




BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

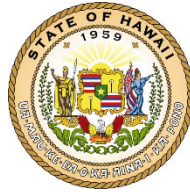
In the Matter of the Petition of	)	DOCKET NO. A89-651
)	
HASEKO (HAWAII), INC.)	
	)	FINDINGS OF FACT, CONCLUSIONS OF
To Amend the Agricultural Land Use District	)	LAW, AND DECISION AND ORDER
Boundary into the Urban Land Use District	)	GRANTING PETITIONER HASEKO (EWA),
for Approximately 403.008 acres at	)	INC.'S MOTION FOR APPROVAL OF JOB
Honouliuli, 'Ewa District O'ahu, Hawaii'i,	)	CREDITS RECEIVED DECEMBER 23, 2024;
Tax Map Key No.: (1) 9-1-12:5 (por.), 06	)	AND CERTIFICATE OF SERVICE
(por.), and 023 (por.))	
_____)	

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION AND ORDER
GRANTING PETITIONER HASEKO (EWA), INC.'S MOTION FOR APPROVAL OF
JOB CREDITS RECEIVED DECEMBER 23, 2024, AND
CERTIFICATE OF SERVICE

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06/03/2025

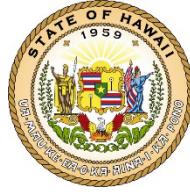
BY 
DANIEL E. ORODENER
Executive Officer



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FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION AND ORDER
GRANTING PETITIONER HASEKO (EWA), INC.'S MOTION FOR APPROVAL OF
JOB CREDITS RECEIVED DECEMBER 23, 2024

The 2024 Motion for Approval of Job Credits ("Motion") was filed on December 23, 2024, pursuant to Hawai'i Administrative Rules ("HAR") §15-15-70, for an order approving 374.78 Job Credits in accordance with Condition No. 1 in the 1990 Decision and Order, and further amended in the 1994 Decision and Order issued by the Commission on February 8, 1994, for the issuance of job credits for the Project on Tax Map Key Nos. (1) 9-1-12:5 (por.), 06 (por.), and 023 (por.).

The State of Hawai'i Land Use Commission ("LUC" or "Commission"), having heard and examined the testimony, exhibits, evidence, and argument of counsel and the parties present

during the February 5, 2025, hearing for HASEKO (EWA), INC. (“Petitioner”) Motion, along with the pleadings and files herein, hereby makes the following Finding of Facts, Conclusions of Law and Decision and Order.

PROCEDURAL MATTERS

Previous Procedural Matters

1. On December 8, 1989, the LUC Received the original petition for the District Boundary Amendment to Amend the Agricultural Land Use District Boundary into the Urban Land Use District for approximately 403.008 acres at Honouliuli, ‘Ewa, O‘ahu, Hawai‘i, Tax Map Key Nos.: 9-1-12: portion of 5, portion of 6, and portion of 23.
2. On October 17, 1990, the Commission issued the Findings of Fact, Conclusions of Law, Decision and Order, and Certificate of Service, which approved the district boundary amendment subject to 21 Conditions. Condition 1 provided a process for qualifying and claiming job credits.
3. On September 15, 1993, Petitioner filed Motion for Approval of 2.47 Job Credits.
4. On January 3, 1994, Petitioner filed a Motion for Clarification and/or Modification of Condition One.
5. On February 8, 1994, the LUC issued the Findings of Fact, Conclusions of Law, Decision and Order, and Certificate of Service, amending Condition One, and approving Petitioner’s request for 2.47 Job Credits (“1994 Decision and Order”).

6. On September 20, 2022, the LUC received Petitioners 2022 Motion for Approval of 572.75 Job Credits.
7. On December 19, 2022, the LUC issued the Findings of Fact, Conclusions of Law, Decision and Order, and Certificate of Service, granting Petitioners 2022 Motion for Approval of Job Credits.
8. On October 21, 2024 the LUC received Petitioners 2024 Annual Report.

