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DEPARTMENT OF ENVIRONMENTAL  
SERVICES, CITY AND COUNTY OF  
HONOLULU

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DEPT OF PLANNING  
AND PERMITTING  
CITY & COUNTY OF HONOLULU



BEFORE THE PLANNING COMMISSION  
OF THE CITY AND COUNTY OF HONOLULU  
STATE OF HAWAII

In the Matter of Application of

DEPARTMENT OF ENVIRONMENTAL  
SERVICES, CITY AND COUNTY OF  
HONOLULU

Application to Modify SUP No. 2008/SUP-2  
(SP09-403) by Modifying Condition No. 1 of the  
Planning Commission's Findings of Fact,  
Conclusions of Law, and Decision and Order,  
dated June 10, 2019, and (2) Condition No. 5 of  
the LUC's Findings of Fact, Conclusions of Law,  
and Decision and Order Approving with  
Modifications the City and County of Honolulu's  
Planning Commission's Recommendation to  
Approve Special Use Permit, certified on  
November 1, 2019

FILE NOS. 2008/SUP-2  
2023/SUP-2

DEPARTMENT OF ENVIRONMENTAL  
SERVICES, CITY AND COUNTY OF  
HONOLULU'S RESPONSE TO  
INTERVENORS KO OLINA  
COMMUNITY ASSOCIATION AND  
MAILE SHIMABUKURO'S (1) MOTION  
TO RECOGNIZE THEM AS EXISTING  
PARTIES OR IN THE ALTERNATIVE  
(2) PETITION TO INTERVENE, DATED  
JUNE 9, 2023; DECLARATION OF  
JEFFREY HU; EXHIBITS "A"- "B";  
CERTIFICATE OF SERVICE

DEPARTMENT OF ENVIRONMENTAL SERVICES, CITY AND COUNTY OF  
HONOLULU'S RESPONSE TO INTERVENORS KO OLINA COMMUNITY  
ASSOCIATION AND MAILE SHIMABUKURO'S (1) MOTION TO RECOGNIZE  
THEM AS EXISTING PARTIES OR IN THE ALTERNATIVE  
(2) PETITION TO INTERVENE, DATED JUNE 9, 2023

Comes now Applicant DEPARTMENT OF ENVIRONMENTAL SERVICES,  
CITY AND COUNTY OF HONOLULU ("ENV"), by and through its undersigned  
counsel, and hereby respectfully requests that the Planning Commission, City and County  
of Honolulu ("Planning Commission") deny KO OLINA COMMUNITY  
ASSOCIATION and MAILE SHIMABUKURO'S (collectively, "KOCA") Motion to  
Recognize Them as Existing Parties. ENV takes no position on KOCA's Petition to  
Intervene.

**I. RELEVANT FACTS**

Previously, the Planning Commission held contested case hearings on two  
applications filed by the City and County of Honolulu, Department of Environmental  
Services: (1) an application for a new special use permit ("SUP"), the expansion of the  
WGSL and the withdrawal of County Special Use Permit NO. 86/SUP-5 ("2008  
Application"), and (2) an application to modify the LUC Order Adopting the Planning  
Commission's Findings of Fact, Conclusions of Law, and Decision and Order with  
Modifications dated October 22, 2009 ("2009 LUC Order") for County Special Use  
Permit No. 2008/SUP-2 for the sole purpose of deleting the July 31, 2012 deadline for the  
landfill to accept municipal solid waste ("2011 Application"). The Planning Commission  
ordered the consolidation of County Special Use Permit File No. 2008/SUP-2 and the  
proceedings on ENV's 2011 Application and issued and transmitted a single,  
consolidated Findings of Fact, Conclusions of Law, and Decision and Order dated June

10, 2019 (“Planning Commission’s 2019 Decision”) to the State of Hawaii Land Use Commission (“LUC”). The LUC considered the consolidated record of the proceedings, the Planning Commission’s 2019 Decision, the oral arguments of the parties and the records and files relating to the 2008 and 2011 Applications and issued its Findings of Fact, Conclusions of Law, and Decision and Order Approving with Modifications the City and County of Honolulu Planning Commission’s Recommendation to Approve Special Use Permit, certified on November 1, 2019 (“LUC’s 2019 Decision”). The LUC’s 2019 Decision was not appealed by any party.

