

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of) DOCKET NO. A80-497
))
HULU MANU ASSOCIATES) HULU MANU ASSOCIATES
))
To Amend the Agricultural Land Use))
District Boundary to Reclassify))
Approximately 2.45 Acres, TMK:))
4-6-09: portion of 73, at Kapaa,))
Island and County of Kauai, into))
the Urban Land Use District))
_____))

DECISION

THE PETITION

This matter arises from a Petition for an amendment to the Land Use Commission district boundary filed pursuant to Section 205-4 of the Hawaii Revised Statutes, as amended, and Part VI, Rule 6-1 of the Land Use Commission's Rules of Practice and Procedure and District Regulations by Hulu Manu Associates who is requesting that the designation of the subject property be amended from the Agricultural to the Urban District. The requested change consists of property comprising approximately 2.45 acres of land, situated at Kapaa, Island and County of Kauai. The subject property is more particularly identified as Tax Map Key No. 4-6-09: portion of 73.

PURPOSE OF PETITION

Petitioner's stated purpose for requesting the reclassification of the subject property from Agricultural to Urban is so that Petitioner can subdivide the subject remnant property into 16 smaller lots and consolidate them with the abutting residential lots in Hulu Manu Subdivision. The proposed subdivision will result in 16 lots ranging in size

from 2,437 square feet to 19,293 square feet. The owners of the abutting residential lots in the Hulu Manu Subdivision have agreed to accept the additional lands from the Petitioner at no additional costs.

THE PROCEDURAL HISTORY

The Petition was received by the Land Use Commission on September 24, 1980 and an Amendment to the Petition was received by the Land Use Commission on October 8, 1980. Due notice of the hearing on this Petition was published on December 26, 1980, in The Garden Island and The Honolulu Advertiser. Notice of the hearing was also sent by certified mail to all parties involved herein on December 27, 1980. No timely application to intervene as a party or appear as a witness was received by the Land Use Commission.

THE HEARING

The hearing on this Petition was held on February 6, 1981, in Lihue, Kauai, Hawaii.

Hulu Manu Associates, the Petitioner herein, was represented by Walton D. Y. Hong, Esq.; the County of Kauai was represented by Michael Belles, Esq.; and the Department of Planning and Economic Development was represented by Daniel Yasui.

The witnesses presented by the aforementioned parties were as follows:

Petitioner:

Raymond E. Hoe

County of Kauai:

Keith Nitta

Department of Planning and Economic Development:

Daniel Yasui

POSITION OF THE PARTIES

County of Kauai - Denial.

Department of Planning and Economic Development -
Approval.

APPLICABLE REGULATION

Standards for determining the establishment of an Urban District are found under Part II, Section 2-2(1) of the State Land Use Commission's District Regulations. Said regulation provides in pertinent part that:

- "(1) 'U' Urban District. In determining the boundaries for the 'U' Urban District, the following standards shall be used:
- (a) It shall include lands characterized by 'city-like' concentrations of people, structures, streets, urban level of services and other related land uses.
 - (b) It shall take into consideration the following specific factors:
 - 1. Proximity to centers of trading and employment facilities except where the development would generate new centers of trading and employment.
 - 2. Substantiation of economic feasibility by the petitioner.
 - 3. Proximity to basic services such as sewers, water, sanitation, schools, parks, and police and fire protection.
 - 4. Sufficient reserve areas for urban growth in appropriate locations based on a ten (10) year projection.
 - (c) Lands included shall be those with satisfactory topography and drainage and reasonably free from the danger

of floods, tsunami and unstable soil conditions and other adverse environmental effects.

- (d) In determining urban growth for the next ten years, or in amending the boundary, lands contiguous with existing urban areas shall be given more consideration than non-contiguous lands, and particularly when indicated for future urban use on State or County General Plans.
- (e) It shall include lands in appropriate locations for new urban concentrations and shall give consideration to areas of urban growth as shown on the State and County General Plans.
- (f) Lands which do not conform to the above standards may be included within this District:
 - 1. When surrounded by or adjacent to existing urban development; and
 - 2. Only when such lands represent a minor portion of this District.
- (g) It shall not include lands, the urbanization of which will contribute towards scattered spot urban development, necessitating unreasonable investment in public supportive services.
- (h) It may include lands with a general slope of 20% or more which do not provide open space amenities and/or scenic values if the Commission finds that such lands are desirable and suitable for urban purposes and that official design and construction controls are adequate to protect the public health, welfare and safety, and the public's interests in the aesthetic quality of the landscape."