2024 Motion for Approval of Job Credits

9. On December 23, 2024, the Commission received Petitioner's Motion, Memorandum In Support of Motion, Declaration of Daniel Sandomire, Exhibits "1" through "7", and Certificate of Service.
10. On December 27, 2024, the Commission received the State Office of Planning and Sustainable Development's ("OPSD") Response to Petitioner Haseko (Ewa), Inc.'s Motion for Approval of Job Credits.
11. On January 7, 2025, the Commission received the Department of Planning and Permitting, City and County of Honolulu's ("DPP") letter of no objection.
12. On January 16, 2025, the Commission received Petitioner's Amended Certificate of Service.
13. On January 27, 2025, the Commission mailed and emailed its notice of agenda of its February 5, 2025, meeting to all parties, and the O'ahu and Statewide mailing lists.
14. On January 30, 2025, the Land Use Commission staff report was posted to the Land Use Commission website for public review.

15. On February 3 and 4, 2025, the Land Use Commission received written public testimony from Mitchell Tynanes, Mark Clemente, and Andrew Pereira, which were stamped and posted to the LUC website for public review.
16. On February 5, 2025, the Commission held its hybrid meeting in Honolulu, O‘ahu at Leiopapa A Kamehameha, State Office Tower, 235 South Beretania Street, Room 405, Honolulu, HI 96813, open to the public, to consider the Petitioner’s 2024 Motion for Approval of Job Credits as required by the Land Use Commission (“LUC”) Decision and Order issued on October 17, 1990.
17. At the hearing the following attended: for Petitioner Haseko (Ewa), Inc. was Curtis Tabata, Esq., Benjamin Matsubara, Esq., Daniel Sandomire, Kelly Uwayne, Peter Kwan and Daniel Lum; for the DPP was Pono Arias, Esq.; for the OPSD was Alison Kato, Esq., Mary Alice Evans, Ruby Edwards and Aaron Setogawa.
18. At the February 5, 2025, hearing there were no members of the public present, or online that wished to provide verbal public testimony prior to the parties presentations.
19. The Commission began the evidentiary portion of the hearing. During the evidentiary portion of the hearing, presentations were made by the Petitioner, the DPP and the OPSD. The evidentiary portion of the hearing was closed on February 5, 2025.
20. Following the close of the evidentiary portion of the hearing, the Commission provided a second round of public testimony, and received public testimony from Healani Sonoda-Pale, Bianca Isaki, and Lisa Enanoria.
21. After the Petitioner, DPP, and OPSD were given the opportunity to provide final comments, the LUC entered into deliberations on this matter. Following discussion, a

motion was made to approve the Motion for Approval of Job Credits, and to authorize the Chairperson to sign the Findings of Fact, Conclusions of Law and Decision and Order.

22. The motion received 7 affirmative votes, and therefore, the motion passed.

OFFICE OF PLANNING AND SUSTAINABLE DEVELOPMENT POSITION

23. The OPSD filed their Response to Petitioners Motion for Approval of Job Credits on

Docket No.A89-651 HASEKO (EWA), INC., with the LUC on December 27, 2024.

OPSD reviewed the Motion and supporting documents and provided notice pursuant to

HAR §15-15-70(f) of its intention to support the approval of Petitioner's Motion for the

following reasons:

- a. 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
- b. OPSD concurs with Petitioners methodology for calculation the job credits generated and with the descriptions, calculations, and accounting of the Petitioners requested job credits
- c. OPSD finds that the 2,372.30 Investment Job Credits generated by 2024 Annual Report for calendar loan fund investment in the Wai Kai Commercial Center meet the Condition 1.c.i. criteria.
 - i. Therefore, the Petitioner is entitled to request the LUC's approval of 374.78 job credits on this basis.

- d. OPSD finds that the Petitioner has certified the accuracy of all information provided to the LUC.

24. During the LUC's February 5, 2025, hearing, OPSD presented their statement in support of the Petitioners Motion for Approval of Job Credits. OPSD further presented that the Petitioner presented the representations and calculations of job credits sufficiently, and complied with the requirements and restrictions in the Commission's Decision and Orders. *See* 02/05/2 Tr. at 17-18.

