

BEFORE THE LAND USE COMMISSION

LAND USE COMMISSION  
STATE OF HAWAII

OF THE STATE OF HAWAII

2003 FEB 26 P 2:00

In the Matter of the Petition of	)	DOCKET NO. A92-683
	)	
HALEKUA DEVELOPMENT	)	ORDER GRANTING OFFICE OF
CORPORATION, a Hawai'i	)	PLANNING'S MOTION FOR AN
corporation	)	ORDER TO SHOW CAUSE TO
	)	RESCIND THE DECISION AND
To Amend the Agricultural Land	)	ORDER DATED ON OCTOBER 1, 1996
Use District Boundary into the	)	
Urban Land Use District for	)	
Approximately 503.886 Acres of Land	)	
at Waikele and Ho'ae'ae, 'Ewa, O'ahu,	)	
City and County of Honolulu,	)	
Hawai'i, Tax Map Key No. 9-4-02: 1,	)	
portion of 52, 70, and 71	)	
_____	)	

ORDER GRANTING OFFICE OF PLANNING'S MOTION FOR AN ORDER TO SHOW  
CAUSE TO RESCIND THE DECISION AND ORDER DATED ON OCTOBER 1, 1996

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ORDER GRANTING OFFICE OF PLANNING'S MOTION FOR AN ORDER TO SHOW  
CAUSE TO RESCIND THE DECISION AND ORDER DATED ON OCTOBER 1, 1996

On October 15, 2002, the Office of Planning ("OP") filed a Motion For An Order To Show Cause To Rescind The Decision And Order Dated On October 1, 1996 ("Motion"), pursuant to sections 15-15-70 and 15-15-93, Hawaii Administrative Rules ("HAR"). OP requested that the Land Use Commission ("Commission") hold an order to show cause hearing and rescind the Amended Findings of Fact, Conclusions of Law, and Decision and Order ("Amended Decision and Order") dated October 1, 1996, to revert the entire 503.886-acre Petition Area to its former designation within the State Land Use Agricultural District. OP stated that since the issuance of the first Findings of Fact, Conclusions of Law, and Decision and Order in this docket, Petitioner Halekua

Development Corporation ("Halekua") has failed to secure financing for the proposed project and to convey the 150-acre agricultural park to the State of Hawai'i as required by Condition Number 19 of the Amended Decision and Order. OP also stated that despite Halekua's sale of a portion of the Petition Area, Halekua did not use the funds to obtain and transfer the agricultural park.

On October 23, 2002, HRT, Ltd. ("HRT"), filed a Memorandum In Opposition Of Office Of Planning's Motion For An Order To Show Cause To Rescind The Decision And Order Dated October 1, 1996.<sup>1</sup>

On October 29, 2002, Halekua filed a Memorandum In Opposition To Office Of Planning's Motion For An Order To Show Cause To Rescind The Decision And Order Dated October 1, 1996.

On January 8, 2003, Halekua filed a Supplemental Memorandum In Opposition To Office Of Planning's Motion For An Order To Show Cause To Rescind The Decision And Order Dated October 1, 1996.

The Commission considered the Motion at its meeting on January 9, 2003, in Honolulu, Hawai'i. John W. K. Chang, Esq., and Abe Mitsuda appeared on behalf of OP. Also present were Jonathan S. Durrett, Esq., and Herbert K. Horita on behalf of Halekua; Reuben S. F. Wong, Esq., on behalf of HRT; Stephen K. C. Mau, Esq., on behalf of Robinson Estate; Richard K. Mirikitani, Esq., on behalf of Castle & Cooke; and

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<sup>1</sup> HRT owns a portion of the Petition Area.

Randall Hara and Mike Watkins on behalf of the City and County of Honolulu  
Department of Planning and Permitting.

