

OFFICE OF THE
ASSISTANT REGISTRAR, LAND COURT
STATE OF HAWAII
(Bureau of Conveyances)

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KALANI A. MORSE, ESQ.
Durrett Lang, LLLP
841 Bishop Street, Suite 1101
Honolulu, Hawaii 96813

No. of Pages: 23

Tax Map Key No.: (1) 5-6-006-0018 (por.)

DECLARATION OF RESTRICTIVE COVENANT

THIS DECLARATION OF RESTRICTIVE COVENANTS is made this 3rd day of April 2019, by MALAEKAHANA HUI WEST, LLC, an Arizona limited liability company, Owner in fee simple of that certain parcel of land situate at Kaipapau, District of Koolauloa, City and County of Honolulu, State of Hawaii, being more particularly described as a specific portion of Tax Map Key No. (1) 5-6-006-018, hereinafter referred to as the "Property", and more particularly described in Exhibit A attached hereto and made a part hereof.

W·I·T·N·E·S·S·E·T·H:

WHEREAS, by Limited Warranty Deed and Quitclaim Deed with Covenants dated June 9, 2006, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document No. 3438643, recorded in the Bureau of Conveyances of the State of Hawaii as Document No. 2006-107321, and noted on Transfer Certificate of Title No. 808,717, MALAEKAHANA HUI WEST, LLC (formerly known as Serenity Park, LLC), became the owner of said Property and is hereinafter referred to as the "Declarant"; and

WHEREAS, on December 21, 2018 Declarant petitioned the Land Use Commission of the State of Hawai'i ("Commission") to issue a Declaratory Order designating approximately

203.33 acres of its Property as Important Agricultural Lands, pursuant to Hawai'i Revised Statutes § 205-45 ("Petition"); and

WHEREAS, in connection with the Commission's grant of Declarant's Petition, the Commission entered its Findings of Fact, Conclusions of Law, Decision and Order dated March 4, 2019 (the "Commission's Order"); and

WHEREAS, Declarant desires that the Property be recorded as being subject to the Commission's Order.


NOW, THEREFORE, Declarant hereby declares and agrees that the real property described in said Exhibit "A" shall be subject to this Declaration of Restrictive Covenant, which Declaration shall consist of the Commission's Order, attached hereto as Exhibit "B".

Declarant agrees that this Declaration shall be filed in the Office of the Assistant Registrar of the Land Court of the State of Hawai'i.

IN WITNESS WHEREOF, the Declarant has caused this instrument to be executed the day and year first above written.

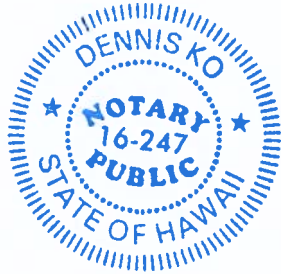
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Signature page(s) to follow.*


MALAEKAHANA HUI WEST, LLC,
an Arizona limited liability company

By 
AARON CAMPBELL
Its Manager

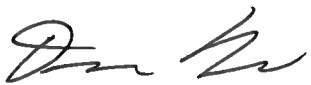
STATE OF HAWAII)
) : SS.
CITY & COUNTY OF HONOLULU)

On this 3rd day of April 2019, before me personally appeared, AARON CAMPBELL, to me personally known, who, being by me duly sworn or affirmed, did say that such person(s) executed the foregoing instrument as the free act and deed of such person(s), and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.




Notary Public in and for the
above named State and County
Name: Dennis Ko
My commission expires: July 10, 2020

Doc Date: 4/3/19 # Pages: 3
Name: Dennis Ko First Circuit
Doc. Description: DECLARATION OF RESTRICTIVE COVENANTS


Notary Signature

NOTARY CERTIFICATION

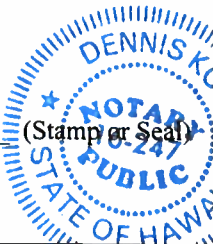


EXHIBIT A

Tax Map Key Description: A total of approximately 230.33 acres of land owned by Malaekahana Hui West, LLC on O‘ahu are proposed to be designated as Important Agricultural Land (IAL).