FINDINGS OF FACT

The Panel of the Land Use Commission, after having duly considered the record in this docket, the testimony of the witnesses and the evidence adduced herein, makes the following findings of fact:

1. The subject property, owned by the Petitioner herein, is located at Kapaa, Island and County of Kauai, and consists of approximately 2.45 acres, more particularly described as Tax Map Key No. 4-6-09: portion of 73. The subject property is part of the Hulu Manu Subdivision which received final subdivision approval on June 27, 1979. Because the Urban Land Use District boundaries did not coincide with the parcels' boundaries, it was not possible to subdivide the entire parcel into residential lots, which resulted in the subject property as a long, narrow remnant lot. The subject property is situated approximately 1.5 miles northwest of Kapaa Town and lies along the northern boundary of the Hulu Manu Subdivision, off Kawaihau Road. The subject property is a long, narrow parcel which abuts the rear of 18 lots in the Hulu Manu Subdivision.

2. The subject property is currently located within the State Land Use Agricultural District. The subject property is designated "Open" on the Kauai General Plan and is zoned for agricultural use. The proposed subdivision and consolidation will require both a General Plan amendment and rezoning by the County of Kauai. The subject property does not lie within the Special Management Area.

3. The subject property abuts lands classified as Urban on its southern border. Lands to the north, east and west of the subject property lie in the Agricultural District.

4. At present, the subject property is vacant. According to the Detailed Land Classification for the Island of Kauai, prepared by the Land Study Bureau, the agricultural productivity rating of the subject property is class "E." In addition, the subject property is not classified on the

State Department of Agriculture's Agricultural Lands of Importance to the State of Hawaii (ALISH) maps. Based on these designations and due to the subject property's topography, size and shape, it is not suitable for agricultural activities, except for marginal cattle grazing as noted by the Soil Conservation Service (SCS).

5. The elevation of the subject property ranges from approximately 150 feet to 175 feet above sea level. Rainfall on the subject property averages between 40 to 50 inches per annum. The existing drainage pattern of the subject property, which will not be altered by the Petitioner, consists of surface water running over the parcel in a south to north direction to the lower portion of the parcel. According to the U. S. Department of the Interior, Geological Survey Map of Flood Prone Areas, 1973, the subject property is not situated within the Flood Prone Area.

6. The soils of the subject property have been classified as Rough Broken Land (rRR) by the U.S.D.A. Soil Conservation, Soil Survey. These lands are characterized as steep and broken by intermittent drainage channels and are used primarily for watershed and wildlife habitat, as well as for pasture and woodland purposes. The slope of the subject property ranges between 20% to 30%.

7. Due to the slope of the subject property and the concerns expressed by Kauai County and the Department of Planning and Economic Development, the Petitioner agreed during the course of the hearing to the imposition of the condition that cesspools shall not be constructed on the subject property and no structures shall be constructed on portions of the subject property having a slope in excess of 20%.

8. The proposed reclassification will have no significant effect upon the environment, agriculture, recreational resources, scenic resources, endangered species of flora or fauna, or any other resources in the area.

9. As it is proposed that the subject property will be subdivided and consolidated with the abutting residential lots, as opposed to creating additional lots, the reclassification of the subject property will not unreasonably burden public agencies to provide necessary urban amenities, services and/or facilities.

10. Based on a review of the Petition, the evidence adduced at the hearing, and the provisions of Chapter 205, Hawaii Revised Statutes, the Department of Planning and Economic Development has recommended that the reclassification of the subject property be approved.

CONCLUSIONS OF LAW

Reclassification of the subject property, consisting of approximately 2.45 acres of land, situated at Kapaa, Island and County of Kauai, from Agricultural to Urban and an amendment to the district boundaries accordingly is reasonable and non-violative of Section 205-2 of the Hawaii Revised Statutes.

