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2017 MAY 31 A 11: 27

Attorneys for COUNTY OF KAUAI
HOUSING AGENCY

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

| | | |
|--|---|------------------------------------|
| In the Matter of the Petition of |) | Docket No. A17-802 |
| |) | |
| COUNTY OF KAUAI HOUSING |) | AFFIDAVIT OF DAVID J. MINKIN |
| AGENCY |) | ATTESTING TO SERVICE OF |
| |) | PETITIONER'S NOTICE OF HEARING; |
| To Amend the Agricultural Land Use |) | EXHIBITS "A" – "D"; CERTIFICATE OF |
| District Boundaries into the Urban Land |) | SERVICE |
| Use District for certain lands situated at |) | |
| 'Ele'ele, Kauai, Hawaii; consisting of |) | |
| approximately 75 acres, Tax Map Key |) | |
| No. (4) 2-1-001:054 |) | |
| _____ |) | |

**AFFIDAVIT OF DAVID J. MINKIN ATTESTING
TO SERVICE OF PETITIONER'S NOTICE OF HEARING**

| | | |
|-----------------------------|---|-----|
| STATE OF HAWAII |) | |
| |) | SS. |
| CITY AND COUNTY OF HONOLULU |) | |

DAVID J. MINKIN, being first duly sworn on oath, deposes and says:

1. He is one of the attorneys for the County of Kauai (“County”), a municipal corporation, through its Housing Agency, a political subdivision of the State of Hawaii (“Petitioner”), is licensed to practice law in Hawaii, is duly authorized to make this affidavit on behalf of Petitioner, and does so upon personal information and belief.

2. This affidavit is made to demonstrate compliance with Section 15-15-51(b), Hawaii Administrative Rules (“HAR”) for the Land Use Commission of the State of Hawaii (“Commission”).

3. On May 25, 2017, in compliance with Hawaii Administrative Rules §15-15-51(b), Affiant deposited in the United States mail, a copy of the Notice of Hearing, a copy of which is attached as Exhibit “A” and made a part hereof, addressed to each of the persons identified on the State-wide mailing list attached as Exhibit “B”.

4. On May 25, 2017, in compliance with HAR §15-15-51(b), Affiant deposited in the United States mail, a copy of the Notice of Hearing, a copy of which is attached as Exhibit “A” and made a part hereof, addressed to each of the persons identified on the County of Kauai mailing list attached as Exhibit “C”.

5. On May 25, 2017, in compliance with HAR §15-15-51(b), Affiant deposited in the United States mail, a copy of the Notice of Hearing, a copy of which is attached as Exhibit “A” and made a part hereof, addressed to the Office of State Planning, the County of Kauai Planning Commission and the County of Kauai Planning Department.

6. On May 26, 2017 Affiant deposited in the United States mail, a copy of the Notice of Hearing, a copy of which is attached as Exhibit “A” and made a part hereof, addressed to the Intervenor, Jean Nishida Souza, as follows:

JEAN NISHIDA SOUZA
P.O. Box 450
Hanapepe, Hawaii 96716

7. On May 25, 2017, in compliance with HAR §15-15-51(b), Affiant deposited in the United States mail, a copy of the Notice of Hearing, a copy of which is attached as Exhibit "A" and made a part hereof, addressed to the following entities, other than the County, that have a recorded interest in the subject property:

Kauai Island Utility Cooperative
4463 Pahee Street, Suite 1
Lihue, Hawaii 96766-2000
(Utility easement and right-of-entry)

Board of Water Supply, County of Kauai
P.O. Box 1706
Lihue, HI 96766
(Water tank rights)

Kauai Habitat for Humanity
P.O. Box 28
Eleele, Kauai, Hawaii 96716
(Easements for drainage and waterline purposes)

McBryde Sugar Company, Limited
P.O. Box 8
Eleele, Kauai, Hawaii 96705
(Reservation of easements for drainage and waterline purposes—also included in Section 8 below)

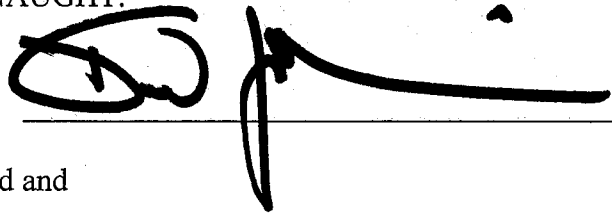
8. On May 25, 2017, in compliance with HAR §15-15-51(b), Affiant deposited in the United States mail, a copy of the Notice of Hearing, a copy of which is attached as Exhibit "A" and made a part hereof, addressed to the following entities that have license rights to use the subject property for agricultural use:

McBryde Sugar Company, Limited
P.O. Box 8
Eleele, Kauai, Hawaii 96705
(License Agreement from County of Kauai—also included in Section 7 above)

Kauai Coffee Company, LLC
1 Numila Road
Kalaheo, Hawaii 96741
(Sublicense Agreement from McBryde Sugar Company, Limited)

9. On May 30, 2017, in compliance with HAR § 15-15-51(c), Affiant filed with the Office of the Lieutenant Governor a copy of the Notice of Hearing, a copy of which is attached as Exhibit "A" and made a part hereof. A true and correct file-marked copy of the Notice of Hearing indicating such filing is attached hereto as Exhibit "D".