The following is proposed for IAL designation, identified more specifically in the attached map below showing approximately 230.33 acres at O‘ahu, Hawai‘i and identified further as a portion of TMK No. (1) 5-6-006-0018 which is also described in Transfer Certificate of Title No. 808,717.



- LEGEND**
- Malaekahana Hui West's Land
 - CPR Lots
 - Proposed IAL ("Property")
 - Ag. Road

Source: City & County of Honolulu 2018 ESPI Aerial, 2018
Disclaimer: This graphic is not intended for general planning purposes only.

Figure 1
TMK Parcels and Proposed IAL

Malaekahana Hui West IAL

Malaekahana Hui West Island of O‘ahu

North Linear Scale (Feet)

0 250 500 1,000



LAND USE COMMISSION
STATE OF HAWAII

2019 MAR -4 A 10:05

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition Of:

MĀLAEKAHANA HUI WEST, LLC, a
Hawaii'i limited liability company

For Declaratory Order to Designate Important
Agricultural Lands for approximately 230.33
acres at O'ahu, Hawaii'i identified by TMK
No. (1) 5-006-0018 (por.)

DOCKET NO. DR18-63

**FINDINGS OF FACT, CONCLUSIONS OF
LAW, DECISION AND ORDER; EXHIBIT
A; AND CERTIFICATE OF SERVICE**

**FINDINGS OF FACT, CONCLUSIONS OF LAW,
DECISION AND ORDER, EXHIBIT A,
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'i

03/04/2019 by

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke, positioned above a horizontal line.
Executive Officer

EXHIBIT B



LAND USE COMMISSION
STATE OF HAWAII

2019 MAR -4 A 10:29

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

In the Matter of the Petition Of:

MĀLAEKAHANA HUI WEST, LLC, a
Hawai'i limited liability company

For Declaratory Order to Designate Important
Agricultural Lands for approximately 230.33
acres at O'ahu, Hawai'i identified by TMK
No. (1) 5-006-0018 (por.)

DOCKET NO. DR18-63

**FINDINGS OF FACT, CONCLUSIONS OF
LAW, DECISION AND ORDER; AND
EXHIBIT A**

**FINDINGS OF FACT, CONCLUSIONS OF LAW,
DECISION AND ORDER, AND EXHIBIT A**

Petitioner MĀLAEKAHANA HUI WEST, LLC ("*MHW*") filed a Petition for Declaratory Order to Designate Important Agricultural Lands (the "*Petition*") on December 21, 2018 with the Land Use Commission of the State of Hawai'i ("*Commission*") to designate approximately 230.33 acres of land at O'ahu, Hawai'i (collectively, the "*Petition Area*"), more particularly described below, as Important Agricultural Lands ("*IAL*") pursuant to §§ 205-44 & 45 of the Hawai'i Revised Statutes ("*HRS*") and §§ 15-15-98, -99, -120, & -121 of the Hawai'i Administrative Rules ("*HAR*").

The Commission, having heard and examined the testimony, evidence, and arguments presented during the hearing, along with the Petition and other pleadings and submission filed therein, hereby makes the following Findings of Fact, Conclusions of Law, and Decision and Order.

FINDINGS OF FACT

PROCEDURAL MATTERS

1. On December 21, 2018, Petitioner filed the Petition and Exhibits “A” through “E” and certificate of Service along with a copy of digital files of the Petition.
2. On December 31, 2018 the Commission received MHW’s \$1000 declaratory order application fee
3. On December 31, 2018, the Commission sent its Notice of Land Use Commission Meeting and Agenda for its January 10, 2019 site visit to the Petition Area to the parties and to all the Commission’s statewide and O’ahu mailing lists.
4. On January 8, 2019, the Commission sent email requests for comments on the Petition to the State of Hawai‘i Office of Planning (“OP”), the State of Hawai‘i Department of Agriculture (“DOA”), and to the City and County of Honolulu (the “County”) Department of Planning and Permitting.
5. On January 10, 2019, the Commission conducted a site visit and viewed the Petition Area.
6. On January 14, 2019, the Commission published and sent its Notice of Land Use Commission Meeting and Agenda for its February 6, 2019 hearing on the Petition.
7. On January 18, 2019, The State of Hawai‘i Office of Planning (“OP”) filed comments in support of the Petition. (“*OP’s Letter*”).
8. On January 18, 2019, the City and County of Honolulu’s Department of Planning and Permitting (“DPP”) filed its comments, recommending that the Commission withhold its decision until the Honolulu City Council transmits its recommendations on proposed IAL designations to the Commission. (“*DPP’s Letter*”).

