



BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

2011 JUN 16 P 1:14
LAND USE COMMISSION
STATE OF HAWAII

In The Matter Of The Petition Of	)	DOCKET NO. A83-557
)	
PRINCEVILLE DEVELOPMENT	)	ORDER DENYING
CORPORATION	)	INTERVENOR'S MOTION FOR
	)	CONTINUANCE OF HEARING
To Reclassify Approximately 390 Acres	)	ON PETITIONER'S MOTION
Of Land Currently In The Agricultural	)	FOR ORDER AMENDING THE
District Into The Urban District At	)	FINDINGS OF FACT,
Hanalei, Kaua'i, Hawai'i, TMK:	)	CONCLUSIONS OF LAW, AND
5-3-06: 17 And Portion Of 14	)	DECISION AND ORDER
_____	)	DATED MARCH 28, 1985

ORDER DENYING INTERVENOR'S MOTION FOR CONTINUANCE OF HEARING
ON PETITIONER'S MOTION FOR ORDER AMENDING THE FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND DECISION AND ORDER DATED MARCH 28, 1985

AND
CERTIFICATE OF SERVICE

ORIGINAL



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PRINCEVILLE DEVELOPMENT CORPORATION)	ORDER DENYING INTERVENOR'S MOTION FOR CONTINUANCE OF HEARING ON PETITIONER'S MOTION FOR ORDER AMENDING THE FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION AND ORDER DATED MARCH 28, 1985
To Reclassify Approximately 390 Acres Of Land Currently In The Agricultural District Into The Urban District At Hanalei, Kaua'i, Hawai'i, TMK: 5-3-06: 17 And Portion Of 14)	
_____)	

ORDER DENYING INTERVENOR'S MOTION FOR CONTINUANCE OF HEARING ON PETITIONER'S MOTION FOR ORDER AMENDING THE FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION AND ORDER DATED MARCH 28, 1985

On May 10, 2011, Teresa Tico, Esq., filed an untimely Motion For Continuance Of Hearing On Petitioner's Motion For Order Amending The Findings Of Fact, Conclusions Of Law, And Decision And Order Dated March 28, 1985 ("Motion"), pursuant to section 15-15-70, Hawai'i Administrative Rules ("HAR"), on behalf of the Concerned Citizens of Anini ("Intervenor").

A Declaration Of Teresa Tico (“Declaration”) was attached to the Motion. In the Declaration, Ms. Tico stated, among other things, that upon receipt of the Motion For Order Amending The Findings Of Fact, Conclusions Of Law, And Decision And Order Dated March 28, 1985 (“Motion For Order”),¹ she attempted to locate the members of the Intervenor but was unable to do so. She also stated that on May 8, 2011, she received communication from a member of the Intervenor for the first time who had asked to meet with her but was unable to do so due to the closure of the Hanalei Bridge since May 8, 2011. Ms. Tico added that there would be no harm or prejudice to Petitioner if the State Land Use Commission (“Commission”) were to grant a 30 to 60 day continuance of this matter to enable the Intervenor to meet with her and prepare and file a position statement and/or response to Petitioner’s Motion For Order. Ms. Tico further noted that the additional time would enable her to (1) obtain copies of the Commission’s 1985 and 1989 Findings of Fact and Conclusions of Law and to review them in the context of representations in Petitioner’s Motion For Order, especially with respect to view plane issues; and (2) study and respond to the agricultural land use change issues.

¹ The Motion For Order was filed by Princeville Prince Golf Course, LLC (“Petitioner”), on March 9, 2011.

At its meeting on May 12, 2011, in Lihue, Hawaii, the Commission, by a vote of 6 ayes, 0 nays, and 3 excused, added the Motion to its agenda pursuant to section 92-7(d), Hawaii Revised Statutes. Teresa Tico, Esq., and Susan Wilson were present on behalf of the Intervenor. Also appearing were Benjamin M. Matsubara, Esq., Curtis T. Tabata, Esq., and Abbey Mayer on behalf of Petitioner; Bryan Yee, Esq., and Jesse Souki on behalf of the State Office of Planning ("OP"), and Michael Dahilig on behalf of the County of Kauai Planning Department ("Planning Department").

