



BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

LAND USE COMMISSION  
STATE OF HAWAII  
2012 OCT - 8 P 12:41

In The Matter Of The Application Of The	)	DOCKET NO. SP09-403
	)	
DEPARTMENT OF ENVIRONMENTAL	)	ORDER REMANDING COUNTY
SERVICES, CITY AND COUNTY OF	)	SPECIAL USE PERMIT FILE NO.
HONOLULU	)	2008/SUP-2 TO THE CITY AND
	)	COUNTY OF HONOLULU
For A New Special Use Permit To	)	PLANNING COMMISSION;
Supersede Existing Special Use Permit To	)	AND CERTIFICATE OF SERVICE
Allow A 92.5-Acre Expansion And Time	)	
Extension For Waimānalo Gulch Sanitary	)	
Landfill, Waimānalo Gulch, O`ahu,	)	
Hawai`i, Tax Map Key: 9-2-03: 72 And 73	)	
_____	)	

ORDER REMANDING COUNTY SPECIAL USE PERMIT FILE NO. 2008/SUP-2 TO  
THE CITY AND COUNTY OF HONOLULU PLANNING COMMISSION

AND

CERTIFICATE OF SERVICE



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ORDER REMANDING COUNTY SPECIAL USE PERMIT FILE NO. 2008/SUP-2  
TO THE CITY AND COUNTY OF HONOLULU PLANNING COMMISSION

On September 14, 2012, the State Land Use Commission ("LUC")

met in Ko `Olina, O`ahu, Hawai`i, to continue discussion and deliberation on the procedural issues arising from Civil No. 09-1-2719-11.<sup>1</sup> Dana Viola, Esq., and

<sup>1</sup> On July 5, 2012, the LUC commenced its proceedings on this matter. During its presentation, the Department of Environmental Services, City and County of Honolulu ("Applicant"), orally moved for an additional two weeks for the parties to file written briefs with the LUC to more fully address the procedural issues. The LUC granted the Applicant's oral motion and ordered the parties to file the written briefs with the LUC by the close of business on July 19, 2012. The State Office of Planning ("OP") and Schnitzer Steel Hawai`i Corp. ("Schnitzer"), an intervenor in the Applicant's pending application before the City and County of Honolulu Planning Commission ("Planning Commission") to modify the LUC's Order Adopting The City And Docket No. SP09-403 Department Of Environmental Services, City And County Of Honolulu Order Remanding County Special Use Permit File No. 2008/SUP-2 To The City And County Of Honolulu Planning Commission 1

Brian Black, Esq., appeared on behalf of the Applicant. Calvert G. Chipchase, Esq., appeared on behalf of Intervenors the Ko `Olina Community Association ("KOCA") and Maile Shimabukuro ("Shimabukuro"). Richard Wurdeman, Esq., appeared on behalf of Intervenor Colleen Hanabusa ("Hanabusa"). Don Kitaoka, Esq., was also present on behalf of the City and County of Honolulu Department of Planning and Permitting as were Bryan C. Yee, Esq., and Rodney Funakoshi on behalf of OP.

At the meeting, the LUC heard public testimony from Cynthia Rezendes, Beverly Munson, Kirk Fritz, Kamaki Kanahele, Maile Shimabukuro, and Joseph Imaoka, and entered the written testimonies of Greg Nichols, Ken Williams, Sweetie Nelson, and Joy Leilei Shih into the record.<sup>2</sup>

Following the receipt of public testimony, the parties provided oral argument on the procedural issues and options available to the LUC in this matter.

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County Of Honolulu Planning Commission's Findings Of Fact, Conclusions Of Law, And Decision And Order With Modifications ("LUC Order") filed October 22, 2009, were also free to file written briefs with the LUC by the aforementioned date.

<sup>2</sup> Prior to the receipt of public testimony, Commissioner Nicholas Teves disclosed that his firm, Commercial Electric Inc., had completed two projects for KOCA in 2011, but that he did not have any personal contact in the projects and could make an impartial decision on the matter. Commissioner Ronald Heller disclosed that he represents the Association of Apartment Owners of Beach Villas, a member of KOCA, in litigation against KOCA. There were no objections by the Applicant or Intervenors KOCA and Shimabukuro to the participation of Commissioners Teves and Heller in the proceeding. Intervenor Hanabusa took no position on the matter.