9. On January 18, 2019, the State of Hawai‘i Department of Agriculture (“*DOA*”) filed comments in support of the Petition (“*DOA’s Letter*”).
10. On February 5, 2019, the Commission received MHW’s witnesses list, a Resume for Thomas Schnell and Exhibit A.
11. On February 6, 2019, the Commission held a public hearing on the Petition in La‘ie, Hawai‘i.
12. Kalani A. Morse, Esq. appeared on behalf of MHW, Dawn T. Apuna, Esq. and Rodney Funakoshi appeared on behalf of OP, Noa Ching appeared on behalf of DOA and Raymond Young appeared on behalf of DPP.
13. At the meeting, the Commission admitted into evidence Petitioner’s Petition, including Exhibits “A” through “E”, the written comments on the Petition from OP, the DOA and the DPP; Mr. Thomas Schnell’s resume and the hard copy of Petitioner’s Power Point slide presentation.
14. As part of its case-in-chief, Petitioner’s called Mr. Thomas Schnell and Mr. Aaron Campbell as witnesses. Mr. Schnell was qualified as an expert witness in land use and environmental planning.
15. OP called Rodney Funakoshi as its representative. OP supported the designation of the entire Petition Area as Important Agricultural Lands (“IAL”).
16. DOA called Noah Ching as its representative. DOA supported the designation of the entire Petition Area as IAL.
17. DPP called Raymond Young to testify at the hearing as its representative. DPP requested deferral of the Commission’s decision-making on the Petition but offered no opposition to the Petition.

18. Following the receipt of testimony and Petitioner's case in chief; and upon due deliberation, a motion was made to approve the Petition in its entirety subject to two conditions, which motion was seconded. There being a vote tally of six ayes, zero nays and 2 excused, the motion carried.¹

DESCRIPTION OF THE PETITION AREA

19. The Petition Area consists of approximately 230.33 acres of land on the island of Oahu, Hawai'i identified as TMK No. (1) 5-006-0018 (por.). (See Petition at Exhibit A).

20. The Petition Area represents approximately 50.6 percent of all of MHW's lands. (See Petition at 2, and Exhibit D at pg. 7).

21. MHW owns and manages the entire Petition Area. (See Petition at pg. 6 and Exhibit C).

22. MHW leases almost all of the Petition Area to local farmers, who engage in active agricultural use of the land. (See Petition at pg. 8 and Exhibit D at pg. 9 (Figure 2)).

23. MHW supports the agricultural operations within the Petition area through environmentally-friendly and sustainable accessory activities. (See Petition at pg. 10).

DESCRIPTION OF REQUEST

24. MHW seeks a determination from the Commission that the Petition Area should be designated as IAL pursuant to HRS §§205-44 and -45 and HAR §§15-15-98, -99, -120, and -121.

¹ There are currently eight sitting Commission members; Commissioners Wong and Okuda were not present; the Kaua'i seat is currently vacant.

25. MHW is not seeking a reclassification of land pursuant to HRS § 205-45(b) in conjunction with its Petition.

26. MHW has represented that it is voluntarily waiving any and all rights to assert, claim, or exercise any credit pursuant to HRS § 205-45(h), effective as of the date of its Petition, that may be earned by Petitioner. Petitioner has represented that this waiver is limited to the use of credits for the sole purpose of reclassifying other lands that are not the subject of the Petition pursuant to HRS §205-45(h), effective as of the date of its Petition. The waiver does not apply to any other credits incentives, rights or privileges that MHW may possess now or in the future, whether known or unknown. (See Petition at pgs. 22-23).

