



LAND USE COMMISSION
STATE OF HAWAII

2019 DEC -6 A 11: 10

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In The Matter Of The Petition Of

TOM GENTRY AND GENTRY-PACIFIC,
LTD.

To Amend The Agricultural Land Use
District Boundary Into The Urban Land
Use District For Approximately 1,395
Acres At Waiawa, Ewa, O'ahu, State Of
Hawai'i, Tax Map Key Nos.: 9-4-06:
Portion Of 26; 9-6-04: Portion of 1 And
Portion Of 16; And 9-6-05: Portion Of 1,
Portion Of 7 And Portion Of 14

DOCKET NO. A87-610

ORDER CONTINUING HEARING ON
STATUS REPORT AND MOTION FOR
MODIFICATION AND TIME
EXTENSION; AND CERTIFICATE OF
SERVICE


ORDER CONTINUING HEARING ON STATUS REPORT AND MOTION FOR
MODIFICATION AND TIME EXTENSION

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, Hawai'i

12/ 6 /19 by


Executive Officer



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MODIFICATION AND TIME EXTENSION

On July 24, 2019, Lance Keawe Wilhelm, Robert K.W.H. Nobriga, Elliot Mills, Micah A. Kane, and Crystal Kauilani Rose, as Trustees of the Estate of Bernice Pauahi Bishop, dba Kamehameha Schools ("KS" or "Successor Petitioner"), filed a Motion for Modification and Time Extension, Memorandum in Support of Motion, Affidavit of Dana K.N. Sato, Affidavit of Jennifer A. Lim, Exhibits "1" - "25," and Certificate of Service (collectively "Motion for Modification and Time Extension"), pursuant to Hawai'i Administrative Rules ("HAR") §§ 15-15-70 and 15-15-94.

In its Motion for Modification and Time Extension, KS requested that the State of Hawai'i Land Use Commission ("Commission") amend the Order Granting Motion for Order Amending Findings of Fact, Conclusions of Law, and Decision and Order Dated May 17, 1988 ("Order Granting Motion for Order Amending D&O") filed on November 26, 2014 to (1) extend the November 2049 time period for which a portion of the Petition Area can be used as a solar farm to December 31, 2059; and (2) make other modifications to the Order Granting Motion for Order Amending D&O involving changes to the solar farm development proposed by the current operator, Waiawa Solar Power, LLC ("WSP"), a wholly-owned indirect subsidiary of Clearway Energy Group LLC.

On October 7, 2019, KS filed a First List of Witnesses and Certificate of Service. KS also filed a First List of Exhibits, Exhibits "26" - "41," Certificate of Service, and a Revised Master Plan and Schedule for Development.

On October 21, 2019, the State of Hawai'i Office of Planning ("OP") filed a Response to KS' Motion for Modification and Time Extension, OP's List of Exhibits, Exhibits "1" - "3," and Certificate of Service.

On November 4, 2019, KS filed a Rebuttal Memorandum in Response to OP's Response to KS' Motion for Modification and Time Extension, Exhibits "42" - "44," and Certificate of Service. KS also filed a First Amended List of Witnesses, First List of Rebuttal Exhibits, Exhibits "45" - "48," and Certificate of Service.

On November 19, 2019, OP filed a Response to Successor Petitioner's Rebuttal Memorandum in Response to OP's Response to KS' Motion for Modification and Time Extension and Certificate of Service.

On November 20, 2019, the Commission considered KS' Motion for Modification and Time Extension at its meeting at the Airport Conference Center, Room #IIT#2, in Honolulu, Hawai'i. Jennifer A. Lim, Esq., and Puananionaona P. Thoene, Esq., appeared on behalf of KS. Dawn T. Apuna, Esq., and Lorene Maki appeared on behalf of OP. Dina Wong and Ray Young appeared on behalf of the City and County of Honolulu Department of Planning and Permitting ("DPP"). At the request of KS, a motion was made and seconded to amend the Commission's November 20, 2019, agenda to allow KS to present its case-in-chief on the Motion for Modification and Time Extension before proceeding to its status report on the Revised Master Plan and Schedule for Development. There being a vote tally of 6 ayes, 0 nays, and 2 excused, the motion passed.¹ As part of KS' presentation on its Motion for Modification and Time Extension, the Commission heard from KS' witnesses: Patrick Sullivan, Jason Jeremiah, Dana Sato, and Daniel von Allmen.² The Commission thereafter continued the matter

¹ There are currently eight sitting members on the Commission. The ninth seat is currently vacant.

² Prior to the testimony of KS' witnesses, Chair Jonathan Scheuer disclosed that his wife is an employee of Group 70 International, one of the subconsultants to the solar farm development proposed by WSP, but that she did not work on this project and has no financial interest in the matter. Commissioner Dan Giovanni disclosed that in his former capacity as Senior Vice President for operations at Hawaiian Electric Company, Inc., he was responsible for negotiation of some of the Power Purchase Agreements referenced in this docket and worked with SunEdison and KS during 2012-2015. Commissioner Giovanni

to the following day, November 21, 2019, at 8:30 a.m. at the Leiopapa A Kamehameha Building, Conference Room 204, in Honolulu, Hawai'i. At the continued meeting, the Commission entered into evidence without objections by the parties KS' Exhibits "1" through "48." The Commission then heard from Ms. Wong of the DPP who stated that the DPP had no objection to KS' Motion for Modification and Time Extension. The Commission also heard from Ms. Apuna who noted that OP recommended approval of KS' Motion for Modification and Time Extension, subject to additional conditions. Upon questioning by the Commission, Ms. Apuna offered Rodney Funakoshi as a witness for OP. Thereafter, Chair Scheuer closed the evidentiary portion of KS' Motion for Modification and Time Extension. During deliberations, a motion was made and seconded to continue the hearing on KS' status report on its Revised Master Plan and Schedule for Development and KS' Motion for Modification and Time Extension to January 9, 2020, at a place and time to be determined by the Commission staff, and further that at such continued hearing, the Commission shall first hear KS' status report on its Revised Master Plan and Schedule for Development and then continue with its deliberations on KS' Motion for Modification and Time Extension. There being a vote tally of 7 ayes, 0 nays, and 1 excused, the motion passed.