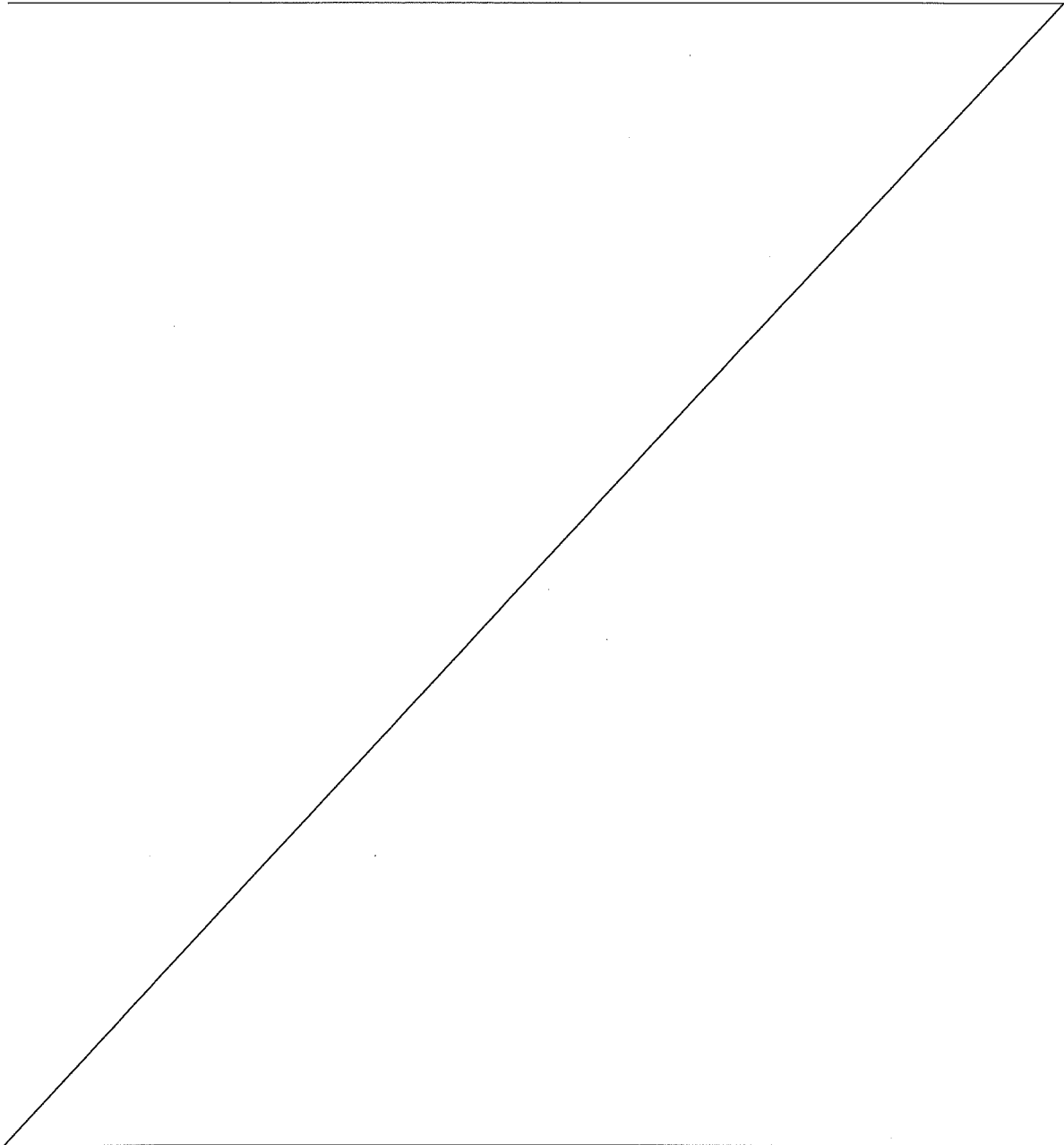
Following discussion, a motion was made and seconded to remand County Special Use Permit File No. 2008/SUP-2 to the Planning Commission for the expressed purpose of consolidating it with the proceeding on the Applicant's pending application to modify the LUC's Order filed October 22, 2009, in order that the Planning Commission may issue and transmit a single, consolidated Findings of Fact, Conclusions of Law, and Decision and Order on the matter to the LUC for further action pursuant to section 205-6, Hawai'i Revised Statutes ("HRS"), and sections 15-15-95 and 15-15-96, Hawai'i Administrative Rules ("HAR"). There being a vote of 7 ayes, 0 nays, and 2 excused, the motion carried.

