

BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

2012 NOV -9 P 2:23

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 WITHOUT  
PREJUDICE THE DEPARTMENT OF  
PLANNING, COUNTY OF MAUI'S  
MOTION TO EXCLUDE EVIDENCE  
RELATED TO THE 1998 KĪHEI-  
MĀKENA COMMUNITY PLAN AND  
DETERMINATION OF THE SCOPE OF  
REVIEW; CERTIFICATE OF SERVICE

ORDER DENYING WITHOUT PREJUDICE THE DEPARTMENT OF PLANNING,  
COUNTY OF MAUI'S MOTION TO EXCLUDE EVIDENCE RELATED  
TO THE 1998 KĪHEI-MĀKENA COMMUNITY PLAN AND  
DETERMINATION OF THE SCOPE OF REVIEW

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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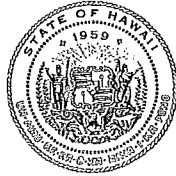
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BEFORE THE LAND USE COMMISSION  
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LAND USE COMMISSION  
STATE OF HAWAII  
2012 NOV -9 P 2:24

In The Matter Of The Petition Of  
  
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DETERMINATION OF THE SCOPE OF REVIEW

On October 29, 2012, the Department of Planning, County of Maui ("DP"),  
filed a Motion to Exclude Evidence Related to the 1998 Kīhei-Mākena Community Plan  
("Motion"), pursuant to sections 15-15-63(b), 15-15-65, and 15-15-70, Hawai`i  
Administrative Rules ("HAR").

On October 29, 2012, Maui Tomorrow Foundation, Inc.; South Maui  
Citizens for Responsible Growth; and Daniel Kanahale (collectively "Intervenors") filed

a Memorandum in Opposition to Department of Planning, County of Maui's Motion to Exclude Evidence Related to the 1998 Kīhei-Mākena Community Plan and Determination of Scope of Review.

On October 30, 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 Motion to Exclude Evidence Related to the 1998 Kīhei-Mākena Community Plan.

On October 30, 2012, Honua`ula Partners, LLC ("Honua`ula"), filed a Joinder in Department of Planning, County of Maui's Motion to Exclude Evidence Related to the 1998 Kīhei-Mākena Community Plan.

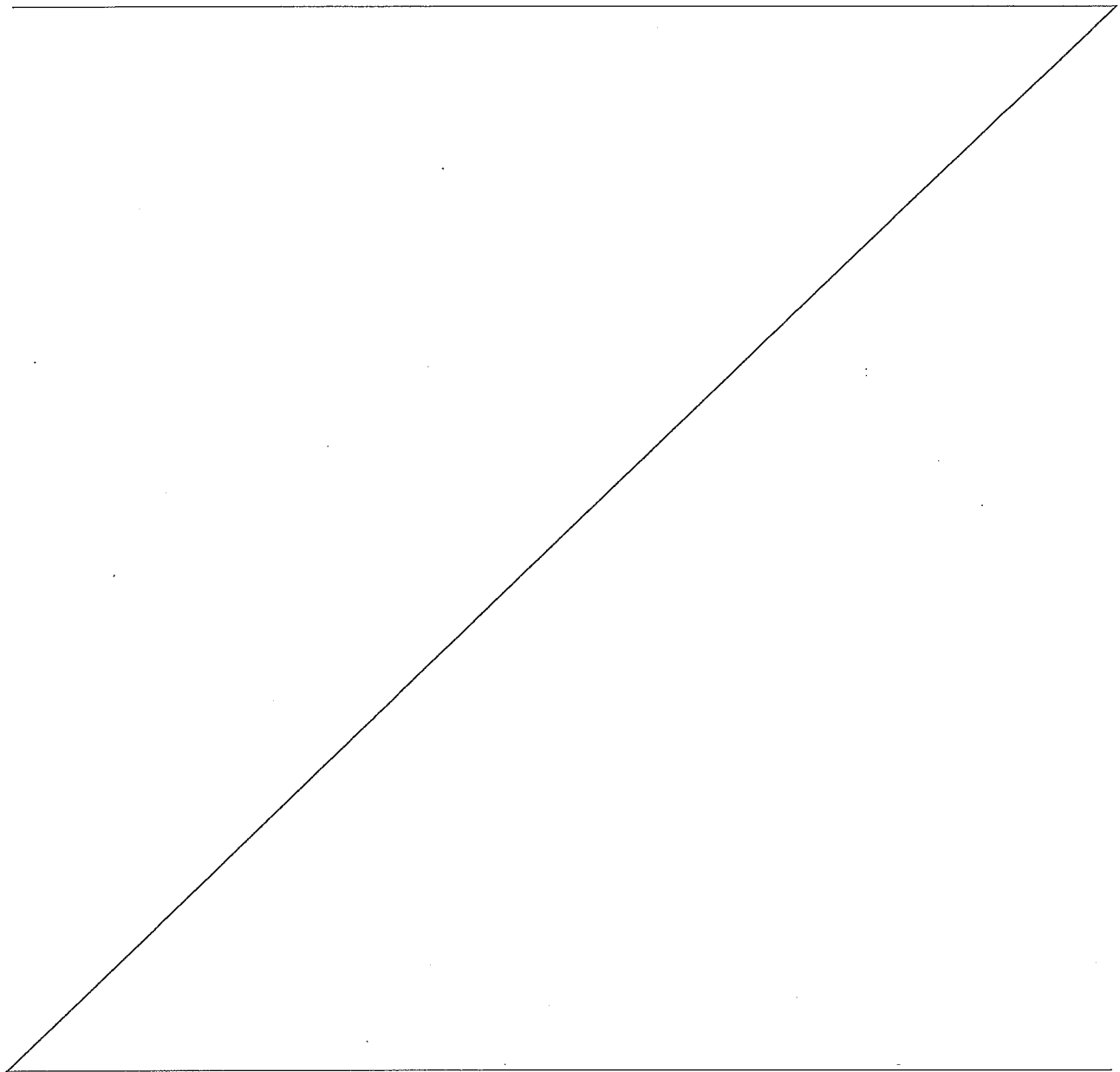
The State of Hawai'i Land Use Commission ("Commission") considered the DP's Motion at its meeting on November 1, 2012, at Kahului, Maui, Hawai'i.<sup>1</sup> Jane E. Lovell, Esq.; Michael J. Hopper, Esq.; and William Spence appeared on behalf of the DP. Jonathan H. Steiner, Esq., and Joel D. Kam, Esq.,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

