

Hakoda, Riley K

From: Gary Elster <crazy2kite@gmail.com>
Sent: Thursday, September 3, 2020 9:18 AM
To: DBEDT LUC; Hakoda, Riley K
Subject: [EXTERNAL] Docket No A89-642 Hearing September 9, 2020
Attachments: LUC re Kehalani.docx

Dear Clerk of the State LUC. Enclosed please find my submittal for the September 9 hearing
Thank you
Gary Elster
808-250-3726

In the Matter of the Petition of C. Brewer Properties Inc

Docket A89-642

Hearing: September 9, 2020

BEFORE THE LAND USE COMMISSION STATE OF HAWAII In the Matter of the Petition of) C. BREWER PROPERTIES, INC.)) To Amend the Agricultural Land Use District) Boundaiy into the Urban Land Use District) for approximately 626 Acres Situate at) Wailuku and Piihana, Maui, Hawaii, Tax) Map Key Nos.: 3-5-01: Portion 01, Portion) 17; 3-4-07:02; 3-3-01:33, 39, and Portion 16;) 3 -4-32:10, 18 and Portion 01)))))) DOCKET NO. A89-642 PETITIONERS WAILUKU PLANTATION LLC, EDGAR SOMERA, FAY SOMERA, LARRY S. SKY, DAYONG ZHAO, XIU XIANG FANG, BONG HWA SHI JORDAN; WENXIAO LIU and ELISE TRAYIS MOTION FOR ORDER BIFURCATING DOCKET NO. A89-642; MEMORANDUM IN SUPPORT OF MOTION; AFFIDAVIT OF JASON MCFARLIN; NOTICE OF HEARING ON MOTION; CERTIFICAT OF SERVICE Hearing Date: September 9- 10, 2020 Hearing Time: PETITIONERS WAILUKU PLANTATION LLC, EDGAR SOMERA, FAY SOMERA, LARRY S. SKY, DAYONG ZHAO, XIU XIANG FANG; BONG HWA SHI JORDAN; WENXIAO LIU and ELISE TRAVIS MOTION FOR ORDER BIFURCATING DOCKET NO. A89-642

OPPOSITION TO MOVING PARTY'S REQUEST TO BIFURCATE BY HOMEOWNER GARY ELSTER

Gary Elster, is one of the homeowner's ("homeowner") of Kehalani to whom Moving Parties sent a copy of their petition. Homeowner purchased his home in Kehalani in 1997. According to their papers, Moving Parties/Petitioners acquired their parcels in 2013.

Moving Parties seek to be substituted for the original petitioner, Brewer, who obtained the 1990 order permitting the conversion of Ag land into developable land. Condition 7 of that 1990 order states:

"The applicant shall provide its fair and equitable share of park improvements generated by the project as is deemed necessary by the Director of Parks and Recreation of the County of Maui. The applicant's participation shall include, but shall not be limited to, the dedication of land in fee simple, free and clear of all encumbrances, for park use *and a community center site for use by the community*" (italics added)

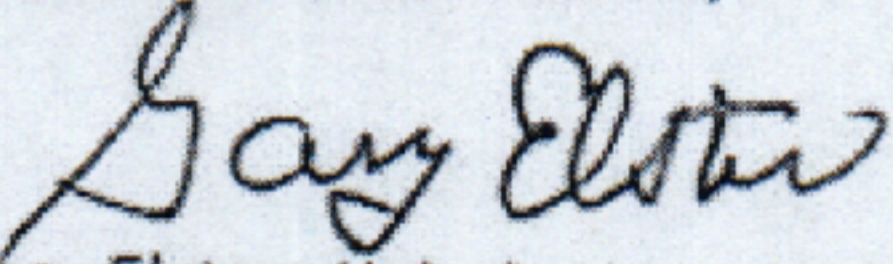
Not in dispute is the fact that neither Brewer nor its assigns has dedicated the required parcel in fee for the Community Center.

Moving parties at the same time seek to be insulated, ie not subject to any decision or order that the Commission may issue for the parcels subject to the Commissions 1990 order.

Simply put, moving parties want to stand in the shoes of Brewer or its assigns and obtain the benefit of the 1990 order that allows development of their parcels but not accept the responsibilities of facilitating

the dedication of a fee parcel for a community center. Certainly, they were aware of that requirement when they acquired their parcels. They shouldn't be able to have it both ways. If they want to be Brev before the Commission then they should be responsible for the carrying out of Brewer's obligations. Accordingly, Homeowner requests that the Commission deny the motion until condition 7 of the Order is satisfied.

Respectfully submitted,



Gary Elster, Kehalani Homeowner

12 Malihini Place

Wailuku 96793

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