

ORIGINAL

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In The Matter Of The Petition Of)	DOCKET NO. A92-683
)	
HALEKUA DEVELOPMENT)	ORDER GRANTING TIMELY
CORPORATION, A Hawai'i)	APPLICATION TO INTERVENE
Corporation)	
)	
To Amend The Agricultural Land)	
Use District Boundary Into The)	
Urban Land Use District For)	
Approximately 503.886 Acres Of Land)	
At Waikele And Hō`ae`ae, `Ewa, O`ahu,)	
City And County Of Honolulu,)	
Hawai`i, Tax Map Key: 9-4-02: 1,)	
Portion Of 52, 70, And 71)	
_____)	

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ORDER GRANTING TIMELY APPLICATION TO INTERVENE

On March 18, 2004, HRT Ltd.¹, 300 Corporation, and Honolulu Limited (collectively "Applicants") filed a timely Application To Intervene ("Application") in the Land Use Commission's ("Commission") Order To Show Cause hearing in the above-entitled docket pursuant to section 15-15-52, Hawai`i Administrative Rules ("HAR").

In their Application, the Applicants stated that they have a property interest in approximately 173.676 acres of land comprised by the Petition Area, and further that the Order To Show Cause hearing pending before this Commission would have a direct and immediate effect upon the Applicants by virtue of their substantial

¹ As of January 1, 2007, HRT Realty, LLC, a Maryland limited liability company, is the successor by merger to HRT Ltd.

ownership in the affected lands. The Applicants also noted that there were no other means available by which their interest in the land could be protected, and that such interest could not be adequately represented by any party in the proceeding.²

The Commission considered the Application at its meeting on February 23, 2007, in Honolulu, Hawai`i. Delwyn H. W. Wong, Esq., appeared on behalf of the Applicants. Also present were Jonathan S. Durrett, Esq., on behalf of Halekua Development Corporation, a Hawai`i corporation ("Petitioner"); Bryan C. Yee, Esq., and Abe Mitsuda on behalf of the State Office of Planning; and Mike Watkins on behalf of the City and County of Honolulu Department of Planning and Permitting.³

Upon questioning by the Commission, Mr. Wong affirmed the Applicants' intent to intervene in the matter of Petitioner's Oral Motion To Dismiss. The parties present in the proceeding had no objections to the Application.

Following discussion, a motion was made and seconded to grant the Applicants' Application in the proceeding on Petitioner's Oral Motion To Dismiss on the grounds that the Applicants have demonstrated they have a property interest in the land and will be directly and immediately affected by the proposed action that their

² Subsequent to the filing of the Application, the Commission issued an Order Granting The Office Of Planning's Amended Motion To Exempt HRT, Ltd.'s Property From The Order To Show Cause Granted On February 26, 2003, Pursuant To The Stipulation Filed On December 30, 2003 dated February 23, 2004, which conditionally exempted the Applicants' land from the Order To Show Cause. To the extent that such exemption was conditioned upon, among other things, the Applicants' compliance with the conditions of approval, the Applicants' land potentially remained subject to the Order To Show Cause.

³ At the meeting and prior to consideration of the Application, Petitioner made an oral motion to dismiss the Commission's Order To Show Cause proceeding ("Oral Motion To Dismiss") pursuant to section 15-15-70, HAR.

