

ORIGINAL

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In The Matter Of The Petition Of)	DOCKET NO. DR02-26
)	
KULEANA KU'IKAHI, LLC)	ORDER DENYING
)	PETITION OF KULEANA
For A Declaratory Order Declaring That The)	KU'IKAHI FOR ORDER
Subdivision And Development Of)	RE-OPENING PROCEEDINGS
Approximately 4,500 Acres Of Land In An)	AND FOR ADDITIONAL
Agricultural District Requires A District)	RELIEF
Boundary Amendment)	
_____)	

ORDER DENYING PETITION OF KULEANA KU'IKAHI FOR ORDER RE-OPENING
PROCEEDINGS AND FOR ADDITIONAL RELIEF

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KULEANA KU'IKAHI, LLC)	ORDER DENYING
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ORDER DENYING PETITION OF KULEANA KU'IKAHI FOR ORDER RE-OPENING PROCEEDINGS AND FOR ADDITIONAL RELIEF

WHEREAS, on June 4, 2003, Kuleana Ku`ikahi, LLC; Makila Land Company, LLC; Kauaula Land Company, LLC; and Launiupoko Associates, LLC notified the Land Use Commission ("Commission") of their agreement to withdraw the Petition For A Declaratory Order filed by Kuleana Ku`ikahi, LLC in the above-entitled matter;

WHEREAS, by Order Regarding Withdrawal Of Petition For A Declaratory Order ("Order") dated July 2, 2003, the Commission allowed the withdrawal of the Petition For A Declaratory Ruling, without prejudice, with the understanding that the parties were to submit their status report on their mediation efforts to this Commission within six months of the Order;

WHEREAS, on December 19, 2003, Kuleana Ku`ikahi, LLC filed Petition Of Kuleana Ku`ikahi For Order Re-Opening Proceedings And For Additional Relief;

WHEREAS, on January 20, 2004, Kuleana Ku`ikahi, LLC filed a Supplement To Petition For A Declaratory Order;

WHEREAS, on March 2, 2004, Kuleana Ku`ikahi, LLC filed a Status Report Of Petitioner Kuleana Ku`ikahi, LLC;

WHEREAS, on March 9, 2004, Kuleana Ku`ikahi, LLC filed a Supplemental Status Report Of Petitioner Kuleana Ku`ikahi, LLC;

WHEREAS, on March 9, 2004, Makila Land Company, LLC; Kauaula Land Company, LLC; and Launiupoko Associates, LLC filed a Status Report And Recommendations For Action On Petition Of Kuleana Ku`ikahi For Order Re-Opening Proceedings And For Additional Relief;

WHEREAS, on March 9, 2004, the County of Maui Planning Department filed a Status Report;

WHEREAS, on March 11, 2004, Makila Land Company, LLC; Kauaula Land Company, LLC; and Launiupoko Associates, LLC filed a Petition To Dismiss Petition Of Kuleana Ku`ikahi For Order Re-Opening Proceedings And For Additional Relief;

WHEREAS, on July 15, 2004, Kauaula Land Company, LLC and Launiupoko Associates, LLC filed Substitution Of Counsel And Withdrawal Of Counsel;

WHEREAS, on July 15, 2004, Launiupoko Associates, LLC filed a Joinder In Kauaula Land Company, LLC's Amended Motion To Dismiss Petition For Declaratory Order Dated September 30, 2002 And Petition For Order Reopening Proceedings And For Additional Relief Filed On December 15, 2003;

WHEREAS, on July 15, 2004, Makila Land Company, LLC filed a Petition For An Order Dismissing Makila Land Company, LLC From The Instant Proceeding And Joinder In Kauaula Land Company, LLC's Amended Motion To Dismiss Petition For Declaratory Order Dated September 30, 2002, And Petition For Order Re-Opening Proceedings And For Additional Relief Filed On December 15, 2003, And Launiupoko Associates, LLC's Joinder In Kauaulua [sic] Land Company, LLC's Amended Motion To Dismiss Petition For Declaratory Order Dated September 30, 2002, And Petition For Order Re-Opening Proceedings And For Additional Relief Filed On December 15, 2003;

WHEREAS, on July 19, 2004, Kauaula Land Company, LLC filed an Amended Motion To Dismiss Petition For Declaratory Order Dated September 30, 2002

And Petition For Order Reopening Proceedings And For Additional Relief Filed On December 15, 2003¹;

WHEREAS, on July 19, 2004, Kuleana Ku`ikahi, LLC filed Petitioner's Response To Kauaula Land Company, LLC's Amended Motion To Dismiss Petition, Makila Land Company's LLC's Petition For An Order Of Dismissal, And Launiupoko Associates, LLC's Joinder In Kauaula Land Company, LLC's Amended Motion To Dismiss;

WHEREAS, this matter came on for hearing before this Commission at its meeting on July 22, 2004, in Makena, Maui, Hawai`i, with the parties present as reflected in the minutes of the proceeding;

WHEREAS, after due consideration of the oral and written arguments of the parties and the entire record in this matter, a motion was made at its meeting on July 22, 2004, in Makena, Maui, Hawai`i, to deny the Petition Of Kuleana Ku`ikahi For Order Re-Opening Proceedings And For Additional Relief and the motion received the affirmative votes required by section 15-15-13, Hawai`i Administrative Rules,

NOW, THEREFORE, it is hereby ordered that the Petition Of Kuleana Ku`ikahi For Order Re-Opening Proceedings And For Additional Relief be DENIED.

