

**OFFICE OF PLANNING AND
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BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)	DOCKET NO. A89-651
)	
HASEKO (HAWAII), INC.)	OFFICE OF PLANNING AND
)	SUSTAINABLE DEVELOPMENT’S
To Amend the Agricultural Land Use)	RESPONSE TO PETITIONER HASEKO
District Boundary into the Urban Land Use)	(EWA), INC.’S MOTION FOR
District for Approximately 403.008 Acres of)	APPROVAL OF JOB CREDITS;
Land at Honouliuli, Ewa, Oahu, Hawaii, Tax)	CERTIFICATE OF SERVICE
Map Key No.: 9-1-12: 5 (por.), 6 (por.), and)	
23 (por.))	
_____)	

**OFFICE OF PLANNING AND SUSTAINABLE DEVELOPMENT’S RESPONSE TO
PETITIONER HASEKO (EWA), INC.’S MOTION FOR APPROVAL OF JOB CREDITS**

On December 23, 2024, Petitioner Haseko (Ewa), Inc. (“Petitioner”) filed its Motion for Approval of Job Credits (“Motion”). The Office of Planning and Sustainable Development (“OPSD”) has reviewed the Motion and supporting documents and hereby provides notice pursuant to Hawaii Administrative Rules § 15-15-70(f) of its intention to support the approval of Petitioner’s Motion.

I. PETITIONER’S REQUEST

Petitioner is requesting that the Land Use Commission (“LUC”) issue an Order approving 374.78 job credits in conformance with Condition 1 of the Findings of Fact, Conclusions of Law, and Decision and Order, issued on October 17, 1990 (“1990 D&O”). This request is for credits

reported to the LUC in Petitioner’s 2024 annual report for job credits generated in calendar years 2022 and 2023.

Condition 1, as amended by the LUC in the Order Granting Motion for Approval of Job Credits and Motion for Clarification and/or Modification of Condition, issued on February 8, 1994 (“1994 Order”) states:

1. *Petitioner shall generate one (1) non-tourism 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 Created Via Construction.

Development of residential, commercial, industrial, recreational, institutional or other non-tourism related facilities generated 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.

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.

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

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 [now known as OPSD] 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 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 requirements 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.

II. JOB CREDITS APPROVED BY THE LUC

The 1990 D&O provides that Petitioner would build 500 hotel units and 600 condo/hotel units for a total of 1,100 units. However, Petitioner is limited to providing only 950 units pursuant to its Unilateral Agreement with the City and County of Honolulu. Consequently, Petitioner may construct a total of 950 hotel or condo/hotel units if Petitioner first generates one

(1) non-tourism job, or equivalent value thereof, for each of the 950 units. To date, no hotel units or condo/hotel units have been built.

Condition 1 of the 1990 D&O allows job credits to be calculated based on three classes of criteria: a) jobs generated via construction (“Construction Job Credits”); b) jobs generated via development of non-tourism related projects (“Facility Job Credits”); and c) start-up capital, business incentive and job training (“Investment Job Credits”). Under the 1994 Order, the LUC approved 1.37 Construction Job Credits and 1.10 Investment Job Credits, for a total of 2.47 job credits. Under its Order Granting Petitioner Haseko (Ewa), Inc.’s Motion For Approval Of Job Credits, issued December 19, 2022 (“2022 Order”), the LUC approved 236.13 Construction Job Credits, 229.06 Facility Job Credits, and 107.56 Investment Job Credits, for a total of 572.75 job credits. As a result of the 1994 Order and the 2022 Order, the LUC has approved a total of 575.22 job credits to date, and Petitioner is seeking the LUC’s approval of 374.78 job credits, the balance of job credits needed by Petitioner to build the 950 hotel or condo/hotel units.

