

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)
)
COUNTY OF HAWAII)
PLANNING DEPARTMENT)
)
To Amend the Agricultural Land Use)
District Boundary into the Urban)
Land Use District for Approximately)
955.78 Acres at Keahuolu through)
Keauhou, North Kona, Island of)
Hawaii, State of Hawaii, Tax Map)
Key No.: 7-4-08: por. 1; 7-5-03: 6,)
7, 23; 7-5-10: 5; 7-5-17: 1, 19;)
7-6-13: 9; 7-7-04: por. 2, 56;)
7-7-07: 41; 7-7-08: por. 27, 99,)
105; 7-8-10: por. 29, and por. 30.)

DOCKET NO. A94-705
ORDER DENYING INTERVENOR
E MAU NA ALA HELE'S
MOTION TO DECLARE THE
PETITION STILL
DEFECTIVE; OR IN THE
ALTERNATIVE, PORTIONS
STILL DEFECTIVE

1998 JAN 26 A 8:09
LAND USE COMMISSION
STATE OF HAWAII

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MOTION TO DECLARE THE PETITION STILL DEFECTIVE;
OR IN THE ALTERNATIVE, PORTIONS STILL DEFECTIVE

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ORDER DENYING INTERVENOR E MAU NA ALA HELE'S
MOTION TO DECLARE THE PETITION STILL DEFECTIVE;
OR IN THE ALTERNATIVE, PORTIONS STILL DEFECTIVE

On July 9, 1996, Intervenor E Mau Na Ala Hele ("Intervenor - E Mau") filed its Motion to Declare the Petition Still Defective; or in the Alternative; Portions of the Petition Still Defective ("Motion"), pursuant to Hawai'i Administrative Rules ("HAR") Sections 15-15-70, and Hawai'i Revised Statutes ("HRS") Chapter 6E, and Section 205-4.

The Motion requested that the Land Use Commission ("Commission") issue an order removing the boundary amendment petition filed by the County of Hawaii Planning Department ("Petitioner") in this docket from consideration by the Commission on the grounds that the petition was still defective.

The Motion represented that the petition filed, as amended, remains defective pursuant to the petition requirements

listed in HAR Section 15-15-50(c). Specifically, the Motion cites HAR Section 15-15-50(c)(10), as the petition requirement that is not met by the petition filed, as amended.

The Motion also argues that until such time that an adequate archaeological inventory study is completed for all parcels within the petition area, the petition be deemed defective and processing of the petition be deferred.

On August 13, 1996, Intervenor - E Mau filed its Supplemental Memorandum in Support of E Mau Na Ala Hele's Motion to Declare the Petition Still Defective. The Supplemental Memorandum further argued that the Petitioner was not in compliance with HRS Section 6E-8, and that the requisite HRS Section 6E-42 review by the State Historic Preservation Division recommends deferral of a decision on the petition.

