



BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

2012 NOV -9 P 2:22  
LAND USE COMMISSION  
STATE OF HAWAII

In The Matter Of The Petition Of  
  
KA`ONO`ULU RANCH  
  
To Amend The Agricultural Land Use  
District Boundary Into The Urban  
Land Use District For Approximately  
88 Acres Of Land At Ka`ono`ulu,  
Makawao-Wailuku, Maui, Hawai`i,  
Tax Map Key: 3-9-01: 16, 169, And 170  
Through 174

DOCKET NO. A94-706  
  
ORDER DENYING INTERVENOR  
MOTION TO TAKE TESTIMONY OF  
CARLA M. FLOOD VIA TELEPHONE;  
CERTIFICATE OF SERVICE

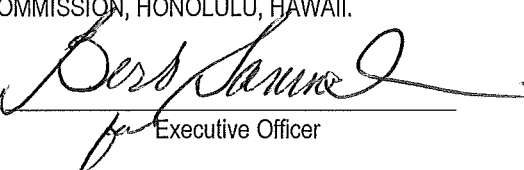
ORDER DENYING INTERVENORS' MOTION TO TAKE TESTIMONY OF  
CARLA M. FLOOD VIA TELEPHONE

AND

CERTIFICATE OF SERVICE

THIS IS TO CERTIFY THAT THIS IS A TRUE AND CORRECT  
COPY OF THE DOCUMENT ON FILE IN THE OFFICE OF THE  
STATE LAND USE COMMISSION, HONOLULU, HAWAII.

11/ 9 /2012  
Date

BY   
Executive Officer



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On October 22, 2012, Maui Tomorrow Foundation, Inc.; South Maui  
Citizens for Responsible Growth; and Daniel Kanahele (collectively "Intervenors") filed  
a Motion to Take Testimony of Carla M. Flood Via Telephone ("Motion"), pursuant to  
section 15-15-70, Hawai`i Administrative Rules ("HAR").

On October 25, 2012, the Department of Planning, County of Maui ("DP"),  
filed a Memorandum in Opposition to Intervenors' Motion to Take Testimony of Carla  
M. Flood Via Telephone.

On October 26, 2012, Pi'ilani Promenade South, LLC, and Pi'ilani Promenade North, LLC (collectively "Pi'ilani"), filed a Joinder in Department of Planning, County of Maui's Memorandum in Opposition to Intervenors' Motion to Take Testimony of Carla M. Flood Via Telephone.

On October 26, 2012, Honua`ula Partners, LLC ("Honua`ula"), filed a Joinder in Department of Planning, County of Maui's Memorandum in Opposition to Intervenors' Motion to Take Testimony of Carla M. Flood Via Telephone.

On October 29, 2012, the State of Hawai'i Office of Planning ("OP") filed a Statement of No Objection to Maui Tomorrow Foundation, Inc., South Maui Citizens for Responsible Growth and Daniel Kanahele's Motion to Take Testimony of Carla M. Flood Via Telephone.

The State of Hawai'i Land Use Commission ("Commission") considered Intervenors' Motion at its meeting on November 1, 2012, in Kahului, Maui, Hawai'i. Tom Pierce, Esq., and Mark Hyde were present on behalf of the Intervenors. Jonathan H. Steiner, Esq., and Joel D. Kam, Esq., were present on behalf of Pi'ilani and Honua`ula. Jane E. Lovell, Esq.; Michael J. Hopper, Esq.; and William Spence appeared on behalf of the DP. Jesse Souki and Rodney Funakoshi were present on behalf of OP.

At the meeting, the parties provided oral argument on Intervenors' Motion.

Thereafter, a motion was made and seconded to grant Intervenors' Motion, subject to the condition that the written text of Ms. Flood's testimony be submitted to this Commission and provided to all parties within seven days in advance of the presentation of her telephone testimony, with said testimony limited to the text contained in the written testimony.

Following discussion by the commissioners, a vote was taken on this motion. There being a vote tally of 3 ayes, 3 nays, and 3 excused, the motion failed to obtain the five affirmative votes required by section 15-15-13, HAR. Given the motion's failure to carry, Chair Kyle Chock exercised his authority to rule on this matter pursuant to section 15-15-70(h), HAR, and denied Intervenors' Motion.

ORDER

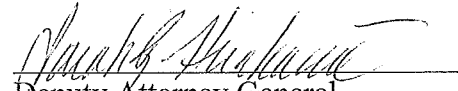
Having duly considered Intervenors' Motion and the oral and written arguments of the parties in the proceeding at the Commission's meeting on November 1, 2012, in Kahului, Maui, Hawai'i,


IT IS HEREBY ORDERED that Intervenors' Motion be DENIED.

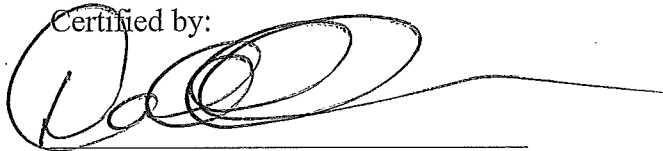
Dated: Honolulu, Hawaii, November 9, 2012

Approved as to Form:

LAND USE COMMISSION  
STATE OF HAWAII

  
Deputy Attorney General

By   
for Kyle Choek  
Chairperson and Commissioner

Certified by:  


Executive Officer



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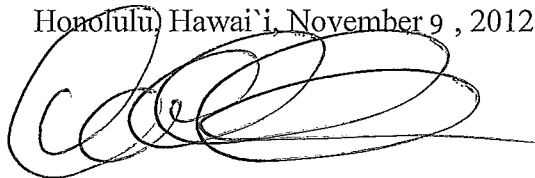
**CERTIFICATE OF SERVICE**

I hereby certify that a copy of ORDER DENYING INTERVENORS' MOTION TO TAKE TESTIMONY OF CARLA M. FLOOD VIA TELEPHONE AND CERTIFICATE OF SERVICE 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:

	<b>HAND DELIVERED</b>	<b>REGULAR MAIL</b>	<b>CERTIFIED MAIL</b>
JESSE SOUKI, DIRECTOR Office of Planning 235 S. Beretania Street Rm. 600 Honolulu, Hawai'i 96813	<b>X</b>		
BRYAN YEE, ESQ. Deputy Attorney General Hale Auhau, Third Floor 425 Queen Street Honolulu, Hawai'i 96813		<b>X</b>	

	HAND DELIVERED	REGULAR MAIL	CERTIFIED MAIL
TOM PIERCE PO Box 798 Makawao, Hawaii 96768			X
William Spence Director, County of Maui Planning Department 250 S. High St Kalana Pakui Bldg Ste 200 Wailuku, HI 96793		X	
JANE LOVELL, Esq./MICHAEL HOPPER, Esq. Corporation Counsel 200 S. High St. Kalana O Maui Bldg 3rd Flr Wailuku, HI 96793			X
<b>McCorriston Miller Mukai MacKinnon LLP</b> JONATHAN H. STEINER, Esq Five Waterfront Plaza, 4th Floor 500 Ala Moana Boulevard Honolulu, Hawai'i 96813			X
<b>McCorriston Miller Mukai MacKinnon LLP</b> JOEL KAM, Esq Five Waterfront Plaza, 4th Floor 500 Ala Moana Boulevard Honolulu, Hawai'i 96813			X

Honolulu, Hawai'i, November 9, 2012.



DANIEL ORODENKER  
Executive Officer