



LAND USE COMMISSION
STATE OF HAWAII

2016 NOV 23 P 12: 58

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In The Matter Of The Petition Of)	DOCKET NO. DR16-57
)	
UNIVERSITY OF HAWAII)	ORDER GRANTING PETITIONER,
COMMUNITY COLLEGES)	UNIVERSITY OF HAWAII,
)	COMMUNITY COLLEGES
For A Declaratory Order To Waive)	PETITION FOR
Hawai'i Administrative Rules (HAR))	DECLARATORY ORDER
Section 15-15-50(c)(20))	
)	

ORDER GRANTING PETITIONER, UNIVERSITY OF HAWAII, COMMUNITY
COLLEGES PETITION FOR DECLARATORY ORDER
AND
CERTIFICATE OF SERVICE

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

Date 11/23/16

By 
DANIEL E. ORODENKER
Executive Officer



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ORDER GRANTING PETITIONER, UNIVERSITY OF HAWAII, COMMUNITY
COLLEGES PETITION FOR DECLARATORY ORDER

On November 4, 2016, the Commission received a Petition for Declaratory Order (“Petition”) filed by Earl Matsukawa, an agent on behalf of the University of Hawai`i, Community Colleges (“Petitioner”) pursuant to Hawai`i Administrative Rules (HAR) Section 15-15-99, Memorandum in Support, Exhibit 1, and Certificate of Service.

In its Petition, the Petitioner stated that it seeks a waiver of the incremental development schedule and map requirements in HAR Section 15-15-50(c)(20), and to redistrict the entire Petition Area as set forth in HAR Section 15-15-78(a)(1), as applied to a petition filed on November 9, 2016, with the Land Use Commission, due to its inability to forecast the availability of public funds and community population growth prior to obtaining land use entitlements.

The Petitioner does not believe the time schedule requirement is jurisdictional. Further, the Petitioner believes that there is good cause for waiver of the time schedule requirement as the Petitioner plans to develop the entire Petition Area; that full development can't be substantially completed within ten years; that as a State agency it is waived from the financial reporting requirements for a Petition; and that due to the uncertain availability of public funding it is impossible for Petitioner to provide a definitive time schedule or map to develop the Petition Area in increments.

On November 18, 2016, the County of Kaua'i ("County") filed a Statement of No Opposition and that a representative would not be attending the hearing.

On November 21, 2016, the State Office of Planning ("OP") filed a Response to Petitioner's Request for Declaratory Order stating No Objection.

On November 22, 2016, the Commission met at the Honolulu Airport, Honolulu, Hawai'i, to consider the Petition for Declaratory Order. Earl Matsukawa, was present as an agent on behalf of Petitioner. Dawn Takeuchi-Apuna, Esq. and Lorene Maki were present on behalf of OP. The County had provided by prior correspondence that they would not be attending the hearing.

At the meeting, the Chair asked whether the parties had any additional pleadings they wished to file or argument to present. Mr. Matsukawa responded that he did not. Ms. Takeuchi-Apuna responded that OP rested on its statement of no objection.


Following discussion, a motion was made and seconded to grant the Petition for Declaratory Order. There being a vote tally of 8 ayes, and 1 excused, the motion carried.

ORDER


This Commission, having duly considered the Petition for Declaratory Order and the pleadings and arguments of the parties in this proceeding, and a motion having been made at a meeting on November 22, 2016, in Honolulu, Hawai`i, and the motion having received the affirmative votes required by HAR Section 15-15-13, and there begin good cause for the motion,

HEREBY ORDERS that the Petition for Declaratory Order be and hereby is GRANTED.

DATED: Honolulu, Hawai`i, 11/23/16 per motion in
Honolulu, Hawai`i, on November 22, 2016.

By: 
EDMUND ACZON
Chairperson and Commissioner

APPROVED AS TO FORM:

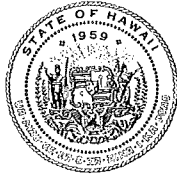

Deputy Attorney General

Filed and Effective on:

11/23/16

Certified by:


DANIEL E. ORODENKER
Executive Officer



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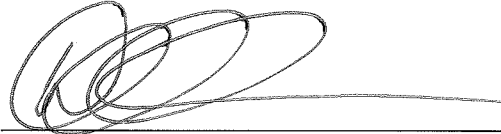
CERTIFICATE OF SERVICE

I hereby certify that a copy of the ORDER 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:

	HAND DELIVERED	REGULAR MAIL	CERTIFIED MAIL
LEO ASUNCION, DIRECTOR Office of Planning 235 S. Beretania Street Rm. 600 Honolulu, Hawai'i 96813	X		
DAWN TAKEUCHI APUNA ESQ. Deputy Attorney General Hale Auhau, Third Floor 425 Queen Street Honolulu, Hawai'i 96813		X	
EARL MATSUKAWA, AICP Wilson Okamoto Corporation 1907 South Beretania Street, Suite 400 Honolulu, Hawai'i 96826			X

	HAND DELIVERED	REGULAR MAIL	CERTIFIED MAIL
MAUNA KEA TRASK, ESQ. Office of the County Attorney, County of Kauai 4444 Rice Street, Suite 220 Lihue, Hawai`i, 96766			X
MICHAEL A. DAHILIG Director of Planning 4444 Rice St. Suite 453 Lihue, Hawai`i, 96766		X	
University of Hawai`i Community Colleges Michael Unebasami Denise Yoshimori-Yamamoto Brandon Shimokawa 2327 Dole Street Honolulu, Hawai`i 96822		X	

Dated: Honolulu, Hawai`i, 11/ 23/2016.



DANIEL E. ORODENKER
Executive Officer