A breakdown of the job credits approved by the LUC by class of criteria with an analysis of completion requirements/restrictions follows:

Condition 1.a.: Construction Job Credits (no more than 25% of the job credits or 237.50 credits)

1994 Order – 1.37 job credits

2022 Order – 236.13 job credits

Total – 237.50 job credits (25% maximum achieved; no additional credits allowed under this criteria class)

Condition 1.b.: Facility Job Credits

2022 Order – 229.06 job credits

Condition 1.c: Investment Job Credits (a minimum of 10% of the job credits or 95 credits)

1994 Order – 1.10 job credits under Condition 1.c.iii

2022 Order – 107.56 job credits under Condition 1.c.iii

Total – 108.66 job credits (10% minimum achieved under this criteria class)

III. JOB CREDITS CALCULATION

In its Motion, Petitioner describes the methodology and basis for the job credits calculation. Petitioner also indicated that a total number of 2,887.86 job credits for 2022 and 2023 were reported to the LUC in Petitioner’s 2024 Annual Report. *Motion, Exhibit 2.* Of the

2,887.86 job credits reported, 515 were Facility Job Credits earned pursuant to Condition 1.b. based on the floor space developed in the Wai Kai Commercial Center and 2,372.86 were Investment Job Credits earned pursuant to Condition 1.c.i. (2,372.30 credits) and Condition 1.c.iii. (0.56 credits). *Motion, pgs. 8-9.*

Petitioner is seeking approval of 374.78 job credits from the 2,372.30 Investment Job Credits earned for its investment in a start-up of a non-tourism related business pursuant to Condition 1.c.i. According to Petitioner's 2024 Annual Report, Petitioner invested \$118,615,000.00 into a loan fund for the development of the Wai Kai Commercial Center. The Wai Kai Commercial Center consists of several non-tourism businesses, including commercial food and drink establishments, a 52-acre lagoon with active recreational facilities, a club lounge, a retail shop, and three event spaces. *Motion, Exhibit 6.* The Declaration of Daniel Sandomire, Vice President of Haseko Development, Inc. attests that all the information provided is true and correct. Under Condition 1.c.i., Petitioner may receive one job credit for each \$50,000.00 invested by the Petitioner in a start-up of a non-tourism related business by way of equity or investment into a loan fund for such business. Consequently, with its \$118,615,000.00 investment, Petitioner is eligible to receive 2,372.30 job credits ($\$118,615,000.00 \div \$50,000.00 = 2,372.30$ job credits).

IV. OPSD RECOMMENDATION

OPSD finds that the 2,887.86 credits job credits generated under Condition 1.b. Facility Job Credits and Condition 1.c. Investment Job Credits have been reported to the LUC by Petitioner within two years after their accrual in Petitioner's 2024 Annual Report for calendar years 2022 and 2023. OPSD concurs with Petitioner's methodology for calculating the job credits generated and with the descriptions, calculations, and accounting of the Petitioner's requested job credits. OPSD finds that the 2,372.30 Investment Job Credits generated by Petitioner's loan fund investment in the Wai Kai Commercial Center meet the Condition 1.c.i. criteria. Therefore, the Petitioner is entitled to request the LUC's approval of 374.78 job credits on this basis. Finally, OPSD finds that the Petitioner has certified the accuracy of all information provided to the LUC.

Based on the Motion, supporting documents, and the above-stated considerations, OPSD recommends approval of Petitioner's Motion for 374.78 job credits. OPSD recognizes that should the LUC approve these job credits, Petitioner will be allowed to begin building up to 950 hotel or hotel/condominium units, and that Condition 1 of the 1990 D&O, as amended by the 1994 Order, will be fully satisfied.

DATED: Honolulu, Hawaii, December 27, 2024.

OFFICE OF PLANNING AND
SUSTAINABLE DEVELOPMENT
STATE OF HAWAII

Mary Alice Evans

MARY ALICE EVANS
DIRECTOR

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Map Key No.: 9-1-12: 5 (por.), 6 (por.), and)
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_____)

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served upon the following by either hand delivery, depositing the same in the U.S. Postal Service by regular mail, or by electronic mail.

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DATED: Honolulu, Hawaii, December 27, 2024.

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