On December 23, 2022, ENV submitted its Application to Modify SUP No. 2008/SUP-2 (SP09-403) by Modifying (1) Condition No. 1 of the Planning Commission’s 2019 Decision and (2) Condition No. 5 of the LUC’s 2019 Decision (“2022 Application”).

KOCA were not named as a parties to ENV’s 2022 Application.

On May 29, 2023, the Planning Commission published its public notice hearing (the “Notice”). The Notice provides that:

Any person or agency wishing to intervene as a party in the proceeding shall file a petition with the Commission within fourteen (14) days after this notice is published in the Honolulu Star-Advertiser. The petition must conform to the requirements of Subchapter 5 of the Rules of the Planning Commission, which are available at the Department of Planning and Permitting. A contested case hearing may be held on the matter pursuant to action by the Planning Commission to grant the petition.

Id. at page 2.

On or about June 9, 2023, KOCA submitted their (1) Motion to Recognize Them as Existing Parties (“KOCA’s Motion”) or in the Alternative (2) Petition to Intervene (“KOCA’s Petition to Intervene”).<sup>1</sup>

## II. RELEVANT LAW

The term “party” is defined under RPC section 1-5 as follows:

(j) “Party” means any person or agency named or admitted as a party or properly seeking and entitled as of right to be admitted as a party in a proceeding. More specifically, it includes the following, upon the filing of timely requests:

- (2) Any person who has some property interest in the land, or who lawfully resides on the land, or who can demonstrate that person will be so directly and immediately affected by the commission’s decision that that person’s interest in the proceeding is clearly distinguishable from that of the general public; provided that this requirement shall be liberally construed.

RPC § 1-5(j) (emphases added.)

The term “person” is defined as follows:

(k) “Person” means any individual, partnership, firm, association, trust, estate, corporation, or other legal entity of any character other than an agency.”

RPC § 1-5(k) (emphases added).

Pursuant to RPC section 2-52(c), “[p]ersons may petition the commission to intervene in all proceedings before the commission for special use permits, subject to the requirements of this subchapter [RPC Subchapter 5].”

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<sup>1</sup> KOCA’s Motion is made under RPC § 2-67. See KOCA’s Motion at 2. However that rule is regarding motions submitted by a “party”, and KOCA currently are not parties to a contested case hearing (as discussed further herein). Therefore, RPC § 2-67 does not apply, and ENV submits this response in accordance with RPC § 2-54 for Opposition to petition to intervene.

RPC Chapter 2, Subchapter 5 requires particular information in a petition to intervene. RPC section 2-53 provides as follows:

- (b) Contents of petition to intervene as a party. The petition shall include the following points:
  - (1) The nature of petitioner's statutory or other right to intervene as a party to the proceedings.
  - (2) The nature and extent of petitioner's interest in the proceedings, and if the petitioner is an abutting property owner, the tax map key description of the property.
  - (3) A statement of the specific issues to be raised or contested by the petitioner in the contested case hearing.
  - (4) The effect of any decision in the proceeding on the petitioner's interest.

### III. DISCUSSION

#### A. **KOCA's Motion should be denied because this is a new proceeding in which KOCA are not parties, and under the Rules of the Planning Commission they must intervene to become parties.**

KOCA's erroneous position is that this has been one long proceeding for the last fourteen years. See KOCA's Motion at 2 ("For the last fourteen years, Ko Olina Community Association and Senator Maile Shimabukuro ... have been intervenors in this Proceeding."). But those previous contested cases consisted of two separate applications, filed in 2008 and 2011, and (1) the Planning Commission granting KOCA's petitions to intervene in each proceeding (see Exhibits "A" and "B"), (2) multiple days of contested case hearings (see LUC's 2019 Decision, attached to KOCA's Motion and Petition as Exhibit "1" at ¶¶ 28, 32, 37, 41, and 49 for the 2008 Application, and 120, 123, 129, 132, 140, 147, and 152 for the 2011 Application), and ended with (3) the issuance of decisions and orders, including the most recent entry of the Planning Commission's 2019 Decision.

See HRS § 91-1 (“‘Contested case’ means a proceeding in which the legal rights, duties, or privileges of specific parties are required by law to be determined after an opportunity for agency hearing.”); E & J Lounge Operating Co. v. Liquor Comm'n of City & Cty. of Honolulu, 118 Hawai‘i 320, 335 n.22, 189 P.3d 432, 447 (2008) (finding that a contested case includes “all acts and events between the time of commencement and the entry of judgment”). The Planning Commission’s 2019 Decision (i.e., the “entry of judgment”) marked the end of the most recent contested case in front of the Planning Commission.