CONFORMANCE WITH STANDARDS AND CRITERIA FOR IDENTIFICATION OF IAL

HRS §§ 205-42 and 205-44(c) and HAR § 15-15-120(c) set out the criteria for identifying IAL.

27. HRS Section 205-42 sets forth the objectives for identifying IAL. Lands identified as IAL do not need to meet every criterion listed in HRS § 205 44(c). Rather, lands meeting at least one criterion in HRS § 205-44(c) shall be given initial consideration. The IAL designation is to be made “by weighing the standards and criteria with each other” to meet the constitutionally mandated purposes in Article XI, Section 3, of the Constitution of the State of Hawai‘i and the objectives and policies for IAL identified in HRS §§ 205-42 & -43.

HRS § 204-44(c)(1) and HAR § 15-15-120(c)(1): Lands currently used for agricultural production.

28. Portions of the Petition Area are constrained by topography and drainage; those lands support the agricultural activities on the adjacent cultivated lands and agribusiness operations.

29. Five tenant farmers are currently leasing large portions of the Petition Area from MHW and have been doing so continuously for more than 12 years.

30. Those farmers have been known to collectively produce over one million pounds of produce annually. (See Petition at Exhibit D at page 4 and Figure 2).

31. Crops vary based on farmer interest, growing cycles and market conditions and may include: banana, apple-banana, papaya, watermelon, bitter melon, lilikoi, tomato, cherry tomato, squash, bell peppers, long bean, eggplant, cucumber, asparagus, carrots, green onion, bok choy, taro, kale, lettuce, cabbage, basil, mint, string bean, baha stem, ginger, Hawaiian chili pepper, and various herbs including curry leaf. (Id).

32. All of the Petition Area lies within the State Agricultural District.

33. The Petition Area is currently qualified for an agricultural tax dedication from the City and County of Honolulu. (See Petition at pg. 7-8 and DOA's Letter at pg. 2). This agricultural dedication is valid until 2020 and the Petitioner has indicated its intent to renew the tax dedication in 2020, just as it has in the past. (Id).

34. MHW's lands containing the Petition Area are also subject to a Restrictive Covenant requiring that the Petition Area be used for agricultural purposes until 2024 and beyond so long as MHW continues with permitted accessory uses of the Petition area. (Id).

35. The Petition Area is currently used for agricultural production and, actively involved and/or utilized for cultivation and growth of crops.

36. Both OP and DOA concluded in their respective comment letters that the Petition Area meets this criterion. (See OP's Letter at pg. 2 and DOA's Letter at pg. 2).

HRS § 204-44(c)(2) and HAR § 15-15-120(c)(2): Land with soil quantities and growing conditions that support agricultural production for food, fiber or fuel, and energy-producing crops.

37. According to LSB ratings on soil productivity in the area, 76.3% of the lands in the Petition Area is rated as either A (Very Good) or B (Good). (See OP’s Letter at pg. 4 and DOA’s Letter at pgs. 2-3).

38. Table 2 below summarizes the productivity ratings of the Petition Area.

| TABLE 2 | | |
|---------------------|---------------|-------------|
| Productivity Rating | Total IAL | |
| | Acres | % of IAL |
| A (Very good) | 12.82 | 5.6% |
| B (Good) | 162.94 | 70.7% |
| C (Fair) | 1.02 | 0.4% |
| D (Poor) | 8.24 | 3.6% |
| E (Very Poor) | 41.24 | 17.9% |
| Unclassified | 4.08 | 1.8% |
| Total: | 230.33 | 100% |

39. On average the Petition Area receives 209-220 watts of solar radiation per square meter per hour. (See Petition at Exhibit D at Table 6).

40. The Petition Area has soil qualities and growing conditions that support agricultural production.

41. Both OP and DOA concluded in their respective comment letters that the Petition Area meets this criterion. (See OP’s Letter at pg. 4 and DOA’s Letter at pgs.2 – 3).

