

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In The Matter Of The Petition Of) DOCKET NO. A89-642
)
C. BREWER PROPERTIES, INC.) ORDER REJECTING THE
) PARTIES' STIPULATION AND
To Amend The Agricultural Land Use) DECISION AND ORDER; AND
District Boundary Into The Urban) CERTIFICATE OF SERVICE
District For Approximately 626 Acres)
Situate At Wailuku And Pi`ihana,)
Maui, Hawai`i, 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)
_____)

ORDER REJECTING THE PARTIES' STIPULATION AND
DECISION AND ORDER

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.

January 15, 2021 by

Executive Officer



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ORDER REJECTING THE PARTIES' STIPULATION AND
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The Stipulation and Decision and Order of Wailuku Plantation LLC,
Edgar Somera, Fay Somera, Larry S. Sky, Dayong Zhao, Xiu Xiang Fang, Bong Hwa Shi
Jordan, Wenxiao Liu, Elise Travis, and Ronald Vilorio (collectively "Pi`ihana Owners");
RCFC Kehalani, LLC ("RCFC"); the State of Hawai`i Office of Planning ("OP"); and the
County of Maui Department of Planning ("DP") filed on December 8, 2020, came on for
hearing before the State of Hawai`i Land Use Commission ("Commission") at its
meeting on December 30, 2020, using the Zoom Webinar Virtual Meeting platform, with

appearances by Jason McFarlin, Esq., on behalf of the Pi`ihana Owners; Randall Sakumoto, Esq., on behalf of RCFC; Dawn Apuna, Esq., and Aaron Setogawa on behalf of OP; and Michael Hopper, Esq., and Jordan Hart on behalf of DP. At the meeting, the Commission heard public testimony from James Buika, Livit Callentine, and Karin Phaneuf.¹

Following the receipt of public testimony, the parties were afforded an opportunity to address their Stipulation and Decision and Order. As part of his presentation, Mr. McFarlin disclosed that his client, Vernon Lindsey of Wailuku Plantation LLC, did not have the financial capability to proceed with the development of the Pi`ihana Project District, and that Mr. Lindsey was planning to request that the Pi`ihana Project District be reverted back to the State Land Use Agricultural District. Upon questioning by the Commission, both Messrs. Sakumoto and Hopper expressed continued support of the parties' Stipulation and Decision and Order despite Mr. McFarlin's disclosure. Ms. Apuna pointed out that based on Mr. McFarlin's disclosure, OP could no longer support the parties' Stipulation and Decision and Order. Throughout further questioning of the parties, the Commission expressed concerns about the ability of RCFC and the Pi`ihana Owners to comply with the conditions of approval and to develop the Wailuku Project District and the Pi`ihana Project District,

¹ In addition to their oral testimony, Mr. Buika and Mses. Callentine and Phaneuf each provided written testimony, copies of which are on file at the Commission's office in Honolulu, Hawai'i.

respectively, in substantial compliance with the representations made to the Commission in obtaining the reclassification of the Petition Area, including, but not limited to, the provision of a community center, parks, infrastructure, and affordable housing.

After further discussion, a motion was made and seconded to reject the parties' Stipulation and Decision and Order on the basis that the matter is not ripe for a determination by this Commission and to direct the parties to continue discussions on this matter and not to return to the Commission until evidence of (1) financial capability is filed with the Commission; and (2) the responsibility for various conditions and requirements is resolved given the information received at this hearing. There being a vote tally of 7 ayes, 1 excused, and 0 nays,² the motion passed.

