

STATE OF HAWAII  
LAND USE COMMISSION

Approved  
7-24-85

Minutes of Meeting

Department of Education Board Room  
4th Floor, Liliuokalani Building  
Honolulu, Hawaii

May 1, 1985 - 9:00 a.m.

COMMISSIONERS PRESENT: William Yuen, Chairman  
Teofiló Tacbian, Vice Chairman  
Richard Choy  
Lawrence Chun (11:15 a.m.)  
Winona Rubin  
Toru Suzuki  
Robert Tamaye  
Frederick Whittemore

COMMISSIONER ABSENT: Everett Cuskaden

STAFF PRESENT: Esther Ueda, Executive Officer  
Raymond Young, Planner  
Dora Horikawa, Chief Clerk  
  
Barbara McLean, Court Reporter

ACTION

A83-554 - FARMS OF KAPUA

Commissioner Tamaye did not participate in these proceedings due to a previously declared conflict of interest.

It was stated by Chairman Yuen that this was a request by intervenors' Pa'apono of Milolii to amend certain conditions in the Decision and Order filed by the Land Use Commission on the subject petition.

Appearances

Meredith Lenell, Attorney representing intervenors

Jan Sullivan) - Co-counsel, representing the petitioner  
Roy Takeyama)

Norman Hayashi, Planner, representing the Hawaii Planning  
Department

Annette Chock, Deputy Attorney General, representing the  
Dept. of Planning & Economic Development

Arguments

By Ms. Lenell-----3 to 5  
    Examination by Chairman Yuen-----5 to 13  
    Examination by Vice Chairman Tacbian-----13 to 14  
    Examination by Commissioner Rubin-----14 to 15  
    Examination by Commissioner Whittemore----16  
By Ms. Sullivan-----17 to 19  
    Examination by Commissioner Rubin-----19 to 20  
    Examination by Chairman Yuen-----20  
By Mr. Hayashi-----20 to 21  
    Examination by Commissioner Rubin-----22  
    Examination by Vice Chairman Tacbian-----22 to 23  
    Examination by Chairman Yuen-----23 to 24

Commissioner Choy moved to go into executive session to receive advice from the Chairman due to the absence of the Deputy Attorney General. It was seconded by Commissioner Whittemore and passed by voice vote.

The Chairman announced that the Commission will defer action on the intervenors' motion to amend conditions until approximately 11:00 a.m. when the Deputy Attorney General was expected to arrive.

CONTINUED HEARING

A83-562 - WEST BEACH ESTATES

Appearances

- David Arakawa ) - Co-counsel, representing the petitioner  
Rodney Fujiyama)
- Jane Howell - Deputy Corporation Counsel, representing the  
Dept. of General Planning
- Annette Chock - Deputy Attorney General, representing the  
Dept. of Planning & Economic Development

Appearances (cont.)

Alan Murakami) - Co-counsel, representing intervenors  
(Michael Davis)

All of the persons who appeared today, having been duly sworn in, testified and were examined as set forth in the transcript.

INTERVENORS (cont.)

The following intervenors' witnesses who testified on the video tape and were present today were sworn in:

- Kaipo Moses
- Shane Kamana
- Hiram Kamana
- Walter Kamana
- Steven Aipa
- Kazuo Araki
- Harold Levy

Mr. Murakami advised that Mr. Basabe and Mr. Imaoka who were also video taped were not present to be sworn in today. The Chairman directed that affidavits of these witnesses be filed attesting to the veracity of their statements.

Video taped testimony of the following witnesses are recorded in the transcript on the pages noted:

Glenn Imaoka - Waianae Resident

Video tape testimony-----31 to 33

Harold Levy - Part-time Waianae Farmer

Video tape testimony-----33 to 42

Direct examination by Mr. Murakami-----42 to 45

Cross examination by Mr. Fujiyama-----47

Petitioner's exhibit 36, re-certification of the ground water withdrawal by Oahu Sugar Co. from the Pearl Harbor ground water supply area, was accepted into the record over intervenors' objections.

ACTION (cont.)

A83-554 - FARMS OF KAPUA

Following a short recess, Chairman Yuen announced that the Commission will now go into executive session to receive counsel from its Deputy Attorney General before taking action on the request by intervenors Pa'apono of Milolii to amend the condition in the Commission's Decision and Order.

Chairman Yuen reported that the Commission had received counsel from its special Deputy Attorney General Benjamin Matsubara regarding the legality of certain aspects of the request by intervenors.

Commissioner Rubin moved that the motion be denied, seconded by Commissioner Choy, and the motion was carried by voice vote.

A84-584 - EDWARD P. PERREIRA, ET AL

In the matter of the petition by Edward P. Perreira, et al to reclassify approximately 3.99 acres of land from the Rural District into the Urban District at Haiku, Maui for a residential subdivision, a hearing had been conducted by Hearing Officer Benjamin Matsubara on February 26, 1985.

Mr. Matsubara reported on his findings which had been presented at the hearing, and recommended that the petition be approved.

Commissioner Suzuki moved to approve A84-584, consisting of approximately 3.99 acres of land situated at Haiku, Maui, from the Rural District into the Urban District. It was seconded by Commissioner Whittemore and carried by voice vote.