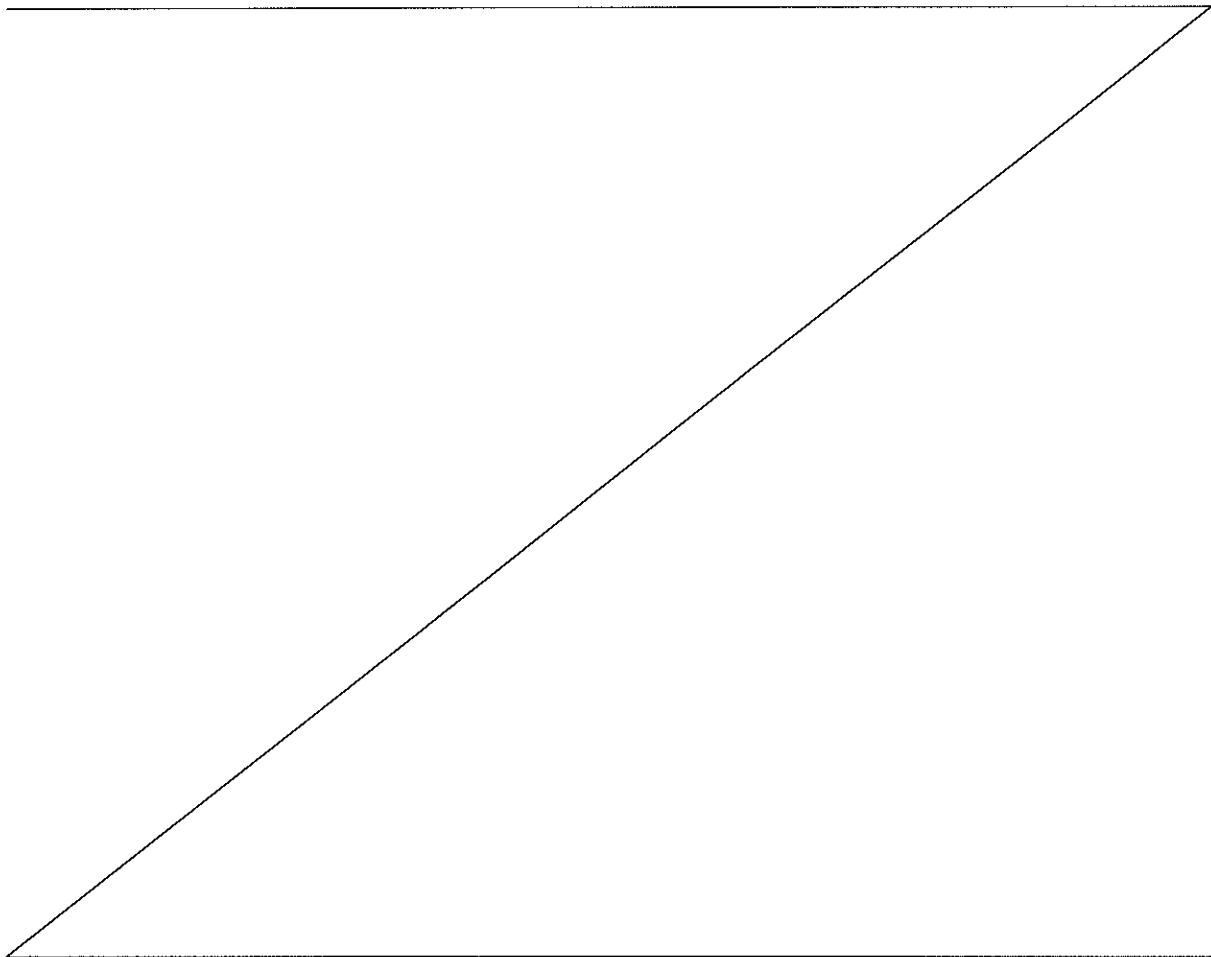
At the meeting, Intervenor reiterated her arguments in support of the Motion. Although Petitioner originally stated that it took no position on the Motion, it disputed the accuracy of certain statements in the Declaration. OP and the Planning Department stated that they took no position on the Motion. The Certificate of Service for Petitioner's Motion For Order indicates that Ms. Tico was served by certified mail on March 9, 2011. Upon questioning by the Commission, Intervenor affirmed that she was served with Petitioner's Motion For Order in early March 2011.

