

OFFICE OF THE
ASSISTANT REGISTRAR, LAND COURT
STATE OF HAWAII
(Bureau of Conveyances)

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Telephone: (808) 528-4200

DECLARATION

and

ORDER GRANTING MOTION FOR APPROVAL
OF JOB CREDITS AND MOTION FOR CLARIFICATION AND/OR
MODIFICATION OF CONDITION FILED ON FEBRUARY 8, 1994
AT THE LAND USE COMMISSION OF THE STATE OF HAWAII

0000003390

EXHIBIT "3"

DECLARATION

Haseko (Ewa), Inc., successor of Haseko (Hawaii), Inc., declares that the attached Order Granting Motion for Approval of Job Credits and Motion for Clarification and/or Modification of Condition, filed on February 8, 1994 at the Land Use Commission of the State of Hawaii, In the Matter of the Petition of Haseko (Hawaii), Inc., in Docket No. A89-651, affects the land at Honouliuli, Ewa, Oahu, Hawaii, Tax Map Key Nos.: 9-1-12: 5 (por.), 6 (por.), and 23 (por.), and modifies the Document Listing Conditions to Reclassification of Land, as specifically indicated within the Order itself, recorded in the Office of the Assistant Registrar of the Land Court of the State of Hawaii on December 14, 1990 as Document No. 1788412 (Transfer Certificate of Title Nos. 386636, 386637, 386638, and 386641).

This Declaration and Order are being recorded pursuant to H.R.S. § 205-4(g).

DATED: Honolulu, Hawaii, MAR 28 1994

HASEKO (EWA), INC.

By 

NELSON W. G. LEE
Its Executive Vice-President

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)
HASEKO (HAWAII), INC.)
To Amend the Agricultural Land Use)
District Boundary into the Urban)
Land Use District for Approximately)
403.008 acres at Honouliuli, Ewa,)
Oahu, Hawaii, Tax Map Key Nos.:)
9-1-12: 5 (por.), 6 (por.), and)
23 (por.))

Docket No. A89-651
ORDER GRANTING MOTION
FOR APPROVAL OF JOB
CREDITS AND MOTION
FOR CLARIFICATION
AND/OR MODIFICATION
OF CONDITION

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.

FEB 08 1994 by *Esther Lind*
Date Executive Officer

ORDER GRANTING MOTION FOR APPROVAL OF JOB CREDITS AND
MOTION FOR CLARIFICATION AND/OR MODIFICATION OF CONDITION

LAND USE COMMISSION
STATE OF HAWAII
FEB 8 9 05 AM '94

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.

3/22/94 by *Esther Lind*
Date Executive Officer

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)	Docket No. A89-651
HASEKO (HAWAII), INC.)	
To Amend the Agricultural Land Use)	ORDER GRANTING MOTION
District Boundary into the Urban)	FOR APPROVAL OF JOB
Land Use District for Approximately)	CREDITS AND MOTION
403.008 acres at Honouliuli, Ewa,)	FOR CLARIFICATION
Oahu, Hawaii, Tax Map Key Nos.:)	AND/OR MODIFICATION
9-1-12: 5 (por.), 6 (por.), and)	OF CONDITION
23 (por.))	

ORDER GRANTING MOTION FOR APPROVAL OF JOB CREDITS AND
MOTION FOR CLARIFICATION AND/OR MODIFICATION OF CONDITION

On September 15, 1993, Haseko (Ewa), Inc., a Hawaii corporation ("Petitioner"), assignee of Haseko (Hawaii), Inc. filed a Motion for Approval of Job Credits ("Motion for Approval") pursuant to Section 15-15-70 and 15-15-94, Hawaii Administrative Rules ("HAR"). Petitioner's Motion for Approval sought a determination from this Commission that the 2.47 job credits currently accrued by Petitioner should be counted as part of the total number of job credits required for satisfaction of subparagraph a and subparagraph c (iii) of Condition No. 1 of the Findings of Fact, Conclusions of Law, and Decision and Order filed on October 17, 1990.

On October 21, 1993, this Commission held an action meeting at Honolulu, Oahu on Petitioner's Motion for Approval. Upon an oral motion by Petitioner, this Commission deferred

action on Petitioner's Motion for Approval pending discussions between Petitioner and the Office of State Planning to clarify the provisions under Condition No. 1.