FURTHER, AFFIANT SAYETH NAUGHT.



This four (4) page Affidavit, was subscribed and sworn to before me on this 31st day of May 2017, in the First Circuit, State of Hawaii by David J. Minkin.

Sharon m. Takahama
Print name:
NOTARY PUBLIC, STATE OF HAWAII

My Commission Expires: 1-4-2021

LS

EXHIBIT "A"

NOTICE OF HEARING

NOTICE IS HEREBY GIVEN of the hearing to be held in the County of Kauai by the Land Use Commission of the State of Hawaii to consider a petition for change of district boundaries as provided for in Section 205-4 and Section 201H-38, Hawaii Revised Statutes, as amended:

DATE, TIME AND PLACE

June 28, 2017, 9:30 a.m.
June 29, 2017, 8:30 a.m.
Moikeha Building
Conference Room 2A/2B
4444 Rice Street
Lihue, Hawaii 96766

DOCKET NUMBER: A17-802

PETITIONER:

County of Kauai, Housing Agency
4444 Rice Street, Suite 330
Lihue, Hawaii 96766

TAX MAP KEY NO.: (4) 2-1-001:054

CHANGE REQUESTED: To reclassify approximately 75 acres of land situated at Eleele, Island and County of Kauai, State of Hawaii, to allow for a residential development on the property and to utilize the density for up to 550 residential units (single-family and multi-family). All units will be affordable as defined by Chapter 7A of the Kauai County Code, and offered for sale or rent to households who earn no more than 140% of the Kauai median household income. The proposed project is also anticipated to include a community park, a water storage tank, bike and pedestrian paths, and landscaped areas. Petitioner is using the property for the Lima Ola Workforce Development project ("Lima Ola"). Because all units will be affordable, Lima Ola qualifies as an affordable housing project under Section 201H-38, Hawaii Revised Statutes, as amended. Petitioner has sought exemptions from State and County land use regulations and is proceeding under the fast tracking procedures provided under HRS §201H-38.

Maps showing the proposed district boundaries and copies of the Hawaii Land Use Commission Rules governing the above petition may be inspected at the offices of the Kauai County Planning Department, 4444 Rice Street, #473, Lihue, Hawaii 96766 during office hours from 8:00 a.m. to 4:00 p.m. Monday through Friday (except legal holidays) and at the offices of the State Land Use Commission, 235 South Beretania Street, Room 406, Honolulu, Hawaii 96813 during office hours from 7:45 a.m. to 4:30 p.m. (except legal holidays).

All persons who have some property interest in the land, who lawfully reside on the land, or who otherwise can demonstrate that they will be so directly and immediately affected by the proposed change that their interest in the proceeding is clearly distinguishable from that of the general public shall be admitted as parties upon timely application for intervention.

All other persons may apply to the Commission for leave to intervene as parties. Leave to intervene shall be freely granted, provided that the Commission or its hearings officer, if one is appointed, may deny an application to intervene when in the Commission's or hearings officer's sound discretion it appears that: (1) the position of the applicant for intervention concerning the proposed change is substantially the same as the position of a party already admitted to the proceeding, and (2) the admission of additional parties will render the proceedings inefficient and unmanageable. A person whose application to intervene is denied may appeal such denial pursuant to Section 9114, Hawaii Revised Statutes.

Petitions to intervene were due fifteen (15) days after the publication of the Notice of Intent to File a Land Use District Boundary Petition, pursuant to Sections 15-15-97(b)(3) and 15-15-97(e) of the Hawaii Land Use Commission Rules.

All persons or individuals wishing to present testimony, orally or in writing, are requested to notify the Commission prior to the commencement of the hearing. Together with other witnesses that the Commission may desire to hear at the hearing, a representative of a citizen or a community group wishing to express the views of such citizen or community group concerning the proposed boundary amendment, is requested to notify the Commission prior to the commencement of the hearing and may be requested to submit written evidence of authorization to represent the citizen or community group. It is suggested that such notification be submitted to the Commission by June 21, 2017.