CITY AND COUNTY OF HONOLULU DEPARTMENT OF PLANNING AND PERMITTING POSITION

25. The DPP filed their Letter of No Objections in response to Petitioners Motion for approval of job credits on Docket No.A89-651 HASEKO (EWA), INC., with the LUC on January 7, 2025. DPP reviewed the Motion and supporting documents and stated no objection and supports the Petitioners request for approval of the 374.78 job credits.
26. During the LUC February 5, 2025, hearing, DPP represented that it stands on its written testimony. *See* 02/05/25 Tr. at 18.

FINDINGS OF FACT

27. The Haseko family of companies ("Haseko") has been a real estate developer in Hawai'i since 1973, and has built approximately 7,022 homes, approximately 563,380 square feet of commercial space, and approximately 248 acres of golf course in Hawai'i. [Decl. D. Sandomire]

28. On October 17, 1990, the Commission issued its Findings of Fact, Conclusions of Law, and Decision and Order in Docket No. A89-651 (“D&O”) for the reclassification of approximately 403.008 acres, situated at Honouliuli, District of ‘Ewa, Island of O‘ahu, State of Hawai‘i, from the Agricultural District to the Urban District (“Petition Area”), for the Phase II of Petitioner’s 1,100 acre project that is now known as Ocean Pointe/Hoakalei (the “Project”). *See* Pet. Ex. 1.
29. Ocean Pointe/Hoakalei is a 1,100-acre master-planned project located at Honouliuli in the ‘Ewa District of O‘ahu. It lies along the shoreline between Fort Weaver Road and Kalaeloa (the former Naval Air Station Barbers Point), about 20 miles west of Honolulu. The Project includes a manmade recreational lagoon (which was originally planned to be a marina, and could still eventually become one in the future) with light industrial, commercial, and retail facilities, future visitor accommodations (e.g., hotels and hotel/condominiums), and up to 4,850 homes. Also included within the Project is a golf course, a 20-acre district park and child care center, a public elementary school, and a fire station. *See* Pet. Ex. 2.
30. Construction of Ocean Pointe/Hoakalei began in 1997 with the residential component of the Project. Residential construction continues to this day and is anticipated to continue for about another ten years. Currently, nearly eighty-two percent (82%) of the permitted 4,850 housing units have been built and sold to individual homeowners. *See* Pet. Ex. 2.
31. Gradual grading of the golf course was initiated in the late 1990s to provide drainage basins for the residential components that were being constructed. In 2005, Ernie Els was commissioned to design the golf course, which opened for play in January 2009.

The clubhouse was completed on April 4, 2019 and opened on July 27, 2019. *See* Pet. Ex. 2.

32. Excavation of the proposed marina also began in the late 1990s. Excavated material provided fill for other portions of the Project, thus, excavation has been coordinated with the residential and golf course development. On November 6, 2011, Petitioner announced its intention to use the basin as a recreational lagoon to facilitate the completion of the rest of the Project. Although Petitioner no longer plans to complete a marina, the company is not doing anything that would preclude someone else from developing a marina in the distant future once entitlements/permits have been updated/obtained. *See* Pet. Ex. 2.

JOB CREDIT CALCULATION

33. Condition 1 of the D&O requires Petitioner to obtain one job credit for every hotel or hotel/condominium unit Petitioner is allowed to build. Petitioner has not yet built any hotel or hotel/condominium units. As described below, credits are calculated based upon three classes of criteria: a) construction worker hours, b) development of new non-tourism related projects or facilities, and c) monies invested in non-tourism related businesses or contributed to job training programs. Credits are earned when approved by the LUC. *See* Pet. Ex. 2.
34. On February 8, 1994, the LUC issued its Order Granting Motion for Approval of Job Credits and Motion for Clarification and/or Modification of Condition (“1994 Order”). The 1994 Order amended Condition 1 and approved 2.47 Job Credits for reporting year 1991. *See* Pet. Ex. 3.

35. On December 19, 2022, the LUC issued its Order Granting Petitioner Haseko (Ewa), Inc.’s Motion for Approval of Job Credits (“2022 Order”). The 2022 Order approved 572.75 Job Credits. *See* Pet. Ex. 4.

36. Condition 1, as amended, provides the following requirements for earning job credits:

Petitioner¹ shall generate one (1) non-tourism related 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 Generated 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.