Following discussion, a motion was made and seconded to deny Intervenor's Motion. There being a vote tally of 5 ayes, 1 nay, and 3 excused, the motion carried.

ORDER

This Commission, having duly considered Intervenor's Motion, the oral arguments of the parties in this proceeding, and a motion having been made at a meeting on May 12, 2011, in Līhu'e, 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 Intervenor's Motion be DENIED.



ADOPTION OF ORDER

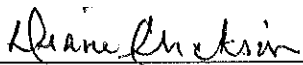
This ORDER shall take effect upon the date this ORDER is certified by this Commission.

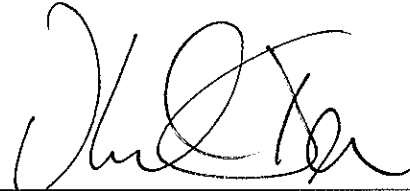
Done at Honolulu, Hawai'i, this 6th, day of June, 2011, per motion on May 12, 2011.

LAND USE COMMISSION

APPROVED AS TO FORM

STATE OF HAWAI'I

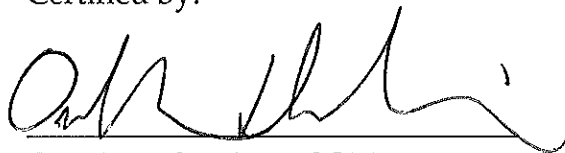

Deputy Attorney General

By 
VLADIMIR DEVENS
Chairperson and Commissioner

Filed and effective on:

6/6/11

Certified by:


ORLANDO DAVIDSON
Executive Officer



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In The Matter Of The Petition Of)) PRINCEVILLE DEVELOPMENT) CORPORATION)) To Reclassify Approximately 390 Acres) Of Land Currently In The Agricultural) District Into The Urban District At) Hanalei, Kaua`i, Hawai`i, TMK:) 5-3-06: 17 And Portion Of 14) _____)	DOCKET NO. A83-557 CERTIFICATE OF SERVICE
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2011 JUN -6 P 1:14
 LAND USE COMMISSION
 STATE OF HAWAII

CERTIFICATE OF SERVICE

I hereby certify that a copy of the ORDER DENYING INTERVENOR'S MOTION FOR CONTINUANCE OF HEARING ON PETITIONER'S MOTION FOR ORDER AMENDING THE FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION AND ORDER DATED MARCH 28, 1985 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:

	HAND DELIVERED	REGULAR MAIL	CERTIFIED MAIL
JESSE SOUKI, DIRECTOR Office of Planning 235 S. Beretania Street Rm. 600 Honolulu, Hawai`i 96813	X		

	HAND DELIVERED	REGULAR MAIL	CERTIFIED MAIL
BRYAN YEE, ESQ. Deputy Attorney General Hale Auhau, Third Floor 425 Queen Street Honolulu, Hawai'i 96813		X	
BENJAMIN M. MATSUBARA, ESQ. Matsubara-Kotake 888 Mililani Street, 8 th Floor Honolulu, Hawaii 96813			X
ALFRED CASTILLO, ESQ. Office of the County Attorney, County of Kauai 4444 Rice Street, Suite 220 Lihue, Hawaii, 96766			X
CONCERNED CITIZENS OF ANINI c/o Teresa Tico, Esq. P.O. Box 220 Hanalei, Kauai, Hawai'i, 96714			X
Michael A. Dahilig Director of Planning 4444 Rice St. Suite 453 Lihue, HI, 96766		X	

Dated: Honolulu, Hawaii, 6/6/11.



ORLANDO DAVIDSON
Executive Officer