HRS § 204-44(c)(3) and HAR § 15-15-120(c)(3): Land identified under agricultural productivity rating systems, such as the agricultural lands of importance to the State of Hawai‘i (“ALISH”) system adopted by the board of agriculture on January 28, 1977.

The Agricultural Lands of Importance to the State of Hawai‘i (“ALISH”) classification system was developed in 1977 by the Department of Agriculture (“DOA”). The system was primarily, but not exclusively, based on the soil characteristics of lands and existing cultivation. There are three classes of land under the ALISH system: Prime, Unique, and Other.

42. The Petition Area includes substantial lands identified under agricultural productivity rating systems, such as the ALISH system adopted by the Board of Agriculture (27 January 2019).

43. The table below summarizes the ALISH system classifications for the Petition Area. A large majority of the Petition Area, (73.7%), is rated as Prime ALISH lands or is rated as “Other” ALISH lands (9.3%). The remaining (17.0%) lands “Not in ALISH” are integral to the overall agricultural use of the Petition Area for Petitioner's land stewardship and for providing a unified and clearly defined area for IAL designation.

| ALISH Rating | Acres | % of IAL |
|---------------------|---------------|-----------------|
| Prime | 169.77 | 73.7% |
| Unique | 0.00 | 0.0% |
| Other | 21.44 | 9.3% |
| Not in ALISH | 39.12 | 17.0% |
| Total: | 230.33 | 100% |

44. In total, approximately 83% of the Property is classified under ALISH and a large majority of that, 73.7% is Prime ALISH.

45. The Petition Area meets this criterion.

46. Both OP and DOA concluded in their respective comment letters that the Petition Area meets this criterion. (See OP’s Letter at pg. 4 and DOA’s Letter at pg. 3).

HRS § 204-44(c)(4) and HAR § 15-15-120(c)(4): Land types associated with traditional native Hawaiian agricultural uses, such as taro cultivation, or unique agricultural crops and uses, such as coffee, vineyards, aquaculture and energy production.

47. The Petition Area has been and is currently used for unique agricultural uses like the cultivation of dryland taro and other unique crops like curry leaf, long bean and peppercorn, in satisfaction of the criteria.

HRS § 204-44(c)(5) and HAR § 15-15-120(c)(5): Land with sufficient quantities of water to support viable agricultural production.

The Petition Area has sufficient quantities of water, water- related infrastructure, and other agricultural- related infrastructure to support viable production.

48. The Petition Area and the farmers cultivating therein have access to water from four irrigation wells on MHW's lands, three of which are located directly within the Petition Area.

49. Petitioner has and maintains water use permits ("WUP"), issued in 2006 by the State Commission on Water Resource Management, for each of the wells. (See Petition at Exhibit E).

50. WUP No. 780 allows withdrawal of 1.244 million gallons per day (mgd) of water on a 12-month moving average basis from Well Nos. 3957-01 and 3957-03, located in the southern portion of the Petition Area.

51. WUP No. 782 allows withdrawal of 0.300 mgd of water on a 12-month moving average from Well No. 4057-07, located in the central portion of the Petition Area.

52. WUP No. 781 allows withdrawal of 0.670 mgd on a 12-month moving average basis from Well No. 4057-06.

53. The northern portion of the Petition Area has access to water from Well No.

54. 4057-06, even though that particular well is located outside the Petition Area. (See Petition Exhibit D, p. 13, Figure 7, and Exhibit E).

55. The Petition Area is also naturally irrigated by a good amount of regular rainfall. The Petition Area receives a mean annual rainfall of approximately 46-56 inches of rain. (See Petition, p. 14 and Exhibit D, Figure 7).

56. The Petition Area has sufficient quantities of water to support viable agricultural production.

57. Both OP and DOA concluded in their respective comment letters that the Petition Area meets this criterion. (See OP's Letter at pg. 5 and DOA's Letter at pgs. 3-4).

