

BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Petition of )  
Y-O LIMITED PARTNERSHIP )  
To Amend the Agricultural Land Use )  
District Boundary into the Urban )  
Land Use District for Approxi- )  
mately 410.913 Acres at Koloko and )  
Kohanaiki, North Kona, Hawaii, )  
Tax Map Key No.: 7-3-09:19 )  
\_\_\_\_\_ )

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.

NOV 17 1992

Date

by

*[Signature]*  
Executive Officer

ORDER GRANTING MOTION FOR SECOND EXTENSION OF  
TIME TO APPLY FOR REDISTRICTING OF PHASE II  
AND AMENDING CONDITIONS OF THE DECISION AND ORDERS  
DATED JANUARY 20, 1983 AND JUNE 13, 1990

NOV 17 11 18 AM 1992

LAND USE COMMISSION  
HONOLULU, HAWAII

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 )	Y-O LIMITED PARTNERSHIP
To Amend the Agricultural Land Use )	
District Boundary into the Urban )	
Land Use District for Approxi- )	
mately 410.913 Acres at Koloko and )	
Kohanaiki, North Kona, Hawaii, )	
Tax Map Key No.: 7-3-09:19 )	

---

ORDER GRANTING MOTION FOR SECOND EXTENSION OF  
TIME TO APPLY FOR REDISTRICTING OF PHASE II  
AND AMENDING CONDITIONS OF THE DECISION AND ORDERS  
DATED JANUARY 20, 1983 AND JUNE 13, 1990

Y-O Limited Partnership, a Hawaii limited partnership, (hereinafter "Petitioner"), filed its Motion for Second Extension of Time to Apply for Redistricting of Phase II on September 24, 1992 pursuant to Title 15, Subtitle 3, Chapter 15, Sections 70 and 78, Hawaii Administrative Rules, as amended (hereinafter "Commission Rules").

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

## Background

1. By Decision and Order issued January 20, 1983, the Commission redistricted approximately 213.473 acres from the Agricultural to the Urban District (hereinafter "Phase I"), identified as Tax Map Key No.: 7-3-09: 19, at Kaloko and Kohanaiki, North Kona, Hawaii.

2. The Commission also incrementally approved the remaining area of Petitioner's subdivision development, consisting of approximately 195.246 acres (hereinafter "Phase II"), pursuant to State Land Use District Regulation 6-2.

3. On September 21, 1987, Petitioner filed Motion for Extension of Time to Apply for Redistricting of Phase II.

4. By Decision and Order dated January 12, 1988, the Commission approved Petitioner's request and granted a five year time extension to substantially complete Phase I and to apply for redistricting of Phase II.

5. Petitioner states that the five year period expires on January 20, 1993, and that it will not be able to make the required prima facie showing of substantial completion of the on-site and off-site improvements within Phase I (including partial satisfaction of Conditions A, D and E, and full satisfaction of Condition B). Petitioner cites an economic slowdown and delays in obtaining plan approvals as reasons for its delay in initiating construction.

6. Petitioner states that it has made continued progress toward completion of Phase I since its first time

extension. Many of the approvals necessary to proceed with Phase I are expected to be obtained in the near future.

7. 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

8. Both the County of Hawaii Planning Department and the Office of State Planning had no objections to Petitioner's request for a second time extension.

Petitioner's Efforts Towards Development of Phase I

9. Petitioner states that it has expended a total of \$2,547,000 toward the development of Phase I between January 1988 and August 1992 for the following:

- a. Completion of mauka-makai road through Petitioner's property and installation of water transmission lines in road. Obtained County approval of completed mauka-makai road.
- b. Construction of channelized intersection at Hawaii Belt Road (Mamalahoa Highway) and mauka-makai road (Hina Lani Street). Anticipate completion by December 1992.
- c. Revision of final plat map for first increment of Phase I.
- d. Preparation of second map to allow for final subdivision approval of the mauka-makai road.
- e. Approval from the County Department of Public Works on the drainage construction plans. Anticipate obtaining all necessary approvals within the coming year.
- f. Completion of archaeological report. Report awaiting final approval.

Additionally, Petitioner provided the following information regarding its other progress toward the development of Phase I.

- g. Initiated discussions with the County Office of Housing and Community Development (hereinafter "OHCD") on various methods of meeting its affordable housing requirements, and is currently considering a proposal by OHCD.
- h. Conducting negotiations for an off-site water storage tank.

10. The Commission finds that Petitioner has demonstrated progress, and while not meeting the "substantial completion" requirement of the Commission's Decision and Order, Petitioner's efforts are nevertheless substantial in cost and scope and evidences a good faith effort towards compliance.

11. The Commission finds that unforeseen delays in matters such as its development schedule, obtaining various plan and report approvals, and obtaining commitments related to the construction of various infrastructure, or in proceeding with the construction of infrastructure which directly affect the timely development of Phase I, were not under the sole control of Petitioner, and that an extension of time to substantially complete Phase I is justified.

12. The Commission finds that Condition A and E of the Decision and Order issued on June 13, 1990 and January 20, 1983, respectively, should be amended to reflect that the Housing Finance and Development Corporation is the agency responsible for developing affordable housing in the State, and

that the Office of State Planning replaced the Department of Planning and Economic Development, respectively.

13. The Commission finds that two additional conditions be imposed upon Petitioner to reflect the intent and purpose of Section 15-15-90 (a) and Section 15-15-90 (e) of the Commission Rules.