The current proceeding relating to ENV’s 2022 Application will be processed as a contested case in which KOCA are parties only after the Planning Commission grants KOCA’s Petition to Intervene. See RPC § 2-56(c) (“If a petition to intervene is granted, the special use permit will be processed as a contested case under the provisions of this subchapter.”). Until there is a hearing and decision on KOCA’s Petition to Intervene, KOCA are not parties to this proceeding. Under the RPC, the only way for a person (which includes individuals and associations) to become a party is by filing a timely petition to intervene. See RPC §§ 1-5(j), 1-5(k), 2-43(c)(6), 2-52(c), 2-53. Further, the Planning Commission has not yet made a determination that KOCA are entitled as of right to be admitted as parties in this new proceeding. See RPC § 1-5(j). Therefore, the Planning Commission should deny KOCA’s Motion.

**B. ENV takes no position on KOCA’s Petition to Intervene.**

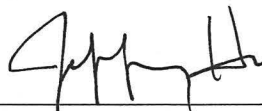
As discussed above, under the Rules of the Planning Commission, it is procedurally proper for a person to file a petition to intervene as a party. ENV takes no position on KOCA’s Petition to Intervene.

**IV. CONCLUSION**

Based upon the foregoing, ENV respectfully requests that the Planning Commission deny KOCA's Motion. However, ENV takes no position on KOCA's Petition to Intervene.

DATED: Honolulu, Hawaii, June 19, 2023.

Respectfully submitted,



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JEFFREY HU  
KAMILLA C. K. CHAN  
Deputy Corporation Counsel  
Attorneys for Applicant  
DEPARTMENT OF ENVIRONMENTAL  
SERVICES, CITY AND COUNTY OF  
HONOLULU

BEFORE THE PLANNING COMMISSION  
OF THE CITY AND COUNTY OF HONOLULU  
STATE OF HAWAII

In the Matter of Application of

DEPARTMENT OF ENVIRONMENTAL  
SERVICES, CITY AND COUNTY OF  
HONOLULU

FILE NOS. 2008/SUP-2  
2023/SUP-2

DECLARATION OF JEFFREY HU

Application to Modify SUP No. 2008/SUP-2 (SP09-403) by Modifying Condition No. 1 of the Planning Commission's Findings of Fact, Conclusions of Law, and Decision and Order, dated June 10, 2019, and (2) Condition No. 5 of the LUC's Findings of Fact, Conclusions of Law, and Decision and Order Approving with Modifications the City and County of Honolulu's Planning Commission's Recommendation to Approve Special Use Permit, certified on November 1, 2019

**DECLARATION OF JEFFREY HU**

I, JEFFREY HU, hereby declare the following:

1. I am an attorney duly licensed to practice law in the State of Hawaii and am employed by the City and County of Honolulu, Department of the Corporation Counsel, as a Deputy Corporation Counsel, and I make this declaration based on personal knowledge.
2. My duties include handling various matters of representation on behalf of the Department of Environmental Services, City and County of Honolulu, including the above-captioned proceedings.

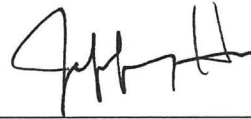


3. Attached hereto as Exhibit "A" is a true and correct copy of excerpts of Meeting of the Planning Commission Minutes for May 20, 2009, kept in my office's files.

4. Attached hereto as Exhibit "B" is a true and correct copy of excerpts of the transcript for the October 5, 2011 Planning Commission public hearing, kept in my office's files.

I declare under penalty of perjury that the foregoing is true and correct.

DATED: Honolulu, Hawaii, June 19, 2023.



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JEFFREY HU

Meeting of the Planning Commission  
Minutes  
May 20, 2009

The Planning Commission held a meeting on Wednesday, May 20, 2009, at 1:32 p.m. at the City Council Committee Meeting Room, Second Floor, 530 South King Street, Honolulu, Hawaii. Chair Karin Holma presided.

**PRESENT:** Karin Holma, Chair  
Rodney Kim, Vice Chair  
Beadie K. Dawson  
Andrew M. Jamila, Jr.  
John S. Kaopua III  
Kerry Komatsubara

**ABSENT:** Harold J. Dias, Jr.  
Vicki Gaynor  
James Pacopac

**COMMISSION STAFF:** Patty Kalapa, Secretary-Reporter

**CORPORATION COUNSEL:** Winston Wong

**DPP REPRESENTATIVES:** Kathy Sokugawa, Division Chief  
Raymond Young, Staff Planner  
Mike Watkins, Staff Planner  
Raymond Sakai, Staff Planner

**MINUTES:** The minutes of May 6, 2009 were approved as circulated, on motion by Ms. Dawson, seconded by Mr. Jamila and carried unanimously.

