

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Motion of)
)
WALTER FILIPEK) DOCKET NO. A83-559
)
To Continue the Hearing on a) WALTER FILIPEK
Petition to Amend the Conservation)
Land Use District Boundary to)
Reclassify Approximately 15.8)
Acres of Land, TMK 7-1-03: 5, 6)
and 11, at Kapalaoa, North Kona,)
Hawaii, into the Urban Land Use)
District)
)
_____)

DECISION AND ORDER

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FINDINGS OF FACT, CONCLUSIONS OF LAW
AND DECISION AND ORDER

This matter arises from a petition filed by
Petitioner Walter Filipek for a State Land Use District
Boundary Amendment to reclassify approximately 15.8 acres of
land, Tax Map Key No. 7-1-03: 5, 6, and 11, from the Conservation
District to the Urban District at Kapalaoa, North Kona, Hawaii,
for the development of approximately 85 to 100 luxury condominium
units. The Land Use Commission, having heard and examined the
Hearing Officer's Report and testimony and evidence presented
on the matter at its meeting on April 24, 1984 in Lihue, Kauai
and having considered the full record in this Docket, hereby
makes the following findings of fact and conclusions of law.

FINDINGS OF FACT

1. The Petitioner filed its petition and Environmental
Impact Statement on October 24, 1983.

2. The Land Use Commission voted to accept the Environmental Impact Statement on January 17, 1984.

3. A prehearing conference was scheduled for April 3, 1984. However, the prehearing conference was canceled at the request of the Petitioner. The Petitioner advised that through a court order entered by the Federal District Court, Walter Filipek has no legal or equitable interest in the property sought to be reclassified and desires to continue the hearing to allow for more time to obtain authorization from the landowners to proceed with the boundary amendment process.

4. On April 10, 1984, a prehearing conference was held. The prehearing conference was attended by:

Land Use Commission

William Yuen

Gordan Furutani

State

Tatsuo Fujimoto

Daniel Yasui

County

Sidney Fuke

Petitioner

Kazuhisa Abe

5. Pursuant to notice of the hearing published on March 7, 1984, in the Hawaii Tribune-Herald and The Honolulu Advertiser and also sent by certified mail to all parties on March 2, 1984, Gordan Furutani, the appointed Hearing Officer, conducted a hearing on this petition on April 11, 1984. in Kailua-Kona, Hawaii.

6. Petitioner Walter Filipek was represented by Kazuhisa Abe, the State Department of Planning and Economic Development was represented by Daniel Yasui; and the County of Hawaii was represented by Deputy Planning Director, Duane Kanuha.

7. Approximately 25 members of the public attended the hearing. Prior to the hearing, the Hearing Officer advised the members of the public that no substantive testimony regarding the boundary amendment petition would be taken until the matter of the Petitioner's interest in the property was settled by the Land Use Commission.

8. At the time of filing of the petition, the Petitioner was the purchaser of the subject proerpty under an agreement of sale. The landowners had filed written authorizations to proceed with the subject boundary amendment request.

9. By letter of April 6, 1984 and a Stipulation, Settlement Agreement; Order filed by Robert Romer, Richard Beamish, Ronald Diggins and Curci-Turner Co. vs. Walter Filipek, Civil No. 82-0505 and Nat Wolozin, Christel Wolozin, Julius Walton, Mamie Walton, James Benedetto, Agnes Benedetto, and Harry Kahuakailani Brown, Jr., vs. Walter Filipek, Civil No. 82-0504, in the United States District Court for the District of Hawaii, the landowners notified the Land Use Commission that Walter Filipek stipulated that he no longer had any legal or equitable interest in the subject property.

10. By letter of April 10, 1984, Vernon F. L. Char states that Walter Filipek has submitted a new offer to

purchase the property and the offer is now being considered by the landowners.

CONCLUSIONS OF LAW

Walter Filipek has no standing to petition for a land use district boundary amendment for the subject properties and the petition is in violation of Chapter 205-4(a), Hawaii Revised Statutes, as amended and Section 6-1, (4) of the Land Use Commission Rules of Practice and Procedure.

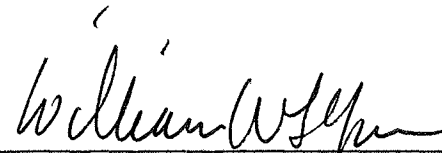
DECISION AND ORDER

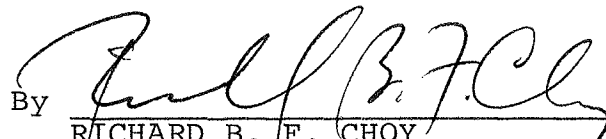
IT IS HEREBY ORDERED that Docket No. A83-559, a land use district boundary amendment petition filed by Walter Filipek be dismissed for lack of standing to petition the Land Use Commission for a boundary amendment for the subject property.


DOCKET NO. A83-559 - WALTER FILIPEK

Done at Honolulu, Hawaii, this 24th day of May, 1984,
per motion on April 25, 1984.

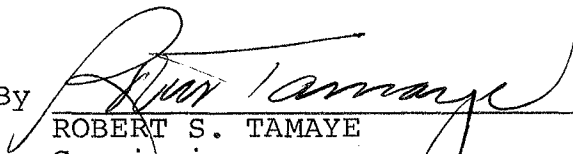
LAND USE COMMISSION
STATE OF HAWAII

By 
WILLIAM W. L. YUEN
Chairman and Commissioner

By 
RICHARD B. F. CHOY
Vice Chairman and Commissioner

By 
WINONA RUBIN
Commissioner

By 
TEOFILO PHIL TACBIAN
Commissioner

By 
ROBERT S. TAMAYE
Commissioner

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CERTIFICATE OF SERVICE

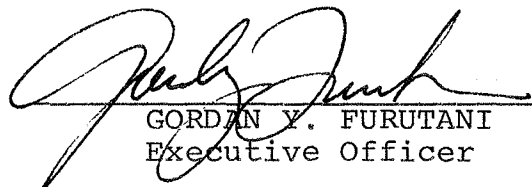
I hereby certify that a copy of the Decision and Order was served upon the following by either hand delivery or depositing the same in the U.S. Postal Service by certified mail:

KENT M. KEITH, Director
Department of Planning and Economic Development
State of Hawaii
250 South King Street
Honolulu, Hawaii 96813

SIDNEY FUKU, Planning Director
Planning Department
County of Hawaii
25 Aupuni Street
Hilo, Hawaii 96720

KAZUHISA ABE
ARNOLD T. ABE
Abe & Abe
190 South King Street, Suite 2634
Honolulu, Hawaii 96813

DATED: Honolulu, Hawaii, this 25th day of May, 1984.



GORDAN Y. FURUTANI
Executive Officer

DOCKET NO. A83-559 - WALTER FILIPEK

A certified copy of the Land Use Commission's Decision and Order was served to the following by regular mail on May 25, 1984:

ANNETTE CHOCK, Deputy Attorney General
Department of the Attorney General
State Capitol, 4th Floor
Honolulu, Hawaii 96813

STEPHEN MENEZES, Corporation Counsel
Office of the Corporation Counsel
County of Hawaii
25 Aupuni Street
Hilo, Hawaii 96720