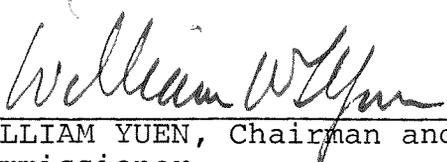
ORDER

FOR GOOD CAUSE APPEARING, it is hereby ordered that the property which is the subject of the Petition in this Docket No. A80-497, consisting of approximately 2.45 acres, situated at Kapaa, Island and County of Kauai, identified as Tax Map Key No. 4-6-09: portion of 73, shall be and hereby is reclassified from Agricultural to Urban with

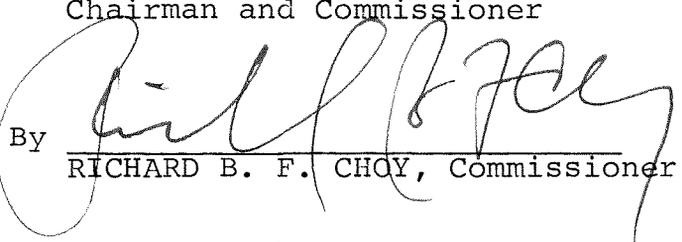
the condition that cesspools shall not be constructed on the subject property and no structures shall be constructed on portions of the subject property having a slope in excess of 20%, and the district boundaries are amended accordingly.

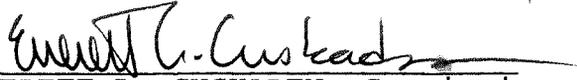
DONE at Honolulu, Hawaii, this 27th day of July, 1981, per Motion on July 9, 1981

LAND USE COMMISSION
STATE OF HAWAII

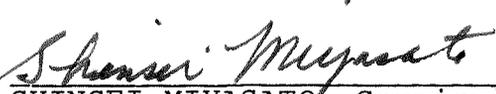
By 
WILLIAM YUEN, Chairman and
Commissioner

