

STATE OF HAWAII
LAND USE COMMISSION

Minutes of Meeting

Kahului Library
Kahului, Maui

August 9, 1978 - 9:30 a.m.

Approved
9/27/78

COMMISSIONERS PRESENT: Charles Duke, Chairman
Shinichi Nakagawa, Vice-Chairman
James Carras
Colette Machado
Shinsei Miyasato
Mitsuo Oura
George Pascua
Carol Whitesell
Edward Yanai

STAFF PRESENT
Gordan Furutani, Executive Officer
Daniel Yasui, Planner
Allan Kawada, Deputy Attorney General
Dora Horikawa, Chief Clerk

Ray Russell, Court Reporter

CONTINUATION OF HEARING

A78-437 - ROLPH B. FUHRMAN AND ULUPALAKUA RANCH, INC.

Chairman Duke called the meeting to order and requested the Executive Officer to identify the lands under petition on the maps.

PUBLIC WITNESSES

Pages

William Maschal, President, Kihei Community Association
(Represented by Mr. Jim Wagner)

Read letter prepared by Mr. Maschal-----180 to 182

Examination by Commissioner Whitesell
and Vice Chairman Nakagawa-----183 to 184

John Bose - Representing Sierra Club, Maui Group

Oral testimony-----185 to 189

Cross examination by Mr. McCarthy-----189 to 190

John Bose (cont.)

Examination by Commissioner Whitesell-----190 to 191

Examination by Commissioner Carras-----191 to 192

Lafayette Young - Head of Media Center, Maui Community
College, Represented by John Bose

Oral presentation-----193 to 194

Examination by Commissioner Carras-----194 to 195

Harriet Chang

Oral testimony-----196 to 201

Cross examination by Mr. Takeyama-----201 to 206

Cross examination by Mr. McCarthy-----210 to 213

Mr. Takeyama offered into evidence, additional exhibit marked "Q" delineating the 3,494 square feet cemetery site which petitioner was proposing to delete from the petition. Since there were no objections from the parties, Exhibit "Q" was admitted into evidence.

Edward Y. Chang

Oral testimony-----215 to 218

Examination by Commissioner Yanai-----218 to 219

During her presentation, Mrs. Chang had produced a single page of an application to the Land Court by Ulupalakua Ranch which included, among other things, the granting of public beach access, deletion of the "cemetery area", etc.

For the record, it was noted by Mr. Takeyama that the document alluded to by Mrs. Chang was a stipulation which was not executed.

Mr. Allan Kawada, Deputy Attorney General, advised that the records reflect that the subject stipulation was an unsigned document.

Mr. McCarthy made a motion to dismiss the disputed property from the petition based on Rule 6-1 (4) and 6-2 (1) (e) of the Commission's Rules and Regulations, since petitioner had failed to demonstrate that he has standing to request amendment for that particular piece of property.

In response to clarification by the Chairman, Mr. Furutani advised that it was standard procedure for staff to investigate the property ownership with the State Tax Office.

Mr. Takeyama submitted that petitioner relied primarily on the fact that the ownership was recorded with the Bureau of Conveyances.

Vice Chairman Nakagawa moved to go into executive session to consult with counsel on this matter. It was seconded by Commissioner Carras and unanimously passed.

The Commission was in executive session from 10:48 a.m. to 11:00 a.m.

11:00 a.m.

Chairman Duke announced that the Commission had received counsel regarding the legality of the motion made by Life of the Land.

Vice Chairman Nakagawa moved to deny the motion made by Life of the Land to dismiss the disputed property from the petition. The motion was seconded by Commissioner Carras and unanimously carried.

Mr. Kawada elaborated that in verifying ownership of the property, staff had relied on the records at the Tax Office, which records must be taken as being true and correct since they are public records.

Mr. McCarthy stated that he intended to renew his motion at such time when the Changs submit a duly executed document to the Commission.

PETITIONER (cont.)

Rolph B. Fuhrman - Petitioner

Direct examination by Mr. Takeyama-----227 to 238
Cross examination by Mr. Kato-----238 to 247
Cross examination by Mr. McCarthy-----247 to 256
Redirect examination by Mr. Takeyama-----256 to 257
Cross examination by Mr. Yempuku-----257 to 258
Examination by Commissioner Carras-----258 to 261
Examination by Commissioner Machado-----261 to 266

Rolph B. Fuhrman (cont.)

Examination by Commissioner Whitesell-----266 to 268
Examination by Vice Chairman Nakagawa-----268 to 269
Reexamination by Commissioner Machado-----269 to 270
Recross examination by Mr. Yempuku-----270 to 272

The meeting was recessed for lunch from 12:30 p.m. to
1:15 p.m.

1:15 p.m.

PETITIONER (cont.)

Howard Nakamura - Planner

Direct examination by Mr. Takeyama-----273 to 282
Cross examination by Mr. Kato-----282 to 287
Cross examination by Mr. McCarthy-----288 to 298

Douglas R. Sodetani - Realtor

Direct examination by Mr. Takeyama-----303 to 306
Cross examination by Mr. McCarthy-----306 to 309

Leslie Kuloloio - Employee of Maui News

Direct examination by Mr. Takeyama-----310 to 313
Cross examination by Mr. Kato-----313 to 315
Cross examination by Mr. McCarthy-----315 to 316

COUNTY OF MAUI

At Mr. Yempuku's request, an addendum to County's Exhibit 1
was moved into evidence. The reading of the County's prepared
testimony was also waived.

Toshi Ishikawa - Planning Director, Maui Planning Department

Cross examination by Mr. Kato-----319 to 321
Cross examination by Mr. McCarthy-----322 to 325

Toshi Ishikawa (cont.)

Examination by Commissioner Whitesell-----325 to 329
Examination by Chairman Duke-----329 to 330
Reexamination by Commissioner Whitesell-----330 to 331
Recross examination by Mr. Kato-----331 to 332

DEPARTMENT OF PLANNING & ECONOMIC DEVELOPMENT

Tatsuo Fujimoto - Head, Land Use Division

Oral Testimony-----334 to 338
Cross examination by Mr. Takeyama-----338 to 340
Examination by Commissioner Yanai-----340 to 341
Examination by Commissioner Whitesell-----341 to 342

LIFE OF THE LAND

Exhibits

The exhibits attached to Life of the Land's motion were admitted into the record.

David McMullen

Oral testimony----- 344 to 345

Mr. Takeyama advised that he will submit evidence showing the actual ownership of the property as registered with the Bureau of Conveyances to be made a part of the record. No objections were raised by any of the party to the admission of this document to the record.

CLOSING ARGUMENTS

Both the petitioner and the County of Maui elected to waive their closing arguments.

Mr. Kato emphasized that those concerns which had been addressed in DPED's testimony be adequately considered and provided for, should the Commission rule in favor of the petition.

Mr. McCarthy reiterated that even if an EIS is not filed, the Commission's Rules require that the environmental assessment be considered. It was his opinion that none of the

petitioner's witnesses seemed to be qualified to provide information regarding the environmental factors surrounding the shoreline. Mr. McCarthy also argued that petitioner had not made any allowances for tsunami inundation. He recommended that the Commission ask the petitioner to provide this information.

Chairman Duke instructed all parties to file proposed findings of fact and conclusions of law, making appropriate reference to the page and line number of the transcript, when applicable. It was also requested that proper identification of the exhibits be made in the proposed findings. All parties were given 30 days following the completion of the transcript to submit the proposed findings, and two weeks in which to comment on each other's proposed findings.

The meeting was adjourned at 4:00 p.m.