

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In The Matter Of The Petition Of	)	DOCKET NO. A00-734
	)	
CASTLE & COOKE HOMES HAWAII,	)	ORDER DISMISSING PETITION
INC. AND PACIFIC HEALTH	)	FOR LAND USE DISTRICT
COMMUNITY, INC.	)	BOUNDARY AMENDMENT
	)	WITHOUT PREJUDICE
To Amend The Agricultural Land Use	)	
District Boundary Into The Urban Land Use	)	
District For Approximately 1,247.983 Acres	)	
Of Land At Waipi`o and Waiawa, O`ahu,	)	
Hawai`i, Tax Map Keys: 9-4-06: 1, 2, Por. 3,	)	
Por. 29; 9-5-03: Por. 1, Por. 2, Por. 4; And 9-	)	
6-04: 21	)	

ORDER DISMISSING PETITION FOR LAND USE DISTRICT BOUNDARY  
AMENDMENT WITHOUT PREJUDICE

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ORDER DISMISSING PETITION FOR LAND USE DISTRICT BOUNDARY  
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This matter came on for hearing at the Land Use Commission's ("Commission") meeting in Honolulu, Hawai`i, on April 13, 2007. William Yuen, Esq., appeared on behalf of Co-Petitioner Pacific Health Community, Inc. ("PHCI")<sup>1</sup> Matt Higashida appeared on behalf of the City and County of Honolulu Department of Planning and Permitting ("DPP"). Bryan C. Yee, Esq., and Abe Mitsuda appeared on behalf of the State Office of Planning ("OP"). Intervenors Sierra Club, Hawai`i Chapter, and the Mililani/Waipio/Melemanu Neighborhood Board No. 25 were duly served with

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<sup>1</sup> Co-Petitioner PHCI is a Hawai`i corporation that was organized through the support of The Wahiawa Hospital Association, a Hawai`i non-profit corporation ("WHA"). At the meeting, Karin Holma, Esq., and Michael Carroll, Esq., appeared on behalf of the WHA.

notice of this proceeding but were not present or represented. At the meeting, Benjamin M. Matsubara, Esq., requested that he be allowed to make a special appearance on behalf of Co-Petitioner Castle & Cooke Homes Hawaii, Inc. ("CCHHI") for the purposes of this proceeding. The Commission, without objection by the parties present in this proceeding, granted Mr. Matsubara's request.

The Commission's Executive Officer, Anthony Ching, then provided a staff report to the Commission that included a chronology of events regarding the Petition For Land Use District Boundary Amendment ("Petition") filed in the above-entitled docket and recommendations based on these events. Mr. Ching pointed out, among other things, that pursuant to the State of Hawai'i Supreme Court January 27, 2006, decision affirming the First Circuit Court's September 23, 2003, final judgment vacating this Commission's Findings Of Fact, Conclusions Of Law, And Decision And Order dated June 27, 2002, in the above-entitled docket, the preparation of an environmental assessment ("EA") is required in this matter. Mr. Ching also noted that given the absence of such an EA at this time, the Petition is not properly filed, and therefore cannot be accepted for processing. Mr. Ching further noted that given the current uncertainty in the status and scope of the proposed development, staff recommended that the Petition be dismissed without prejudice.