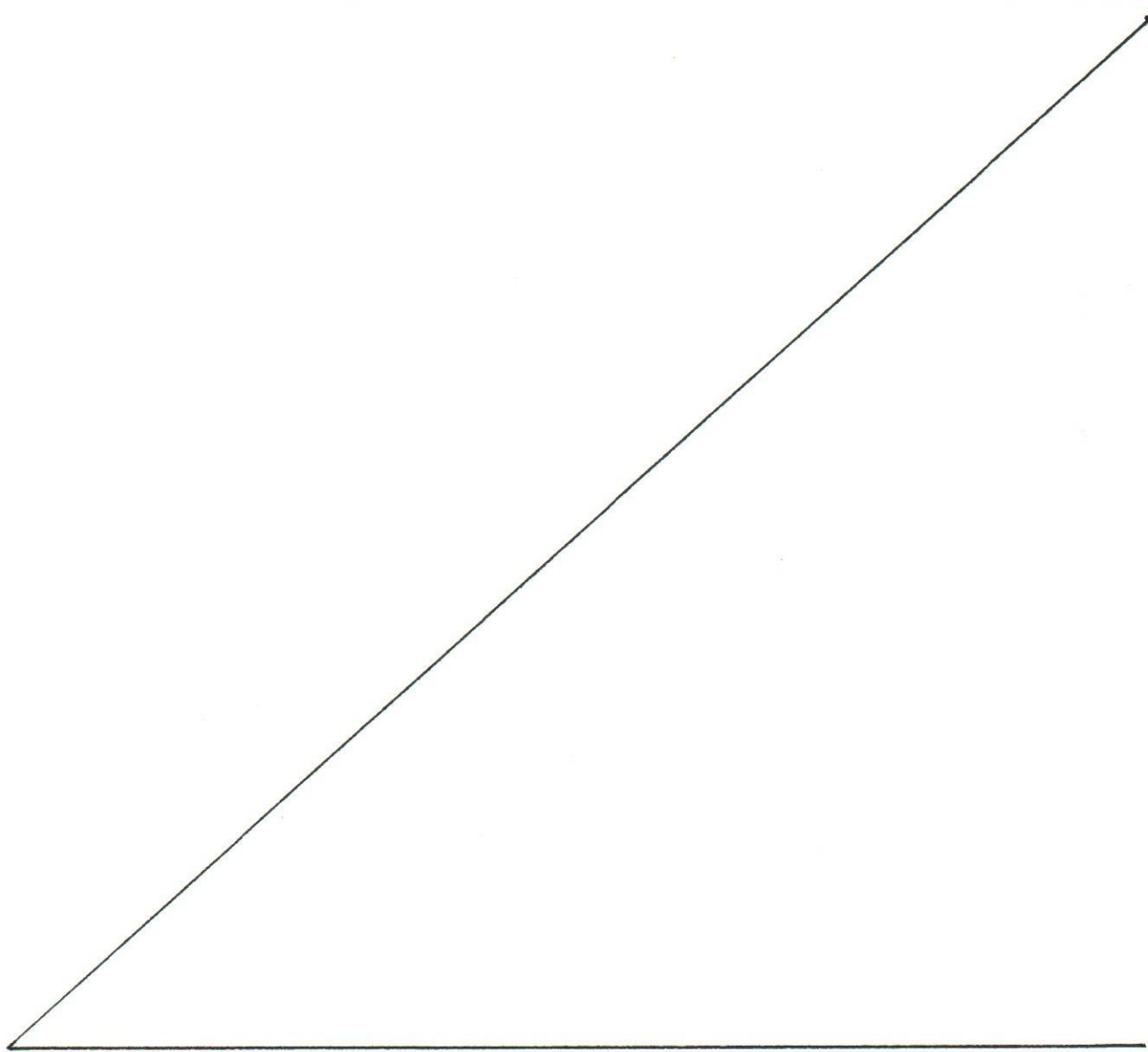
On August 21, 1996, Petitioner County of Hawaii Planning Department ("Petitioner") filed its Memorandum in Opposition to Intervenor E Mau Na Ala Hele's Motion to Declare Petition Still Defective.

On August 22, 1996, the Motion came before the Commission at its meeting in Honolulu, Oahu. Upon hearing oral arguments by the parties, the Commission deferred action on the Motion due to Petitioner County of Hawaii Planning Department's HRS 6E appeal of the non-concurrence letter from the State Historic Preservation Division, Department of Land and Natural Resources, to the State Historic Preservation Board.

On December 2, 1997, the Commission held a continued action meeting on the Motion in Kailua-Kona, Hawai'i.

The Commission, having considered the arguments, both written and oral, provided by the parties in the subject docket, and upon review of the entire record herein, and good cause showing therefrom,

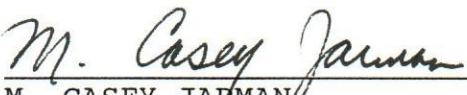
IT IS HEREBY ORDERED that the Motion to Declare the Petition Still Defective; or in the Alternative; Portions Still Defective filed by Intervenor E Mau Na Ala Hele IS HEREBY DENIED.




Done at Honolulu, Hawai'i, this 26th day of January 1998,
per motions on December 2, 1997 and January 22, 1998.


LAND USE COMMISSION
STATE OF HAWAI'I

By 
RUPERT K. CHUN
Chairperson and Commissioner

By 
M. CASEY JARMAN
Vice Chairperson and Commissioner

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

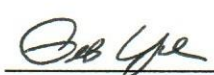
By 
P. ROY CATALANI
Commissioner

By 
ISAAC FIESTA, JR.
Commissioner

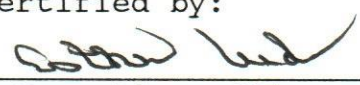
By (absent)
HERBERT S.K. KAOPUA, SR.
Commissioner

By 
MERLE A. K. KELAI
Commissioner

By 
JOANN N. MATTSO
Commissioner

By 
PETER YUKIMURA
Commissioner

Filed and effective on
January 26, 1998

Certified by:

Executive Officer

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

In the Matter of the Petition of) DOCKET NO. A94-705
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COUNTY OF HAWAII) CERTIFICATE OF SERVICE
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105; 7-8-10: por. 29, and por. 30.)
_____)

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Order Denying Intervenor E Mau Na Ala Hele's Motion to Declare the Petition Still Defective; or in the Alternative, Portions Still Defective was served upon the following by either hand delivery or depositing the same in the U. S. Postal Service by certified mail:

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Representing Intervenor E Mau Na Ala Hele
P. O. Box 6384
Kamuela, Hawaii 96743

DATED: Honolulu, Hawaii, this 26th day of January 1998.



ESTHER UEDA
Executive Officer