

BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAI'I

In the Matter of the Petition of )  
WEST BEACH ESTATES, a Hawai'i )  
general partnership )  
To Amend the Agricultural Land Use )  
District Boundary into the Urban )  
Land Use District for Approximately )  
372.6 Acres at Honouliuli, 'Ewa, )  
O'ahu, Hawai'i, TMK 9-1-15: 18 and )  
portion of 4 and 9-1-56: portion of )  
11 and portion of 12 )

DOCKET NO. A90-655  
ORDER GRANTING MOTION TO  
AMEND FINDINGS OF FACT,  
CONCLUSIONS OF LAW, AND  
DECISION AND ORDER

This is to certify that this is a true and correct  
copy of the document on file in the office of the  
State Land Use Commission, Honolulu, Hawaii.

MAR 06 1997

Date

by

*[Signature]*  
Executive Officer

ORDER GRANTING MOTION TO AMEND FINDINGS OF FACT,  
CONCLUSIONS OF LAW, AND DECISION AND ORDER

MAR 6 9 56 AM '97  
LAND USE COMMISSION  
STATE OF HAWAII

BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAI'I

In the Matter of the Petition of	)	DOCKET NO. A90-655
WEST BEACH ESTATES, a Hawai'i	)	
general partnership	)	ORDER GRANTING MOTION TO
To Amend the Agricultural Land Use	)	AMEND FINDINGS OF FACT,
District Boundary into the Urban	)	CONCLUSIONS OF LAW, AND
Land Use District for Approximately	)	DECISION AND ORDER
372.6 Acres at Honouliuli, 'Ewa,	)	
O'ahu, Hawai'i, TMK 9-1-15: 18 and	)	
portion of 4 and 9-1-56: portion of	)	
11 and portion of 12	)	

ORDER GRANTING MOTION TO AMEND FINDINGS OF FACT,  
CONCLUSIONS OF LAW, AND DECISION AND ORDER

On November 20, 1996, West Beach Estates, a Hawai'i general partnership ("Petitioner"), filed a Motion to Amend Findings of Fact, Conclusions of Law, and Decision and Order ("Motion"), pursuant to sections 15-15-70 and 15-15-94, Hawai'i Administrative Rules. The Motion requested the Land Use Commission ("Commission") to revise Condition No. 1 of the Findings of Fact, Conclusions of Law, and Decision and Order ("Decision and Order") filed on February 14, 1991, in its entirety and to replace it with the following:

- 1) Petitioner shall provide affordable housing opportunities for low to moderate income residents of the State of Hawaii to the satisfaction of the City and County of Honolulu. The location and distribution of the affordable housing or other provisions for affordable housing shall be under such terms as are mutually agreeable between the Petitioner and the City and County of Honolulu.

Attached in support of the Motion was an Affidavit of Jan Naoe Sullivan, Esq., Petitioner's counsel ("Affidavit"),

which stated that the current affordable housing requirement for the project in the subject docket, as set forth by the Department of Housing and Community Development ("DHCD") (Exhibit "A") requested that 30 percent of the housing units that are developed be sold or rented to households whose incomes do not exceed 120 percent of O'ahu's median income, and that at least 10 percent of the total units be sold or rented to households earning 80 percent or less of O'ahu's median income, or that Petitioner provide an in-kind substitute that is acceptable to the City and County of Honolulu ("City & County").

The Affidavit also stated that the current affordable housing requirement of the City & County for the project was inconsistent with the affordable housing requirement that was contained in Condition No. 1, and that the State's affordable housing policies have changed over time such that the State's current policy was to assign responsibility to the counties to establish and enforce affordable housing requirements in land use reclassifications. Also attached in support of the Motion was a letter from Roy S. Oshiro, Executive Director, Housing and Finance Development Corporation ("HFDC") (Exhibit "B"), which stated that HFDC had no objections to Petitioner's Motion.

The Motion came on for hearing before this Commission on December 12, 1996, in Honolulu, Hawai'i, with the parties listed in the minutes being present. At the hearing, the Commission heard public testimony from Henry Curtis, Executive Director, Life of the Land. The Office of Planning and the City

& County Planning Department ("Planning Department") had no objections to Petitioner's Motion.

Following a discussion on Petitioner's Motion, this Commission requested the Planning Department to provide further information to clarify its comments contained in Petitioner's Exhibit "A" regarding an in-kind substitute as it applied to the City & County's affordable housing requirement for the subject docket. This Commission deferred action on the Motion to its meeting on January 31, 1997, without objection.

On January 2, 1997, this Commission received a letter dated December 30, 1996, from Cheryl D. Soon, Chief Planning Officer, Planning Department, which provided additional information regarding the City & County's policy on affordable housing and on the use of the term, in-kind substitute, as used by DHCD.

