

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

----- In the Matter of -----)
)
 CABRAL'S EXCAVATION, LLC)
)
 Notice of Failure to Comply)
 With Hawaii Revised Statutes)
 and Commission's Regulations;)
 Order to Show Cause Why)
 Respondent's Operating)
 Authority Should Not Be)
 Suspended or Revoked.)
 _____)

DOCKET NO. 03-0233

DECISION AND ORDER NO. 22595

Filed June 30, 2006
At 3:45 o'clock P.M.

Karen Higrot.
Clerk of the Commission

DIV. OF CONSUMER ADVOCACY
DEPT. OF COMMERCE AND
CONSUMER AFFAIRS
STATE OF HAWAII

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 CABRAL'S EXCAVATION, LLC) Docket No. 03-0233
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 Notice of Failure to Comply) Decision and Order No. 22595
 With Hawaii Revised Statutes)
 and Commission's Regulations;)
 Order to Show Cause Why)
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 _____)

DECISION AND ORDER

By this Decision and Order, the commission declares CABRAL'S EXCAVATION, LLC ("Respondent")'s certificate of public convenience and necessity ("CPCN") number 4079-C ("CPCN No. 4079-C") abandoned and revoked, as the commission's final decision and order in this matter, pursuant to Hawaii Revised Statutes ("HRS") § 271-19(b).

I.

Background

Most of the background in this docket is laid out in Order No. 22128, filed on November 23, 2005 ("Order No. 22128"), and is hereby incorporated by reference.

Respondent failed to reactivate CPCN No. 4079-C prior to the end of the inactive period granted by the commission. By Order No. 22128, the commission ordered Respondent to appear

before the commission on December 20, 2005, to show cause why CPCN No. 4079-C should not be revoked for failure to comply with the requirements of HRS § 271-19 ("Show Cause Hearing").¹ The Show Cause Hearing was held on December 20, 2005. Respondent's owner appeared on behalf of Respondent.

On April 7, 2006, the duly appointed hearings officer issued Findings of Fact, Conclusions of Law, and Recommended Decision and Order of Hearings Officer ("Recommended Decision") regarding Respondent's CPCN No. 4079-C. The Recommended Decision was served upon Respondent and on the Consumer Advocate on April 7, 2006 via first class mail. Neither Respondent nor the Consumer Advocate filed written exceptions to the Recommended Decision.

II.

Discussion

HRS § 271-19(b) states, in relevant part: "Prior to the termination of the approved inactive period, the certificate or permit must be reactivated or it shall be declared abandoned and the certificate or permit revoked."² In the present docket, Respondent failed to reactivate CPCN No. 4079-C prior to the end of the inactive period granted by the commission. Accordingly, upon review of the entire record in this matter and pursuant to

¹See Order No. 22128 at 3.

²See HRS § 271-19(b) (emphases added).

HRS § 271-19(b), the commission declares Respondent's Certificate No. 4079-C abandoned and revoked.³ This constitutes the commission's final decision and order in this matter.

III.


Orders

THE COMMISSION ORDERS:

1. Respondent's CPCN No. 4079-C is revoked.
2. This docket is closed.

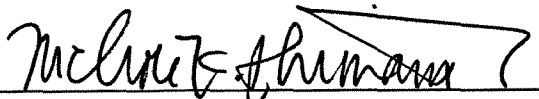
DONE at Honolulu, Hawaii JUN 30 2006

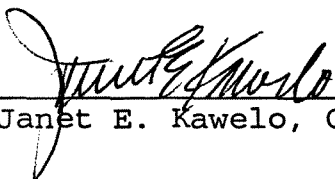
PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By 
Carlito P. Caliboso, Chairman

By (EXCUSED)
Wayne H. Kimura, Commissioner

APPROVED AS TO FORM:


Nichole K. Shimamoto
Commission Counsel

By 
Janet E. Kawelo, Commissioner

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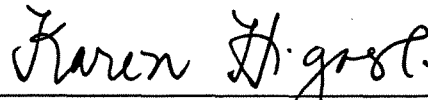
³In the Recommended Decision, the hearings officer recommended that Respondent's CPCN No. 4079-C should not be revoked at this time. See Recommended Decision at 5. However, based on the facts in this docket and pursuant to HRS § 271-19(b), the commission does not have the discretion to declare CPCN No. 4079-C anything other than "abandoned" and "revoked."

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 22595 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
DIVISION OF CONSUMER ADVOCACY
P. O. Box 541
Honolulu, HI 96809

FRANK CABRAL
CABRAL'S EXCAVATION, LLC
1371 Olinda Road
Makawao, HI 96768



Karen Higashi

DATED: JUN 30 2006