

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)
)
CHRISTIAN BROADCASTING ASSOCIATION)
(Radio Station KAIM))
)
For a Special Permit to Allow the)
Continued Operation of a Radio)
Transmission Facility on)
Approximately 30 Acres of Land)
Within the Agricultural District)
at Kaluakoi, Molokai, County of)
Maui, State of Hawaii, Tax Map Key)
No.: 5-1-04: 19)
_____)

DOCKET NO. SP89-371
ORDER GRANTING REQUEST
FOR TIME EXTENSION

Nov 28 23 AM '94
LAND USE COMMISSION
STATE OF HAWAII

ORDER GRANTING REQUEST FOR TIME EXTENSION

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)	DOCKET NO. SP89-371
CHRISTIAN BROADCASTING ASSOCIATION)	
(Radio Station KAIM))	ORDER GRANTING REQUEST
)	FOR TIME EXTENSION
For a Special Permit to Allow the)	
Continued Operation of a Radio)	
Transmission Facility on)	
Approximately 30 Acres of Land)	
Within the Agricultural District)	
at Kaluakoi, Molokai, County of)	
Maui, State of Hawaii, Tax Map Key)	
No.: 5-1-04: 19)	
_____)	

ORDER GRANTING REQUEST FOR TIME EXTENSION

On May 12, 1994, the County of Maui Planning Department ("Planning Department") received a request from the Christian Broadcasting Association ("Applicant") to extend time for a special use permit SP89-371/Christian Broadcasting Association previously authorized by the Land Use Commission ("Commission") in this docket on May 30, 1989 ("Request").

In its Request, the Applicant represented that a time extension was necessary for the continued operation of an existing radio transmission facility on the special use permit area to serve the State of Hawaii and the South Pacific as a non-profit religious broadcasting station, and to also serve as the State's primary communication link in civil defense emergencies.

On July 13, 1994, the Molokai Planning Commission ("Planning Commission") conducted a public hearing on the Applicant's Request.

On July 13, 1994, after due deliberation, the Planning Commission recommended approval of the Applicant's Request to the Commission, subject to four conditions. The Planning Commission recommended that the Findings of Fact, Conclusions of Law, and Decision and Order issued by the Commission on May 30, 1989 ("Decision and Order") be amended as follows (Deletions bracketed, additions underscored):

Condition No. 1

That the time extension of the Special Use Permit shall be valid for the continued operation of a radio transmission facility and related improvements only, and is granted for a period of five (5) years commencing upon the date of the [approval of] issuance of the written order for the special permit time extension by the Land Use Commission, and also subject to extension upon favorable review by the [appropriate] Molokai Planning Commission and the State Land Use Commission. The applicant is advised to file for an extension at least [three] six months prior to the expiration date to facilitate timely review.

Condition No. 5

[That KAIM Radio shall seek to identify the area of impact on reception within the Kaluakoi Resort and develop an appropriate mitigation plan for implementation within a period of 60 days from the date of approval.]

Compliance with Condition Nos. 2, 3, 4, 6, 7, 8, and 9
That full compliance with Condition Nos. 2, 3, 4, 6, 7, 8, and 9 as stated in the Decision and Order of Docket No. SP89-371/Christian Broadcasting Association shall be rendered.

The Planning Commission also recommended the addition of the following condition:

That the applicant, KAIM Radio be required to identify areas of impact, in communication or health, and develop an appropriate mitigation plan within a 60 day period if any changes in approved operating power levels or frequencies are initiated.

On September 9, 1994, the Commission received the entire record of the County's proceedings on the Request.

The Applicant's Request, having come on for hearing on October 18, 1994, at the Commission's meeting at Honolulu, Oahu, and the Commission having considered the arguments, both written and oral, from the respective parties, and for good cause shown, HEREBY GRANTS Applicant's Request for a time extension. The Order granting a Special Use Permit that was issued by the Commission on May 30, 1989, shall be amended as follows:

ORDER

IT IS HEREBY ORDERED that the time extension for Special Permit No. SP89-371 allowing the continued operation of a radio transmission facility is hereby approved and subject to the following conditions:

1. That the time extension of the Special Use Permit shall be valid for the continued operation of a radio transmission facility and related improvements only, and is granted for a period of five (5) years commencing upon the date of the issuance of the written order for the special permit time extension by the Land Use Commission, and also subject to extension upon favorable review by the Molokai Planning Commission and the State Land Use Commission. The applicant is advised to file for an extension at least six months prior to the expiration date to facilitate timely review.