On January 31, 1997, this Commission deferred action on the Motion, without objection.

On February 28, 1997, this Commission held a continued action meeting on the Motion.

This Commission, having duly considered Petitioner's Motion, Affidavit, Exhibits "A" and "B," the additional information provided by the City & County, and the arguments provided by the parties present in this proceeding, and good cause existing therefrom,

IT IS HEREBY ORDERED that Condition Number 1 be amended as follows:

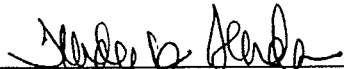
1. Petitioner shall provide affordable housing opportunities for low to moderate income residents of the State of Hawaii to the satisfaction of the City and County of Honolulu. The location and distribution of the affordable housing or other provisions for affordable housing shall be under such terms as are mutually agreeable between the Petitioner and the City and County of Honolulu.

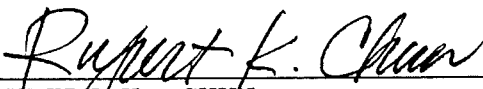
All other conditions to the Decision and Order filed on February 14, 1991, are hereby reaffirmed and shall continue in effect.

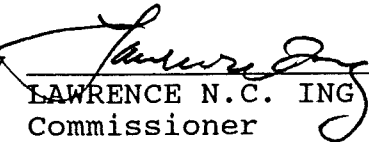
DOCKET NO. A90-655 - WEST BEACH ESTATES

Done at Honolulu, Hawai'i, this 6th day of March 1997,  
per motion on February 28, 1997.

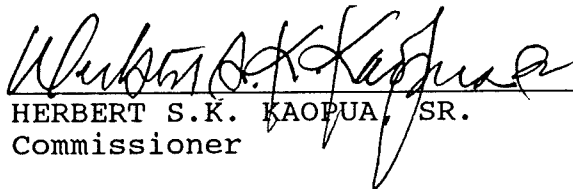
LAND USE COMMISSION  
STATE OF HAWAI'I

By   
TRUDY K. SENDA  
Chairperson and Commissioner

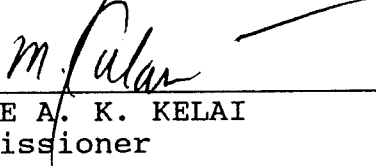
By   
RUPERT K. CHUN  
Vice Chairperson and Commissioner

By   
LAWRENCE N.C. ING  
Commissioner

By (opposed)  
M. CASEY JARMAN  
Commissioner

By   
HERBERT S.K. KAOPUA, SR.  
Commissioner

By (absent)  
LLOYD F. KAWAKAMI  
Commissioner

By   
MERLE A. K. KELAI  
Commissioner

Filed and effective on  
March 6, 1997

Certified by:

  
Executive Officer

By (absent)  
EUSEBIO LAPENIA, JR.  
Commissioner

By (absent)  
JOANN N. MATTSON  
Commissioner

BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAI'I

In the Matter of the Petition of )	DOCKET NO. A90-655
WEST BEACH ESTATES, a Hawai'i )	
general partnership )	ORDER GRANTING MOTION TO
To Amend the Agricultural Land Use )	AMEND FINDINGS OF FACT,
District Boundary into the Urban )	CONCLUSIONS OF LAW, AND
Land Use District for Approximately )	DECISION AND ORDER
372.6 Acres at Honouliuli, 'Ewa, )	
O'ahu, Hawai'i, TMK 9-1-15: 18 and )	
portion of 4 and 9-1-56: portion of )	
11 and portion of 12 )	
_____ )	

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Order Granting Motion to Amend Findings of Fact, Conclusions of Law, and Decision and Order was served upon the following by either hand delivery or depositing the same in the U. S. Postal Service by certified mail:

DEL. RICK EGGED, Director  
Office of Planning  
P. O. Box 2359  
Honolulu, Hawaii 96804-2359

CERT. PATRICK T. ONISHI, Chief Planning Officer  
Planning Department  
City and County of Honolulu  
650 South King Street  
Honolulu, Hawaii 96813

CERT. DON KITAOKA, ESQ., Attorney for Petitioner  
Takeyama and Sullivan  
1100 Alakea Street, Suite 3110  
Honolulu, Hawaii 96813

CERT. REBECCA M.K. HOMMON, ESQ.  
COMNAVBASE, 00L  
Box 110  
Pearl Harbor, Hawaii 96860

DATED: Honolulu, Hawaii, this 6th day of March 1997.

  
\_\_\_\_\_  
ESTHER UEDA  
Executive Officer