

ORIGINAL

SMOLENSKI & WOODDELL

ROBERT J. SMOLENSKI 1059-0  
1717 Davies Pacific Center  
841 Bishop Street  
Honolulu, Hawaii 96813  
Telephone No. (808) 524-5750

Attorneys for Petitioner

LAND USE COMMISSION  
STATE OF HAWAII  
APR 1 10 38 AM '96

BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Petition of	)	DOCKET NO. A89-643
	)	
MCCLEAN HONOKOHAU PROPERTIES, a	)	MOTION FOR EXTENSION
Hawaii Limited Partnership	)	OF TIME TO
	)	SUBSTANTIALLY COMPLETE
To Amend the Land Use District	)	INCREMENT I; AFFIDAVIT
Boundary to Reclassify Approxi-	)	OF ROBERT S. McCLEAN;
mately 89.527 acres of land in the	)	EXHIBIT "A";
Conservation and the Agricultural	)	CERTIFICATE OF SERVICE
Districts to the Urban District at	)	
Honokohau, North Kona, Hawaii, Tax	)	
Map Key Nos.: 7-4-08: 26 and 49	)	
	)	

MOTION FOR EXTENSION OF TIME TO  
SUBSTANTIALLY COMPLETE INCREMENT I

Petitioner, McClean Honokohau Properties, a Hawaii limited partnership, submits this Motion for Extension of Time to Substantially Complete Increment I to request that Petitioner be allowed a three year extension to April 16, 1999 in which to substantially complete Increment I of its Property and, upon motion, request redistricting of Increment II.

When the reclassification of Increment I of Petitioner's Property from the Conservation District to the Urban District was

ordered by the Land Use Commission pursuant to the Findings of Fact, Conclusions of Law, and Decision and Order filed herein on April 16, 1991, the Commission also approved Increment II of the Property for incremental development and ordered that redistricting of Increment II from the Conservation and the Agricultural Districts to the Urban District will be granted upon receipt of an application by Petitioner for redistricting of Increment II upon a prima facie showing that Petitioner has made substantial completion of the onsite and offsite improvements within Increment I within five years from April 16, 1991.

Petitioner has made substantial progress in development of Increment I of the Property as set forth in the Affidavit of Robert S. McClean submitted with this Motion. However, Petitioner has not been able to "substantially complete" such development for the reasons set forth in Mr. McClean's Affidavit.

Petitioner is just now able to proceed with the remaining development of Increment I, which requires the relocation of West Hawaii Concrete, Petitioner's major tenant, to another location within Increment I. The relocation of West Hawaii Concrete required a substantial amount of grading to make the new area level and useable. In the period since April 1991, Petitioner has proceeded with and substantially completed its grading plan. It also has developed plans for construction of Road "A," which will run from West Hawaii Concrete's new area to connect with the

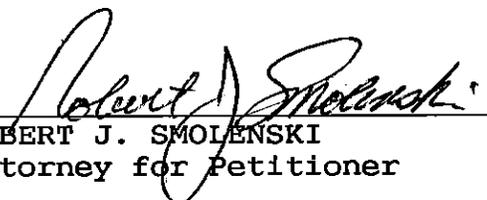
existing access to Queen Kaahumanu Highway, as described in Exhibit "A" to this Motion.

When Road "A" is completed, West Hawaii Concrete will be relocated. After West Hawaii Concrete has been relocated and the remaining road system within Increment I has been completed, which includes a new connection to the existing access road and Road "G" to the Housing Finance and Development Corporation ("HFDC") property line, as described in Exhibit "A" to this Motion, Petitioner will consider Increment I substantially completed.

Petitioner expects to complete the relocation of West Hawaii Concrete by December 31, 1996. Petitioner will complete construction of the access road to Queen Kaahumanu Highway and the onsite portion of Road "G" to the HFDC property line by December 31, 1998. At that point, Increment I will be substantially complete.