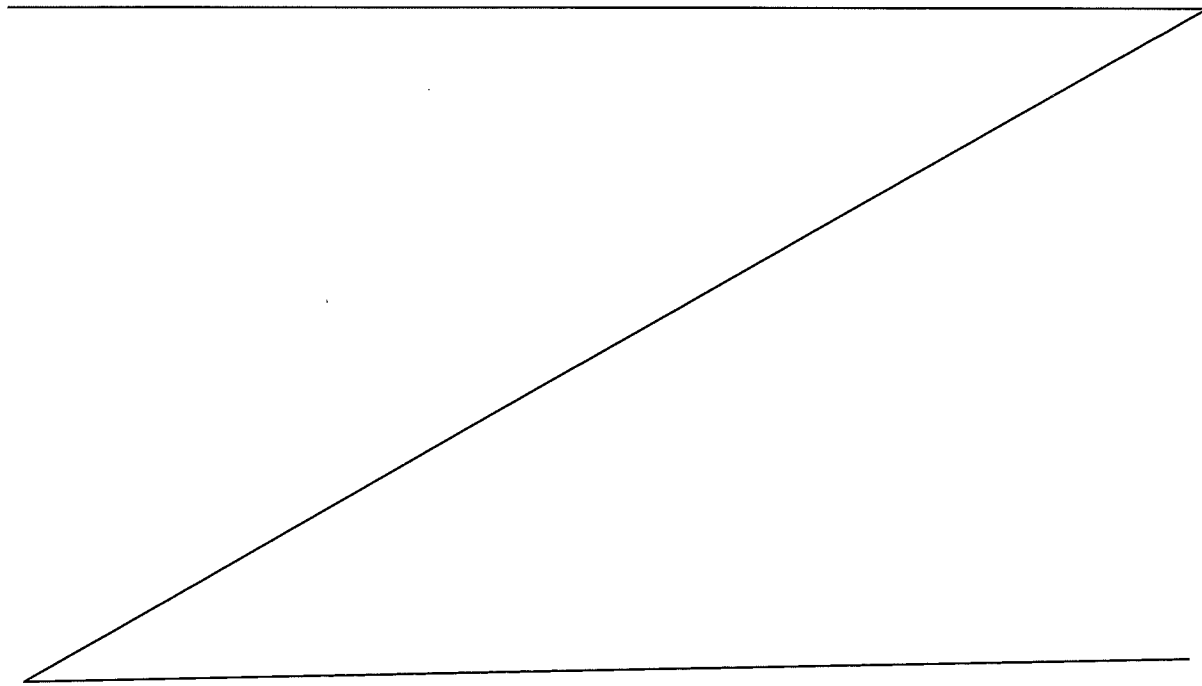
interest in the proceeding is clearly distinguishable from that of the general public.

There being a vote tally of 6 ayes, 2 absent, and 1 abstention⁴, the motion carried.

ORDER

This Commission, having duly considered the Applicants' timely Application, the arguments of the parties present in the proceeding, and a motion having been made at a meeting on February 23, 2007, in Honolulu, Hawai'i, and the motion having received the affirmative votes required by section 15-15-13, HAR, and there being good cause for the motion,

HEREBY ORDERS that the Applicants' timely Application be GRANTED in the proceeding on Petitioner's Oral Motion To Dismiss.



⁴ Commissioner Reuben S. F. Wong previously represented the Applicants before this Commission prior to his appointment to the Commission. Consequently, Mr. Wong recused himself from this proceeding and, in fact, was not present at the meeting.

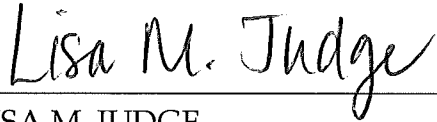
Done at Honolulu, Hawai`i, this 16th day of
March, 2007, per motion on February 23,, 2007.

APPROVED AS TO FORM



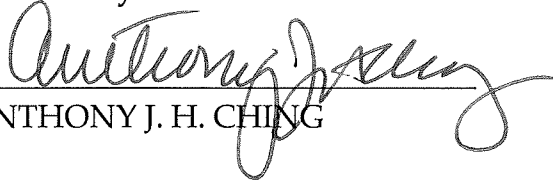
Deputy Attorney General

LAND USE COMMISSION
STATE OF HAWAII

By 

LISA M. JUDGE
Chairperson

Filed and effective on
MAR 16 2007

Certified by:


ANTHONY J. H. CHING

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the Order Granting Timely Application To Intervene was served upon the following by either hand delivery or depositing the same in the U. S. Postal Service by regular or certified mail as noted:

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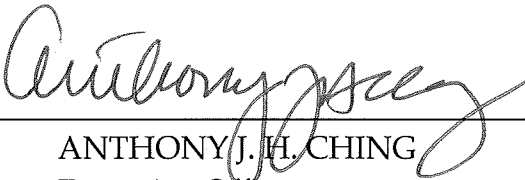
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Dated: Honolulu, Hawaii, MAR 16 2007.



ANTHONY J. H. CHING
Executive Officer