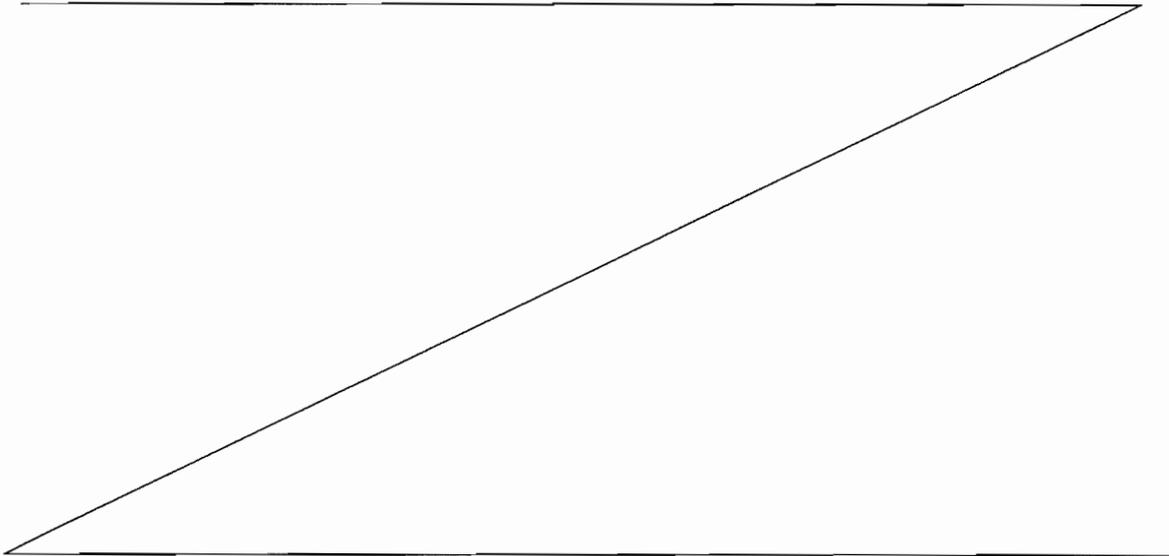
Co-Petitioner PHCI took no position on the dismissal of the Petition without prejudice. Co-Petitioner CCHHI, the DPP, and the OP had no objections to the

dismissal of the Petition without prejudice. Thereafter, a motion was made and seconded to dismiss the Petition without prejudice. There being a vote tally of 6 ayes and 3 absent, the motion carried.

ORDER

This Commission, having duly considered the entire record in this matter and the oral arguments of the parties present in this proceeding, and a motion having been made at a meeting conducted on April 13, 2007, in Honolulu, Hawai`i, and the motion having received the affirmative votes required by section 15-15-13, Hawai`i Administrative Rules (“HAR”), and there being good cause for the motion, this Commission ORDERS as follows:

The Petition shall be dismissed without prejudice. Co-Petitioners CCHHI and PHCI are free to file with this Commission a new petition or petitions for land use district boundary amendment covering substantially the same land as had previously been requested without regard to the provisions of section 15-15-76, HAR.



Done at Honolulu Hawaii, this 1st day of  
May, 2007, per motion on April 13, 2007.

APPROVED AS TO FORM

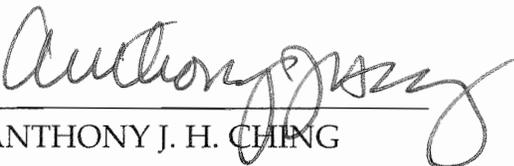
  
\_\_\_\_\_  
Deputy Attorney General

LAND USE COMMISSION  
STATE OF HAWAII

By   
\_\_\_\_\_  
KYONG-SU IM  
Presiding Officer and Commissioner

Filed and effective on  
MAY - 1 2007

Certified by:

  
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ANTHONY J. H. CHING

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In The Matter Of The Petition Of ) DOCKET NO. A00-734  
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CASTLE & COOKE HOMES HAWAII, ) CERTIFICATE OF SERVICE  
INC. AND PACIFIC HEALTH )  
COMMUNITY, INC. )  
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To Amend The Agricultural Land Use )  
District Boundary Into The Urban Land Use )  
District For Approximately 1,247.983 Acres )  
Of Land At Waipi`o and Waiawa, O`ahu, )  
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Por. 29; 9-5-03: Por. 1, Por. 2, Por. 4; And 9- )  
6-04: 21 )

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Order Dismissing Petition For Land Use District Boundary Amendment Without Prejudice 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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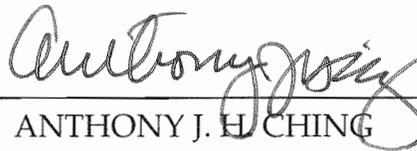
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Dated: Honolulu, Hawaii, MAY - 1 2007.



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ANTHONY J. H. CHING  
Executive Officer