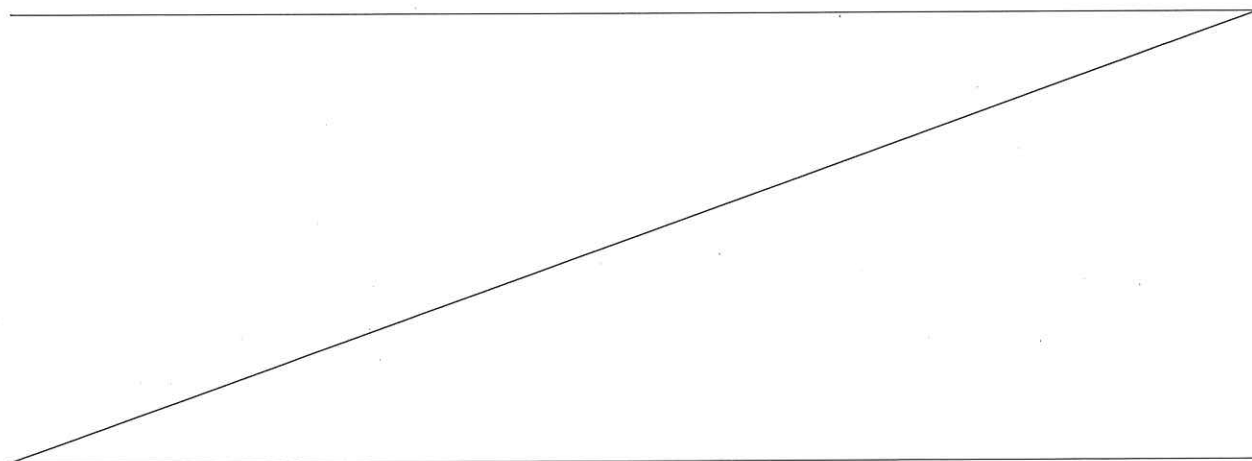
believed that his former association with these entities would not affect his judgement or decision-making on this matter. The parties voiced no objections to the continued participation of Chair Scheuer and Commissioner Giovanni in the proceeding.

ORDER

The Commission, having duly considered the arguments of KS, OP, and the DPP in the proceeding, and a motion having been made and seconded at a meeting on November 21, 2019, in Honolulu, Hawai'i, and the motion having received the affirmative votes required by HAR § 15-15-13, and there being good cause for the motion,

HEREBY ORDERS that the Commission's hearing on KS' status report on its Revised Master Plan and Schedule for Development and Motion for Modification and Time Extension be CONTINUED.

Accordingly, these matters shall be continued to the Commission's meeting on January 9, 2020, at a place and time to be determined by the Commission staff. At this continued hearing, the Commission shall first hear KS' status report on its Revised Master Plan and Schedule for Development and then continue with its deliberations on KS' Motion for Modification and Time Extension.



ADOPTION OF ORDER

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

Done at Honolulu, Hawai'i, this 6th day of December, 2019, per motion on , November 21, 2019.

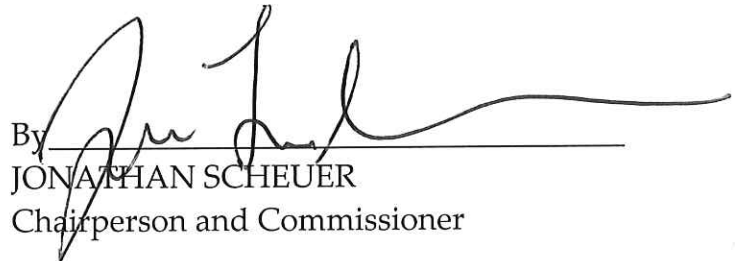
LAND USE COMMISSION

APPROVED AS TO FORM

STATE OF HAWAII

A blue ink signature, appearing to be "Jim Owens", written over a horizontal line.

Deputy Attorney General

A black ink signature, appearing to be "Jonathan Scheuer", written over a horizontal line.

JONATHAN SCHEUER
Chairperson and Commissioner

Filed and effective on:

12/ 6 /19

Certified by:

A black ink signature, appearing to be "Daniel Orodanker", written over a horizontal line.

DANIEL ORODENKER
Executive Officer



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CERTIFICATE OF SERVICE

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I hereby certify that a copy of the ORDER CONTINUING HEARING ON STATUS
REPORT AND MOTION FOR MODIFICATION AND TIME EXTENSION 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:

Regular CITY& COUNTY OF HONOLULU
DEPARTMENT OF PLANNING & PERMITTING
650 South King Street
Honolulu, Hawaii 96813
Attention: Acting Director Kathy Sokugawa

Regular STATE OF HAWAII
OFFICE OF PLANNING
P.O. Box 2359
Honolulu, Hawaii 96804-2359
Attention: Mary Alice Evans

Certified JENNIFER LIM, Esq.
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Acting Corporation Counsel
City & County of Honolulu
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Honolulu, Hawaii 96813

Regular Deputy Attorney General- Dawn Takeuchi-Apuna
Hale Auhau
425 Queen Street
Honolulu, Hawaii 96813

DATED: Honolulu, Hawai'i,
December 6, 2019.



DANIEL RODENKER

Executive Officer