On January 3, 1994, Petitioner filed a Motion for Clarification and/or Modification of Condition ("Motion for Clarification") that sought a determination from this Commission 1) that the timeframe in which Petitioner must apply to this Commission for approval of job credits should be specified; and, 2) that Petitioner be allowed to accrue and earn job credits resulting from both the labor generated from the construction of a qualifying non-tourism related facility and the amount of floor space created by that same facility, provided Petitioner can only rely upon job credits earned from only one of the two methods at the time Petitioner seeks approval from this Commission that it has satisfied its job generation requirement under Condition No. 1.

On January 13, 1994, this Commission held a continued action meeting at Honolulu, Oahu on Petitioner's Motion for Approval and Motion for Clarification.

This Commission, having duly considered Petitioner's Motion for Approval and Motion for Clarification, and the arguments presented by the parties in the proceeding, at its meetings of October 21, 1993 and January 13, 1994 at Honolulu, Oahu, and good cause existing therefrom,

IT IS HEREBY ORDERED that Condition Number 1 be

amended as follows:

- 1) Petitioner¹ shall generate one (1) non-tourism related job, or the equivalent value thereof, for each hotel or hotel/condominium unit Petitioner is allowed to build. As used herein, "non-tourism related" means not related to hotels or residential condominiums intended for use as transient accommodations, or recreational, entertainment or other facilities and services used primarily by tourists. The "equivalent value" of a non-tourism related job is in the range of \$25,000 to \$50,000.

Satisfaction of this condition shall occur at the time Petitioner obtains a building permit and may be accomplished by the payment of \$25,000 for each hotel or hotel/condominium unit intended for transient accommodation for which a building permit is issued or in the following manner (provided that, with respect to subparagraphs a. and b., below, Petitioner may not apply any credit accrued and earned under both subparagraphs for the same facility to satisfy this condition):

a. Jobs Generated Via Construction.

Development of residential, commercial, industrial, recreational, institutional or other non-tourism related facilities generates construction jobs not related to tourism. Petitioner, therefore, directly or through local affiliates, may receive one job credit for each 25 man-years of labor generated by a qualified project, which may be either within or outside of the Petition Area. (Hereafter, Petitioner and/or its affiliates shall collectively be referred to as "Developer".) One man-year shall equal 1920 hours of work; labor generated by the construction of a project shall include all work performed by the Developer's team (architects, engineers, consultants, contractors and subcontractors) in the development and construction of a non-tourism related project.

Not more than 25% of Petitioner's total job-generation requirement may be satisfied in this manner.

¹ As used herein, the term "Petitioner" means Haseko (Hawaii), Inc. and its successors and assigns.

b. Jobs Generated Via Development of Non-Tourism Related Projects.

New facilities provide the means and opportunity for the establishment and/or growth of businesses and the generation of new, non-tourism related jobs. Petitioner, therefore, may receive credit for the development of new non-tourism related projects or facilities, either within or outside of the Petition Area. Credit for jobs created by such new facilities will be calculated on the basis of the degree of integration of the intended use of the facility with the tourist industry. Credit for one (1) non-tourism related job shall be given for the specified amount of floor space in the following types of facilities:

<u>Type of Facility</u>	<u>Floor Space (square feet)</u>	<u>Credit</u>
Office	200	100 †
Warehousing/Storage	1,000	100 †
Manufacturing	300	100 †
Research Facility (e.g. High-Tech)	150	100 †
Recreation and Other Activity Centers	1,000	100 †
Private Schools and Day-Care Centers	300	100 †
Agricultural Facility (e.g. Greenhouses and Processing Plants)	1,000	100 †
Retailing	300	60 †

Credit for other types of facilities will be determined on a case-by-case basis.

c. Start-Up Capital, Business Incentives and Job Training.

Petitioner may receive one (1) job credit for (i) each \$50,000 invested by Petitioner in a start-up of a non-tourism related business (by way of equity or investment into a loan fund for such business), (ii) each \$25,000 in incentives provided to a new, non-tourism related business, and/or (iii) each \$25,000

contributed in training programs for non-tourism related jobs. Petitioner shall consult with OSP to identify investments, incentives and training programs which qualify for credits under this category.