**UNFINISHED BUSINESS**

**NORTH SHORE—ZONE CHANGE REQUEST—2008/Z-7(MW)  
HALEIWA COMMERCIAL REZONING**

Public hearing notice was published in the Honolulu Star Bulletin on April 24, 2009. A public hearing was held on May 6, 2009. At the May 6, 2009 hearing, a motion to deny the proposal failed to receive the required five votes. This item is being included pursuant to Section 2-25, Rules of the Planning Commission. The public hearing is closed.

**MOTION:** It was moved to deny the zone change request, on motion by Ms. Dawson, seconded by Mr. Kaopua.

**AYES:** DAWSON, KAOPUA  
**NOES:** HOLMA, JAMILA, KIM, KOMATSUBARA  
**ABSENT:** DIAS, GAYNOR, PACOPAC

**MOTION:** It was moved to approve the zone change request, on motion by Mr. Kim, seconded by Mr. Komatsubara.

to resolve this problem once and for all and incorporate other technologies and get away from this argument over the landfill and move forward into this century and move forward into cleaner, better ways to deal with our garbage? Thank you very much.

Written testimony received:

1. HANAIEI Y. AIPOALANI, Nanakuli resident, submitted testimony in support of the Ewa State Special Use Permit. (testimony attached)
2. SARA and WM. ANDERSON BARNES, Ko Olina residents, submitted testimony in opposition to the Ewa State Special Use Permit. (testimony attached)
3. CONCERNED ELDERS OF WAIANAE submitted testimony in opposition to the Ewa State Special Use Permit. (testimony attached)
4. FREDERICK A. DODGE and KAREN G. S. YOUNG, Waianae residents, submitted testimony in opposition to the Ewa State Special Use Permit. (testimony attached)
5. PATTY K. TERUYA, Chair of the Nanakuli-Mailii Neighborhood Board No. 36, submitted testimony in support of the Ewa State Special Use Permit. (testimony attached)

#### DISCUSSION

HOLMA: Is there anyone else who wishes to testify? The public hearing is now closed.

WONG: You want to keep it open.

HOLMA: Okay.

#### COLLEEN HANABUSA'S PETITION TO INTERVENE

HOLMA: Now the Petitions to Intervene. We'll take Senator Hanabusa's one on behalf of yourself, Ko Olina and Representative Shimabukuro.

HANABUSA: Chair Holma, members of the Commission, with me is Ken Williams representing the Ko Olina Community Association. Representative Shimabukuro is on her way, and she will make it here shortly. Before we begin, I just want to note a procedural issue. I think we served the Commission earlier this morning and that is that with all due respect, we were requesting the recusal of Commissioner John Kaopua. I don't know procedurally whether that is something that we'll be taking up now or it will be set for a different date. However, notwithstanding, I did want to note my objection before proceeding.

HOLMA: Your objection is noted. We did receive the motion, and it will be set for hearing at a later time.

HANABUSA: Thank you very much. And I would like to say that with all due respect to our kupuna here as he called himself. I don't think he's old enough to be a

kupuna, but that's what he called himself in the hearing. I believe that an appearance of impropriety is so fundamental to due process that it has to be properly raised and timely raised. Having said that...

TAKEUCHI: Excuse me, Chair. May I just ask procedurally on that matter if the petitioner was served with a copy of that because I don't believe I've seen it.

HANABUSA: Yes, we did. We served you...We apologize. As you know, this hearing took place last week Thursday, and it took awhile to get the transcript, and I wanted to ensure that the Commissioners had the full transcript of the proceeding. And also, it takes awhile to do research, to get the right case cited. Having said that, members of the Commission, we, with the exception of Representative Shimabukuro, we were before you just about less than a year and a half ago seeking intervention. Our basis of intervention is very similar to what we raised earlier which you kindly permitted our intervention.