A84-586 - MASA AKI & MASUYO DOI

In the matter of the petition by Masaaki and Masuyo Doi to reclassify approximately 3.25 acres of land from the Agricultural District into the Rural District at Haiki, Maui, a hearing had been conducted by Hearing Officer Benjamin Matsubara on February 26, 1985.

Vice Chairman Tacbian moved to approve Docket A84-586, consisting of approximately 3.25 acres of land at Pa'uwela, Maui from the Agricultural District into the Rural District, on the condition that the initial conveyance be to the immediate family members. It was seconded by Commissioner Suzuki.

Commissioner Choy felt that the condition regarding the conveyance to family members should not be a part of the motion since it would appear that the Commission was overstepping its jurisdiction on a small parcel.

Commissioner Rubin supported the motion as stated by Vice Chairman Tacbian.

The Chair called for a vote on the inclusion of the condition in the motion, and it was carried with Commissioner Choy casting the only dissenting vote.

The Commission was next polled on the motion to approve the petition with the condition, and the motion was passed with Commissioner Choy dissenting.

CONTINUED HEARING (cont.)

A84-562 - WEST BEACH ESTATES

INTERVENORS (cont.)

Harold Levy (cont.)

Redirect examination by Mr. Murakami-----67 to 73  
 Recross examination by Mr. Fujiyama-----73 to 75  
 Examination by Vice Chairman Tacbian-----75 to 77  
 Oral testimony-----77 to 80  
 Examination by Chairman Yuen-----80  
 Examination by Commissioner Choy-----80 to 81

Walter Kamana - Waianae Resident

Video tape testimony-----81 to 85

Shane Kamana - Waianae Resident

Video tape testimony-----85 to 87

Hiram Kamana - Waianae Resident

Video tape testimony-----88 to 93

Walter Kamana (cont.)

Examination by Chairman Yuen-----95 to 96

Hiram Kamana (cont.)

Examination by Chairman Yuen-----96 to 97

Examination by Vice Chairman Tacbian-----97

Kazuto Araki - Farmer

Video tape testimony-----98 to 102

Direct examination by Mr. Murakami-----102 to 103

Examination by Vice Chairman Tacbian-----104

Steven Aipa - Waianae Resident

Video tape testimony-----104 to 107

Direct examination by Mr. Murakami-----108 to 113

Examination by Chairman Yuen-----113 to 114

The Commission was in recess from 12:40 p.m. to 2:00 p.m.

2:00 p.m.

Commissioners Absent: Everett Cuskaden  
Frederick Whittemore  
William Yuen (arrived at 3:00 p.m.)

Vice Chairman Tacbian conducted the proceedings after the lunch break.

INTERVENORS (cont.)

Liwai Kaawa

Video tape testimony-----114 to 117

Examination by Vice Chairman Tacbian-----118 to 120

James Jones

Video tape testimony-----122 to 126

Ernestine Marfil

Video tape testimony-----127 to 132

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Peter Basabe

Video tape testimony-----132 to 134

Mr. Murakami submitted that affidavits for Ernestine Marfil, Glenn Imaoka, and James Jones who were not sworn in will be filed with the Commission. On the basis of this provision, Mr. Murakami moved to admit the video tape and index, identified as intervenors' exhibits 43 and 43-A respectively. Vice Chairman Tacbian declared that intervenors' exhibits 43 and 43-A were accepted into the record, over the objections raised by the petitioner.

Walter Paulo (recalled)

Direct examination by Mr. Murakami (cont.)-----137 to 138

Examination by Commissioner Choy-----138 to 139

Examination by Commissioner Rubin-----139 to 141

Examination by Commissioner Chun-----141 to 142

Chairman Yuen joined the Commission at this point to conduct the remainder of the hearing.

Pua Burgess

Direct examination by Mr. Murakami-----142 to 158

Examination by Commissioner Rubin-----159

Examination by Chairman Yuen-----159 to 160

Examination by Vice Chairman Tacbian-----160

Exhibits

DGP's exhibits 5 and 6 were offered into evidence and accepted.

Intervenors' exhibits 17 and 18 were moved into evidence. Chairman Yuen permitted the introduction of intervenors' exhibit 26 (maps) provided the minimum required copies were made available; however, if the necessary copies were not submitted within 5 days, exhibit 26 will be deemed to have been withdrawn voluntarily by intervenors.

The Chairman also reminded Mr. Murakami that the video tape and slide presentations were being received into evidence

on the condition that three copies of each will be submitted to the Commission, and intervenors will make appropriate video equipment available to the Commission to facilitate the viewing of the tape presentation for the Commissioners who did not attend all the sessions.

Mr. Murakami was also reminded that affidavits of the three witnesses who were presented on video tape but were not sworn in, will be due within five working days.

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This concluded the protracted hearing on this petition which had spanned a period of nearly a year. At this time, post hearing requirements and procedures were outlined.

Chairman Yuen expressed his appreciation to all present for their tremendous patience in allowing the Commission to conduct the longest LUC hearing on record, and to all of the parties for their cooperation and the professional manner in which this decision-making process was conducted. He also thanked the people of Waianae for enabling the Commission the opportunity to take into account their concerns and needs through the hearing process.

The hearing was concluded at 4:02 p.m.

#### Adoption of Minutes

The following minutes were approved as circulated:

November 19, 1984  
January 16, 1985  
January 17, 1985  
January 29, 1985  
January 30, 1985  
February 5, 1985