

THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In The Matter Of The Petition Of:) DOCKET NO. SP05-399
)
KAUAI ATV, LLC)
) ORDER DISMISSING ORDER TO
To Permit The Expansion Of Use And) SHOW CAUSE
Placement Of Additional Structures)
Within A Previously County-Approved)
Staging Area And Expansion Of)
Commercial Recreational Activities)
Involving The Increase And Change Of)
Number Of Vehicles Allowed For Guided)
All-Terrain Vehicle Tours, Water)
Activities In The Waita Reservoir, Two)
Paintball Parks, And A Speedball)
Tournament Field on approximately)
12,437.79 acres at Koloa, Kaua'i, Hawai'i)

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ORDER DISMISSING ORDER TO SHOW CAUSE

On September 20, 2007, the Land Use Commission ("Commission") held a meeting on the matter of the Order To Show Cause issued in the above-entitled docket in Lihue, Hawai'i. The Petitioner was to show cause why that certain special permit covering land at Koloa, Kaua'i, Hawai'i, TMK Nos. [4]2-7-001:001, [4]2-8-001:001; [4]2-8-001:003; [4]2-8-022:028; [4]2-9-001:001; [4]2-9-002:001; [4]2-9-002:005; [4]2-9-003:001; [4]2-9-003:006; [4]3-4-001:001; [4]3-4-006:001 covering approximately 12,437.79 acres of land, referred to as the Subject Area, should not be revoked. The Commission had reason to

believe that the Petitioner had failed to perform according to the conditions imposed and to the representations and commitments made to the Commission in obtaining the special permit for the Subject Area.

On August 3, 2007, the Commission conducted a site visit to a portion of the Subject Area, where the alleged violations of conditions occurred.

On September 18, 2007, the Commission received written testimony from Glenn Mickens seeking compliance and remedial action against the permittee. On the same date the Commission also received the written statement of Kaua'i ATV, LLC.

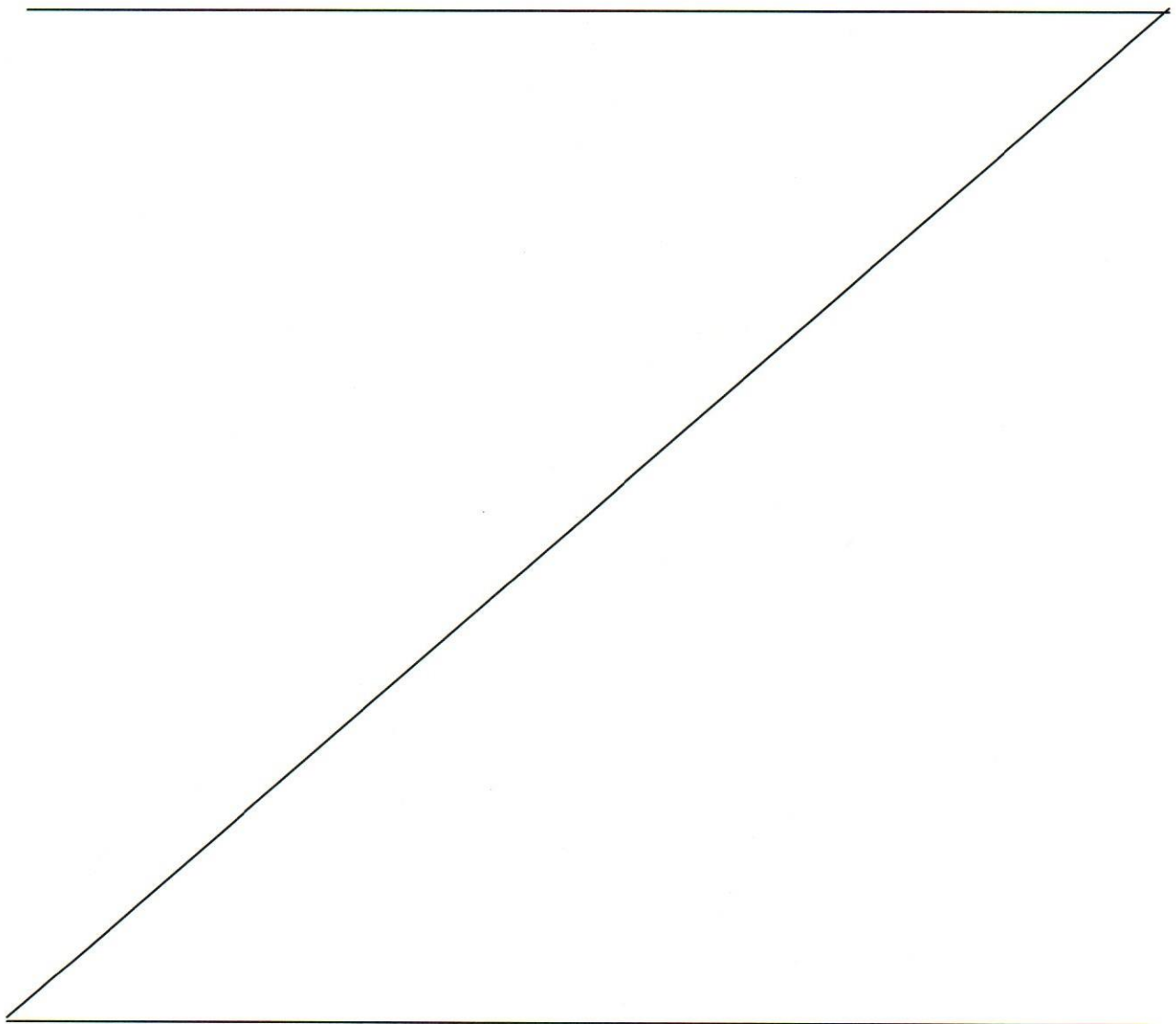
Walton P. Hong, Esq., appeared on behalf of Petitioner. Also appearing were Bryan C. Yee, Esq., and Abe Mitsuda on behalf of the State Office of Planning ("OP"); and James Tagupa, Esq., and Michael Laureta on behalf of the County of Kauai Department of Planning ("County"). At the meeting, the Commission heard testimony from Marleny Cotrim on behalf of Kauai ATV, LLC.

