

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAI'I

In the Matter of the Petition of)
C. BREWER PROPERTIES, INC.)
To Amend the Conservation Land Use)
District Boundary into the)
Agricultural Land Use District for)
Approximately 20.644 Acres of Land)
at Ma'alaea, Island and County of)
Maui, State of Hawai'i, Tax Map Key)
No.: 3-6-01: portion of 18)

DOCKET NO. A91-672
ORDER GRANTING IN PART
AND DENYING IN PART
MOTION TO RELEASE
CONDITIONS OF APPROVAL
DUE TO SATISFACTION OF
CONDITIONS

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.

APR 07 2000 by *Rethen*
Date Executive Officer

ORDER GRANTING IN PART AND DENYING IN PART MOTION TO RELEASE
CONDITIONS OF APPROVAL DUE TO SATISFACTION OF CONDITIONS

LAND USE COMMISSION
STATE OF HAWAII
2000 APR -7 P 12:06

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

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C. BREWER PROPERTIES, INC.)	ORDER GRANTING IN PART
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To Amend the Conservation Land Use)	MOTION TO RELEASE
District Boundary into the)	CONDITIONS OF APPROVAL
Agricultural Land Use District for)	DUE TO SATISFACTION OF
Approximately 20.644 Acres of Land)	CONDITIONS
at Ma'alaea, Island and County of)	
Maui, State of Hawai'i, Tax Map Key)	
No.: 3-6-01: portion of 18)	

ORDER GRANTING IN PART AND DENYING IN PART MOTION TO RELEASE
CONDITIONS OF APPROVAL DUE TO SATISFACTION OF CONDITIONS

On February 11, 2000, Wailuku Agribusiness Co., Inc. ("Movant"), fka Wailuku Sugar Company, a Hawai'i corporation, successor in interest to Petitioner C. Brewer Properties, Inc., filed a Motion To Release Conditions Of Approval Due To Satisfaction Of Conditions ("Motion"), pursuant to sections 15-15-70 and 15-15-94, Hawai'i Administrative Rules ("HAR"). Movant requested that the Land Use Commission ("Commission") release the conditions of approval imposed in its Order Adopting Hearing Officer's Proposed Findings Of Fact, Conclusions Of Law, And Decision And Order ("Order") dated December 1, 1992, on the basis that all of the conditions have been satisfied.

An Affidavit of Avery B. Chumbley, President of Movant, filed in support of the Motion stated, among other things, that i) all of the conditions of approval have been satisfied; ii) the area redistricted has been in active agricultural production for many years and the Petition For Land Use District Boundary

Amendment was an action to include the cultivated fields within the Agricultural District for continued cultivation; iii) there was no development of the subject property other than agricultural use; and iv) he believed that the continued submitting of annual reports on the status of the subject property was no longer necessary in view of the lack of development of the property and compliance with the conditions as represented to the Commission.

On March 21, 2000, the Office of Planning ("OP") filed a Response To Petitioner's Motion To Release Conditions Of Approval, which agreed to the release of Condition Numbers 1, 2, 6, 7, 8, and 9 and recommended that Condition Numbers 3, 4, and 5 be retained.

The Motion came on for hearing before this Commission on March 23, 2000, in Waikapu, Hawai'i, with appearances by the parties as noted in the minutes. At the hearing, the Commission heard public testimony from Mark Sheehan. The County of Maui Planning Department ("Planning Department") recommended that Condition Numbers 1, 2, 6, 8, and 9 be released and that Condition Numbers 3, 4, 5, and 7 be retained. OP supported the Planning Department's recommendation to retain Condition Number 7. Movant stated that it had no objections to the recommendations of OP and the Planning Department regarding the conditions to be retained. Movant also stated that it had not made any long-term plans for the subject property.

Movant also clarified that it wished to proceed with its motion rather than defer the decision-making to a later date.

Thereafter, a motion was made and seconded that Conditions Number 2, 8, and 9 be released, but Conditions Numbers 1, 3, 4, 5, 6, and 7 be retained. Following discussion by the Commissioners, a vote was taken on this motion. There being a vote tally of 8 ayes, 0 nays and 1 excused, the motion carried.

ORDER

Having duly considered Movant's Motion, the Affidavit in support, the statement made by the public witness, and the oral and written arguments presented by the parties, and a motion having been made at a hearing conducted on March 23, 2000, at Waikapu, 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, the Commission ORDERS as follows:

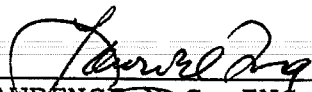
Conditions Numbers 2, 8, and 9 of the Commission's Order dated December 1, 1992, are released, and Condition Numbers 1, 3, 4, 5, 6, and 7 are retained and continue in effect.


ADOPTION OF ORDER

The undersigned Commissioners, being familiar with the record and the proceedings, hereby adopt and approve the foregoing ORDER this 6th day of April 2000. The ORDER and its ADOPTION shall take effect upon the date this ORDER is certified and filed by the Commission.

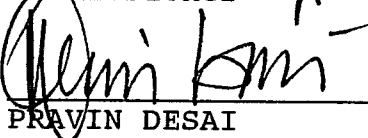
LAND USE COMMISSION
STATE OF HAWAI'I

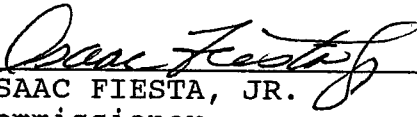
By (abstain)
MERLE A. K. KELAI
Chairperson and Commissioner

By 
LAWRENCE N.C. ING
Vice Chairperson and Commissioner

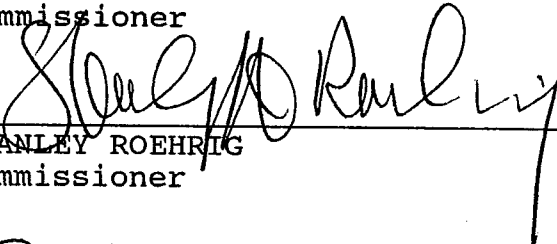
By 
P. ROY CATALANI
Commissioner

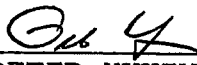
By 
BRUCE A. COPPA
Commissioner

By 
PRAVIN DESAI
Commissioner

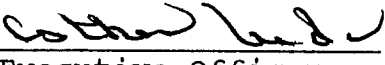
By 
ISAAC FIESTA, JR.
Commissioner

By _____ (absent)
M. CASEY JARMAN
Commissioner

By 
STANLEY ROHRIG
Commissioner

By 
PETER YUKIMURA
Commissioner

Filed and effective on
April 7, 2000

Certified by:

Executive Officer

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

In the Matter of the Petition of)
C. BREWER PROPERTIES, INC.) DOCKET NO. A91-672
To Amend the Conservation Land Use) CERTIFICATE OF SERVICE
District Boundary into the)
Agricultural Land Use District for)
Approximately 20.644 Acres of Land)
at Ma'alaea, Island and County of)
Maui, State of Hawai'i, Tax Map Key)
No.: 3-6-01: portion of 18)

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Order Granting In Part And Denying In Part Motion To Release Conditions Of Approval Due to Satisfaction Of Conditions was served upon the following by either hand delivery or depositing the same in the U. S. Postal Service by certified mail:


DEL. DAVID W. BLANE, Director
Office of Planning
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CERT. JOHN E. MIN, Director of Planning
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CERT. PAUL R. MANCINI, ESQ., Attorney for Petitioner
33 Lono Avenue, Suite 470
Kahului, Hawaii 96732

DATED: Honolulu, Hawaii, this 7th day of April 2000.


ESTHER UEDA
Executive Officer