

Attn: Daniel E. Orodener - Executive Officer  
State of Hawaii Land Use Commission  
P.O. Box 2359  
Honolulu, Hawaii 96804-2359  
Re: DOCKET NO. A89-642 Obligations

LAND USE COMMISSION  
STATE OF HAWAII

2015 JUL 13 A 7:46

Mr. Orodener,

After recently speaking to Mr. Riley K. Hakoda, Planner/Chief Clerk, relating to the Wailuku Project District, Docket #A89-642, I am requesting that the LUC provide a formal response for developer obligations relating Conditions #8 and 14 stated in Docket #A89-642 related to pro rata share of parks and obligations required by any successor of the land.

Specifically, the original developer for Docket #89-642 defaulted on the project and the new developer Dowling and Co. has stated because the project defaulted, they are not obligated to comply with the orders set forth and approved by the LUC. The original petitioner made promises of creating a community center and several parks. To date, multiple years past any expected completion dates, there is no community center and only one of two parks is "completed". The completed Makai Park has grass and irrigation but is essentially a locked ponding basin with signs posted at the entrance "Park closed for maintenance". As time has progressed in complying with Order #8, the County has placed new construction requirements for the Mauka Park and the current developer, Dowling and Co., is delaying the Mauka Park because of the new requirements and costs associated with those requirements. In addition, Dowling and Co. is stating Order #14 is no longer applicable to them due to the default of project by Stanford-Carr.

The November 5, 2014 report to Land Use Commission by Senior Advisor Gwen Ohashi Hiraga from Munekiyo Hirage Inc. provides responses to Orders 8 and 14 which states:  
Order #8

"Response: Petitioner is committed to provide its prorated share for police, fire, park, and solid waste disposal. Both Project Districts include areas for private and neighborhood parks. On September 21, 2012, Petitioner entered into a new park assessment agreement with the County of Maui for Wailuku Project District 3. The agreement calls for the completion of the Mauka and Makai Parks. Petitioner initiated construction of the Makai Park in March 2014 and intends to complete and convey the park to the County of Maui by the end of 2014 or in early 2015. With regard to the Mauka Park, Petitioner is awaiting approval of permits, submitted in late 2013. Petitioner will initiate construction of the Mauka Park upon receipt of permit approval. See Exhibit "E". The size of the parks shall meet the requirements approved by the Commission".

Order #14

"Response: As referenced in the response to Condition 11, the Petitioner conveyed the Kehalani (Wailuku Project District 3) lands to RCFC Kehalani, LLC and Piihana lands (Wailuku Project District 2) to RCFC Piihana, LLC. In addition, RCFC Kehalani, LLC conveyed property in Kehalani (Wailuku Project District 3), identified as TMK (2)3-5-001 :090 to HBT OF KEHALANI LLC on August 11, 2014. The property is subject to the terms and conditions set forth in the Commission's Decision and Order."

This letter is to submit a formal LUC response to the following questions:

1. Order #14 states:

"In the event that Petitioner should sell its interest in its Piihana and Wailuku Project Districts, Petitioner shall subject the property to deed restrictions to run with the land which shall require the successors and assigns to comply with the terms and conditions set forth in the Commission's Decision and Order.

**Question #1:** Because the project defaulted, is the new developer, Dowling and Co., removed from the requirement to comply with the terms and conditions stipulated in the Commission's Decision and Order, Order #14?

2. Order #8 states:

"Petitioner shall provide its pro rata share for police, fire, park, and solid waste disposal as may be required by and to the satisfaction of the County of Maui."

**Question #2:** Stanford-Carr defaulted the project. Does this default remove the obligation of Dowling and Co. to fulfill the requirements set forth in Order #8?

Respectfully submitted,

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