A minimum of 10% of Petitioner's job-generation requirement shall be satisfied in this manner.

d. Earning Job Credits.

Credits for jobs generated under subparagraphs a. through c., above, shall not be eligible for satisfaction of this condition unless, within two years after they accrue, they are reported to the LUC in Petitioner's annual report. Job credits shall be considered to have accrued under subparagraph a. when the Developer pays for the labor; under subparagraph b. when the certificate of occupancy is issued or such earlier date as may be approved by the LUC; and under subparagraph c. when the investment is made, the incentive is given, or the job training program is funded.

Petitioner's annual report to the LUC shall discuss in detail its progress in earning job credits. Additionally, Petitioner shall provide OSP with information concerning the manner in which Petitioner's claim for job credits is calculated as well as written certification by the Developer that all information provided is correct.

Job credits shall be considered earned only upon approval by the LUC. Petitioner may file a motion for approval of job credits with the LUC at such time as may be mutually agreeable between Petitioner and OSP, provided that said motion shall be filed prior to the Petitioner obtaining a building permit for the construction of hotel or hotel/condominium units to which the job credits will be applied.

At the time Petitioner obtains a building permit, Petitioner shall satisfy this condition by depositing cash or posting a bond or a letter of credit, in a form satisfactory to OSP, in an amount equal to the product of \$25,000 multiplied by the number of hotel or hotel/condominium units for which a building permit is issued, less any job credits previously earned. As job credits are earned and applied in satisfaction of this condition, Petitioner may submit a motion to the LUC for the refund of the funds paid to OSP or a reduction of

the bond or letter of credit issued in favor of OSP. Five (5) years after the date the building permit is issued, OSP shall have the right to retain cash or make claim on the bond or letter of credit in an amount equal to the product of \$25,000 multiplied by the number of hotel or hotel/condominium units for which the building permit is issued, less any job credits previously earned.

Prior to the expiration of the five-year period, Petitioner may seek an extension of time to satisfy its job-generation requirement. An extension may be granted upon such additional terms as may be appropriate, provided that Petitioner establishes substantial compliance with this condition and specifies the methods, means and time in which it intends to satisfy this condition.

Except for the limitations regarding subparagraphs a. and b. and the 10% minimum required by subparagraph c., Petitioner shall determine the manner in which the remainder of its job-generation requirement may be allocated.

All funds obtained by OSP under this condition shall be applied to any one or more of the programs specified in subparagraph c., above.


All other conditions to the Decision and Order filed on October 17, 1990, are hereby reaffirmed and shall continue in effect.


IT IS FURTHER ORDERED that Petitioner's 2.47 job credits are hereby approved and that they shall be counted as part of the total number of job credits required of Petitioner for satisfaction of subparagraph a and subparagraph c (iii) of Condition No. 1, as amended by this Order, of the Commission's Decision and Order filed on October 17, 1990.

DOCKET NO. A89-651 - HASEKO (HAWAII), INC.

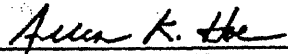
Done at Honolulu, Hawaii, this 8th day of February 1994,
per motion on January 13, 1994.

LAND USE COMMISSION
STATE OF HAWAII

By 
JOANE N. MATTSO
Chairperson and Commissioner

By 
KAREN S. AHN
Vice Chairperson and Commissioner

By (absent)
TRUDY K. SENDA
Vice Chairperson and Commissioner

By 
ALLEN K. HOE
Commissioner

By 
LLOYD F. KAWAKAMI
Commissioner

By (absent)
EUSEBIO LAPENIA, JR.
Commissioner

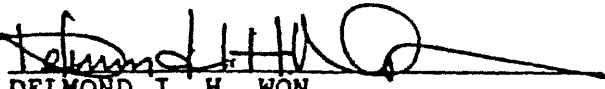
By (absent)
RENTON L. K. NIP
Commissioner

Filed and effective on
February 8, 1994

Certified by:


Executive Officer

By 
ELTON WADA
Commissioner

By 
DELMOND J. H. WON
Commissioner