval of the system, the water tank and pump system will be dedicated to the County.

In compliance with Condition 4 of the Decision and Order, as amended, RCFC Kaloko hereby submits this annual report to provide the Commission with an update since RCFC Kaloko's progress report dated June 23, 2015 (this report was somewhat delayed pending the Commission's approval of the amendment to Condition 1 discussed above in order to confirm that the proposed method of satisfying the affordable housing condition was acceptable to the Commission).

Regarding compliance with the conditions of the Decision and Order, as amended, RCFC Kaloko offers the following, listing in order the governmental "Condition" and RCFC Kaloko's "Response."

Compliance with Conditions of Approval in Docket No. A81-525

Condition 1 (as amended by the Commission on November 22, 2016):
Petitioner shall provide housing opportunities for low- and moderate-income residents, by offering for sale or rental, on a preferential basis, on its own or in cooperation with both the Hawaii Housing Finance and Development Corporation ("HHFDC") and the County of Hawaii, affordable housing units equivalent to ten percent (10%) of the lots and residential units to be developed in the Petition Area, to residents of the State of Hawaii of low- and moderate-income as determined by HHFDC and County of Hawaii Office of Housing and Community Development ("OHCD") from time to time (the "Affordable Housing Requirement"). The affordable housing units shall be offered for sale or rent at prices or rents not exceeding prices or rents (Affordable Prices") that enable such purchasers and renters to qualify for and obtain state-assisted financing (e.g., Hula Mae) or federally-insured or assisted financing (e.g., FHA Section 245 Program) intended to encourage home

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ownership by low and moderate income families, or that provide affordable rental housing opportunities to such families. This affordable housing condition shall be implemented to the satisfaction of OHCD.

Response: Petitioner will satisfy this Condition. As discussed above, RCFC Kaloko has entered into an affordable housing development agreement with HICDC. Petitioner has also had discussions with the HHFDC and the County of Hawaii Office of Housing and Community Development on satisfying the affordable housing requirements of this Condition. Under the development agreement, Petitioner will dedicate land in Increment I for development of the affordable housing project and also transfer water commitments necessary for the development of the required affordable housing units.

Condition 2: Petitioner shall afford lot purchasers public access from the subject property to Queen Kaahumanu Highway and to Mamalahoa Highway by participating in the construction of a roadway connecting the two highways and running through the subject property, the location and standard of design and construction of such roadway to be approved and accepted by the County of Hawaii. The Petitioner shall be responsible for constructing such portions of the roadway within the subject property. The Petitioner's participation for the portions of the roadway outside the subject property may be by way of loans, loan guaranties, purchase of county obligations or otherwise.

Response: This Condition has been satisfied. As indicated in previous annual reports, Hina Lani Street, which extends beyond the Subject Property and runs from Queen Kaahumanu Highway to Mamalahoa Highway, was constructed and accepted by the County for dedication and has since been used by the public. In addition, the street lighting system and water transmission lines within the Subject Property have been completed and dedicated to the County. The channelized intersections at Mamalahoa Highway and Hina Lani Street, and Queen Kaahumanu Highway and Hina Lani Street are complete and have been accepted for dedication by the State Department of Transportation, Highways Division. The \$9,000,000 bond that was put up to construct the aforementioned roadway improvements along Hina Lani Street was satisfied in full as of September 2010.

Condition 3: Petitioner shall dedicate to appropriate State and County Agencies sufficient land for the provision of necessary public facilities.

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Petitioner will satisfy this Condition. On July 29, 2001 Y-O delivered to the Department of Water Supply a dedication deed, which was accepted by the Department, for an approximately 1.5875 acre parcel of land to be used as a water reservoir site. RCFC Kaloko has almost completed required upgrades and repairs to the water tank and related infrastructure to complete the conveyance of a 1.0 MG water reservoir to the County of Hawaii Department of Water Supply, and expects to complete such improvements and to dedicate the water reservoir improvements well before the next annual progress report. \$3,000,000 had previously been spent to build the reservoir. RCFC will also dedicate the project roadways to the County upon completion.

A 10MVA Substation has also been constructed, including transformer and switchgear, and installed underground 12KV feeder cables and vacuum switch (all of which was energized by HELCO as of December 2006). Total cost of the substation and feeder improvements was approximately \$515,000.00.

Condition 4: Petitioner shall submit annual progress reports to the Commission, Office of State Planning and Hawaii County Planning Department as to its progress in satisfying these conditions.

Response: Petitioner submits this annual report to satisfy Condition 4 for 2016.

Condition 5: The conditions may be fully or partially released by the Commission as to all or any portion of the subject properties upon timely motion and provisions of adequate assurance of satisfaction of these conditions by the Petitioner.

Response: Petitioner will comply with this Condition.

Condition 6: 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.

Response: Petitioner will comply with this Condition. The Subject Property will be developed in substantial compliance with the representations made to the Commission.

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Condition 7: 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.

Response: Petitioner will comply with this Condition.

Thank you for the opportunity to present Petitioner's annual report for 2016. RCFC Kaloko trusts that this annual report sufficiently apprises the Commission of the present status of the Subject Property. RCFC Kaloko remains committed to satisfying the conditions of the LUC approval. Should you need more information, please do not hesitate to contact me.

Very truly yours,

LAW OFFICES OF YEH & MOORE

By 

THOMAS L.H. YEH

cc: RCFC Kaloko Heights, LLC
TLHY\db