

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

In the Matter of the Petition of) DOCKET NO. A93-696
)
KUKUI'ULA DEVELOPMENT COMPANY, INC.) ORDER GRANTING
) PETITIONER'S MOTION FOR
To Amend the Agricultural Land Use) ORDER TO RELEASE AND
District Boundary into the Urban) DISCHARGE CERTAIN LANDS
Land Use District for approximately) FROM OPERATION OF
822.142 acres at Lawa'i, Koloa,) CONDITIONS OF DECISION
Kaua'i, Hawai'i, Tax Map Key Nos.:) AND ORDER DATED MAY 18,
2-6-03: por. 1, 21, por. 31, por.) 1995, AS AMENDED BY
32, and 63; 2-6-04: por. 16, por.) SUPPLEMENTAL DECISION
38, por. 39, por. 40, and por. 45) AND ORDER DATED JUNE 22,
1998

ORDER GRANTING PETITIONER'S MOTION FOR ORDER TO RELEASE
AND DISCHARGE CERTAIN LANDS FROM OPERATION OF CONDITIONS OF
DECISION AND ORDER DATED MAY 18, 1995, AS AMENDED BY
SUPPLEMENTAL DECISION AND ORDER DATED JUNE 22, 1998

LAND USE COMMISSION
STATE OF HAWAII
JUN 22 1998

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DECISION AND ORDER DATED MAY 18, 1995, AS AMENDED BY
SUPPLEMENTAL DECISION AND ORDER DATED JUNE 22, 1998

On March 24, 1999, Kukui'ula Development Company, Inc. ("Petitioner"), filed a Motion For Order To Release And Discharge Certain Lands From Operation Of Conditions Of Decision And Order Dated May 18, 1995, As Amended By Supplemental Decision And Order Dated June 22, 1998 ("Motion"), pursuant to §§15-15-70 and 15-15-94, Hawai'i Administrative Rules.

The Motion requested the Land Use Commission ("Commission") to release and discharge approximately 27.928 acres of land ("Property") within Increment I of the Kukui'ula Planned Community from the operation of the conditions of this Commission's Findings of Fact, Conclusions of Law, and Decision and Order, as amended by Supplemental and/or Modified Findings of Fact, Conclusions of Law, and Decision and Order dated June 22, 1998.

Attached to the Motion was an Affidavit Of Tom H. Shigemoto, Vice-President of Petitioner ("Affidavit"), which stated that Petitioner had begun construction of the Property for a 32-lot residential subdivision called "Koloa Estates." The Affidavit also stated that Petitioner had obtained the necessary land use approvals for development of the Property from the County of Kaua'i. The Affidavit further noted that the Property was zoned Residential (R-6) by the County, and that final subdivision approval to create the Property had been granted. Additionally, the Affidavit stated that subdivision of the Property into the 32-lot residential subdivision had received tentative subdivision approval from the County of Kaua'i.

According to the Affidavit, infrastructure improvements, including water, sewer and utility systems required for the development of the Property were under construction and were scheduled to be completed in July 1999. Petitioner was also in the process of constructing a 60-foot access road to the Property from Poi'pu Road as part of the subdivision improvements.

On May 5, 1999, the Office of Planning ("OP") filed its Testimony Of The Office Of Planning Regarding The Motion For Order To Release And Discharge Certain Lands From Conditions Of Decision And Order Dated May 18, 1995, As Amended By Supplemental Decision And Order Dated June 22, 1998.

The Motion came on for hearing before this Commission on May 6, 1999, in Waikapu, Maui. Tom H. Shigemoto and Dan Yasui appeared on behalf of Petitioner and Ann Ogata-Deal, Esq.,

appeared on behalf of OP. By letter dated April 28, 1999, the County of Kaua'i Planning Department informed this Commission that it would not be present at the hearing and had no objections to the Motion.

This Commission, having duly considered the Motion, the Affidavit, the oral and written arguments of the parties present in this proceeding, the record in this docket, and good cause existing therefrom,

HEREBY ORDERS that the Property, consisting of approximately 27.928 acres of land, and identified on Exhibit "A" attached hereto and incorporated by reference herein, is released and discharged from the operation of the conditions imposed in this Commission's Findings of Fact, Conclusions of Law, and Decision and Order dated May 18, 1995, as amended by Supplemental and/or Modified Findings of Fact, Conclusions of Law, and Decision and Order dated June 22, 1998.

Done at Honolulu, Hawai'i, this 24th day of May 1999,
per motions on May 6, 1999 and May 20, 1999.

LAND USE COMMISSION
STATE OF HAWAI'I

By _____ (excused)
MERLE A. K. KELAI
Chairperson and Commissioner

By _____ (absent)
LAWRENCE N.C. ING
Vice Chairperson and Commissioner

By _____ (absent)
P. ROY CATALANI
Commissioner

By Rupert K. Chun
RUPERT K. CHUN
Commissioner

By Pravin Desai
PRAVIN DESAI
Commissioner

By Isaac Fiesta, Jr.
ISAAC FIESTA, JR.
Commissioner

By _____ (absent)
M. CASEY JARMAN
Commissioner

By Herbert S.K. Kaopua, Sr.
HERBERT S.K. KAOPUA, SR.
Commissioner

Filed and effective on
May 24, 1999

Certified by:

[Signature]
Executive Officer

By Peter Yukimura
PETER YUKIMURA
Commissioner

BEFORE THE LAND USE COMMISSION
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In the Matter of the Petition of) DOCKET NO. A93-696
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KUKUI'ULA DEVELOPMENT COMPANY, INC.) CERTIFICATE OF SERVICE
)
To Amend the Agricultural Land Use)
District Boundary into the Urban)
Land Use District for approximately)
822.142 acres at Lawa'i, Koloa,)
Kaua'i, Hawai'i, Tax Map Key Nos.:)
2-6-03: por. 1, 21, por. 31, por.)
32, and 63; 2-6-04: por. 16, por.)
38, por. 39, por. 40, and por. 45)
_____)

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Order Granting Petitioner's Motion For Order To Release And Discharge Certain Lands From Operation Of Conditions Of Decision And Order Dated May 18, 1995, As Amended By Supplemental Decision And Order Dated June 22, 1998 was served upon the following by either hand delivery or depositing the same in the U. S. Postal Service by certified mail:


DEL. DAVID W. BLANE, Director
Office of Planning
P. O. Box 2359
Honolulu, Hawaii 96804-2359

CERT. DEE CROWELL, Planning Director
Planning Department, County of Kauai
Suite 473, Building A
4444 Rice Street
Lihue, Hawaii 96766

CERT. HARTWELL H.K. BLAKE, ESQ.
County Attorney
Office of the County Attorney
County of Kauai
4444 Rice Street, #220
Lihue, Hawaii 96766

CERT. TOM H. SHIGEMOTO, Vice-President
Kukui'ula Development Company, Inc.
P. O. Box 430
Koloa, Hawaii 96756

DATED: Honolulu, Hawaii, this 24th day of May 1999.



ESTHER UEDA
Executive Officer