Any party to the proceeding may be represented by legal counsel. An individual may appear on the individual's own behalf, or a member of a partnership may represent the partnership, or an officer or authorized employee of a corporation, trust, or other legal entity may represent the corporation, trust, or other legal entity.

For persons requesting special accommodations due to disabilities, please contact the State Land Use Commission at (808) 587-3822 or notify the State Land Use Commission in writing at P.O. Box 2359, Honolulu, Hawaii, 96804-2359, at least 10 days before the scheduled meeting.

LAND USE COMMISSION
Edmund Aczon, Chair
By Daniel E. Orodener, Executive Officer

EXHIBIT "B"

UH Director of Capital Improvements
1960 East West Road, Rm B102
Honolulu, Hawaii 96822

State of Hawaii
Hawaii Community Development Authority
461 Cooke Street
Honolulu, Hawaii 96813

STATEWIDE MAILING LIST
Last Updated: 4/11/17

Earth Justice Legal Defense Fund
850 Richards St. Suite 400
Honolulu HI 96813

Hawaii Operating Engineers
2181 Lauwilwili Street Ste 102
Kapolei, HI 96707

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P. O. Box 131
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P O Box 3143
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641 Polipoli Road
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Lanihau Properties LLC
P.O. Box 9032
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Paia, Hawaii 96779-9609

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Pier 40 – P. O. Box 3288
Honolulu, HI 96801

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P.O. Box 970967
Waipahu, HI 96797

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Trade Council
735 Bishop Street, Suite 412
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Waikoloa HI 96738

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Chun Kerr Dodd Beaman & Wong
999 Bishop Street Suite 2100
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The Estate of James Campbell
1001 Kamokila Boulevard
Kapolei HI 96707

United States Marine Corps
Commander, Marine Forces Pacific
Attn: G4. Box 64118
Camp H.M. Smith, Hawaii 96861-4118

Representative Cindy Evans
7th District
State Capitol, Room 311
Honolulu, Hawaii 96813

U.S. Fish and Wildlife Service
300 Ala Moana Blvd., Rm. 3-122
Honolulu HI 96850

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Directorate of Public Works
Attn: Planning Division
Schofield Barracks, Hawaii 96857-5013

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79 South Nimitz Highway
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Land Division, Coastal Lands Program
P O Box 621
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Dept of Agriculture
1428 South King Street
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Commission on Water Resource Management
Dept. of Land & Natural Resources
1151 Punchbowl Street, Room 227
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Executive Director
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Major General Arthur J. Logan
Adjutant General-State of Hawaii
Department of Defense
3949 Diamond Hear Road
Honolulu, HI 96816

Land Management Division
Dept. of Land & Natural Resources
1151 Punchbowl Street, Room 131
Honolulu, HI 96813

Dept. of Hawaiian Home Lands
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Carlsmith Ball LLP
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Honolulu HI 96813

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EXHIBIT "C"

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Caren Diamond
P. O. Box 536
Hanalei, Hawaii 96714

EXHIBIT "D"
NOTICE OF HEARING

NOTICE IS HEREBY GIVEN of the hearing to be held in the County of Kauai by the Land Use Commission of the State of Hawaii to consider a petition for change of district boundaries as provided for in Section 205-4 and Section 201H-38, Hawaii Revised Statutes, as amended:

DATE, TIME AND PLACE

June 28, 2017, 9:30 a.m.
June 29, 2017, 8:30 a.m.
Moikeha Building
Conference Room 2A/2B
4444 Rice Street
Lihue, Hawaii 96766

DOCKET NUMBER: A17-802

PETITIONER:

County of Kauai, Housing Agency
4444 Rice Street, Suite 330
Lihue, Hawaii 96766

TAX MAP KEY NO.: (4) 2-1-001:054

CHANGE REQUESTED: To reclassify approximately 75 acres of land situated at Eleele, Island and County of Kauai, State of Hawaii, to allow for a residential development on the property and to utilize the density for up to 550 residential units (single-family and multi-family). All units will be affordable as defined by Chapter 7A of the Kauai County Code, and offered for sale or rent to households who earn no more than 140% of the Kauai median household income. The proposed project is also anticipated to include a community park, a water storage tank, bike and pedestrian paths, and landscaped areas. Petitioner is using the property for the Lima Ola Workforce Development project ("Lima Ola"). Because all units will be affordable, Lima Ola qualifies as an affordable housing project under Section 201H-38, Hawaii Revised Statutes, as amended. Petitioner has sought exemptions from State and County land use regulations and is proceeding under the fast tracking procedures provided under HRS §201H-38.