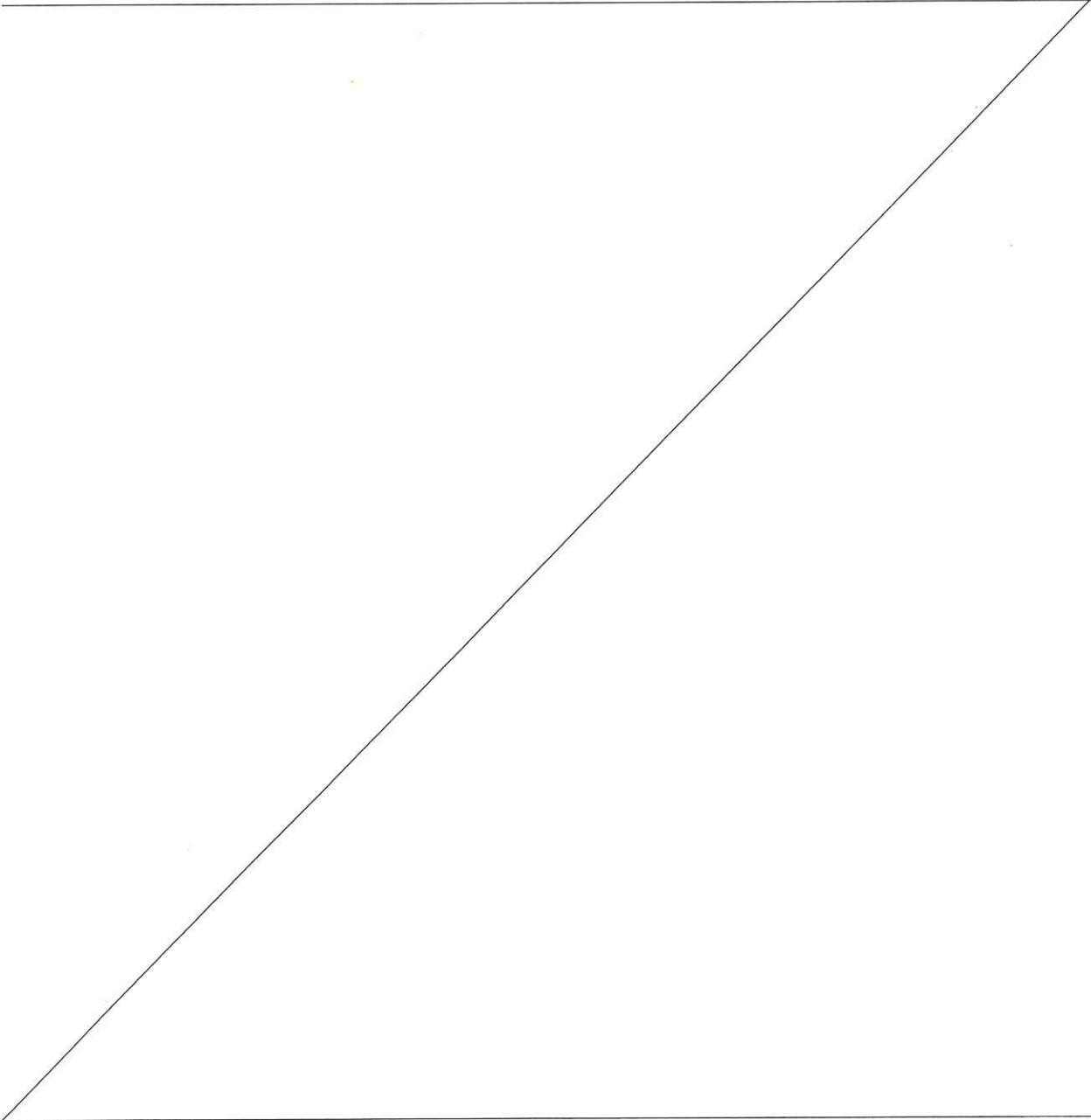
ORDER

This Commission, having duly considered the parties' Stipulation and Decision and Order, the arguments of the parties, and a motion having been made and seconded at its meeting on December 30, 2020, using the Zoom Webinar Virtual Meeting platform, and the motion having received the affirmative votes required by Hawai'i Administrative Rules § 15-15-13, and there being good cause for the motion,

HEREBY ORDERS that the parties' Stipulation and Decision and Order be and are hereby REJECTED.

² There are eight commissioners presently on the Commission. The ninth seat is currently vacant.

IT IS FURTHER ORDERED that the parties are directed to continue discussions on this matter and not to return to the Commission until evidence of (1) financial capability is filed with the Commission; and (2) the responsibility for various conditions and requirements is resolved given the information received at this hearing.



ADOPTION OF ORDER

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

Done at Honolulu, Hawai'i, this 15th, day of January, 2021, per motion on December 30, 2020.

LAND USE COMMISSION

APPROVED AS TO FORM

STATE OF HAWAII

REAW

Deputy Attorney General

By  _____

JONATHAN LIKEKE SCHEUER

Chairperson and Commissioner

Filed and effective on:

1/15/2021

Certified by:



DANIEL ORODENKER

Executive Officer



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CERTIFICATE OF SERVICE

I hereby certify that a copy of the ORDER REJECTING THE PARTIES' STIPULATION AND DECISION AND ORDER was served upon the following by either by hand delivery or depositing the same in the U. S. Postal Service by regular or certified mail as noted:

	HAND DELIVERED	REGULAR MAIL	CERTIFIED MAIL
Mary Alice Evans, DIRECTOR Office of Planning 235 S. Beretania Street Rm. 600 Honolulu, Hawai`i 96813	X		
DAWN TAKEUCHI-APUNA, ESQ. Deputy Attorney General Hale Auhau, Third Floor 425 Queen Street Honolulu, Hawai`i 96813		X	
JASON MCFARLIN Attorney for 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 et al			X
MICHELE MCLEAN Director, County of Maui Planning Department 250 S. High St Kalana Pakui Bldg Ste 200 Wailuku, HI 96793		X	
MICHAEL HOPPER, Esq. Deputy Corporation Counsel 200 S. High St. Kalana O Maui Bldg 3rd Flr Wailuku, HI 96793			X

	HAND DELIVERED	REGULAR MAIL	CERTIFIED MAIL
McCorriston Miller Mukai MacKinnon LLP RANDALL SAKUMOTO, Esq KELSEY S. YAMAGUCHI, Esq. Five Waterfront Plaza, 4th Floor 500 Ala Moana Boulevard Honolulu, Hawai'i 96813			X
EVERETT DOWLING BRIAN IGE RCFC Kehalani, LLC 2005 Main Street Wailuku, Hawai'i 96793			X

Honolulu, Hawai`i, January 15, 2021.



DANIEL ORODENKER

Executive Officer