¹ As used herein, the term “Petitioner” means Haseko (Hawaii), Inc. and its successors and assigns.

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</i>	<i>Credit</i>
	<u><i>(square feet)</i></u>	
<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</i> <i>(e.g. High-Tech)</i>	<i>150</i>	<i>100 %</i>
<i>Recreation and</i> <i>Other Activity Centers</i>	<i>1,000</i>	<i>100 %</i>
<i>Private Schools and</i> <i>Day-Care Centers</i>	<i>300</i>	<i>100 %</i>
<i>Agricultural Facility</i> <i>(e.g. Greenhouses and</i> <i>Processing Plants)</i>	<i>1,000</i>	<i>100 %</i>
<i>Retailing</i>	<i>300</i>	<i>60 %</i>

Credit for other types of facilities will be determined on a case-by-case basis.

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 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 a 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 requirement 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.

37. The total of 2,887.86 Job Credits were reported to the LUC in 2023 for years 2022 and 2023. The 2,887.86 Job Credits is comprised on 515 Facility Job Credits, 0.56 Training Job Credits, and 2,372.30 Start-Up Job Credits. Petitioner is requesting that of the 2,372.30 Start-Up Job Credits, that 374.78 Job Credits be approved. If this Motion is approved, 2,513.08 reported Job Credits will remain for possible future use. See Pet. Ex. 2.

38. Petitioner is required to obtain one job credit for each hotel/condominium unit that Petitioner is allowed. Finding of Fact 35 of the 1990 Decision and Order provides that the Project will include 500 Hotel units and 600 Condo/Hotels units, for a total of 1100 units pursuant to the representations made to the Commission and findings of fact in the

1990 Decision and Order. Petitioner, however, is limited to 950 units according to its Unilateral Agreement with the City and County of Honolulu (the “Unilateral Agreement”). *See* Pet. Ex. 1 and 2; Decl. D. Sandomire.

39. The 1994 Decision and Order provides three methods for Petitioner to obtain job credits under Condition 1 of the 1994 Decision and Order:

- 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 Incentives and Job Training (“Start-up Capital Job Credits” and “Training Job Credits”). *See* Pet. Ex. 2.

40. Condition 1.c. provides that Petitioner may receive one Job Credit for each \$50,000.00 invested by Petitioner in a start-up of non-tourism related business by way of equity or investment into a loan fund for such business. *See* Pet. Ex. 2.

41. Petitioner invested \$118,615,000.00 through a loan-fund in a start-up business called Wai Kai Commercial Development, LLC in years 2022 and 2023 for the development of the Wai Kai commercial center. Pursuant to Condition 1.c., 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 in 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). *See* Pet. Ex. 2 and 6; OPSD 12/27/24 Resp.

42. The monies invested in Wai Kai Commercial Development, LLC were used to develop the Wai Kai commercial center. *See* Pet. Ex. 2 and 6.
43. Wai Kai is a new concept commercial center that is anchored by the Wai Kai Wave, the first stationary deep-water surf wave in Hawaii that caters to all skill levels, with adjustable wave settings. Wai Kai Wave offers expert surfers a unique training ground that provides consistent, high-quality waves year-round in a controlled environment. The adaptability of the waves also accommodates all other skill levels including beginners. *See* Pet. Ex. 6.
44. The Wai Kai commercial center consists of several non-tourism related 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. *See* OPSD 12/27/24 Resp.
45. The Wai Kai commercial center also features “Ono Grindz and Makeke at the Wai Kai”, a Thursday night farmers’ market designed for residents of Oahu’s west side. Every Thursday evening, nearly 800 attendees enjoy the wide array of locally-made products and food in a community-driven atmosphere. *See* Pet. Ex. 6.
46. The 2,887.86 Job Credits generated under Condition 1.b. Facility Job Credits and Condition 1.c. Investment Job Credits were reported to the LUC by Petitioner within two years after their accrual in Petitioner’s 2024 Annual Report for calendar years 2022 and 2023. *See* OPSD 12/27/24 Resp.