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

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<sup>1</sup> The Commission amended its November 1, 2012, agenda to consider the DP's Motion pursuant to section 92-7(d), Hawai'i Revised Statutes.

Thereafter, a motion was made and seconded to deny the DP's Motion without prejudice. Following discussion by the commissioners, a vote was taken on this motion. There being a vote tally of 6 ayes, 0 nays, and 3 excused, the motion carried.



ORDER

This Commission, having duly considered the DP's Motion, the oral and written arguments of the parties in the proceeding, and a motion having been made at a meeting on November 1, 2012, in Kahului, Maui, Hawai'i, and the motion having received the affirmative votes required by section 15-15-13, HAR, and there being good cause for the motion,

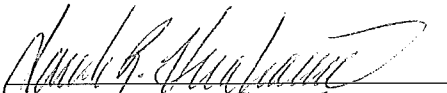
HEREBY ORDERS that the DP's Motion be DENIED WITHOUT PREJUDICE.

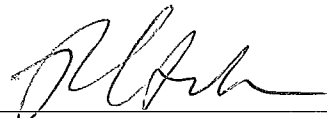
Accordingly, the DP is free to raise objections to any specific evidence related to the 1998 Kihei-Mākena Community Plan that may be presented by the other parties during the course of this Commission's Order to Show Cause hearing.

Dated: Honolulu, Hawaii, November 9, 2012

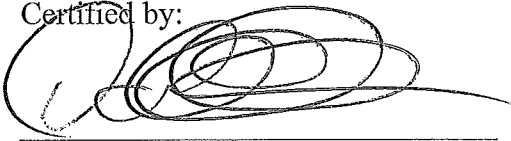
Approved as to Form:

LAND USE COMMISSION  
STATE OF HAWAII

  
Deputy Attorney General

By   
for Kyle Chock  
Chairperson and Commissioner

Certified by:



Executive Officer



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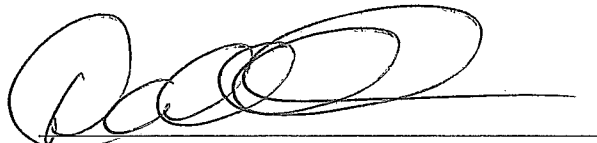
**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the ORDER DENYING WITHOUT PREJUDICE THE DEPARTMENT OF PLANNING, COUNTY OF MAUI'S MOTION TO EXCLUDE EVIDENCE RELATED TO THE 1998 KĪHEI-MĀKENA COMMUNITY PLAN AND DETERMINATION OF THE SCOPE OF REVIEW 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>	

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

Honolulu, Hawai'i, November 9, 2012.



DANIEL ORODENKER  
Executive Officer