ORDER

The LUC, having duly considered the written and oral arguments presented by the Applicant, Intervenors KOCA, Shimabukuro, and Hanabusa, OP, and Schnitzer, and a motion having been made and seconded at a meeting on September 14, 2012, in Ko 'Olina, O'ahu, 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 County Special Use Permit File No. 2008/SUP-2 be REMANDED to the Planning Commission for the expressed purpose of consolidating it with the proceeding on the Applicant's pending application to modify the LUC's Order filed October 22, 2009, in order that the

Planning Commission may issue and transmit a single, consolidated Findings of Fact, Conclusions of Law, and Decision and Order on the matter to the LUC for further action pursuant to section 205-6, HRS, and sections 15-15-95 and 15-15-96, HAR.



ADOPTION OF ORDER

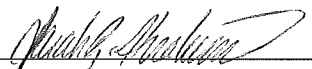
The undersigned Commissioners, being familiar with the record and proceedings, hereby adopt and approve the foregoing ORDER this 8th day of October, 2012. This ORDER may be executed in counterparts. This ORDER shall take effect upon the date this ORDER is certified by this Commission.

Done at Honolulu Hawai'i, this 8th day of October, 2012, per motion on September 14, 2012.

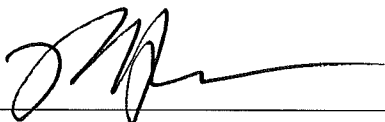
LAND USE COMMISSION

APPROVED AS TO FORM

STATE OF HAWAII

  
\_\_\_\_\_  
Deputy Attorney General

By \_\_\_\_\_  
KYLE CHOCK  
Chairperson and Commissioner

By   
\_\_\_\_\_  
RONALD HELLER  
Vice- Chairperson and Commissioner

By \_\_\_\_\_  
CHAD McDONALD  
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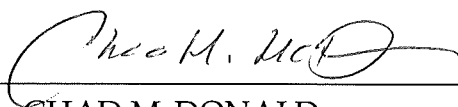
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Deputy Attorney General

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Chairperson and Commissioner

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RONALD HELLER  
Vice- Chairperson and Commissioner

By  \_\_\_\_\_  
CHAD McDONALD  
Vice- Chairperson and Commissioner



By Sheldon R. Biga  
SHELDON BIGA  
Commissioner

By Lance Inouye  
LANCE INOUE  
Commissioner

By (excused)  
JAYE NAPUA MAKUA  
Commissioner

By Ernest Matsumura  
ERNEST MATSUMURA  
Commissioner

Filed and effective on:

10/8/12

By (excused)  
THOMAS CONTRADES  
Commissioner

Certified by:

Daniel Orodener  
DANIEL ORODENKER  
Executive Officer

By Nicholas W. Teves Jr.  
NICHOLAS W. TEVES JR.  
Commissioner



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Landfill, Waimānalo Gulch, O`ahu, Hawai`i, Tax Map	)	CERTIFICATE OF SERVICE
Key: 9-2-03: 72 And 73	)	
	)	

CERTIFICATE OF SERVICE

I hereby certify that a copy of the ORDER REMANDING COUNTY SPECIAL USE PERMIT FILE NO. 2008/SUP-2 TO THE CITY AND COUNTY OF HONOLULU PLANNING COMMISSION 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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Dated: October 8, 2012, Honolulu, Hawaii.

  
Daniel Orodener, Executive Officer