HRS § 204-44(c)(6): Land whose designation as IAL is consistent with general, development, and community plans of the county.

58. The Petition Area is entirely within the State Land Use Agricultural District and is consistent with the City & County of Honolulu's Proposed Revised General Plan and classifications.

59. The City's Development Plans and Sustainable Communities Plan are policy documents intended to guide the City's land use approvals, infrastructure improvements, and private sector investment decisions for the enhancement and improvements of life on O'ahu. The island of O'ahu, is organized into eight regions.

60. The Petition Area is located in both the Koolau Loa Sustainable Communities Plan (1999) ("KLSCP") region and the Pre-Final Revised KLSCP region (2012).²

61. The Petition Area is located outside the Community Growth Boundaries of both KLSCPs.

62. A large majority of the Petition Area is designated in the KLSCPs as IAL with small portions designated Preservation and Military areas.

63. The Petition Area is zoned AG-1 under the City's Land Use Ordinance. Revised Ordinances of Honolulu §21-3.50(b) provides that the intent of the AG-1 District is to "conserve and protect important agricultural lands for the performance of agricultural functions by permitting only those uses which perpetuate the retention of these lands in the production of food, feed, forage, fiber

² Collectively referred to as the "KLSCPs"

crops, and horticultural plants.” Current and future uses of the Petition Area are consistent with this intent.

64. In July 2012, the DPP initiated the City’s IAL Study (“Study”) to identify the City’s candidate lands for IAL designation. The Study consists of two phases.

65. The DPP completed Phase I in April 2014 and began Phase II of the Study after with public meetings held in November 2017. In Phase II, the DPP produced draft maps of proposed IAL lands on O’ahu based on the City’s top three priority criteria: (1) land currently used for agricultural production, (2) land with soil qualities and growing conditions suitable for agricultural production, and (3) land with sufficient quantities of water to support viable agricultural production.

66. The City’s IAL preliminary study results and current publications of its mapping and IAL determination process shows that the entirety of the Petition Area has been included within the City’s proposed IAL area. Designation of the Petition Area as IAL is consistent with the City’s proposal IAL lands.

67. The Petition Area’s designation as IAL is consistent with the State Land Use District Boundaries and the State Plan, the General Plan, and the City’s Ko’olau Loa Sustainable Communities Plans.

68. Both OP and DOA concluded in their respective comment letters that the Petition Area meets this criterion. (See OP’s Letter at pg. 6 and DOA’s Letter at pg. 4).

HRS § 204-44(c)(7) and HAR § 15-15-120(c)(7): Land that contributes to maintaining a critical land mass important to agricultural operating productivity.

69. The Petition Area is generally contiguous over 230.33 acres as a seemingly self-sufficient operation. More than 60% of the land is currently in crop production, and the remainder

of the Petition Area, while partially constrained by topography and drainage, supports the agricultural activities and operations taking place on adjacent cultivated lands.

70. Adjacent lands to the east of the Petition Area are within the State Agricultural District (some of which is rated B by the LSB), classified as Agricultural in the KLSCP, zoned AG-1 and AG-2 by the City, and is included within the IAL area by the City's IAL Study.

71. The Petition Area as IAL will contribute to maintaining a critical land mass important to agricultural activity in the region.

72. Both OP and DOA concluded in their respective comment letters that the Petition Area meets this criterion. (See OP's Letter at pg. 6 and DOA's Letter at pg. 5).

HRS § 204-44(c)(8) and HAR § 15-15-120(c)(8): Land with or near support infrastructure conducive to agricultural productivity, such as transportation to markets, water or power.

73. A network of agricultural roads connects the Petition Area directly to Kamehameha Highway.

74. An irrigation system of pipelines and facilities that store and distribute water connect the Petition Area to existing wells.

75. The Petition Area contains fences, gates, vegetation barriers and storage facilities, and tenant farmers have direct access to electrical power.

76. The Petition Area is near support infrastructure conducive to agricultural productivity, such as transportation to markets, water and power.

77. Both OP and DOA concluded in their respective comment letters that the Petition Area meets this criterion. (See OP's Letter at pg. 6 and DOA's Letter at pg. 5).

