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Attorney for Petitioner  
HO'OMOANA FOUNDATION

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

In the Matter of the Petition	)	DOCKET NO. DR 15-54
of:	)	
	)	HO'OMOANA FOUNDATION'S
KAUAULA CAMPGROUND	)	PETITION TO INTERVENE;
	)	CERTIFICATE OF SERVICE
To Issue a Declaratory Order	)	
that the Proposed Construction	)	
of a Homeless Encampment and	)	
Commercial Campground on 7.9	)	
Acres of a 22.7 Acre Parcel	)	
Located at Hokiokio Place and	)	
Lahaina Bypass Road at Maui Tax	)	
Map Key No. (2) 4-7-003:031	)	
(POR), Lahaina, Maui, Hawaii,	)	
in the Agricultural District	)	
Requires a Boundary Amendment	)	

2016 FEB 19 A 8:03

LAND USE COMMISSION  
STATE OF HAWAII

HO'OMOANA FOUNDATION'S PETITION TO INTERVENE

Ho'omoana Foundation ("Foundation") seeks the permission of the Land Use Commission of the State of Hawaii ("Commission") to intervene in the above-referenced action pursuant to HAR § 15-15-53.

Section 15-15-53(b), HAR, states that a petition to intervene in cases other than for district boundary amendment must meet the requirements of HAR §§ 15-15-52(e) and 15-15-

52(f). The first section identifies the number of copies of the petition which must be filed and the date by which the Petition must be filed. The second section requires the Foundation to address three areas: (1) what is the nature of the Foundation's statutory or other right to appear; (2) what is the nature and extent of the Foundation's interest in the property; and (3) what will be the effect of any decision in the proceeding on the Foundation's interest.

A. The Foundation, as the Applicant for a State Land Use Commission Special Use Permit has a Statutory Right to Appear.

The Petition asks this Commission to declare, among other things, that a district boundary amendment is required for the proposed use, that of a campground on land which is classed and zoned as Agricultural. A cornerstone of our system of government and beliefs is that property rights will not be disturbed without due process of law, which includes a reasonable opportunity to be heard. U.S. Const. Amed. XIV, § 1; Hi. Const. Art. I, § 5. This cornerstone was recognized by the Commission which allows property owners to intervene as a matter of right. See, HAR § 15-15-52(c)(2).

The Foundation has a lease from the property owner. Based upon the lease, the Foundation has an ownership interest in the land made the subject of the petition. As such, the Foundation has a statutory right to appear.

B. The Nature and Extent of the Foundation's Interest in the Property Suggests the Granting of Intervention.

In addition to having an ownership interest by virtue of a lease, the Foundation is the applicant for a State Land Use Commission Special Use Permit and a County of Maui Conditional Use Permit. Both of these permits seek permission to develop a campground on about 7.9 acres of a 22.6 acre parcel. The proposed development will consist of a two acre campground and a 5.9 acre adjacent agricultural field to be used by campground occupants. The Foundation prepared and is prosecuting applications before the Maui Planning Commission for a State Land Use Commission Special Use Permit and a County of Maui Conditional Use Permit. The Foundation has expended time and funds to pursue the development and the permits. As such, any determination by the Commission concerning the petition for declaratory ruling will impact the Foundation. Accordingly, the Foundation should be allowed to intervene because a declaratory ruling by the Commission will have an impact on the Foundation's pending permit applications.

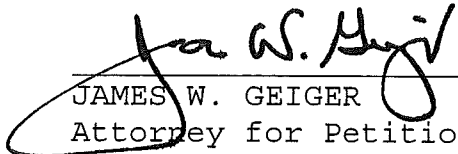
C. The Foundation Will be Effected by the Commission's Decision.

The final element is the effect that any decision might have on the Foundation's interest. Clearly, there may be a significant impact on the Foundation. Petitioners seek to require a permanent change in land use classification by seeking

a ruling that the proposed action requires a district boundary amendment. The Foundation has made it clear in testimony at public hearings on the permit applications and in meetings that the proposed campground will be initiated on a trial basis. It is anticipated by the Foundation that the users of the campground will be among the functionally homeless population in West Maui. These persons are not expected to utilize the campground facilities on a long-term basis but rather on a short-term or temporary basis. The Foundation does not know whether there will be sufficient use to justify continued operations, nor does the Foundation know whether the proposed project will prove successful in addressing some of the needs of the homeless in West Maui. However, because the Foundation is investing time and funds in processing the permit applications, it should be entitled to present argument, present evidence if an evidentiary hearing is allowed, call and cross examine witnesses, and establish that a district boundary amendment is not required for the proposed action. If the Commission grants any of the relief requested by Petitioner in the declaratory action and denies the opportunity to the Foundation to participate in the process, the result will violate the fundamental principles upon which our form of government and our

justice system are based. It is therefore clear that  
intervention should be granted.

DATED: Kahului, Hawai'i, FEB 17 2016.

  
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JAMES W. GEIGER  
Attorney for Petitioner  
HO'OMOANA FOUNDATION

CERTIFICATE OF SERVICE

I hereby certify that on the date hereof I caused a copy of the foregoing to be duly served by depositing same in the United States mail, postage prepaid, to the following at their last known address:

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Leo R. Asuncion, Jr.  
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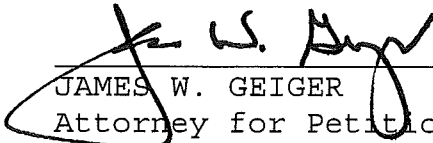
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FEB 17 2016

DATED: Kahului, Hawai'i, \_\_\_\_\_.

  
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JAMES W. GEIGER  
Attorney for Petitioner  
HO'OMOANA FOUNDATION