

**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES OFFICE OF
CONSERVATION AND COASTAL LANDS
Honolulu, Hawaii**

January 27, 2012

CDUP: HA-3520

**Board of Land and
Natural Resources
State of Hawaii
Honolulu, Hawaii**

REGARDING: Time Extension Request for Conservation District Use Permit (CDUP) HA-3520 Regarding Initiation and Completion of Construction of a Single Family Residence and Related Improvements

**PERMITTEE/
LANDOWNER:** Edward and Mariko Bilinsky

LOCATION: Waawaa, Puna, Hawaii

TMK: (3) 1-4-028:009

AREA OF USE: ≈ 4,000-ft²

SUBZONE: Resource

BACKGROUND:

On February 11, 2010, the Board of Land and Natural Resources (Board) approved CDUA HA-3520 for the construction of a residence and related improvements subject to thirty-two conditions. Condition 8 provides that, "Any work done or construction to be done on the land shall be initiated within one year of the approval of such use, in accordance with construction plans that have been signed by the chairperson, and, unless otherwise authorized shall be completed within three years of the approval of such use. The applicant shall notify the department in writing when construction activity is initiated and when it is completed."

On October 19, 2010, the Department approved the request for a first time extension on the construction initiation deadline to February 11, 2012, with the deadline for completion by February 11, 2015 (**Exhibit A**).

TIME EXTENSION REQUEST:

On December 7, 2011, the Office of Conservation and Coastal Lands (OCCL) received a correspondence requesting an extension of the construction initiation and completion dates. Further conversations with property owner, Mr. Bilinsky indicated that the request was for a two-year initiation and completion of construction.

The Bilinsky's work that is consulting with Kona schools have kept them busy on the west side and it has not been feasible to begin construction. It is their intention to hand clear the driveway and building footprint (**Exhibit B**). Staff notes, construction plans have been modified and approved to decrease the residence to less than 2,000-ft². An extension to February 11, 2014 to initiate construction and to complete construction by February 11, 2017 is proposed.

AUTHORITY FOR GRANTING TIME EXTENSIONS:

The authority for the granting of time extensions is provided in §13-5-43, Hawaii Administrative Rules (HAR), which allows for Permittees to request time extensions for the purpose of extending the period of time to comply with the conditions of a permit.

Additionally, §13-5-43 (c), states that: "Time extensions may be granted by the board upon the second or subsequent request for a time extension on a board permit, based upon supportive documentation from the applicant."

BASIS FOR TIME EXTENSIONS:

A time extension may be sought when a permittee is unable to initiate or complete a project within the stipulated time frame. The Board grants time extensions when a permittee demonstrates some sort of hardship or delay in initiating work on a particular project. Moreover, the permittee should be able to demonstrate that the hardship or delay has not been self-imposed and that some good faith effort has been made to undertake the project.

DISCUSSION:

In the present case, none of these factors suggest any reason to deny the requested time extension. The Bilinsky's have submitted all the required documents to obtain permits and approvals to initiate project construction. Approval of the time extension request shall provide the additional time needed to initiate and complete the residence. Should the Board choose to approve this request, the Bilinsky's will have had four years to initiate construction and seven years to complete construction. Staff therefore, has the following:

RECOMMENDATION:

That the Board of Land and Natural Resources **APPROVE** an extension to February 11, 2014 to initiate construction and an extension to February 11, 2017, to complete

construction of a Single Family Residence and related improvements located at Waawaa, Puna, Hawaii, TMK: (3) 1-4-028:009 subject to the following conditions:

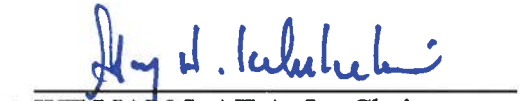
1. That condition 8 of CDUP HA-3520 is amended to provide that the Bilinsky's have until February 11, 2014 to initiate construction and must complete construction by February 11, 2017;
2. That all other conditions imposed by the Board under CDUP HA-3520, as amended, shall remain in effect; and
3. That no further extensions be given to initiate construction.

Respectfully submitted,



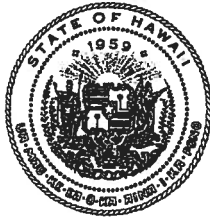
K. Tiger Mills, Staff Planner
Office of Conservation and Coastal Lands

Approved for submittal:



WILLIAM J. AILA, Jr., Chairperson
Board of Land and Natural Resources

LINDA LINGLE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

Laura H. Thielen
Chairperson
Board of Land and Natural Resources
Commission on Water Resource Management

Paul J. Conry
Acting First Deputy

Lenore N. Ohye
Acting Deputy Director - Water

Aquatic Resources
Boating and Ocean Recreation
Bureau of Conveyances
Commission on Water Resource Management
Conservation and Coastal Lands
Conservation and Resources Enforcement
Engineering
Forestry and Wildlife
Historic Preservation
Kahooolawe Island Reserve Commission
Land
State Parks

REF:OCCL:TM

Time Extension: HA 11-8

OCT 19 2010

Edward Bilinsky
78-7045 Kaluna Street, #150
Kailua-Kona, HI 96740

SUBJECT: Time Extension Request for Conservation District Use Permit (CDUP) HA-3520 Regarding Initiation and Completion of Construction of a Single Family Residence and Related Improvements Located at Waawaa, Puna, Hawaii, TMK: (3) 1-4-028:009

Dear Mr. Bilinsky:

The Department is in receipt of your letter, dated October 7, 2010 regarding the subject request. According to your information, you are requesting a 1-year time extension to initiate and complete construction. You have encountered challenges regarding complying with permit conditions and had to seek counsel. You are unsure as to when all approvals shall be gained and you must still seek a contractor (**Exhibit 1**).