RULINGS ON PROPOSED FINDINGS OF FACT

Any of the findings of fact submitted by Petitioner or other parties not already ruled upon by the Commission by adoption herein, or rejected by clearly contrary findings of fact herein, are hereby denied and rejected.

Any conclusion of law herein improperly designated as a finding of fact should be deemed or construed as a conclusion of law; any finding of fact herein improperly designated as a conclusion of law should be deemed or construed as a finding of fact.

CONCLUSIONS OF LAW

1. Lands identified as IAL do not need to meet every criterion listed in HRS § 205-44(c), rather, initial consideration shall be given to lands meeting any of the criterion set forth in HRS § 205-44(c).

2. The Commission has jurisdiction over the Petition pursuant to HRS §§ 91-8, 205-44, and 205-45 and HAR § 15-15-98.

3. Pursuant to HRS § 205-44(a), the Commission has the authority to designate lands as IAL in accordance with the criteria set forth in HRS § 205-44(c).

4. Designating the Petition Area as IAL satisfies the purposes of Article XI, section 3, of the Hawai‘i State Constitution by conserving and protecting lands currently in agricultural use, promoting diversified agriculture, increasing Hawai‘i’s self-sufficiency regarding agricultural capacity and sustainable food production, and assuring the agricultural availability of lands capable of strong agricultural production.

5. The designation of the Petition Area as IAL meets the objectives of HRS §205-42(a)(1) because the Petition Area is capable of producing sustained high agricultural yields when treated and managed according to accepted farming methods and technology.

6. The designation of the Petition Area as IAL meets the objectives of HRS §205-42(a)(2) because the Petition Area contributes to the State's economic base and produces agricultural commodities for export or local consumption.

7. Designating the Petition Area as IAL meets the objectives of HRS § 205-42(b) by contributing to the maintenance of a strategic agricultural land resource base that can support a diversity of agricultural activities and opportunities that expand agricultural income and job opportunities, and increases agricultural self-sufficiency for current and future generations in Hawai'i.

8. Designation the Petition Area as IAL satisfies the policies of HRS § 205-43(1) by promoting the retention of important agricultural lands in contiguous, intact and functional land use large enough to allow flexibility in agricultural production and management.

9. Designation the Petition Area as IAL fulfills the policies set forth in HRS § 205-43(2) by discouraging the fragmentation of important agricultural lands and the conversion of those lands to non-agricultural uses.

10. Designating the Petition Area as IAL meets the policies of HRS §§ 205-43(6) and (7) by facilitating the long-term dedication of important agricultural lands for future agricultural use and facilitating access for farmers to that important agricultural lands for long-term viable agricultural use.

11. The designation of the Petition Area as IAL furthers the policies of HRS §205-43(8) by promoting the maintenance of essential agricultural infrastructure systems, including irrigation systems.

12. The Petition Area meets the requirements of HRS §§ 205-44 and -45 for designation as IAL.

13. The Petition Area represents approximately 50.6 % of MHW's agricultural and urban lands on O'ahu. Pursuant to HRS § 205-49(a)(3), the designation of the Petition Area as IAL equates to a majority of the landowner, MHW's, holdings being designated as IAL (excluding lands in the State Conservation District) and precludes any further designation of MHW's lands as IAL, except by virtue of another landowner petition for voluntary designation, pursuant to HRS § 205-45.

DECISION AND ORDER

The Land Use Commission of the State of Hawai'i, having duly considered the Petition, the oral and written testimony and pleadings of Petitioner, DOA, DPP, and OP, and a motion having been made and seconded at a meeting on February 6, 2019, in La'ie, Hawai'i, and the motion having received the affirmative votes required by HAR §§ 15-15-98 and -99 and HRS §§ 205-44 and -45, and there being good cause for the motion,

HEREBY ORDERS that the Petition Area, consisting of approximately 230.33 acres at O'ahu, Hawai'i identified by TMK No. (1) 5-006-0018 (por.), and as shown approximately on Exhibit "A" of the Petition and attached hereto and incorporated by reference herein, shall be and is hereby designated as IAL, as governed by HRS Chapter 205.

