

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In The Matter Of The Petition Of)	DOCKET NO. A04-747
)	
KAMEHAMEHA INVESTMENT)	ORDER DENYING JIM
CORPORATION, A Hawai'i Corporation)	MEDEIROS, SR.'S, UNTIMELY
)	ORAL REQUEST TO
To Amend The Agricultural Land Use District)	INTERVENE ON BEHALF OF
Boundary Into The Rural And Urban Land Use)	HIMSELF AND PROTECT
Districts For Approximately 487.246 Acres Of)	KEOPUKA 'OHANA
Land At Keauhou I And II And Kahalu'u,)	
North Kona, Hawai'i, Tax Map Key: 7-8-05: 1,)	
6, 27, 28, 37, 38, and 39; 7-8-07: 4; And 7-8-10: 6)	
And 9)	
_____)	

ORDER DENYING JIM MEDEIROS, SR.'S, UNTIMELY ORAL REQUEST TO
INTERVENE ON BEHALF OF HIMSELF AND PROTECT KEOPUKA 'OHANA

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On July 8, 2004, the Land Use Commission ("Commission") met in South Kohala, Hawai'i, to consider the Petition For Land Use District Boundary Amendment ("Petition") filed by Kamehameha Investment Corporation, a Hawai'i corporation ("Petitioner"), in the above-entitled docket. At the meeting, Jim Medeiros, Sr., vice-president of Protect Keopuka 'Ohana, orally requested to intervene in the proceedings on behalf of himself and Protect Keopuka 'Ohana based on concerns regarding, among

other things, burials and cultural resources within the Petition Area. The request was untimely¹ and was not accompanied by the \$50 filing fee.

Present at the meeting were R. Ben Tsukazaki, Esq., on behalf of Petitioner; Bobby Jean Leithead-Todd, Esq., and Norman Hayashi on behalf of the County of Hawai'i Planning Department ("Planning Department"); and John W. K. Chang, Esq., and Abe Mitsuda on behalf of the State Office of Planning ("OP").

Petitioner objected to the oral request to intervene on the bases that it was untimely and did not comply with the provisions in section 15-15-52, Hawai'i Administrative Rules ("HAR"), regarding intervention in district boundary amendment proceedings. The Planning Department stated that it had no position on the oral request to intervene. The OP stated that it had no objections to the oral request to intervene if good cause could be shown and if this Commission allowed such intervention in the proceeding.

The Commission questioned Mr. Medeiros on, among other things, (1) whether there was excusable neglect for the untimeliness of his oral request to intervene; (2) the nature and extent of his and his organization's interest in the Petition; and (3) whether the admission of him and his organization as parties would render the proceedings inefficient and unmanageable.

Following discussion, a motion was made and seconded to deny Jim Medeiros, Sr.'s, oral request to intervene on behalf of himself and Protect Keopuka

¹ The deadline to file a timely petition for intervention was June 21, 2004.

`Ohana on the grounds that said request was untimely and there was insufficient basis to establish good cause for the untimeliness. There being a vote tally of 5 ayes, 3 nays, and 1 absent, the motion carried.

ORDER

This Commission, having duly considered Jim Medeiros, Sr.'s, untimely oral request to intervene, the arguments of the parties, the record in this docket, and a motion having been made at its meeting on July 8, 2004, in South Kohala, 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 Jim Medeiros, Sr.'s, untimely oral request to intervene on behalf of himself and Protect Keopuka `Ohana be DENIED.

ADOPTION OF ORDER

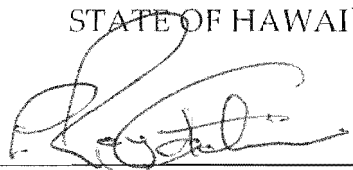
The undersigned Commissioners, being familiar with the record and proceedings, hereby adopt and approve the foregoing ORDER this 20th day of September, 2004. This ORDER and its ADOPTION shall take effect upon the date this ORDER is certified and filed by this Commission.

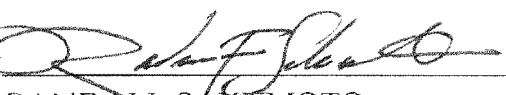
Done at Honolulu, Hawai'i, this 20th day of September, 2004, per motion on July 8,, 2004.

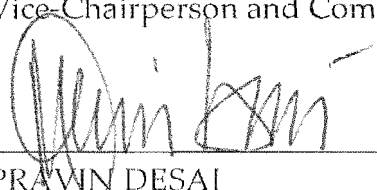
APPROVED AS TO FORM

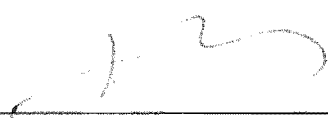

Deputy Attorney General

LAND USE COMMISSION
STATE OF HAWAII

By 
P. ROY CATALANI
Chairperson and Commissioner

By 
RANDALL SAKUMOTO
Vice-Chairperson and Commissioner

By 
PRAWIN DESAI
Commissioner

By 
KYONG-SU IM
Commissioner

By 
ISAAC FIESTA, JR.
Commissioner

By (absent)
STEVEN LEE MONTGOMERY
Commissioner

By 
LISA M. JUDGE
Commissioner

Filed and effective on
SEP 20 2004

By 
MICHAEL D. FORMBY
Commissioner

Certified by:


ANTHONY J. H. CHUNG

By 
PETER YUKIMURA
Commissioner

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the Order Denying Jim Medeiros, Sr.'s,
Untimely Oral Request to Intervene on Behalf of Himself and Protect Keopuka `Ohana
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:

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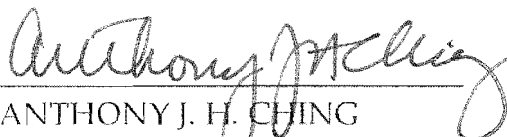
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CERT. MIKAHALA ROY
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Dated: Honolulu, Hawaii, SEP 20 2004.



ANTHONY J. H. CHING
Executive Officer