Following the testimony and discussion, a motion, pursuant to section 15-15-70, Hawai'i Administrative Rules ("HAR"), was made and seconded to dismiss the order to show cause because the evidence showed that the unpermitted stairway to the waterfall area had been removed and that there was insufficient other evidence to show that Petitioner had failed to comply with the conditions imposed or the representations made before the Commission. There being a vote tally of 5 ayes, 2 absent, the motion carried.

ORDER

This Commission, having duly considered the evidence, public testimony, arguments of the parties present in the proceeding, and a motion having been made at a meeting on September 20, 2007, in Lihue, Hawai'i, and the motion having received the affirmative votes required by section 15-15-13, HAR, and there being good cause for the motion,

HEREBY ORDERS that the Order to Show Cause be DISMISSED.

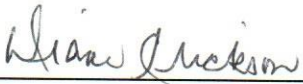


ADOPTION OF ORDER

The undersigned Commissioners, being familiar with the record and proceedings, hereby adopt and approve the foregoing ORDER this 28th day of January, 2008. This ORDER and its ADOPTION shall take effect upon the date this ORDER is certified and filed by this Commission.

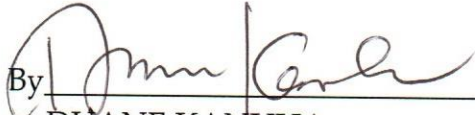
Done at Honolulu, Hawai'i, this 28th day of January, 2008, per motion on September 20, 2007.

APPROVED AS TO FORM



Deputy Attorney General

LAND USE COMMISSION
STATE OF HAWAII

By 

DUANE KANUHA
Presiding Officer

Filed and effective on
JAN 28 2008

Certified by:



Interim Executive Officer

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In The Matter Of The Petition Of:) DOCKET NO. SP05-399
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KAUAI ATV, LLC)
) CERTIFICATE OF SERVICE
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Tournament Field on approximately)
12,437.79 acres at Koloa, Kauai, Hawaii)

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Order Dismissing Order To Show Cause 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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Attorney for Kauai ATV, LLC

Dated: Honolulu, Hawaii, FJAN 28 2008.



RODNEY A. MAILE
Interim Executive Officer