2. That the Special Use Permit shall be valid only for the uses as approved and in accordance with plans submitted therein.

3. That the uses or structures allowed by the Special Use Permit shall not be expanded or increased in size or changed to another special use, unless so authorized.

4. That appropriate security and/or safety measures be provided and maintained to mitigate any hazards to the public.

5. That Federal Aviation Administration (FAA) requirements be complied with.

6. That this permit shall be non-transferable unless prior approval has been obtained from the appropriate Planning Commission and the State Land Use Commission.

7. That the conditions of this Land Use Commission Special Use Permit shall be self-enforcing and, accordingly, upon due notice by the Planning Commission that there is prima facie evidence that a breach has occurred, the permit shall be

automatically suspended pending a hearing on the continuity of such Land Use Commission Special Use Permit, provided that written request for such a hearing is filed with the department within ten days of the date of receipt of such notice of alleged breach. If no request for hearing is filed within said ten (10) day period, the Planning Commission may recommend the revocation of said Land Use Commission Special Use Permit. The Planning Commission's recommendation shall be transmitted to the State Land Use Commission for appropriate action.

8. That the project shall conform to all the requirements of Federal, State, and County statutes, ordinances, rules, and regulations or codes.

9. That the applicant, KAIM Radio be required to identify areas of impact, in communication or health, and develop an appropriate mitigation plan within a 60 day period if any changes in approved operating power levels or frequencies above 50 K.W. are initiated.

10. The Applicant shall timely provide, without any prior notice, annual reports to the Maui County Planning Department and the Land Use Commission in connection with the status of the subject project and the Applicant's progress in complying with the conditions imposed herein. The annual report shall be submitted in a form prescribed by the Executive Officer of the Commission.

DOCKET NO. SP89-371 - CHRISTIAN BROADCASTING ASSOCIATION

Done at Honolulu, Hawaii, this 2nd day of November 1994,
per motions on October 18, 1994 and November 1, 1994.

LAND USE COMMISSION
STATE OF HAWAII

By *Allen K. Hoe*
ALLEN K. HOE
Chairperson and Commissioner

By *Allen Y. Kajioka*
ALLEN Y. KAJIOKA
Vice Chairperson and Commissioner

By *Eusebio Lapenia, Jr.*
EUSEBIO LAPENIA, JR.
Vice Chairperson and Commissioner

By (absent)
M. CASEY JARMAN
Commissioner

By *Lloyd F. Kawakami*
LLOYD F. KAWAKAMI
Commissioner

By (absent)
JOANN N. MATTSON
Commissioner

By *Renton L. K. Nip*
RENTON L. K. NIP
Commissioner

By *Trudy K. Senda*
TRUDY K. SENDA
Commissioner

By *Elton Wada*
ELTON WADA
Commissioner

Filed and effective on
November 2, 1994

Certified by:

Ethel Wada
Executive Officer

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)
CHRISTIAN BROADCASTING ASSOCIATION)
(Radio Station KAIM))
DOCKET NO. SP89-371
CERTIFICATE OF SERVICE
)
For a Special Permit to Allow the)
Continued Operation of a Radio)
Transmission Facility on)
Approximately 30 Acres of Land)
Within the Agricultural District)
at Kaluakoi, Molokai, County of)
Maui, State of Hawaii, Tax Map Key)
No.: 5-1-04: 19)
_____)

CERTIFICATE OF SERVICE


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

CERT. BRIAN MISKAE, Planning Director
Planning Department, County of Maui
250 South High Street
Wailuku, Hawaii 96793

CERT. GUY A. HAYWOOD, ESQ.
Corporation Counsel
Office of the Corporation Counsel
County of Maui
200 South High Street
Wailuku, Hawaii 96793

CERT. DEL GIBBS, General Manager
KAIM
3555 Harding Avenue
Honolulu, Hawaii 96816

DATED: Honolulu, Hawaii, this 2nd day of November 1994.



ESTHER UEDA
Executive Officer