In view of the foregoing, Petitioner requests a three year extension to April 16, 1999 within which to substantially complete Increment I and, upon motion, request redistricting of Increment II.

DATED: Honolulu, Hawaii, April 1, 1996.

  
ROBERT J. SMOLENSKI  
Attorney for Petitioner

BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Petition of	)	DOCKET NO. A89-643
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McCLEAN HONOKOHAU PROPERTIES, a	)	AFFIDAVIT OF ROBERT S.
Hawaii Limited Partnership	)	McCLEAN
	)	
To Amend the Land Use District	)	
Boundary to Reclassify Approxi-	)	
mately 89.527 acres of land in the	)	
Conservation and the Agricultural	)	
Districts to the Urban District at	)	
Honokohau, North Kona, Hawaii, Tax	)	
Map Key Nos.: 7-4-08: 26 and 49	)	
	)	

AFFIDAVIT OF ROBERT S. McCLEAN

STATE OF HAWAII )  
 ) SS.  
CITY AND COUNTY OF HONOLULU )

Robert S. McClean, being duly sworn on oath, deposes and says that:

1. I am the Trustee of the Robert S. McClean Trust, which is the general partner of McClean Honokohau Properties, a Hawaii limited partnership, Petitioner herein. The statements made in this Affidavit are true and correct to the best of my knowledge, information and belief, and are submitted in support of Petitioner's motion for an extension of time to substantially complete Increment I of Petitioner's Property.

2. When the reclassification of Increment I of Petitioner's Property was ordered by the Land Use Commission on April 16, 1991, the Commission also approved Increment II of the Property for incremental development and ordered that

redistricting of Increment II from the Conservation and the Agricultural Districts to the Urban District will be granted upon receipt of an application by Petitioner for redistricting of Increment II upon a prima facie showing that Petitioner has made substantial completion of the onsite and offsite improvements within Increment I within five years from April 16, 1991.

3. Petitioner has made substantial progress in development of Increment I of the Property as follows:

- a. 85% of the accessible area is now graded.
- b. The plans for alternate access Road "A" and the onsite portion of Road "G" to the H.F.D.C. property line have been finally approved as of December 1995 and construction is in progress. Road "A" is scheduled for completion by June 1, 1996.
- c. Petitioner's Boat Park has been expanded to accommodate 100 trailerable boats and is 90% occupied.
- d. Belt Collins has developed a Landscape Plan with a permanent irrigation system as required by the County. Water availability is a problem, so Petitioner drilled a water well to obtain sufficient water for irrigation and dust control. The water is brackish and, as a result, the present Landscape Plan features salt-tolerant trees and plants. The present Landscape Plan is ready for submission to H.F.D.C. for its approval, and then will be submitted to the County Planning Department for final approval.

e. The industrial area has been graded and expanded so about 60% is now occupied by industrial tenants.

4. Petitioner has not "substantially completed" such development for the following reasons:

a. The development plan for Increment I included construction of a 60 foot paved road meeting county highway standards across H.F.D.C.'s adjoining property to provide additional and better access for the development. This road is known as Road "G." The county made construction of Road "G" a condition of the rezoning ordinance providing in "Condition J" that Petitioner would not be granted an occupancy permit until the road was completed.

Petitioner had its engineers, Belt Collins, design plans for the construction of Road "G" and the plans were submitted to and approved by the State D.O.T., the County DPW, Department of Health, and all other necessary parties. Petitioner invested more than \$38,000 in development of these plans. After extended negotiations with H.F.D.C. for authority to construct the road, H.F.D.C. denied such authority upon the ground that it did not have clear legal title to ceded lands and the issue was in litigation with OHA.

As a consequence of this denial by H.F.D.C., Petitioner was unable to obtain a permit of occupancy as long as the rezoning condition remained. For this reason, Petitioner filed an

application with the County Planning Department to remove this condition regarding construction of the road. The application was heard and approved by the County Planning Commission on October 25, 1995, and further approved by the Hawaii County Council on January 3, 1996 by Ordinance 96-3.