#### CONCLUSIONS OF LAW

The Commission finds upon a preponderance of evidence that pursuant to Chapter 205, Hawaii Revised Statutes, as amended (hereinafter "HRS"), 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, HRS, as amended, Section 6-3 of the Commission's District Regulations, and the Commission Rules.

#### ORDER

IT IS HEREBY ORDERED that Petitioner's motion for a second time extension 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, 1998, to substantially complete Phase I and to apply for redistricting of Phase II, subject to the following conditions to read:

1. Petitioner shall provide housing opportunities for low and moderate income residents by offering for sale, on a preferential basis, on its own or in cooperation with both the Housing Finance and Development Corporation and the County of Hawaii, ten per cent (10%) of the lots or houses and lots to be developed on the subject property, to residents of the State of Hawaii of low and moderate family income as determined by the Housing Finance and Development Corporation and County of Hawaii from time to time. The preferential lots or houses and lots shall be offered for sale at prices not exceeding prices that enable such purchasers to qualify for and obtain state-assisted financing (e.g., Hula Mae) or federally-insured or assisted financing (e.g., FHA Section 245 Program) intended to encourage home ownership by low and moderate income families.
2. Petitioner shall afford lot purchasers public access from the subject property to Queen Kaahumanu Highway and to Mamalahoa Highway by participating in the construction of a roadway connecting the two highways and running through the subject property, the location and standard of design and construction of such roadway to be

approved and accepted by the County of Hawaii. The Petitioner shall be responsible for constructing such portions of the roadway within the subject property. The Petitioner's participation for the portions of the roadway outside the subject property may be by way of loans, loan guaranties, purchase of county obligations or otherwise.

3. Petitioner shall dedicate to appropriate State and County Agencies sufficient land for the provision of necessary public facilities.
4. Petitioner shall submit annual progress reports to the Commission, Office of State Planning and Hawaii County Planning Department as to its progress in satisfying these conditions.
5. These conditions may be fully or partially released by the Commission as to all or any portion of the subject properties upon timely motion and provision of adequate assurance of satisfaction of these conditions by the Petitioner.
6. Petitioner shall develop the Property in substantial compliance with the representations made to the Commission. Failure to so develop the Property may result in reversion of the



Property to its former classification, or change to a more appropriate classification.


7. Petitioner shall give notice to the Commission of any intent to sell, lease, assign, place in trust, or otherwise voluntarily alter the ownership interests in the Property, prior to development of the Property.

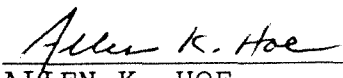
These conditions shall replace all previous conditions imposed by the Commission.


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

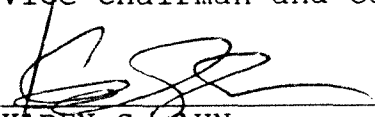
Done at Honolulu, Hawaii, this 17th day of November 1992,  
per motion on October 29, 1992.

LAND USE COMMISSION  
STATE OF HAWAII

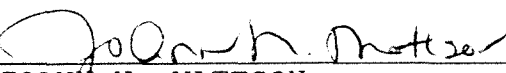
By   
RENTON L. K. NIP  
Chairman and Commissioner

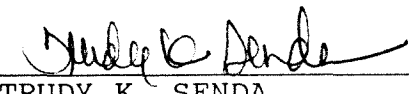
By   
ALLEN K. HOE  
Vice Chairman and Commissioner

By   
ALLEN Y. KAJIOKA  
Vice Chairman and Commissioner

By   
KAREN S. AHN  
Commissioner

By (absent)  
EUSEBIO LAPENIA, JR.  
Commissioner

By   
JOANN N. MATTSON  
Commissioner

By   
TRUDY K. SENDA  
Commissioner

Filed and effective on  
November 17, 1992

Certified by:

  
Executive Officer

By (absent)  
ELTON WADA  
Commissioner

By (absent)  
DELMOND J. H. WON  
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 ) Y-O LIMITED PARTNERSHIP  
)  
To Amend the Agricultural Land Use )  
District Boundary into the Urban )  
Land Use District for Approxi- )  
mately 410.913 Acres at Koloko and )  
Kohanaiki, North Kona, Hawaii, )  
Tax Map Key No.: 7-3-09:19 )  
\_\_\_\_\_)

CERTIFICATE OF SERVICE

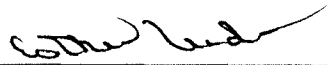
I hereby certify that a copy of the Order Granting Motion for Second Extension of Time to Apply for Redistricting of Phase II and Amending Conditions of the Decision and Orders Dated January 20, 1983 and June 13, 1990 was served upon the following by either hand delivery or depositing the same in the U. S. Postal Service by certified mail:

NORMA WONG, Acting Director  
Office of State Planning  
P. O. Box 3540  
Honolulu, Hawaii 96811-3540

CERT. NORMAN K. HAYASHI, Planning Director  
Planning Department, County of Hawaii  
25 Aupuni Street  
Hilo, Hawaii 96720

CERT. PAUL H. SATO, ESQ, Attorney for Petitioner  
Furutani, Sato, Komatsubara & Marshall  
220 South King Street, Suite 600  
Honolulu, Hawaii 96813

DATED: Honolulu, Hawaii, this 17th day of November 1992.

  
\_\_\_\_\_  
ESTHER UEDA  
Executive Officer