47. 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, Petitioner is entitled to request the LUC's approval of 374.78 Job Credits on this basis. *See* OPSD 12/27/24 Resp.
48. Petitioner has certified the accuracy of all information provided to the LUC. *See* OPSD 12/27/24 Resp.
49. Petitioner's Motion requests 374.78 total Job Credits, which consists of 374.78 Start-up Job Credits that were reported for years 2022 and 2023. This request for approval of 374.78 Job Credits, together with the 575.22 previously approved Job Credits, would allow Petitioner to build up to 950 hotel and hotel/condominium units. *See* Pet. Ex. 2.
50. If Petitioner's Motion is approved, Petitioner will be allowed to build up to 950 hotel and hotel/condominium units, then condition 1 of the 1990 D&O, as amended by the 1994 Order, will be fully satisfied. *See* OPSD 12/27/24 Resp.

**SIGNIFICANT ADDITIONAL FINDINGS BY THE COMMISSION DURING THE
FEBRUARY 5, 2025, HEARING**

51. The Wai Kai commercial center satisfies the non-tourism related business requirement of condition 1.c. as Wai Kai has been operating for approximately two years since 2023 without any hotels on the Project and has enjoyed good patronage from local residents. *See* 02/05/2025 Tr. at 33.

52. Based upon the record and files herein, the LUC hereby finds that there is substantial evidence in the record to support granting the Petitioner's Motion to Approve Job Credits.

53. After additional discussion during the February 5, 2025, LUC meeting, a motion was made to approve the Petitioners 2024 Motion for Approval of Job Credits, and to authorize the Chairperson to sign the Findings of Fact, Conclusions of Law, and Decision and Order. A vote was taken on this motion. There being a vote of 7 ayes, 0 nays, and 2 excused, the motion passed.

RULINGS ON FINDINGS OF FACT

Any of the findings of fact submitted by Petitioner or other parties not already ruled upon by the Commission by adoption herein, or rejected by clearly contrary findings of fact herein, are hereby denied and rejected.

Any conclusion of law herein improperly designated as a finding of fact should be deemed or construed as a conclusion of law; any finding of fact herein improperly designated as a conclusion of law should be deemed or construed as a finding of fact.

CONCLUSIONS OF LAW

1. HAR §15-15-70 Based upon the record and files herein and the findings set forth above, the LUC concludes that there is substantial evidence in the record to support the decision

below, and is necessary or appropriate in granting the approval, including but not limited to, ensuring the adherence to representations made by the Petitioner.

2. HRS §205-1(c) authorizes the Commission to “adopt rules guiding its conduct[.]”

3. As defined in HAR §15-15-03,

“Proceeding” means any matter brought before the commission over which the commission has jurisdiction and shall include, but not be limited to:

- (1) Petitions for district boundary amendment;
- (2) Petitions for special permit;
- (3) Proceedings for the adoption, amendment, or repeal of rules under sections 91-3 and 205-7, HRS;
- (4) Petitions for declaratory orders under section 91-8, HRS;
- (5) An investigation or review instituted or requested to be initiated by the commission; and
- (6) All other matters in the administration of chapter 205, HRS.

4. Pursuant to HAR §15-15-70(a), any party may make a motion before, during, or after the close of hearing.

5. Pursuant to HAR §15-15-94(a), if a petitioner desires to have a modification or deletion of a condition that was imposed by the Commission, or modification of the Commission’s order, the petitioner shall file a motion in accordance with HAR §15-15-70 , including proper service and affidavits or declarations if the motion requires the consideration of facts not appearing in the record.

6. HRS §91-10(5) provides “Except as otherwise provided by law, the party initiating the proceeding shall have the burden of proof, including the burden of producing evidence as

well as the burden of persuasion. The degree or quantum of proof shall be a preponderance of the evidence.”