At the meeting, Halekua stated that it opposed the Motion. Halekua noted that it had worked out an arrangement with the Department of Education to relinquish Halekua's interest in a lot to a developer who would work with the existing lienholders to develop a school on the site. Halekua also noted that a firm closing date had been established with its new lender to obtain financing for the project. HRT stated that it had no objection to the matter being set for hearing, but it had concerns regarding the merits and substance of the Motion. HRT further requested that it be allowed to intervene as an interested party if the Commission were to set this matter for hearing. During the discussion, it was noted that Halekua previously appeared before this Commission and represented that it was pursuing various funding sources but had yet to secure financing for the project. Following discussion, the Commission noted that there was a sufficient amount of information presented so as to cause the majority of the Commission members to form a belief that there has been a failure by Halekua to comply with Condition Number 19 of the Amended Decision and Order.

Thereafter, a motion was made and seconded to grant OP's Motion and set this matter for a show cause hearing in the latter part of April 2003 as it pertains to the entire approximately 503.886-acre Petition Area, and further to grant HRT intervenor status upon filing a timely application therefor. Following discussion by the

Commissioners, a vote was taken on this motion. There being a vote tally of 5 ayes, 0 nays, and 4 absent, the motion carried.

ORDER

Having duly considered the Motion, the written and oral arguments, and a motion having been made at a meeting conducted on January 9, 2003, in Honolulu, Hawai'i, and the motion having received the affirmative votes required by sections 15-15-13, HAR, and there being good cause for the motion, this Commission ORDERS that OP's Motion be GRANTED and that this matter be set for a show cause hearing in the latter part of April 2003 as it pertains to the entire approximately 503.886-acre Petition Area, and further that HRT will be granted intervenor status upon filing a timely application therefor.

ADOPTION OF ORDER

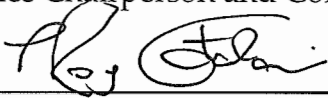
The undersigned Commissioners, being familiar with the record and the proceedings, hereby adopt and approve the foregoing ORDER this 20th day of February 2003. The ORDER and its ADOPTION shall take effect upon the date this ORDER is certified and filed by this Commission.

LAND USE COMMISSION  
STATE OF HAWAII

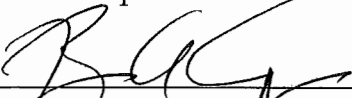
By   
LAWRENCE H.C. ING  
Chairperson and Commissioner

By ABSENT

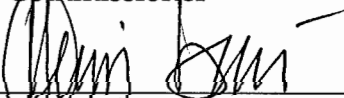
STANLEY H. ROEHRIG  
Vice Chairperson and Commissioner

By 

P. ROY CATALANI  
Vice Chairperson and Commissioner

By 

BRUCE A. COPPA  
Commissioner


By 

PRAVIN DESAI  
Commissioner

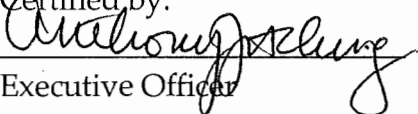
By 

ISAAC FIESTA, JR.  
Commissioner

APPROVED AS TO FORM

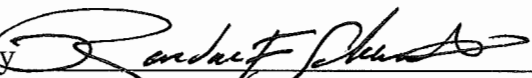
  
Deputy Attorney General

Filed and effective on  
February 26, 2003

Certified by:  
  
Executive Officer

By ABSENT

STEVEN LEE MONTGOMERY  
Commissioner

By 

RANDALL F. SAKUMOTO  
Commissioner

By ABSENT

PETER YUKIMURA  
Commissioner

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Hawai'i, Tax Map Key No. 9-4-02: 1,	)	
portion of 52, 70, and 71	)	
_____	)	

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Order Granting Office Of Planning's Motion For An Order To Show Cause To Rescind The Decision And Order Dated On October 1, 1996 was served upon the following by either hand delivery or depositing the same in the U. S. Postal Service by certified mail:

DEL. MARY LOU KOBAYASHI, Acting Director  
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425 Queen Street  
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DATED: Honolulu, Hawaii, this 26th day of February, 2003.

  
\_\_\_\_\_  
ANTHONY J. H. CHING  
Executive Officer