As you know, under the rules of the Planning Commission and under the statutes, basically the statute is given very plain and ordinary reading. There are four conditions upon which we must state in our petition which I believe each of us has properly answered. But the actual criteria for intervention is a very liberal one. It is one that basically says, "It shall be freely granted unless with the discretion of this Board, two specific conditions are found." One is that someone else in the proceeding adequately represents our interests and the second, of course, is that we would be unduly burdensome. I think it is very evident the only real party to this proceeding is the petitioner. The petitioner's interests and our interests are far from similar. In that light, I also believe that the petitioner would not, in fact, represent our interest. Having said that, I believe that the moving papers speak for them self and it is in the interest of justice that we seek intervention in this proceeding. Thank you.

HOLMA: Thank you. Mr. Takeuchi.

TAKEUCHI: Thank you, Chair and members of the Planning Commission. Our arguments are basically set forth in the papers we filed but to summarize, we oppose the intervention on the basis that the interveners in this first matter have not established that they meet the criteria. They are not abutting landowners; they do not have an interest in the project area in question. They do not use the petition...specifically in the case of petitioner Shlmabukuro, her interest is even more attenuated because she does not live across the highway from the landfill but on the Waianae Coast in Waianae.

Our position is that the petitioners have not articulated anything that distinguishes them from members of the general public and that those interests can be adequately addressed by this Commission, by the Department of Planning and Permitting. And finally, the various legal arguments raised in their papers which we distinguished for your benefit in our submittals do not support their position.

In particular, I wanted to call out the HECO case which was used for the proposition that elected officials have been given standing in PUC matters as we noted in our submittal. If you read that case, the court specifically said that two elected officials, one a former member of the legislature and one a sitting member were allowed intervention on the basis of being rate payers and not because of their elected official status. I wanted to highlight that in particular.

In summary, we oppose, and we will abide by your decision. Thank you.

HOLMA: Senator, anything further?

HANABUSA: I just would like to add one other point. I apologize for not raising it earlier. As you know, this is a very unique proceeding in that it is simultaneously filed with the Land Use Commission as well as with this Planning Commission, one of course seeing a SUP and the other seeking a boundary amendment. All three of us have been granted intervener status and have begun the contested case hearing at the Land Use Commission.

Though I have not yet determined how to raise this argument of two bites of the apple, I believe that this is clearly two bites of the apple and in actuality; I think that the City should be assured that we have sought intervention in two proceedings. I believe if we are not granted intervention in two proceedings, it may raise procedurally a very interesting quandary because we would be full party participants in one contested case hearing and not in the other. You are both...both proceedings are ending up at the same place which is the Land Use Commission. So given the fact that the ultimate body for this organization which is the Land Use Commission has found it in their wisdom to permit our intervention, I hope that this body will also follow suit.

HOLMA: Thank you. Commissioners, any questions for Senator Hanabusa or Mr. Takeuchi?

DAWSON: My questions are simply one of further information. This Commission is going to have to make a very important determination, and we haven't all of the facts in front of us. For example, we don't have the EIS or some of the other issues that have not been placed before us. Although we could go and look at the whole thing ourselves, that's not very practical. It does seem that we need as much testimony, as much as possible, to assist us in our decision making. That's my only statement.

HOLMA: Any other questions for Senator Hanabusa and Mr. Takeuchi? The petition that's before us is their petition to intervene. Can I have a motion with regard to that petition?

**MOTION:** It was moved to grant intervention, on motion by Mr. Kim, seconded by Ms. Dawson.

HOLMA: Is there any discussion on that? All in favor of granting the petition to intervene say aye. Any opposed?

AYES: HOLMA, DAWSON, JAMILA, KAOPUA, KIM, KOMATSUBARA

NOES: NONE

ABSENT: DIAS, GAYNOR, PACOPAC

HOLMA: The motion carries.

#### TODD APO'S PETITION TO INTERVENE

APO: I'm Todd Apo here representing myself both as an individual and as a councilmember for District 1. As I have in my petition, I'm not going to take up any more time with legal arguments unless there are any questions on it. I think I've laid out the factual situation. As commissioner Dawson just mentioned, that's really the reason I'm here is I want to make sure this commission has all the information that it can have and all the sides of that information that it can have. Being one that's been integrally involved in this and at opposite sides of the department through our City process both in

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**PUBLIC HEARING**  
**2008/SUP-2 (RY)**  
**Ewa-State Special Use Permit for the**  
**Waimanalo Gulch Sanitary Landfill**

Taken at 550 South King Street, Mission Memorial Auditorium, Honolulu, Hawaii, commencing at 1:36 p.m., on Wednesday, October 5, 2011, pursuant to Notice.

