

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Petition of) DOCKET NO. A81-525
)
Y-O Limited Partnership.,) ORDER GRANTING PETITIONER'S
) MOTION FOR FOURTH EXTENSION
To Amend the Agricultural Land Use) OF TIME TO APPLY FOR
District Boundary to the Urban Land Use) REDISTRICTING OF PHASE II
District for Approximately 408.719 acres of)
land at Kaloko and Kohanaiki, North Kona,)
Hawaii, Tax Map Key No.: 7-3-09: 19)

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.

DEC 5 2002

Date

by *Anthony M. Lung*
Executive Officer

ORDER GRANTING PETITIONER'S MOTION FOR FOURTH EXTENSION OF TIME
TO APPLY FOR REDISTRICTING OF PHASE II

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ORDER GRANTING PETITIONER'S MOTION FOR FOURTH EXTENSION OF TIME
TO APPLY FOR REDISTRICTING OF PHASE II

On September 17, 2002, Y-O Limited Partnership, a Hawaii limited partnership ("Petitioner"), filed a Motion for Fourth Extension of Time to Apply for Redistricting of Phase II ("Motion"); pursuant to sections 15-15-70, 15-15-78, and 15-15-94, Hawai'i Administrative Rules ("HAR"). Attached to the Motion were a Memorandum in Support of Motion and a Declaration of Stephen J. Menezes, Esq., representative of Petitioner ("Memorandum").

The Motion requested a fourth extension of time for an additional ten (10) year period, from January 21, 2003 through and including January 20, 2013 to allow Petitioner to complete onsite and off-site improvements to Increment I and file an application for the redistricting of Increment II.

Petitioner was required to complete Increment I improvements by January 20, 2003, pursuant to the Order Granting Motion for Third Extension of Time to Apply for Redistricting of Phase II issued by the Land Use Commission ("LUC" or "Commission") on December 22, 1997.

The Commission granted the reclassification of Increment I ("Increment I" or "Phase I") and incremental redistricting for Increment II ("Increment II" or "Phase II") comprising of approximately 213.473 acres and 195.246 acres respectively, from the State Land Use Agricultural District to the Urban District situated at Kaloko-Kohanaiki, County and State of Hawaii, identified as Tax Map Key No. (3) 7-3-09: 019 ("Petition Area") pursuant to its Findings of Fact, Conclusions of Law, and Decision and Order issued on January 20, 1983 ("Decision and Order").

The Motion and Memorandum reported that Petitioner had completed the following in its efforts toward development of Increment I: i) completion of the channelized intersection at Mamalahoa Highway and Hina Lani Street; ii) completion, subdivision, and dedication of the portion of Hina Lani Street traversing through the Petition Area, including an 80-foot right of way dedicated to the County; iii) dedication of the street lighting system and water transmission system along the roadway; iv) acquisition of 1,500 water commitments from the Department of Water Supply, County of Hawaii ("DWS"); and v) expenditure by Petitioner of approximately \$8,906,269, so far, for its effort to complete development of Increment I.

Petitioner also reported the following project development activities: i) subdivision and dedication of a 1.5875-acre site in Increment II to the DWS for a proposed water tank; ii) subdivision plan approval for 225 lots in Phase I; and iii) continued discussion with the Office of Housing and Community Development, County of Hawaii ("OHCD") on Petitioner's compliance with its affordable housing requirements pursuant to Condition 1 of the Decision and Order, as amended.

On October 15 and 16, 2002, the Planning Department, County of Hawaii submitted its Response to Y-O Limited Partnership's Motion for Fourth Extension of Time to Apply for Redistricting of Phase II ("County's Response") through facsimile and certified copy respectively. The County's Response supported Petitioner's request and stated that the County will not be able to attend the Commission's action on the matter.

On October 16, 2002, the Office of Planning, Department of Business and Economic Development and Tourism ("OP") filed its Memorandum in Response to Petitioner's Motion for Fourth Extension of Time to Apply for Redistricting of Phase II ("OP's Response"). OP's Response supported the Motion but recommended that Petitioner provide the Commission with reporting on a conceptual plan and marketing strategy for Phases I and II within five (5) years from January 21, 2003 and reporting on an affordable housing agreement acceptable to County and State housing agencies.

The Motion came on for hearing before this Commission on October 17, 2002, in Honolulu, Hawai'i, with appearances by Petitioner and OP. At the hearing, Petitioner reported that it had proceeded in good faith to complete the development of Increment I. Petitioner summarized its efforts, to date, to complete Phase I and its compliance with the conditions of the Decision and Order.

Petitioner pointed out that despite its efforts to complete Phase I development, the financial problems experienced by its general partner, Yanase & Co. Ltd., a Japan corporation, has prevented the availability of funding to complete the development of Increment I. Petitioner stated that it is considering other development options but is unable determine a development timetable at this time.

Petitioner clarified that the acreage for Increments I and II have been revised pursuant to the subdivision and dedication of Hina Lani Street to the County and the dedication of the 1.3875-acre parcel to the DWS. Petitioner stated it will provide documentation to the Commission of the revised acreage through submittals of subdivision maps and metes and bounds descriptions.

Upon Commission inquiry, Petitioner clarified that it will maintain the scenic character along the portion of Hina Lani Street within the Petition Area by clearing any unsightly or illegal dumping outside the County's right of way.

OP had no objections to the Motion and stood by its response and reiterated its recommendation that Petitioner report back to the Commission around

January 21, 2008 to provide a conceptual plan and marketing strategy for the project, and the affordable housing agreement with State and County agencies.

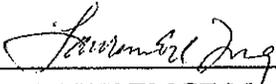
Thereafter, a motion was made and seconded that a fourth time extension of time to apply for redistricting of Phase II be granted. There being a vote tally of 5 ayes, 0 nays, the motion carried.

ORDER

Having duly considered Petitioner's Motion, the supporting Memorandum, the oral and written arguments presented by the parties, and further representations made by Petitioner during the hearing, and a motion having been made at a hearing on October 17, 2002, in Honolulu, 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, this Commission ORDERS that Petitioner's Motion for a ten-year time extension from January 21, 2003 through and including January 20, 2013 is hereby GRANTED.

Dated: Honolulu, Hawai'i, DEC 5 2002

LAND USE COMMISSION
STATE OF HAWAII


By LAWRENCE N. C. ING
Chairperson and Commissioner

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In the Matter of the Petition of) DOCKET NO. A81-525
)
Y-O Limited Partnership.,) CERTIFICATE OF SERVICE
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To Amend the Agricultural Land Use)
District Boundary to the Urban Land Use)
District for Approximately 408.719 acres of)
land at Kaloko and Kohanaiki, North Kona,)
Hawai`i, Tax Map Key No.: 7-3-09: 19)
_____)

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Order Granting Petitioner's Motion for Fourth Extension of Time to Apply for Redistricting of Phase II was served upon the following by either hand delivery or depositing the same in the U. S. Postal Service by certified mail:

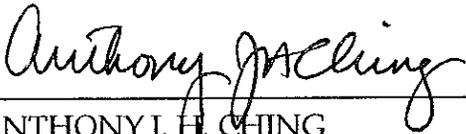
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DATED: Honolulu, Hawaii, DEC 5 2002



ANTHONY J. H. CHING
Executive Officer

Docket No. A81-525, Order Granting Petitioner's Motion for Fourth Extension of Time to Apply for Redistricting of Phase II