

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

| | | |
|--|---|--------------------------|
| In the Matter of the Petition of |) | Docket No. A05-758 |
| |) | |
| A CHARITABLE FOUNDATION |) | MEMORANDUM IN SUPPORT OF |
| CORPORATION |) | MOTION |
| |) | |
| To Amend The Agricultural Land Use District |) | |
| Boundary Into The Conservation Land Use |) | |
| District for Approximately 28.759 Acres Of Land |) | |
| And The Conservation Land Use District Into The |) | |
| Agricultural Land Use District For |) | |
| Approximately 5.129 Acres Of Land At Pupukea, |) | |
| Ko'olauloa And Waialua, O'ahu, Hawai'i, Tax |) | |
| Map Keys.: 5-9-23: Por. 1; 5-9-24:1; And 6-1-02: |) | |
| Por. 22 |) | |
| _____ |) | |

MEMORANDUM IN SUPPORT OF MOTION

I. INTRODUCTION

On April 21, 2006, the Land Use Commission of the State of Hawai'i ("Commission") entered its Findings of Fact, Conclusions of Law, and Decision and Order in Docket No. A05-758 ("Decision and Order") amending the land use district boundaries to reclassify 28.759 acres of land in the Agricultural District to the Conservation District and 5.129 acres of land in the Conservation District to the Agriculture District ("Property") at Pupukea, Ko'olauloa And Waialua, O'ahu, Hawai'i owned by A Charitable Foundation Corporation, a Nevada nonprofit corporation duly registered as a foreign nonprofit corporation in State of Hawai'i corporation ("Petitioner"). The Commission's Declaration of Conditions was recorded in the Bureau of Conveyances of the State of Hawai'i on June 7, 2006 as Document No. 2006-105635.

In granting the petition for reclassification of the subject property ("Property"), the Commission imposed eleven (11) conditions. The Petitioner seeks to release conditions the following conditions:

- Condition 1 Conveyance of Petition A to the State
- Condition 4 Maintenance of Trail System
- Condition 7 Notice of Change to Ownership Interest
- Condition 8 Annual Reports
- Condition 10 Recording of Conditions
- Condition 11 Recording of Conditions

Inasmuch as Petitioner has fully complied with those conditions, such conditions will continue to be complied with within the regular course of business or are being enforced by the appropriate federal, State of Hawai'i or City and County of Honolulu agencies having jurisdiction of the subject of the conditions and/or the State of Hawai'i interests sought to be protected by the conditions are not prejudiced.

II. REASONS IN SUPPORT OF MOTION

Condition Nos. 1, 4, 7, 8, 10 and 11 aforesaid, as numbered and identified in the Decision and Order and set forth below, have been complied with or have been otherwise reasonably and substantially satisfied as follows:

Condition No. 1

- I. *Conveyance of Lands for a State Park Reserve. Petitioner shall, upon receiving all necessary entitlements and governmental approvals, proceed with the consolidation, re-subdivision, and conveyance of approximately 79.031 acres of land, which shall include Petition Area A and adjacent Conservation District land, to the DLNR for a State Park Reserve, to be kept in perpetuity for the public*

good in maintenance and preservation of the view planes, open space, recreational values, and the cultural, historical, and natural qualities of Pupukea Ridge.

(Affidavit of Authorized Officer, par. 4, Condition No. 1)

4. *Maintenance of Trail System.* With the approval of DLNR, Petitioner shall be responsible for maintaining the existing trail system as currently configured in Petition Area A and the adjacent Conservation District land at its own cost following the conveyance of Petition Area A and the adjacent Conservation District land to the DLNR until such time as the DLNR decides to accept responsibility for the maintenance, or ten years from the date of this Decision and Order, whichever occurs first.

(Affidavit of Authorized Officer, par. 4, Condition No. 4)

Condition No. 7

7. *Notice of Change to Ownership Interest.* Petitioner shall give notice to the Commission of any intent to sell, lease, assign, place in trust, or otherwise voluntarily alter the ownership interests in the Petition Areas, prior to any development of the Petition Areas.

(Affidavit of Authorized Officer, par. 4, Condition No. 7)

Condition No. 8

8. *Annual Reports.* Petitioner shall timely provide without any prior notice, annual reports to the Commission, the OP, and the DPP in connection with the status of the Petition Areas and the Petitioner's progress in complying with the conditions imposed herein. The annual report shall be submitted in a form prescribed by the Executive Officer of the Commission.

(Affidavit of Authorized Officer, par. 4, Condition No. 8)

Condition No. 10

Condition No. 11

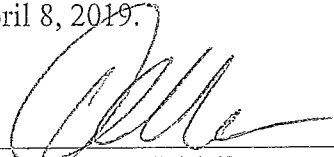
10. *Recording of Conditions.* Within seven days of the issuance of the Commissioner's Decision and Order for the subject reclassification, Petitioner shall (a) record with the Bureau of Conveyances a statement that the Petition Areas are subject to conditions imposed herein by the Commission in the reclassification of the Petition Areas, and (b) shall file a copy of such recorded statement with the Commission.

11. *Recording of Conditions.* Petition shall record the conditions imposed herein by the Commission with the Bureau of Conveyances pursuant to section 15-15-92, HAR.

(Affidavit of Authorized Officer, par. 4, Condition No. 10-11)

For the reasons aforesaid, it is respectfully submitted that adequate assurance of satisfaction of the conditions has been demonstrated in support of the release and deletion of the conditions as requested.

DATED: Honolulu, Hawai'i, April 8, 2019.



DICKSON C.H. LEE
Attorney for Petitioner
A CHARITABLE FOUNDATION
CORPORATION