BEFORE: ADRIANNE IGE KURASAKI, CSR 388  
Registered Professional Reporter  
Hawaii CSR #388; California CSR #11470

RALPH ROSENBERG COURT REPORTERS, INC.  
Honolulu, Hawaii (808)524-2090

**EXHIBIT "B"**

1 APPEARANCES:

2

3 Planning Commission:

4 Gayle Pingree, Chairwoman  
5 Kai'ulani K. Sodaro, Vice-Chairwoman  
6 Beadie K. Dawson, Member  
7 James C. Pacopac, Member  
8 Arthur B. Tolentino, Member

9

10 For the Planning Commission:

11 WINSTON K.Q. WONG, ESQ.  
12 Deputy Corporation Counsel  
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14 530 South King Street, Room 110  
15 Honolulu, Hawaii 96813

16

17

18 For the City and County of Honolulu,  
19 Department of Environmental Services:

20

21 DANA MIE OSHIRO VIOLA, ESQ.  
22 ROBERT BRIAN BLACK, ESQ.  
23 Deputy Corporation Counsel  
24 Department of the Corporation Counsel  
25 530 South King Street, Room 110  
Honolulu, Hawaii 96813

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1 THE CHAIRWOMAN: As far as Ko'Olina, you're coming  
2 in, of course, as an intervenor. Is that in combination  
3 with Maile Shimabukuro, Senator?

4 MR. CHIPCHASE: Yes, it is.

5 THE CHAIRWOMAN: Would you be testifying as  
6 separate parties or as one?

7 MR. CHIPCHASE: Well, they would -- the  
8 Association and Ms. Shimabukuro have their own interests,  
9 and they are in some ways distinct. And so I would not  
10 suggest that neither will testify or one would testify and  
11 one would not. However, I am counsel for both of them.

12 THE CHAIRWOMAN: Okay. Thank you.

13 So, we have to be very careful -- off the record.

14 (Discussion held off the record.)

15 THE CHAIRWOMAN: Beadie, any questions?  
16 Discussion?

17 MS. DAWSON: No.

18 MR. PACOPAC: Discussion: Since corp counsel  
19 brought this up, are they applying for a new intervenor or  
20 are the status from the old? I don't know who I ask,  
21 corp. counsel or Winston? Do we apply their application  
22 as a new --

23 MR. WONG: Commissioner Pacopac, there's the  
24 motion in the alternative. So there's a motion to  
25 recognize them as a -- continue to recognize them as



1 intervenors from the previous case; or in the alternative,  
2 to intervene in this case.

3 MR. PACOPAC: So we can do either?

4 MR. WONG: Excuse me?

5 MR. PACOPAC: We can do either or we vote on two?

6 MR. WONG: You need to vote on two.

7 MR. PACOPAC: On each?

8 MR. WONG: On each. I'm sorry, on each.

9 MR. PACOPAC: So you can vote on the first one and  
10 then on the second one?

11 MR. WONG: Yes.

12 MR. PACOPAC: That's what I want clarification on.

13 MR. WONG: Yes. You need to vote on each.

14 MR. PACOPAC: Okay. Great. Thank you.

15 THE CHAIRWOMAN: Thank you very much for that  
16 clarification.

17 Do I need a motion? Are we ready for a motion?

18 May I have a motion, please, on the first issue to  
19 recognize --

20 MS. DAWSON: Go ahead.

21 MR. PACOPAC: I'll move to approve the motion  
22 filed by Ko'Oolina Association and Maile Shimabukuro for  
23 continued recognition as the party intervenors, the first  
24 one.

25 We can't do both.

1 THE CHAIRWOMAN: No, that's why we have to  
2 separate it.

3 MR. PACOPAC: It has to be separated? I thought  
4 you said we got to vote on two.

5 MR. WONG: They're not consistent. That's why  
6 it's in the alternative.

7 MR. PACOPAC: Okay. Let me read you the motion.

8 THE CHAIRWOMAN: Please do.

9 MR. PACOPAC: I'd like to deny the motion filed by  
10 Ko'Oolina Community Association and Maile Shimabukuro for  
11 continued recognition as party intervenors.

