

LAND USE COMMISSION

Minutes of Meeting

Conference Room 405
State Office Tower, Leiopapa A Kamehameha
235 South Beretania Street
Honolulu, Hawaii

September 25, 1997

COMMISSIONERS PRESENT: Rupert K. Chun, Vice-Chairperson
Casey Jarman
JoAnn Mattson
Isaac Fiesta, Jr.
Lawrence N.C. Ing
Herbert Kaopua, Sr.
Merle A.K. Kelai

*approved
10/16/97*

COMMISSIONERS ABSENT: P. Roy Catalani
Peter Yukimura

STAFF PRESENT: Esther Ueda, Executive Officer
Jon Itomura, Deputy Attorney General
Leo Asuncion, Jr., Staff Planner
Darlene Kinoshita, Chief Clerk

Sharon Mujtabaa, Court Reporter

Vice-Chairperson Chun called the meeting to order.

Commissioner P. Roy Catalani was excused from this proceeding due to a previously declared conflict of interest.

A89-649 - LANAI RESORT PARTNERS (Manele)

Vice-Chairperson Chun announced that the Commission would take action to consider Petitioner's Motion to Amend Condition No. 10 of the Findings of Fact, Conclusions of Law, and Decision and Order dated April 16, 1991 and Intervenor Lanaians for Sensible Growth's Motion to Revert Property to its Former Classification and to Authorize Action to Seek Judicial Enforcement of the Commission's May 17, 1996 Order.

Appearances

James T. Funaki, Esq., Attorney for Petitioner
Bruce Lamon, Esq., Attorney for Petitioner
Tom Hoadley, Lanai Company
Vince Bagoyo, Lanai Company

Gary Zakian, Esq., Deputy Corporation Counsel, County of Maui

Ann Ogata-Deal, Esq., Deputy Attorney General, Office of Planning

Richard Egged, Jr., Director, Office of Planning

Alan Murakami, Esq., Attorney for Intervenor, Lanaians for Sensible Growth

U'ilani Pauole, student intern, Native Hawaiian Legal Corp.

The following letters were admitted into evidence by the Land Use Commission:

1. Exhibit 1 - August 26, 1997 from Rae M. Loui, Commission of Water Resource Management
2. Exhibit 2 - September 5, 1997 from Gary Zakian, Esq., Deputy Corporation Counsel, County of Maui
3. Exhibit 3 - September 18, 1997 from James T. Funaki, Esq., Attorney for Lanai Resort Partners

PUBLIC WITNESS

1. Allen K. Hoe

Commissioner Fiesta moved for an executive session to consult with the Commission's deputy attorney general about the clarification of procedural matters concerning the pending motions.

The motion was seconded by Commissioner Kelai and unanimously approved by voice votes.

Arguments on Petitioner's Motion to Amend Condition No. 10 and Intervenor's Motion to Revert Property to its Former Classification and to Authorize Action to Seek Judicial Enforcement of the Commission's May 17, 1996 Order were heard from Mr. Funaki, Mr. Zakian, Ms. Ogata-Deal, Mr. Egged, and Mr. Murakami.

Commissioner Kaopua was absent from the proceeding at this time.

After hearing arguments, questions were asked by the Commissioners.

Commissioner Ing moved to accept the Office of Planning's proposed amendments to Petitioner's Motion to Amend Condition No. 10, as amended. The motion was seconded by Commissioner Fiesta and polled as follows:

Ayes: Commissioners Ing, Kelai, Fiesta, and Chun

Nays: Commissioners Mattson and Jarman

The motion did not carry.

A lunch recess was taken at 1:30 P.M. to reconvene at 2:15 p.m.

- 2:30 p.m. -

Commissioner Kaopua joined the proceeding at this time and Commissioner Ing was absent from the proceeding at this time.

Commissioner Jarman moved to continue the hearing on Intervenor's Motion to Revert Property to its Former Classification and to Authorize Action to Seek Judicial Enforcement of the Commission's May 17, 1996 Order. The motion was seconded by Commissioner Mattson and polled as follows:

Ayes: Commissioners Jarman, Mattson, and Kaopua

Nays: Commissioners Kelai, Fiesta, and Chun

The motion did not carry.

Commissioner Kaopua moved to go into executive session to discuss legal matters with the Commission's attorney regarding procedural ramifications of the motion that did not pass. The motion was seconded by Commissioner Fiesta and unanimously approved by voice votes.

Commissioner Kelai moved to continue the hearing on Intervenor's motion. The motion was seconded by Commissioner Fiesta and unanimously approved by voice votes.

MISCELLANEOUS

1. ADOPTION OF MINUTES

Commissioner Jarman moved to approve the minutes for the following meeting date: August 27, 1997. The motion was seconded by Commissioner Kaopua and unanimously approved by voice votes.

MINUTES - September 25, 1997
Page 4

2. During the executive session a discussion with the Commission's deputy attorney general on the status of litigation matters and a briefing on Ex Parte Communications was held.

3. The field trip to the Convention Center site was cancelled and reset to October 30, 1997.

The meeting was adjourned at 3:25 p.m.