

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)
Y-O LIMITED PARTNERSHIP)
To Amend the Land Use District)
Boundary of Approximately 410.913)
acres, Identified by Tax Map Key)
No. 7-3-09:17 at Kaloko and)
Kohanaiki, North Kona, Hawaii from)
the Agricultural to the Urban)
District)
_____)

DOCKET NO. A81-525

Y-O LIMITED PARTNERSHIP

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.

JAN 12 1988

Date

by Ethel Reed
Executive Officer

ORDER APPROVING MOTION FOR EXTENSION OF
TIME TO APPLY FOR REDISTRICTING OF PHASE II

RECEIVED
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STATE LAND USE COMMISSION
HONOLULU, HAWAII

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ORDER APPROVING MOTION FOR EXTENSION OF
TIME TO APPLY FOR REDISTRICTING OF PHASE II

Y-O Limited Partnership, a Hawaii limited partnership, (hereinafter referred to as "Petitioner"), filed its Motion for Extension of Time to Apply for Redistricting of Phase II on September 21, 1987 in accordance with Hawaii Land Use Commission Rules Sections 15-15-70 and 15-15-78.

The State Land Use Commission, (hereinafter the "Commission"), having considered Petitioner's memorandum, affidavits and testimony and the positions of the State Department of Business and Economic Development and the County of Hawaii Department of Planning, hereby makes the following findings of facts, conclusions of law and decision and order:

Background

1. By Decision and Order issued January 20, 1983, the Commission redistricted 213.473 acres from the Agricultural to the Urban District, Tax Map Key No. 7-3-09:Por. 19, at Kaloko

and Kohanaiki, North Kona, Hawaii. This area was referred to in the Decision and Order as Phase I of Petitioner's proposed residential subdivision development.

2. The Decision and Order also approved the remaining area of Petitioner's subdivision development, referred to as Phase II, consisting of 195.246 acres identified as Tax Map Key No. 7-3-09:Por. 19, for incremental districting from Agricultural to Urban pursuant to State Land Use District Regulation 6-2.

3. Concerning the timing for redistricting of Phase II, the Decision and Order states:

" . . . that redistricting from the Agricultural to the Urban classification will be granted upon receipt of an application by Petitioner for redistricting of this second phase upon a prima facie showing the Petitioner has made substantial completion of the onsite and offsite improvements within Phase I and in accordance with Petitioner's development plan as indicated above, within five years of the date of this order, including but not limited to partial satisfaction of condition A, to the extent of the number of lots to be created in Phase I and conditions D and E, to the extent possible, and full satisfaction of conditions B and C, below."

4. Thus, Petitioner was allowed a period of five years to apply for redistricting of Phase II, during which time Petitioner was expected to make "substantial completion of the onsite and offsite improvements within Phase I."

5. Petitioner states the five year period expires on January 18, 1988 and it will not be able to make the required prima facie showing of substantial completion.

6. Petitioner states that the purpose of the present motion is to obtain the Commission's approval to allow an additional five years to substantially complete Phase I and apply for redistricting of Phase II.

Position of the County and the State

7. The Planning Department of the County of Hawaii states that while no physical activity has been conducted on the affected lands, Petitioner has made substantial progress towards the development of improvements within Phase I and therefore supports the motion for time extension.

8. The State Department of Business and Economic Development (DBED) requested that the Commission defer action on Petitioner's motion for 60 days to allow DBED to formulate a position on the motion. DBED pointed out that the Office of State Planning is conducting a study of West Hawaii and preliminary results would be available in 60 days upon which the state could base its position.

Petitioner's Efforts Towards Development of Phase I

9. Petitioner provided the following information regarding its efforts since January 1983 toward development of Phase I:

- a. Obtained appropriate zoning designation from County, Ordinance No. 83-63, effective December, 1983.

