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

In the Matter of the Petition of
MOANA CORPORATION

To Amend the Agricultural Land Use District Boundary into the Urban Land Use District For Approximately 457.54 Acres of Land Situated at Poipu, Island of Kauai, State of Hawaii, TMK: 2-8-14: 05, 07, 08, por. 19, 20, 21, 26-36; 2-8-15: 77; 2-8-29: 1-94

DOCKET NO. A76-418
ORDER DENYING MOTION TO DISMISS LAND USE COMMISSION'S ORDER TO SHOW CAUSE PROCEEDING

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.

JUL 15 1996, by Executive Officer

ORDER DENYING MOTION TO DISMISS
LAND USE COMMISSION'S ORDER TO SHOW CAUSE PROCEEDING
ORDER DENYING MOTION TO DISMISS
LAND USE COMMISSION'S ORDER TO SHOW CAUSE PROCEEDING

On June 14, 1996, First Hawaiian Bank, as Trustee of the Eric A. Knudsen Trust, and Hawaiian Trust Company, Limited, as Trustee of the Augustus F. Knudsen Trust (collectively "Knudsen Trusts"), filed a Motion To Dismiss Land Use Commission's Order to Show Cause Proceeding ("Motion").

The Motion requested the Land Use Commission ("Commission") to terminate and dismiss the Order to Show Cause proceedings because the Commission lacks legal authority to initiate the proceedings.


On June 21, 1996, Intervenors KVH Partners and CGB Partners filed its Joinder to the Motion.
On June 26, 1996, the County of Kauai Planning Department filed its Memorandum in Opposition to First Hawaiian Bank and Hawaiian Trust Company, Ltd.'s Motion to Dismiss.

On June 27, 1996, the Office of State Planning filed its Joinder in County of Kauai’s Memorandum in Opposition to First Hawaiian Bank and Hawaiian Trust Company, Ltd.'s Motion to Dismiss.

The Commission, having considered the arguments presented by the parties and Intervenors, both written and oral, and having reviewed the entire record for the subject docket to date, and with good cause shown;

NOW HEREBY DENIES the Motion to Dismiss Land Use Commission’s Order to Show Cause Proceeding due to the following reasons:

1) The Commission has met statutory requirements for notice of the proceeding as provided by Chapter 91, Hawai'i Revised Statutes;

2) Pursuant to section 205-4(g), Haw. Rev. Stat., and section 15-15-93, Hawai'i Administrative Rules, the Commission is authorized to conduct an Order to Show Cause proceeding;

3) Condition No. 9 specifically provided that the "Petitioner substantially complete within five years from the date of this Decision and Order all off-site and on-site improvements, landscaping, all of the single-family residential homesites, at least 300 multi-family residential units,...";
4) The Commission has reason to believe that development of the subject property is not in compliance with the provision of Condition No. 9 for 12 years;

5) The purpose of the Order to Show Cause proceeding is to provide all parties the opportunity to refute this Commission's reasonable belief that Petitioner has failed to perform according to Condition No. 9; and

6) The respective Motions to Modify Condition No. 9 filed by the Knudsen Trusts and Sports Shinko (Kauai) Company, Ltd., is currently pending before this Commission, and no decision has been rendered with respect to the Motions to Modify Condition No. 9.
DOCKET NO. A76-418 - MOANA CORPORATION

Done at Honolulu, Hawaii, this 15th day of July 1996, per motion on June 28, 1996.

LAND USE COMMISSION
STATE OF HAWAII

By Allen K. Hoe
ALLEN K. HOE
Chairperson and Commissioner

By Trudy K. Senda
TRUDY K. SENDA
Vice Chairperson and Commissioner

By Rupert K. Chun
RUPERT K. CHUN
Commissioner

By M. Casey Jarmian
M. CASEY JARMIAN
Commissioner

By Lloyd F. Kawakami
LLOYD F. KAWAKAMI
Commissioner

By (absent)
MERLE A. K. KELAI
Commissioner

By (absent)
EUSEBIO LAPENIA, JR.
Commissioner

By (absent)
JOANN N. MATTSO
Commissioner

By Elton Wada
ELTON WADA
Commissioner

Filed and effective on July 15, 1996

Certified by:

Executive Officer

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

In the Matter of the Petition of ) DOCKET NO. A76-418
MOANA CORPORATION ) CERTIFICATE OF SERVICE

To Amend the Agricultural Land Use )
District Boundary into the Urban )
Land Use District For Approximately )
457.54 Acres of Land Situated at )
Poipu, Island of Kauai, State of )
Hawai'i, TMK: 2-8-14: 05, 07, 08, )
por. 19, 20, 21, 26-36; 2-8-15: 77; )
2-8-29: 1-94 )

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Order Denying Motion
to Dismiss Land Use Commission's Order to Show Cause Proceeding
was served upon the following by either hand delivery or
depositing the same in the U. S. Postal Service by certified
mail:

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DATED: Honolulu, Hawaii, this 15th day of July 1996.

ESTHER UEDA
Executive Officer