7. HAR §15-15-59(a), provides that “...Unless otherwise provided by law, the party initiating the proceeding shall have the burden of proof, including the burden of producing evidence and the burden of persuasion.”
8. Pursuant to HAR §15-15-94(b), for good cause shown, the Commission may act to modify or delete any of the conditions imposed or modify the Commission’s order.
9. The courts have recognized that an agency, acting as a factfinder, has the discretion to determine the credibility of a witness and weigh the evidence before it.²

DECISION AND ORDER

The LUC, having duly considered the written and oral arguments presented by the Petitioner, HASEKO (EWA) INC., the DPP, the OPSD, and members of the public, and a motion having been made and seconded at the meeting on February 5, 2025, held at Leiopapa A Kamehameha, State Office Tower, Room 405, 235 South Beretania Street, Honolulu, HI 96813, and the motion having received the affirmative votes required by HAR § 15-15-13, and there being good cause for the motion,

HEREBY FINDS AND CONCLUDES that, pursuant to HRS Chapter 205 and the Commission Rules under HAR chapter 15-15, upon consideration of the decision-making criteria set forth in HRS § 205-17, and based upon the preponderance of the evidence and good cause

² *State v. Pioneer Mill Co., Ltd.*, 64 Haw. 168, 179, 637 P. 2d 57, 65 (1996) (citing *Territory v. Adelmeyer*, 45 Haw. 144, 163, 363 P.2d 979, 989 (1961)); *State v. Eastman*, 81 Hawai‘i 131, 139, 913 P.2d 57, 65 (1996); *Sierra Club v. D.R. Horton-Schuler Homes, LLC*, 136 Hawai‘i 505, 52, 364 P.3d 213, 230 (2015); *In re Gray Line Hawai‘i, Ltd.*, 93 Hawai‘i 45, 52-53, 995 P.2d 776, 783-784 (2000); and *Brown-Hunter v. Colvin*, 806 F.3d 487, 492 (9th Cir. 2015)).

shown, the Petitioner's 2024 Motion for Approval of Job Credits is reasonable, and thereby granted with 374.78 job credits approved; and further, based on the previously approved 575.22 job credits, Condition 1 of the 1990 and 1994 Decision and Order is now fully satisfied, and Petitioner may proceed with the development of up to 950 hotel and hotel/condominium units.

ADOPTION OF DECISION AND ORDER

The undersigned Commissioners, being familiar with the record and proceedings, hereby adopt and approve the foregoing DECISION AND ORDER on 06/03/2025. This DECISION AND ORDER may be executed in counterparts. This DECISION AND ORDER shall take effect upon the date this DECISION AND ORDER is certified by this Commission.

Done at Honolulu, Hawai'i, this day of 06/03/2025, per motion on October 10, 2024.

APPROVED AS TO FORM

LAND USE COMMISSION

Miranda Steed

STATE OF HAWAI'I

Miranda C. Steed
Deputy Attorney General

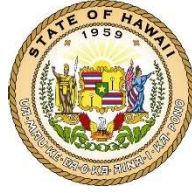
By _____
DAN GIOVANNI
Chairperson and Commissioner

Filed and effective on:

06/03/2025

Certified by:

_____
DANIEL E. ORODENER
Executive Officer



BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAI'I

In the Matter of the Petition of	)	DOCKET NO. A89-651
)	
HASEKO (HAWAI'I), INC.)	
)	
To Amend the Agricultural Land Use District	)	FINDINGS OF FACT, CONCLUSIONS OF
Boundary into the Urban Land Use District	)	LAW, AND DECISION AND ORDER
for Approximately 403.008 acres at	)	GRANTING PETITIONER HASEKO (EWA),
Honouliuli, 'Ewa District O'ahu, Hawai'i,	)	INC.'S MOTION FOR APPROVAL OF JOB
Tax Map Key No.: (1) 9-1-12:5 (por.), 06	)	CREDITS RECEIVED DECEMBER 23,
(por.), and 023 (por.))	2024;AND CERTIFICATE OF SERVICE
_____)	

CERTIFICATE OF SERVICE

I hereby certify that a copy of the FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND DECISION AND ORDER GRANTING THE MOTION FOR APPROVAL OF JOB
CREDITS RECEIVED DECEMBER 23, 2024, was served upon the following, by either hand
delivery or depositing the same in the U.S. Postal Service by regular or certified mail on the date
appearing below, as follows:

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Dated 06/03/2025
Honolulu, Hawai'i.



DANIEL E. ORODENKER
Executive Officer