- b. Completed preliminary archaeological survey in 1985. An additional survey was initiated and will be completed in September, 1987.
- c. Obtained preliminary subdivision approval from County Planning Department for first increment of Phase I, containing 225 lots in September, 1985.
- d. Obtained amendment to zoning ordinance establishing timetable for construction of mauka-makai road (Hina Lani Street), Ordinance No. 86-91, effective August, 1986.
- e. Secured water commitment for 1,500 units from County Department of Water Supply (DWS) in October, 1986. Petitioner paid \$2.25 million for this commitment.
- f. Conducting negotiations with DWS concerning oversizing of water transmission lines, location and acquisition of water storage tank sites and other related matters.
- g. Conducting civil engineering work, from 1984-1987, at a cost in excess of \$345,000.00 to date for the following:
 - i. Preliminary drainage master plan submitted to County Department of Public Works ("DPW"), in February, 1986 presently under review by DPW.

- ii. Water master plan submitted to DWS and revised plan submitted in April, 1987 presently under review by DWS.
- iii. Topographic survey completed in April, 1987.
- iv. Soils investigation completed April, 1987
- v. Construction drawings of mauka-makai road submitted to DPW for review and presently under revision.
- vi. Preliminary design for channelized intersection at Mamalahoa Highway and Hina Lani Street submitted to State Department of Transportation, Highways Division, April 1987 and presently under revision.
- vii. Proposed final subdivision design and construction drawings for first increment of Phase I, 225 lots, submitted to DPW; presently under review by DPW.

10. Petitioner believes its demonstrated progress, although not meeting the "substantial completion" requirement of the Decision and Order, is nevertheless substantial in cost and scope and evidence of a good faith effort towards compliance.

11. Petitioner states that the length of time to obtain county zoning, subdivision approval, water commitments

and other approvals which directly affect the timely development of Phase I, is not under the sole control of Petitioner and that an extension of time to substantially complete Phase I is justified.

CONCLUSIONS OF LAW

The Commission finds upon a preponderance of evidence that pursuant to Chapter 205, Hawaii Revised Statutes, as amended, the Rules of Practice and Procedure and Section 6-3 of the District Regulations of the Land Use Commission, Petitioner has made a good faith effort towards development of Phase I, and that an extension of time of five years to substantially complete Phase I is reasonable and non-violative of Section 205-2, Hawaii Revised Statutes, and Section 6-3 of the Commission's District Regulations.

ORDER

IT IS HEREBY ORDERED that Petitioner's motion for an extension of time of five years to complete Phase I and to apply for redistricting of Phase II is approved, and Petitioner is granted an extension of time to not later than January 20, 1993, to substantially complete Phase I and to apply for redistricting of Phase II.

DOCKET NO. A81-525 - Y-O LIMITED PARTNERSHIP

Done at Honolulu, Hawaii, this 12th day of January 1988
per motions on October 27, 1987 and December 18, 1987.

LAND USE COMMISSION
STATE OF HAWAII

By *T. P. Tacbian*
TEOFILO PHIL TACBIAN
Chairman and Commissioner

By *Frederick P. Whittemore*
FREDERICK P. WHITTEMORE
Vice Chairman and Commissioner

By *Toru Suzuki*
TORU SUZUKI
Commissioner

By *Robert S. Tamaye*
ROBERT S. TAMAYE
Commissioner

By *Richard B. F. Choy*
RICHARD B. F. CHOY
Commissioner

By *Lawrence F. Chun*
LAWRENCE F. CHUN
Commissioner

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CERTIFICATE OF SERVICE

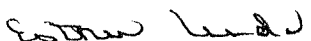
I hereby certify that a copy of the Order Approving Motion For Extension Of Time To Apply For Redistricting Of Phase II was served upon the following by either hand delivery or depositing the same in the U.S. Postal Service by certified mail:

ROGER A. ULVELING, Director
Department of Business and Economic Development
State of Hawaii
250 South King Street
Honolulu, Hawaii 96813

CERT. ALBERT LONO LYMAN, Planning Director
Hawaii County Planning Department
25 Aupuni Street
Hilo, Hawaii 96720

CERT. STEPHEN J. MENEZES, ESQ., Attorney for Petitioner
Menezes, Tsukazaki & Yeh
100 Pauahi Street, Suite 204
Hilo, Hawaii 96720

DATED: Honolulu, Hawaii, this 12th day of January 1988.



ESTHER UEDA
Executive Officer