IT IS FURTHER ORDERED that designation of the Petition Area as IAL shall be subject to the following conditions:

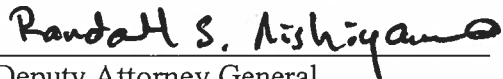
1. Petitioner or its successors shall comply with the representations made to the Commission with respect to disclaiming any credits described in HRS § 205-45(h) with respect to the Petition Area.
2. Within seven (7) days of the issuance of the Commission's Decision and Order, Petitioner shall record it with the Bureau of Conveyances of the State of Hawai'i

ADOPTION OF ORDER

This ORDER shall take effect upon the date this ORDER is certified and filed by this Commission.

Done at Honolulu, Hawai'i, this 4th , day of March, per motion on February 6, 2019.

APPROVED AS TO FORM


Deputy Attorney General

LAND USE COMMISSION
STATE OF HAWAII


JONATHAN LIKELIKE SCHEUER
Chairperson and Commissioner

Filed and effective on: 03/04/2019

Certified by:


DANIEL E. ORODENKER
Executive Officer

EXHIBIT A

Tax Map Key Description: A total of approximately 230.33 acres of land owned by Malaekahana Hui West, LLC on O‘ahu are proposed to be designated as Important Agricultural Land (IAL).

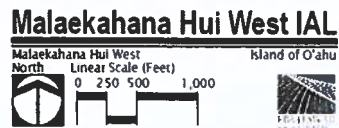
The following is proposed for IAL designation, identified more specifically in the attached map below showing approximately 230.33 acres at O‘ahu, Hawai‘i and identified further as a portion of TMK No. (1) 5-6-006-0018 which is also described in Transfer Certificate of Title No. 808,717.



- LEGEND**
- Malaekahana Hui West's Land
 - CPR Lots
 - Proposed IAL ("Property")
 - Ag. Road

Source: City & County of Honolulu, 2018 ESRI Aerial, 2016
Disclaimer: This graphic has been prepared for general planning purposes only.

Figure 1
TMK Parcels and Proposed IAL





LAND USE COMMISSION
STATE OF HAWAII
2019 MAR -4 A 10:29

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of
MĀLAEKAHANA HUI WEST, LLC, a
Hawai'i limited liability company
For Declaratory Order to Designate Important
Agricultural Lands for approximately 230.33
acres at O'ahu, Hawai'i identified by TMK
No. (1) 5-006-0018 (por.)

DOCKET NO. DR18-63

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this date, a copy of the **FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION AND ORDER AND EXHIBIT A** was served on the following parties, by depositing a copy with the U. S. Postal Services, postage prepaid, by either regular first class or certified mail as noted to:

Regular: CITY & COUNTY OF HONOLULU
DEPT. OF PLANNING & PERMITTING
650 South King Street
Honolulu, Hawai'i 96813
Attention: Acting Director Kathy Sokugawa

Regular: DEPUTY ATTORNEY GENERAL
Hale Auhau
425 Queen Street
Honolulu, Hawai'i 96813
Attention: Dawn Takeuchi-Apuna

Regular: STATE OF HAWAII
DEPT. OF AGRICULTURE
1428 South King Street
Honolulu, Hawai'i 96814
Attention: Acting Chair Phyllis Shimabukuro- Geiser

Regular: OFFICE OF PLANNING
P.O. Box 2359
Honolulu, Hawai'i 96804-2359

Certified: KALANI A. MORSE, ESQ.
DURRETT LANG, LLP
841 Bishop Street, Suite 1101
Honolulu, Hawai'i 96813

Regular: DEPUTY CORP. COUNSEL
CITY & COUNTY OF HONOLULU
530 South King Street
Honolulu, Hawai'i 96813
Attention: Paul S. Aoki, Acting

DATED: Honolulu, Hawai'i,
March 4, 2019.

DANIEL E. ORODENKER
Executive Officer