By 
CAROL B. WHITESELL, Vice-
Chairman and Commissioner

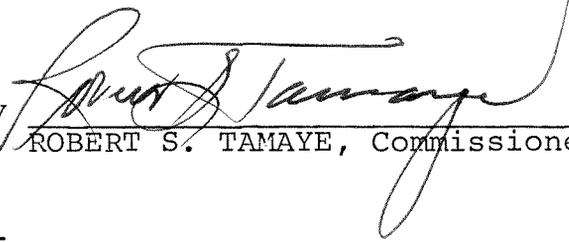
By 
RICHARD B. F. CHOY, Commissioner

By 
EVERETT L. CUSKADEN, Commissioner

By 
C. W. DUKE, Commissioner

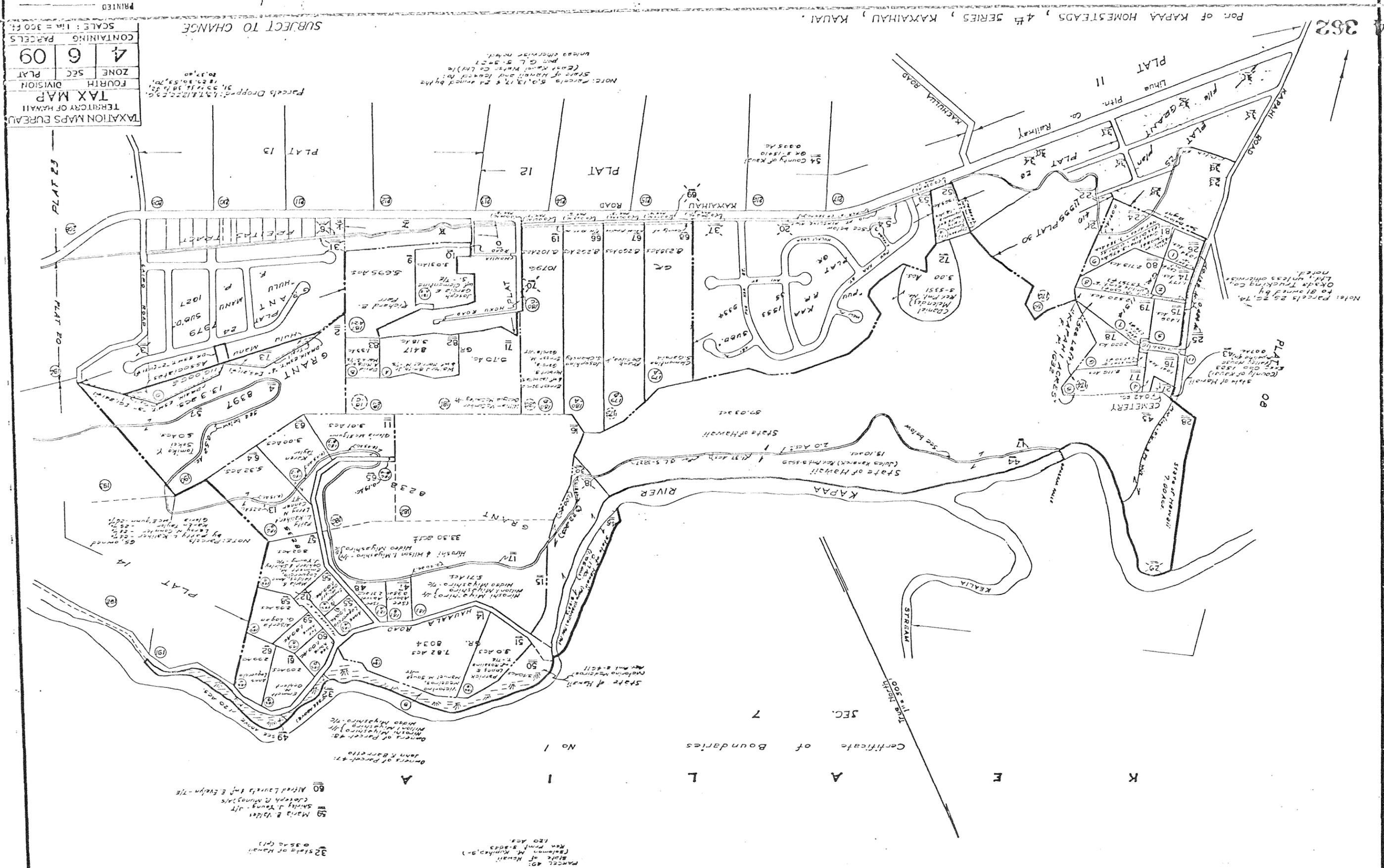
By 
SHINSEI MIYASATO, Commissioner

By 
TEOFILO TACBIAN, Commissioner

By 
ROBERT S. TAMAYE, Commissioner

A80-497 HULU MANU ASSOCIATES

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SUBJECT TO CHANGE

Parcels Dropped: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 18, 19, 20, 21, 23, 24, 26, 27, 28, 29, 31, 32, 33, 34, 36, 38, 39, 41, 43, 44, 46, 48, 49, 51, 53, 54, 56, 58, 61, 63, 64, 66, 68, 71, 73, 74, 76, 78, 81, 83, 84, 86, 88, 91, 93, 94, 96, 98, 99, 101, 102, 103, 104, 105, 106, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200.

NOTE: Parcels 5, 13, 17, & 24 owned by the State of Hawaii and located by: (2007 Kahuia Water Co Ltd) re part G.L. 5-2727

NOTE: Parcels 25, 26, 74, 80 & 81 owned by Okada Trucking Co. Ltd. unless otherwise noted.

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BY R.K.S. - S.I.L.C. JULY, 1956.

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approximately 2.45 acres at Kapaa,)
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the Urban Land Use District)
_____)

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Land Use Commission's Decision and Order was served upon the following by either hand delivery or depositing the same in the U. S. Postal Service by certified mail:

HIDETO KONO, Director
Department of Planning & Economic Development
State of Hawaii
250 South King Street
Honolulu, Hawaii 96813

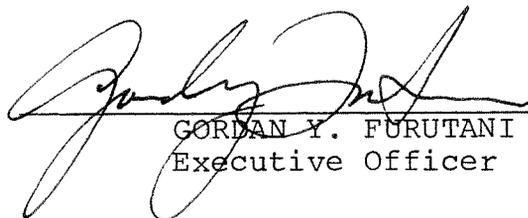
ANNETTE CHOCK, Deputy Attorney General
Department of Attorney General
Capital Investment Building
Penthouse, 850 Richards Street
Honolulu, Hawaii 96813

BRIAN NISHIMOTO, Planning Director
Planning Department
County of Kauai
4280 Rice Street
Lihue, Hawaii 96766

MORRIS SHINSATO, County Attorney
Office of the County Attorney
County of Kauai
4396 Rice Street
Lihue, Hawaii 96766

WALTON D. Y. HONG
Masuoka and Hong
P. O. Box 1727
Lihue, Hawaii 96766

DATED: Honolulu, Hawaii, this 7th day of August, 1981.



GORDAN Y. FURUTANI
Executive Officer