Maps showing the proposed district boundaries and copies of the Hawaii Land Use Commission Rules governing the above petition may be inspected at the offices of the Kauai County Planning Department, 4444 Rice Street, #473, Lihue, Hawaii 96766 during office hours from 8:00 a.m. to 4:00 p.m. Monday through Friday (except legal holidays) and at the offices of the State Land Use Commission, 235 South Beretania Street, Room 406, Honolulu, Hawaii 96813 during office hours from 7:45 a.m. to 4:30 p.m. (except legal holidays).

All persons who have some property interest in the land, who lawfully reside on the land, or who otherwise can demonstrate that they will be so directly and immediately affected by the proposed change that their interest in the proceeding is clearly distinguishable from that of the general public shall be admitted as parties upon timely application for intervention.

All other persons may apply to the Commission for leave to intervene as parties. Leave to intervene shall be freely granted, provided that the Commission or its hearings officer, if one is appointed, may deny an application to intervene when in the Commission's or hearings officer's sound discretion it appears that: (1) the position of the applicant for intervention concerning the proposed change is substantially the same as the position of a party already admitted to the proceeding, and (2) the admission of additional parties will render the proceedings inefficient and unmanageable. A person whose application to intervene is denied may appeal such denial pursuant to Section 9114, Hawaii Revised Statutes.

GOVERNOR'S OFFICE
17 MAY 30 PM 12:02

Petitions to intervene were due fifteen (15) days after the publication of the Notice of Intent to File a Land Use District Boundary Petition, pursuant to Sections 15-15-97(b)(3) and 15-15-97(e) of the Hawaii Land Use Commission Rules.

All persons or individuals wishing to present testimony, orally or in writing, are requested to notify the Commission prior to the commencement of the hearing. Together with other witnesses that the Commission may desire to hear at the hearing, a representative of a citizen or a community group wishing to express the views of such citizen or community group concerning the proposed boundary amendment, is requested to notify the Commission prior to the commencement of the hearing and may be requested to submit written evidence of authorization to represent the citizen or community group. It is suggested that such notification be submitted to the Commission by June 21, 2017.

Any party to the proceeding may be represented by legal counsel. An individual may appear on the individual's own behalf, or a member of a partnership may represent the partnership, or an officer or authorized employee of a corporation, trust, or other legal entity may represent the corporation, trust, or other legal entity.

For persons requesting special accommodations due to disabilities, please contact the State Land Use Commission at (808) 587-3822 or notify the State Land Use Commission in writing at P.O. Box 2359, Honolulu, Hawaii, 96804-2359, at least 10 days before the scheduled meeting.

LAND USE COMMISSION
Edmund Aczon, Chair
By Daniel E. Orodener, Executive Officer

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

| | | |
|--|---|------------------------|
| In the Matter of the Petition of |) | Docket No. A17-802 |
| |) | |
| COUNTY OF KAUAI HOUSING |) | CERTIFICATE OF SERVICE |
| AGENCY |) | |
| |) | |
| To Amend the Agricultural Land Use |) | |
| District Boundaries into the Urban Land |) | |
| Use District for certain lands situated at |) | |
| 'Ele'ele, Kauai, Hawaii; consisting of |) | |
| approximately 75 acres, Tax Map Key |) | |
| No. (4) 2-1-001:054 |) | |
| _____ |) | |

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document will be duly served upon the following by mailing said copy, postage prepaid, first class, in a United States post office (“MAIL”) or by hand delivery (“HD”) on May 31, 2017:

| | |
|--|------|
| PLANNING DEPARTMENT, COUNTY OF KAUA'I 4444 Rice Street Lihu'e, Kaua'i, Hawai'i 96766 | MAIL |
|--|------|

| | |
|--|----|
| OFFICE OF PLANNING, STATE OF HAWAI'I 235 South Beretania Street 6th Floor, Leiopapa A Kamehameha Building Honolulu, Hawai'i 96813 | HD |
|--|----|

| | |
|---|----|
| DAWN TAKEUCHI-APUNA, ESQ. Deputy Attorney General 425 Queen Street Honolulu, Hawai'i 96813 | HD |
|---|----|

| | |
|---|------|
| KAUA'I COUNTY PLANNING COMMISSION c/o Planning Department, County of Kaua'i 4444 Rice Street Lihu'e, Kaua'i, Hawai'i 96766 | MAIL |
|---|------|

JEAN NISHIDA SOUZA
P.O. Box 450
Hanapēpē, Hawai'i 96716
(Intervenor)

MAIL

DATED: Honolulu, Hawaii, May 31, 2017.

A handwritten signature in black ink, appearing to read 'David J. Minkin', is written over a horizontal line.

DAVID J. MINKIN
PETER J. HAMASAKI
KELSEY S. YAMAGUCHI

Attorneys for COUNTY OF KAUAI
HOUSING AGENCY