

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In The Matter Of The Application Of The) DOCKET NO. DR08-35
)
DEPARTMENT OF ENVIRONMENTAL) ORDER REFUSING TO ISSUE
SERVICES, CITY AND COUNTY OF) DECLARATORY ORDER
HONOLULU (fka DEPARTMENT OF)
PUBLIC WORKS, CITY AND COUNTY)
OF HONOLULU))
)
For An Amendment To The Special Use)
Permit Which Established A Sanitary)
Landfill On Approximately 107.5 Acres)
Of Land Within The State Land Use)
Agricultural District At Waimānalo)
Gulch, Honouliuli, `Ewa, O`ahu,)
Hawaii, Tax Map Key: 9-2-03: Portion)
72 And Portion 73 (fka Tax Map Key: 9-)
2-03: Portion 2 And Portion 13))
_____)

ORDER REFUSING TO ISSUE DECLARATORY ORDER

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.

MAY - 9 2008

Date

by

Patricia G. Smith

Interim Executive Officer

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In The Matter Of The Application Of The) DOCKET NO. DR08-35
)
DEPARTMENT OF ENVIRONMENTAL) ORDER REFUSING TO ISSUE
SERVICES, CITY AND COUNTY OF) DECLARATORY ORDER
HONOLULU (fka DEPARTMENT OF)
PUBLIC WORKS, CITY AND COUNTY)
OF HONOLULU))
)
For An Amendment To The Special Use)
Permit Which Established A Sanitary)
Landfill On Approximately 107.5 Acres)
Of Land Within The State Land Use)
Agricultural District At Waimānalo)
Gulch, Honouliuli, `Ewa, O`ahu,)
Hawai`i, Tax Map Key: 9-2-03: Portion)
72 And Portion 73 (fka Tax Map Key: 9-)
2-03: Portion 2 And Portion 13))
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ORDER REFUSING TO ISSUE DECLARATORY ORDER

On February 15, 2008, Colleen Hanabusa, Esq., filed a Petition for Declaratory Orders and Request for Hearing ("Petition") on behalf of herself and the Koolina Community Association ("KOCA") (collectively "Movants").

On February 21, 2008, the City and County of Honolulu Department of Environmental Services ("Applicant") filed its Memorandum in Opposition to Petition for Declaratory Orders and Request for Hearing.

On April 24, 2008, the LUC resumed its meeting on the Movants' Petition and Supplemental Petitions in Conference Room 405, Leiopapa A Kamehameha Building, in Honolulu, Hawai`i. Colleen Hanabusa, Esq., and Ken Williams were present on behalf of the Movants. Gary Y. Takeuchi, Esq., was present on behalf of the Applicant. Following discussion, a motion was made and seconded to refuse to issue a declaratory order in this matter as it may affect the interests of the LUC in litigation that is pending relating to the extension of the deadline to accept solid waste at the WGSL. There being a vote of 8 ayes, 0 nays, and 1 absent, the motion carried.

ORDER

The LUC, having duly considered Ms. Hanabusa's and KOCA's Petition and Supplemental Petitions, the Applicant's Memoranda in Opposition, the oral arguments presented by the parties in this proceeding, and a motion having been made at a meeting conducted on April 24, 2008, in Honolulu, Hawai`i, and the motion having received the affirmative votes required by section 15-15-13, HAR, and there being good cause for the motion,

HEREBY REFUSES to issue a declaratory order in this matter as it may affect the interests of the LUC in litigation that is pending relating to the extension of the deadline to accept solid waste at the WGSL.

ADOPTION OF ORDER

The undersigned Commissioners, being familiar with the record and proceedings, hereby adopt and approve the foregoing ORDER this 9th day of May, 2008. This ORDER and its ADOPTION shall take effect upon the date this ORDER is certified and filed by this Commission.

Done at Honolulu, Hawai'i, this 9th day of May, 2008,
per motion on April 24, 2008.

APPROVED AS TO FORM

Deane Drake
Deputy Attorney General

LAND USE COMMISSION
STATE OF HAWAII

By Lisa M. Judge
LISA M. JUDGE
Chairperson and Commissioner

Filed and effective on

MAY - 9 2008

Certified by:

Rodney A. Maile

RODNEY A. MAILE

Interim Executive Officer

Land Use Commission

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In The Matter Of The Application Of The) DOCKET NO. DR08-35
)
DEPARTMENT OF ENVIRONMENTAL) CERTIFICATE OF SERVICE
SERVICES, CITY AND COUNTY OF)
HONOLULU (fka DEPARTMENT OF)
PUBLIC WORKS, CITY AND COUNTY)
OF HONOLULU))
)
For An Amendment To The Special Use)
Permit Which Established A Sanitary)
Landfill On Approximately 107.5 Acres)
Of Land Within The State Land Use)
Agricultural District At Waimānalo)
Gulch, Honouliuli, `Ewa, O`ahu,)
Hawai`i, Tax Map Key: 9-2-03: Portion)
72 And Portion 73 (fka Tax Map Key: 9-)
2-03: Portion 2 And Portion 13))
_____)

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Order Refusing To Issue Declaratory Order
was served upon the following by either hand delivery or depositing the same in the U.
S. Postal Service by regular or certified mail as noted:

CERT: CARRIE OKINAGA, Esq.
Corporation Counsel
City and County of Honolulu
530 South King Street
Honolulu, HI 96813

CERT. COLLEEN HANABUSA, Esq.
1100 Alakea Street, 12th Floor
Honolulu, Hawaii 96813

Dated: Honolulu, Hawai'i, MAY - 9 2008


RODNEY A. MAILE
Interim Executive Officer