Petitioner is just now able to proceed with the remaining development of Increment I.

b. Development of Increment I requires the relocation of West Hawaii Concrete, Petitioner's major tenant, to another location within Increment I. The relocation of West Hawaii Concrete required a huge amount of grading to make the new area level and useable. In the period since April 1991, Petitioner has proceeded with and substantially completed its grading plan. It also has developed plans for construction of Road "A," which will run from West Hawaii Concrete's new area to connect with the existing access to Queen Kaahumanu Highway. Petitioner has obtained approval of the plan from D.O.T., County DPW, Dept. of Health, etc., and has Kiewit Pacific currently constructing Road "A," the eight inch sewer line, the twelve inch water line, sidewalks, curbs and gutters, and dry wells with drainage systems.

When Road "A" is completed West Hawaii Concrete will be relocated. After West Hawaii Concrete has been relocated and the remaining road system within Increment I has been completed,

which includes a new connection to the existing access road and Road "G" to the H.F.D.C. property line, Petitioner will consider Increment I "substantially completed."

Petitioner expects to complete the relocation of West Hawaii Concrete by December 31, 1996. Petitioner will complete construction of the access road to Queen Kaahumanu Highway and the onsite portion of Road "G" to the H.F.D.C. property line by December 31, 1998. At that point, Increment I will be substantially complete.

In view of the foregoing, Petitioner requests a three year extension to April 16, 1999 within which to substantially complete Increment I and, upon motion, request redistricting of Increment II.

FURTHER AFFIANT SAYETH NAUGHT.

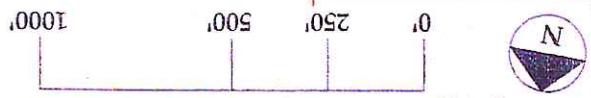
  
ROBERT S. McCLEAN

Subscribed and sworn to before me  
this 26<sup>th</sup> day of February, 1996.



NOTARY PUBLIC  
My commission expires: 8/26/97

*L.S.*



**LEGEND**

	Agriculture
	Conservation
	Urban

Increment 1      Increment 2

60' wide roadway and utility easement  
 proposed Road "G"  
 quarry face  
 proposed mid level arterial  
 Proposed Main Street

land use boundary

mauka

makai

Queen Kaahumanu Highway

Kealahou Parkway

urban      conservation      agriculture

The Villages of La'i'opua Development

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion for Extension of Time to Substantially Complete Increment I; Affidavit of Robert S. McClean; Exhibit "A" was served upon the following by depositing the same in the U.S. Postal Service by certified mail, return receipt requested on the date hereof:

VIRGINIA GOLDSTEIN, Director  
Planning Department  
County of Hawaii  
25 Aupuni Street  
Hilo, Hawaii 96720

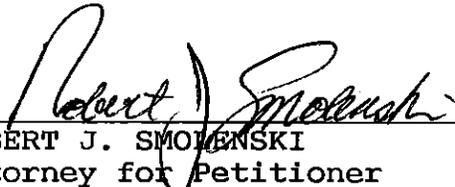
KEVIN BALOG, Chairman  
Planning Commission  
County of Hawaii  
25 Aupuni Street  
Hilo, Hawaii 96720

GREGORY G.Y. PAI, Ph.D., Director  
Office of State Planning  
State Capitol, Room 409  
Honolulu, Hawaii 96813

SANDRA PECHTER SCHUTTE, ESQ.  
101 Aupuni Street, Suite 1014A  
Hilo, Hawaii 96720

Attorney for Intervenors  
Isemoto Contracting Co., Ltd.,  
SJA Partnership, and March E. Taylor

DATED: Honolulu, Hawaii, April 1, 1996.

  
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ROBERT J. SMOLENSKI  
Attorney for Petitioner