

ORIGINAL

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In The Matter Of The Application Of The) DOCKET NO. SP87-362
)
DEPARTMENT OF ENVIRONMENTAL) COMMISSION'S ORDER DENYING
SERVICES, CITY AND COUNTY OF) PETITION FOR INTERVENTION
HONOLULU (fka DEPARTMENT OF)
PUBLIC WORKS, CITY AND COUNTY)
OF HONOLULU))
)
For An Amendment To The Special Use)
Permit Which Established A Sanitary)
Landfill On Approximately 107.5 Acres)
Of Land Within The State Land Use)
Agricultural District At Waimānalo)
Gulch, Honouliuli, `Ewa, O`ahu,)
Hawaii`i, Tax Map Key: 9-2-03: Portion 72)
And Portion 73 (fka Tax Map Key: 9-2-)
03: Portion 2 And Portion 13))
_____)

COMMISSION'S ORDER DENYING PETITION FOR INTERVENTION

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COMMISSION'S ORDER DENYING PETITION FOR INTERVENTION

On July 6, 2007, the City and County of Honolulu Department of Environmental Services' ("Applicant") filed an application to amend Condition Number 10 of the Planning Commission's Findings of Fact, Conclusions, and Decision dated March 13, 2003, by extending the deadline to accept solid waste at the Waimānalo Gulch Sanitary Landfill ("WGSL") from May 1, 2008, to May 1, 2010, or until the WGSL reaches its permitted capacity, whichever occurs first ("Application") with the City and County of Honolulu Department of Planning and Permitting ("DPP"), DPP Docket Ewa

– State Special Use Permit No. 86/SUP-5(RY) (“Application”), pursuant to section 205-6, Hawai`i Revised Statutes (“HRS”), and sections 15-15-95 and 15-15-96, Hawai`i Administrative Rules (“HAR”).

The Applicant sought to amend Condition Number 10 of the Planning Commission’s Findings of Fact, Conclusions, and Decision dated March 13, 2003, by extending the deadline to accept solid waste at the WGSL from May 1, 2008, to May 1, 2010, or until the WGSL reached its permitted capacity, whichever occurred first. No other amendments were requested at that time.

On August 30, 2007, the DPP accepted the Application for processing as of August 30, 2007.

On October 12, 2007, the Notice of the Planning Commission public hearing on the Application was published in the *Honolulu Star-Bulletin*.

On October 25, 2007, Colleen Hanabusa, Esq., filed a Petition to Intervene and Request for Contested Case.

On October 26, 2007, Ken Williams, General Manager and Vice President, filed a Petition to Intervene on behalf of the Ko Olina Community Association (“KOCA”).

On November 2, 2007, the Applicant filed its Memoranda in Opposition to Ms. Hanabusa’s and KOCA’s Petitions to Intervene.

On November 14, 2007, the Planning Commission considered the Application and the Petitions to Intervene at the Mission Memorial Auditorium, City Hall Annex, in Honolulu, Hawai`i. At the hearing, the Planning Commission heard public testimony from eight individuals primarily in opposition to the Application. The Planning Commission also received written testimony from numerous individuals in support and in opposition to the Application. After due deliberation, the Planning Commission granted the requests to intervene and consolidated said requests into one contested case proceeding. Ms. Hanabusa and KOCA were thereafter considered as parties for the duration of the proceedings before the Planning Commission.

On January 16, 2008, the Planning Commission acted on the Application at the Mission Memorial Auditorium, City Hall Annex, in Honolulu, Hawai`i. After due deliberation and consideration of the record in this matter, the Planning Commission recommended approval of the Application to the LUC and issued its Findings of Fact, Conclusions of Law, and Decision and Order.

On January 31, 2008, the LUC received the decision and the complete record of the Planning Commission's proceedings on the Application.

On February 15, 2008, Ms. Hanabusa filed a Petition for Intervention on behalf of herself and KOCA.

On February 21, 2008, the Applicant filed its Memoranda in Opposition to Petition for Declaratory Orders

On February 21, 2008, the LUC met in Conference Room 204, Leiopapa A Kamehameha Building, in Honolulu, Hawai`i, to consider the Application. Gary Y. Takeuchi, Esq., and Eric S. Takamura appeared on behalf of the Applicant. Colleen Hanabusa, Esq., and Ken Williams were also present at the meeting. Following the receipt of public testimony, the LUC deferred the matter to its March 6, 2008, meeting in Honolulu, Hawai`i.

On March 6, 2008, the LUC resumed its meeting on the Application and the pleadings filed by the Applicant and Ms. Hanabusa and KOCA in Conference Room 405, Leiopapa A Kamehameha Building, in Honolulu, Hawai`i. Gary Y. Takeuchi, Esq., and Eric S. Takamura appeared on behalf of the Applicant. Colleen Hanabusa, Esq., and Ken Williams were also present at the continued meeting. At the meeting, the LUC recognized Ms. Hanabusa and KOCA as intervenors in the LUC's proceeding based on their intervenor status before the Planning Commission, and therefore by a vote tally of 8 ayes, 0 nays, and 1 absent, denied their Petition for Intervention on the grounds that it is rendered moot. Accordingly,

IT IS HEREBY ORDERED that the Petition for Intervene filed by Ms. Hanabusa on behalf of herself and KOCA, be, and is hereby denied.

Done at Honolulu, Hawai'i, this 14th day of

March, 2008.

APPROVED AS TO FORM:

Diane Guesis
Deputy Attorney General

LAND USE COMMISSION
STATE OF HAWAI'I

By *Lisa Judge*
LISA JUDGE
Chairperson and Commissioner

Filed and effective on
MAR 14 2008

Certified by:

Rodney A. Maile
RODNEY A. MAILE, Interim Executive Officer

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

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DEPARTMENT OF ENVIRONMENTAL) CERTIFICATE OF SERVICE
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HONOLULU (fka DEPARTMENT OF)
PUBLIC WORKS, CITY AND COUNTY)
OF HONOLULU))
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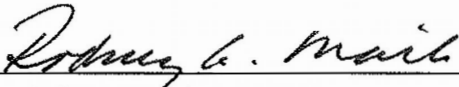
CERTIFICATE OF SERVICE

I hereby certify that a copy of the COMMISSION'S ORDER DENYING
PETITION FOR INTERVENTION 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:

CERT: CARRIE OKINAGA, Esq.
Corporation Counsel
City and County of Honolulu
530 South King Street
Honolulu, HI 96813

CERT. COLLEEN HANABUSA, Esq.
1100 Alakea Street, 12th Floor
Honolulu, Hawaii 96813

Dated: Honolulu, Hawai'i, MAR 14 2008.



RODNEY A. MAILE
Interim Executive Officer