

DEPARTMENT OF THE CORPORATION COUNSEL

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COUNTY OF MAUI

LAND USE COMMISSION  
STATE OF HAWAII  
2017 JAN - 9 A 8: 25

BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Petition of  
LANA'I RESORT PARTNERS

To consider further matters related to an Order To Show Cause as to whether certain land located at Manele, Lana'i, should revert to its former Agricultural and/or Rural land use classification due to Petitioner's failure to comply with Condition No. 10 of the Land Use Commission's Findings of Fact, Conclusions of Law, and Decision and Order filed April 16, 1991, Tax Map Key No. 4-9-002:049 (por.), formerly Tax Map Key No. 4-9-002:001 )por.)

DOCKET NO.: A89-649

RESPONDENT COUNTY OF MAUI'S  
RESPONSE TO PETITIONER LANA'I  
RESORT PARTNERS' PROPOSED  
FINDING OF FACT, CONCLUSIONS OF  
LAW, AND DECISION AND ORDER  
DATED DECEMBER 29, 2016;  
CERTIFICATE OF SERVICE

**RESPONDENT COUNTY OF MAUI'S RESPONSE TO PETITIONER  
LANA'I RESORT PARTNERS' PROPOSED FINDING OF FACT,  
CONCLUSIONS OF LAW, AND DECISION AND ORDER  
DATED DECEMBER 29, 2016**

COMES NOW, Respondent COUNTY OF MAUI, by and through its attorneys, Patrick K. Wong, Corporation Counsel, Caleb P. Rowe and Michael J. Hopper, Deputies Corporation Counsel, and pursuant to Minute order 9 in this Docket, hereby stipulates to PETITIONER

LANA'I RESORT PARTNERS's Proposed Finding of Fact, Conclusions of Law, and Decision and Order dated December 29, 2016, subject to the following comments and/or corrections:

FINDINGS OF FACT

36. The County substantively agrees with this finding of fact ("FoF"), but would suggest that the language be amended to make clear that the entire portion constitutes the opinion of LSG, rather than stating stand-alone facts. The County would suggest that FoF 36 be worded as follows (with changes in italics):

During the instant hearing, the president and secretary of LSG, Reynold "Butch" Gima, testified on behalf of LSG about LSG's position. According to Mr. Gima, LSG's position is that no water from the high-level aquifer can be used to irrigate the golf course *and that* because Wells 1 and 9 are within the high-level aquifer, Wells 1 and 9 cannot be used to irrigate the golf course.

90. The County substantively agrees with FoF 90, but would suggest the document instead be referred to as the "*2011 Lana'i Water Use and Development Plan*" for clarity (change in italics).


138. The County substantively agrees with FoF 138, but would suggest the following rewording to make it clearer:

Nothing in the plain language of the 1991 Order indicated that leakage of potable high level water into the lower elevation brackish water compartments counts as a utilization of potable water "for golf course irrigation" for the purposes of Condition 10.

DATED: Wailuku, Maui, Hawaii, January 6, 2017.

PATRICK K. WONG  
Corporation Counsel  
Attorney for Respondent  
COUNTY OF MAUI

By



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CALEB P. ROWE  
MICHAEL J. HOPPER  
Deputies Corporation Counsel

BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Petition of  
LANA'I RESORT PARTNERS

To consider further matters related to an Order To Show Cause as to whether certain land located at Manele, Lana'i, should revert to its former Agricultural and/or Rural land use classification due to Petitioner's failure to comply with Condition No. 10 of the Land Use Commission's Findings of Fact, Conclusions of Law, and Decision and Order filed April 16, 1991, Tax Map Key No. 4-9-002:049 (por.), formerly Tax Map Key No. 4-9-002:001 )por.)

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CERTIFICATE OF SERVICE

**CERTIFICATE OF SERVICE**

I hereby certify that on this date a true and correct copy of the foregoing document was served upon the following by depositing same via email and U.S. Mail, postage pre-paid on:

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DATED: Wailuku, Maui, Hawaii, January 6, 2017.

PATRICK K. WONG  
Corporation Counsel  
Attorney for Respondent  
COUNTY OF MAUI

By   
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CALEB P. ROWE  
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