¹ On July 15, 2004, the Commission received an electronic version of the Amended Motion To Dismiss Petition For Declaratory Order Dated September 30, 2002 And Petition For Order Reopening Proceedings And For Additional Relief Filed On December 15, 2003, from Kauaula Land Company, LLC.

Kuleana Ku`ikahi is free to file a new Petition For A Declaratory Order with this Commission.


Accordingly, the Petition To Dismiss Petition Of Kuleana Ku`ikahi For Order Re-Opening Proceedings And For Additional Relief filed by Makila Land Company, LLC; Kauaula Land Company, LLC; and Launiupoko Associates, LLC; the Amended Motion To Dismiss Petition For Declaratory Order Dated September 30, 2002 And Petition For Order Reopening Proceedings And For Additional Relief Filed On December 15, 2003 filed by Kauaula Land Company, LLC; the Joinder In Kauaula Land Company, LLC's Amended Motion To Dismiss Petition For Declaratory Order Dated September 30, 2002 And Petition For Order Reopening Proceedings And For Additional Relief Filed On December 15, 2003 filed by Launiupoko Associates, LLC; and the Petition For An Order Dismissing Makila Land Company, LLC From The Instant Proceeding And Joinder In Kauaula Land Company, LLC's Amended Motion To Dismiss Petition For Declaratory Order Dated September 30, 2002, And Petition For Order Re-Opening Proceedings And For Additional Relief Filed On December 15, 2003, And Launiupoko Associates, LLC's Joinder In Kauaulua [sic] Land Company, LLC's Amended Motion To Dismiss Petition For Declaratory Order Dated September 30, 2002, And Petition For Order Re-Opening Proceedings And For Additional Relief Filed On December 15, 2003 filed by Makila Land Company, LLC are hereby rendered MOOT.

ADOPTION OF ORDER

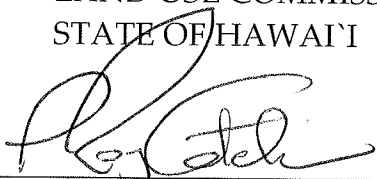
The undersigned Commissioners, being familiar with the record and proceedings, hereby adopt and approve the foregoing ORDER this 25th day of October, 2004. This ORDER and its ADOPTION shall take effect upon the date this ORDER is certified and filed by this Commission.

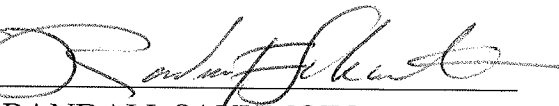
Done at Honolulu, Hawai'i, this 25th day of October, 2004, per motion on July 22, 2004.

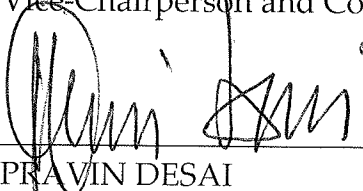
APPROVED AS TO FORM



Deputy Attorney General

LAND USE COMMISSION
STATE OF HAWAII

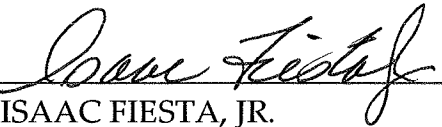
By 
P. ROY CATALANI
Chairperson and Commissioner

By 
RANDALL SAKUMOTO
Vice-Chairperson and Commissioner

By 
PRAVIN DESAI
Commissioner

By 

KYONG-SU IM
Commissioner

By 

ISAAC FIESTA, JR.
Commissioner

By 

STEVEN LEE MONTGOMERY
Commissioner

By 

LISA M. JUDGE
Commissioner

Filed and effective on
October 25, 2004

By _____
BRUCE COPPA
Commissioner

Certified by:



ANTHONY CHING

By 

PETER YUKIMURA
Commissioner

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In The Matter Of The Petition Of) DOCKET NO. DR02-26
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KULEANA KU`IKAHI, LLC) CERTIFICATE OF SERVICE
)
For A Declaratory Order Declaring That The)
Subdivision And Development Of)
Approximately 4,500 Acres Of Land In An)
Agricultural District Requires A District)
Boundary Amendment)
_____)

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Order Denying Petition of Kuleana Ku`ikahi for Order Re-Opening Proceedings and for Additional Relief 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:

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Dated: Honolulu, Hawaii, October 25, 2004.



ANTHONY J. H. CHING
Executive Officer