CDUP HA-3520 was approved by the Board of Land and Natural Resources on February 11, 2010 for a single-family residence and related improvements subject to thirty-two (32) terms and conditions. Condition # 8 states,

"Any work done or construction to be done on the land shall be initiated within one year of the approval of such use, in accordance with construction plans that have been signed by the chairperson, and, unless otherwise authorized shall be completed within three years of the approval of such use. The applicant shall notify the department in writing when construction activity is initiated and when it is completed."

Departmental records indicate that you have submitted a conservation/landscaping plan as well as a long-term conservation maintenance plan and you have revised your house plans to less than 2,000-ft² under roof. Your counsel has filed your deed recordation and waiver and indemnification with the Department. In addition, your approved construction plans are included with this correspondence.

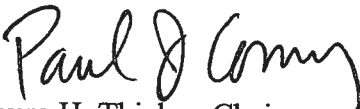
Pursuant to the Hawaii Administrative Rules (HAR), §13-5-43, TIME EXTENSIONS (b), "time extension may be granted as determined by the Chairperson on all departmental permits and on the first request for extension of a board permit of up to two years to initiate or complete a project, based on supportive documentation from the applicant."

EXHIBIT A

Therefore, the Department is granting a 1-year time extension to CDUP HA-3520. Construction shall be initiated prior to February 11, 2012 and shall be completed by February 11, 2015. All other conditions imposed by the Board under CDUP HA-3520 shall remain in effect.

Should you have any questions regarding this matter, contact Tiger Mills of our Office of Conservation and Coastal Lands staff at (808) 587-0382.

Sincerely,


for Laura H. Thielen, Chairperson
Board of Land and Natural Resources

c: HDLO
County of Hawaii, Department of Planning

Text #A
11-8

October 7, 2010

RECEIVED
OFFICE OF CONSERVATION
& COASTAL LANDS

Ed Bilinsky
78-7045 Kaluna Street #150
Kailua Kona, Hawaii

2010 OCT 12 P 2: 29

DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

State of Hawaii
Department of Land and Natural Resources
Office of Conservation and Coastal Lands
Post Office Box 621
Honolulu, Hawaii

Dear Mr. Lemmo,

As per my conversation with Tiger Mills on October 4th, 2010 I am requesting an extension for initiating construction on the property located at Waawaa, Puna.

On February 11, 2010 the Board of Land and Natural Resources approved our conservation district use application HA-3520 for a single family residence and related improvements located at Waawaa, Puna island of Hawaii TMK(3)1-4-028:009.

It was necessary to hire an attorney to assure that the conservation district use permit approval has been placed in recordable form as a part of the deed instrument, prior to submission of approval of subsequent construction plans. I originally submitted the confirmation letter of permit approval sent by Jeff Melrose, my land use planner, along with a check for \$30.00 to the Bureau of Conveyances on April 20th, 2010. The letter was returned with a note "Need doc not letter". At this juncture in time the land planner advised me to hire an attorney to deal with the situation. As of this date, October 4th 2010, I have not received any notification from DLNR in response to the attorney's submittal of noted conditions to the approval that was sent on September 8, 2010. I am awaiting correspondence from DLNR to apply for the county building permit. I am presently interviewing certified, licensed contractors.

Due to the above circumstances, I am asking for a year extension (from February 11, 2010) to build a foundation and an additional year to complete construction. Thank you for your anticipated cooperation.

Sincerely,



Edward Bilinsky

EXHIBIT I

TM Text HA-3520

Saturday, December 3, 2011

Ed Bilinsky
78-7045 Kaluna St., #015
Kailua-Kona, HI 96740

State of Hawaii
Department of Land and Natural Resources
Office of Conservation and Coastal Lands
P.O. Box 621
Honolulu, HI 96809

RECEIVED
OFFICE OF CONSERVATION
AND COASTAL LANDS
2011 DEC - 1 A 9:54
DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

Dear Tiger,

As per our conversation on Thursday, December 1, 2011, I am requesting an extension for initiating construction on the property located at Waawa'a Puna.

On October 19, 2010, the Department granted us a 1-year time extension to CDUP HA-3520. Construction was granted to be initiated prior to February 11, 2012 and to be completed by February 11, 2015.

During the last two years we have been consulting extensively with the Kona schools and it has not been feasible for us to begin construction. Our intention is to hand clear the driveway and building footprint and would like to request an extension on the February 11, 2012 initiation date so this may be completed.

Your consideration in this matter is greatly appreciated.

Sincerely,

Edward S Bilinsky
Mariko Bilinsky
Edward and Mariko Bilinsky

1/3 Initiation/Completion 2 yr Reg.

EXHIBIT B