

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

In the matter of the Petition) DOCKET NO. A06-764
)
of) ORDER DETERMINING: 1)
) THAT THE LAND USE
MOLOKAI PROPERTIES LIMITED) COMMISSION AGREES TO BE
) THE ACCEPTING AUTHORITY
To Amend the Agricultural Land Use) PURSUANT TO CHAPTER 343,
District Boundary into the Conservation) HAWAI'I REVISED STATUTES;
Land Use District for Approximately 252) AND 2) THAT THE PROPOSED
Acres of Land and into the Rural Land Use) ACTION MAY HAVE A
District for Approximately 613 Acres of) "SIGNIFICANT IMPACT" TO
Land and To Amend the Conservation) WARRANT THE
Land Use District Boundary into the Rural) PREPARATION OF AN
Land Use District for Approximately 10) ENVIRONMENTAL IMPACT
acres at Lā`au Point, Molokai, TMK No.:) STATEMENT
(2) 5-1-002: portion of 030)

ORDER DETERMINING: 1) THAT THE LAND USE COMMISSION AGREES
TO BE THE ACCEPTING AUTHORITY PURSUANT TO CHAPTER 343,
HAWAI'I REVISED STATUTES; AND 2) THAT THE PROPOSED ACTION
MAY HAVE A "SIGNIFICANT IMPACT" TO WARRANT THE
PREPARATION OF AN ENVIRONMENTAL IMPACT STATEMENT

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ORDER DETERMINING: 1) THAT THE LAND USE COMMISSION AGREES TO BE THE ACCEPTING AUTHORITY PURSUANT TO CHAPTER 343, HAWAII REVISED STATUTES; AND 2) THAT THE PROPOSED ACTION MAY HAVE A "SIGNIFICANT IMPACT" TO WARRANT THE PREPARATION OF AN ENVIRONMENTAL IMPACT STATEMENT

MOLOKAI PROPERTIES LIMITED, a Hawai`i corporation ("Petitioner"), filed its Petition For Land Use Boundary Amendment ("Petition") on April 27, 2006, to amend the Agricultural Land Use District Boundary into the Conservation District for approximately 252 acres of land and into the Rural Land Use District for approximately 613 acres of land and to amend the

Conservation Land Use District Boundary into the Rural Land Use District for approximately 10 acres of land at Lā`au Point, Moloka`i, Hawai`i, and designated by Tax Map Key No.: (2) 5-1-002: portion of 030 (the "Petition Area"), for the development of a 200-lot rural-residential subdivision to include roadways, infrastructure, open space, in addition to expansion of the Conservation District along the shoreline and related resource areas by 252 acres, and development of a 16.5-acre park and a 1.5-acre park (the "Project"). Included with the Petition was Petitioner's Environmental Impact Statement Preparation Notice ("EISPN").

On May 4, 2006, the LUC held its meeting in Hilo, Hawai`i, for the following: 1) to determine whether the Land Use Commission ("LUC") should be the accepting authority pursuant to chapter 343, Hawai`i Revised Statutes ("HRS"); and 2) if so, to determine whether the Project may have a "significant impact" sufficient to warrant the preparation an Environmental Impact Statement ("EIS") pursuant to chapter 343, HRS. In attendance were Petitioner and the Office of Planning, Department of Business, Economic Development and Tourism, State of Hawai`i ("OP").

The County of Maui Department of Planning ("County") previously informed LUC staff that it would be unable to attend the meeting and that it had no objection to Petitioner's assertion that the LUC is the appropriate accepting authority for the EISPN and that the Project may have a significant impact to

warrant the preparation on an EIS.

Petitioner asserted that the LUC is the appropriate accepting authority for the EISPN because the filing of the Petition and EISPN is the Petitioner's first action to seek regulatory approval of the development of the Petition Area. Petitioner noted that the Moloka'i Planning Commission would not be the appropriate accepting authority for the EISPN because the Petitioner does not have any pending application before the Moloka'i Planning Commission at this time. Petitioner also noted that a significant portion of the Petition Area involves the reclassification of the Conservation District, of which, the LUC has sole jurisdiction and authority.

Petitioner also asserted that the scope and scale of the Project in addition to the Project's role in a much larger community plan for Moloka'i, may have a significant effect warranting the preparation of an EIS, pursuant to chapter 343, HRS. The Petitioner then requested the LUC to review and issue the appropriate determination to the EISPN and EIS for the Project, all before entering a decision and order relating to a change in land use classification.

OP commented that the preparation of an EIS appears to be warranted and that OP defers to the LUC on the issue of whether the LUC is the appropriate accepting authority of the EISPN.

At its meeting on May 4, 2006, a motion that: 1) the LUC agrees to accept

responsibility of the receiving and acceptance of the EISPN and EIS; and 2) that the proposed action warrants the preparation of an EIS, pursuant to chapter 343, HRS, was made and seconded. There being a vote tally of eight ayes and no nays, the motion carried, having received the affirmative votes required by Section 15-15-13, Hawai'i Administrative Rules ("HAR").

ORDER

IT IS HEREBY ORDERED that the LUC: 1) agrees to be the accepting authority of Petitioner's EISPN and EIS under chapter 343, HRS, and 2) determines that the proposed action in LUC Docket No. A06-764 warrants the preparation of an EIS pursuant to chapter 343, HRS, by the authority of the presiding officer under section 15-15-60, HAR.

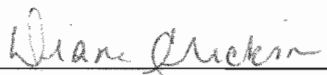
Dated: Honolulu, Hawai'i, _____.

LAND USE COMMISSION
STATE OF HAWAII



By RANDALL F. SAKUMOTO
Chair and Commissioner

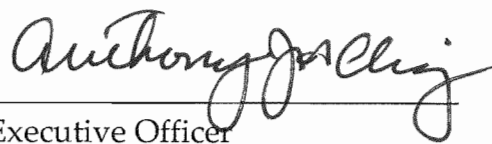
APPROVED AS TO FORM:



Deputy Attorney General

Filed and effective on
MAY 24 2006

Certified by:



Executive Officer

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

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MOLOKAI PROPERTIES LIMITED)	
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District Boundary into the Conservation)	
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acres at Lā`au Point, Molokai, TMK No.:)	
(2) 5-1-002: portion of 030)	

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Order Determining: 1) That The Land Use Commission Agrees To Be The Accepting Authority Pursuant To Chapter 343, Hawai`i Revised Statutes; And 2) That The Proposed Action May Have A "Significant Impact" To Warrant The Preparation Of An Environmental Impact Statement 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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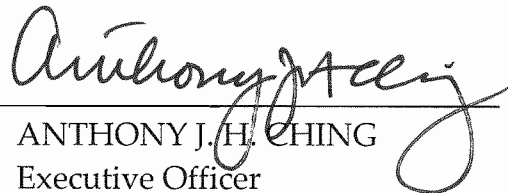
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MAY 24 2006

Dated: Honolulu, Hawaii, _____.



ANTHONY J. H. CHING
Executive Officer