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

In The Matter Of The Petition Of
C. BREWER PROPERTIES, INC.
To Amend The Agricultural Land Use District Boundary Into The Urban District For Approximately 626 Acres Situate At Wailuku And Pi'ihana, Maui, Hawaii,'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

DOCKET NO. A89-642
ORDER REJECTING THE PARTIES' STIPULATION AND DECISION AND ORDER; AND CERTIFICATE OF SERVICE

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, Hawaii.

January 15, 2021

Executive Officer
BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAI‘I

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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 Viloria (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

Docket No. A89-642 C. Brewer Properties, Inc.
Order Rejecting the Parties’ Stipulation and Decision and Order

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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 Buka, 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. Buka and Mses. Callentine and Phaneuf each provided written testimony, copies of which are on file at the Commission’s office in Honolulu, Hawai‘i.

Docket No. A89-642 C. Brewer Properties, Inc. Order Rejecting the Parties’ Stipulation and Decision and Order
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.

APPROVED AS TO FORM

Mounted

Deputy Attorney General

LAND USE COMMISSION

STATE OF HAWAI'I

By

JONATHAN LIKEKE SCHEUER
Chairperson and Commissioner

Filed and effective on:

1/15/2021

Certified by:

DANIEL ORODENKER
Executive Officer
BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAI‘I

In The Matter Of The Petition Of
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CERTIFICATE OF SERVICE -

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:
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[Signature]

DANIEL ORODENKER

Executive Officer