12 MS. SODERO: Second.

13 MS. DAWSON: And choose to deny them?

14 MS. SODERO: I second.

15 THE CHAIRWOMAN: We have a second.

16 All in favor, say aye.

17 IN UNISON: Aye.

18 THE CHAIRWOMAN: Any opposed?

19 May I have a second motion?

20 MR. PACOPAC: Okay. Let's try this. Move to  
21 approve the motion filed by Ko'Oolina Community Association  
22 and Maile Shimabukuro as intervenors in this new case, as  
23 the joint intervenors.

24 MS. SODERO: Second.

25 THE CHAIRWOMAN: All in favor?

1 IN UNISON: Aye.

2 THE CHAIRWOMAN: Any oppose?

3 Thank you. So granted.

4 Thank you very much, Commissioner, for that.

5 Thank you.

6 I'm going to call for a motion to close the public  
7 hearing at this time.

8 MR. PACOPAC: So moved.

9 MR. TOLENTINO: Second.

10 THE CHAIRWOMAN: All in favor?

11 IN UNISON: Aye.

12 THE CHAIRWOMAN: Any oppose?

13 Thank you. Good job. Thank you.

14 Have the parties agreed upon any mutual date for  
15 contested case hearing?

16 MS. VIOLA: Dana Viola on behalf of Department of  
17 Environmental Services again.

18 THE CHAIRWOMAN: I'm so sorry, I'm having a hard  
19 time hearing you. I apologize.

20 MS. VIOLA: It's Dana again.

21 THE CHAIRWOMAN: Hi Dana.

22 MS. VIOLA: I would recommend, if the parties are  
23 in agreement, to schedule a prehearing conference so we  
24 can consider possible dates. I haven't had an opportunity  
25 to talk to the other parties to determine when everyone

## C E R T I F I C A T E

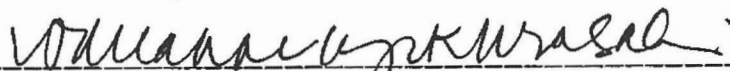
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3 I, ADRIANNE IGE KURASAKI, C.S.R., in and for the  
4 State of Hawaii, do hereby certify:

5 That I was acting as shorthand reporter in the  
6 foregoing matter on Wednesday, the 5th day of October,  
7 2011;

8 That the proceedings were taken down in  
9 computerized machine shorthand by me at the time and place  
10 stated herein, and thereafter reduced to print under my  
11 supervision; that the foregoing represents, to the best of  
12 my ability, a correct transcript of the proceedings had in  
13 the foregoing matter;

14 I further certify that I am not counsel for any of  
15 the parties hereto, nor in any way interested in the  
16 outcome of the cause named in the caption.

17 Dated this 6th day of November, 2011 in Honolulu,  
18 Hawaii.

19  
20   
21 Adrienne Ige Kurasaki, CSR 388  
22 Registered Professional Reporter  
23  
24  
25

BEFORE THE PLANNING COMMISSION  
OF THE CITY AND COUNTY OF HONOLULU  
STATE OF HAWAII

In the Matter of Application of

DEPARTMENT OF ENVIRONMENTAL  
SERVICES, CITY AND COUNTY OF  
HONOLULU

Application to Modify SUP No. 2008/SUP-2  
(SP09-403) by Modifying Condition No. 1 of the  
Planning Commission's Findings of Fact,  
Conclusions of Law, and Decision and Order,  
dated June 10, 2019, and (2) Condition No. 5 of  
the LUC's Findings of Fact, Conclusions of Law,  
and Decision and Order Approving with  
Modifications the City and County of Honolulu's  
Planning Commission's Recommendation to  
Approve Special Use Permit, certified on  
November 1, 2019

FILE NOS. 2008/SUP-2  
2023/SUP-2

CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT A COPY OF THE **DEPARTMENT OF ENVIRONMENTAL SERVICES, CITY AND COUNTY OF HONOLULU'S RESPONSE TO INTERVENORS KO OLINA COMMUNITY ASSOCIATION AND MAILE SHIMABUKURO'S (1) MOTION TO RECOGNIZE THEM AS EXISTING PARTIES OR IN THE ALTERNATIVE (2) PETITION TO INTERVENE, DATED JUNE 9, 2023** was duly served by hand-delivery to the following on the date below, addressed as follows:

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OFFICE OF PLANNING, STATE OF HAWAII

DATED: Honolulu, Hawai'i, June 19, 2023.

DANA M.O. VIOLA  
Corporation Counsel

By   
\_\_\_\_\_  
JEFFREY HU  
KAMILLA C. K. CHAN  
Deputy Corporation Counsel

22-00494/1345769