

LAND USE COMMISSION
MINUTES OF MEETING

March 4, 2005

Maui Prince Hotel Makena Resort
5400 Makena Alanui
Makena, Maui, Hawaii

Commissioners Present: P. Roy Catalani
Michael D. Formby
Kyong-su Im
Steven Montgomery
Randall Sakumoto

Commissioners Absent: Isaac Fiesta
Lisa Judge
Peter Yukimura

Staff Present: Anthony J.H. Ching, Executive Officer
Diane Erickson, Deputy Attorney General
Max Rogers, Staff Planner
Holly Hackett, Court Reporter
Walter Mensching, Audio Technician

Chair Catalani called the meeting to order at 8:35 a.m.

COMMISSION'S POLICY ON REIMBURSEMENT OF
HEARING EXPENSES

Mr. Ching provided a summary of the Commission's reimbursement policy as adopted on April 1, 2004 and amended on October 7, 2004. He indicated that for Docket No. DR04-30, Kuleana Ku`ikahi, the three (3) intervenors have also asked for a hearing. In accepting their application for intervenor status and request for hearing, Mr. Ching noted that along with the Petitioner Kuleana Ku`ikahi, they were eligible to share in the hearing costs for this docket as provided by the Commission's reimbursement policy.

Mr. Ching also noted that as the County of Maui and the Office of Planning were required parties, they would not be subject to participating in the reimbursement of hearing expenses.

The Commission discussed questions and requests for clarification made by the public on the reimbursement policy.

DR04-30 KULEANA KU`IKAHI LLC (Maui)

Chair Catalani stated that this was an action meeting to Consider Petitioner's Exceptions To Order Dismissing Issues 2, 3, 4, 6 and 7; and Setting Issues 1 and 5 Of Petition For Declaratory Order For Hearing Dated December 14, 2004.

APPEARANCES

Richard McCarty, Esq, represented Petitioner

Blaine Kobayashi, Esq., represented Intervenor

James Geiger, Esq, represented Intervenor

Jane Lovell, Deputy Corporation Counsel, County of Maui, Department of Planning

John Chang, Deputy Attorney General, represented State Office of Planning

Abe Mitsuda, State Office of Planning

Mary Alice Evans, State Office of Planning

Vice Chair Sakumoto had a concern related to correspondence that the Commission received today.

EXECUTIVE SESSION

Vice Chair Sakumoto moved that the Commission enter into executive session under §92-5(a)(4) to discuss the board's powers, duties, privileges, immunities, and liabilities with its Deputy Attorney General. The motion was seconded by Commissioner Im. Said motion was unanimously approved by voice votes.

The Commission entered into executive session at 8:50a.m. The meeting adjourned at 9:19 a.m.

The Commission reconvened the open meeting at 9:21 a.m.

Chair Catalani stated that counsel has advised the Commission that the correspondence received earlier from Mr. McCarty was not appropriate, but could possibly be considered a motion for reconsideration. The Commission then entertained Mr. McCarty's filing as a motion for reconsideration.

Commissioner Formby noted that in reference to the Petitioner's Exceptions to Order Dismissing Issues 2, 3, 4, 6 and 7; and Setting Issues 1 and 5 of Petition for Declaratory Order for Hearing, he has examined Petitioner's filing and did not find any new facts or law brought to the Commission that merits a motion for reconsideration.

Mr. McCarty acknowledged that his correspondence did not contain any new facts or law.

After a brief discussion, Vice Chair Sakumoto moved that the Commission deny the motion for Petitioner's Exception for reconsideration under §15-15-84 HAR. The motion was seconded by Commissioner Formby. The Commission was polled as follows:

Ayes: Commissioners Sakumoto, Formby, Im, Montgomery, and Catalani.

The motion passed with 5 ayes, 1 abstain, and 2 absent.

Chair Catalani discussed the tentative hearing officer's schedule and indicated that the dates may be changed.

Mr. Geiger inquired about his correspondence letter that was just received by the Commission.

Chair Catalani commented that the Commission could not consider his correspondence due to the timing of his submittal and because the agenda could not be amended to accommodate his request.

The meeting adjourned at 9:29 a.m.

(Please refer to LUC Transcript of March 4, 2005 for more details on this matter.)