

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAI'I

In the Matter of the Petition of)	DOCKET NO. A88-626
)	
GENSIRO KAWAMOTO)	ORDER GRANTING MOTION
(fka United Realty, Inc.))	FOR ORDER RESCINDING
)	DECISION AND ORDER
To Amend the Agricultural Land)	DATED FEBRUARY 28,
Use District Boundary into the)	1989
Urban Land Use District for)	
Approximately 147.561 Acres of)	
Land at Kihei, Island and County)	
of Maui, State of Hawai'i, Tax)	
Map Key Number: 2-2-02: 2)	
_____)	

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LAND USE COMMISSION
STATE OF HAWAII

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DECISION AND ORDER DATED FEBRUARY 28, 1989

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ORDER GRANTING MOTION FOR ORDER RESCINDING
DECISION AND ORDER DATED FEBRUARY 28, 1989

On June 17, 1996, the Office of State Planning ("OSP") filed a Motion for Order Rescinding Decision and Order dated February 28, 1989 ("Motion"), in Docket No. A88-626 pursuant to section 15-15-70 and section 15-15-93, Hawai'i Administrative Rules ("HAR").

The OSP Motion requests the Land Use Commission ("Commission") to rescind the Decision and Order dated February 28, 1989, in Docket No. A88-626 ("Decision and Order").

The OSP Motion stated in pertinent part that:

1. On July 20, 1988, United Realty, Inc., filed a petition with the Commission in Docket No. A88-626. The petition, as amended, sought to reclassify approximately 147.561 acres of land situated at Kihei, Island and County of Maui, State of Hawai'i ("Property"), from the Agricultural Land Use District to the Urban Land Use District for a residential development.

2. On February 28, 1989, the Commission issued its Decision and Order approving the petition subject to conditions.

3. Among the conditions imposed by the Commission in approving the petition is Condition 12 which required United Realty, Inc., to give notice to the Commission of any intent to sell, lease, assign, place in trust or otherwise voluntarily alter the ownership interest in the Property.

4. On December 5, 1989, Mr. Gensiro Kawamoto ("Petitioner") informed the Commission of his intent to purchase the Property from United Realty, Inc. Petitioner also stated that he agreed to all of the conditions of the Commission's Decision and Order.

5. On January 2, 1996, Ms. Carol Asai-Sato, Esq., Petitioner's representative, transmitted to OSP a copy of a letter dated December 28, 1995, which contained a notice of Petitioner's intent to sell the Property. The letter identified Mr. Ryusuke Kumagaya of Fukuoka, Japan as the purchaser. The letter also stated that the purchaser did not wish to pursue the project described in the Decision and Order, and that the purchaser is prepared to accept redesignation of the Property from the Urban to the Agricultural District.

6. On January 11, 1996, OSP received from Ms. Asai-Sato, a copy of a letter dated January 10, 1995 [sic], which stated that the sale of the Property from Petitioner, as seller, to Mr. Ryusuke Kumagaya, as buyer, closed on December 28, 1995. The letter stated that Ms. Asai-Sato would be acting as Mr. Kumagaya's interim representative in Hawai'i. The letter also

stated that Mr. Kumagaya reiterated that he has no intention or desire to pursue any development on the Property.

7. On February 12, 1996, OSP received from Ms. Asai-Sato, a copy of a letter dated February 8, 1996, which stated that Mr. Kumagaya purchased the Property for an agricultural purpose and that he does not wish to undertake a residential development on the Property.

8. On April 16, 1996, OSP received a copy of a letter dated April 15, 1996, from Ms. Asai-Sato, which reiterated that Mr. Kumagaya had no intention of developing the Property, and that he purchased the Property solely for agricultural purposes and uses. The letter further stated that Mr. Kumagaya would not object to a reclassification of the Property from the Urban District to the Agricultural District.

9. On June 27, 1996, the Commission received a Stipulation of Parties Regarding the OSP Motion ("Stipulation"). The Stipulation provides that the parties agree that OSP's Motion shall be approved by the Commission. The Stipulation was executed in counterparts by Carol Asai-Sato, Esq., on behalf of Ryusuke Kumagaya; Gregory G.Y. Pai, Ph.D., on behalf of OSP; and David W. Blane, on behalf of the County of Maui Planning Department.

10. On June 28, 1996, the Motion came on for hearing before the Commission in Honolulu, Hawai'i. Ann Ogata-Deal, Esq., Deputy Attorney General, appeared on behalf of OSP.

In considering OSP's Motion, the Commission acknowledges that the Commission has the authority, pursuant to

statute and administrative rule, to initiate an order to show cause proceeding in a case where it has reason to believe that there has been a failure to comply with conditions. The Commission, in considering the particular circumstances of this case, which include: 1) the successor landowner, Mr. Kumagaya, specifically stating that he has no intent to develop the Property as described in the Decision and Order; 2) where all parties to the proceeding have not offered any objections; and 3) all parties to the proceeding have stipulated that the Property revert to its former classification; has modified the proceeding by addressing the Motion in lieu of initiating an order to show cause proceeding, pursuant to §15-15-93(b), HAR.

The Commission, having considered the arguments provided by OSP, the Stipulation concerning the Motion, and upon review of the entire record herein, and good cause showing therefrom, rendered an oral decision to grant OSP's motion on June 28, 1996.

Therefore, IT IS HEREBY ORDERED that the Motion for Order Rescinding Decision and Order Dated February 28, 1989, filed by OSP IS HEREBY GRANTED, and the Property, consisting of approximately 147.561 acres, being the subject of Docket Number A88-626, Gensiro Kawamoto (fka United Realty, Inc.), situated at Kihei, Island and County of Maui, Hawai'i, identified as Maui Tax Map Key Number 2-2-02: 2, be reverted from the Urban District to the Agricultural District.

IT IS FURTHER ORDERED that Movant shall record the Commission's Order Granting Motion for Order Rescinding Decision

and Order Dated February 28, 1989, with the Bureau of Conveyances, and shall file a copy of such recorded document with the Commission.

DOCKET NO. A88-626 - GENSIRO KAWAMOTO

Done at Honolulu, Hawaii, this 28th day of June 1996,
per motion on June 28, 1996.

LAND USE COMMISSION
STATE OF HAWAII

By *Allen K. Hoe*
ALLEN K. HOE
Chairperson and Commissioner

By *Trudy K. Senda*
TRUDY K. SENDA
Vice Chairperson and Commissioner

By *Rupert K. Chun*
RUPERT K. CHUN
Commissioner

By *M. Casey Jarman*
M. CASEY JARMAN
Commissioner

By *Lloyd F. Kawakami*
LLOYD F. KAWAKAMI
Commissioner

By (absent)
MERLE A. K. KELAI
Commissioner

By (absent)
EUSEBIO LAPENIA, JR.
Commissioner

Filed and effective on
June 28, 1996

By (absent)
JOANN N. MATTSON
Commissioner

Certified by:

[Signature]
Executive Officer

By *[Signature]*
ELTON WADA
Commissioner

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAI'I

In the Matter of the Petition of) DOCKET NO. A88-626
)
GENSIRO KAWAMOTO) CERTIFICATE OF SERVICE
(fka United Realty, Inc.))
)
To Amend the Agricultural Land)
Use District Boundary into the)
Urban Land Use District for)
Approximately 147.561 Acres of)
Land at Kihei, Island and County)
of Maui, State of Hawai'i, Tax)
Map Key Number: 2-2-02: 2)
_____)

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Order Granting Motion for Order Rescinding Decision and Order Dated February 28, 1989 was served upon the following by either hand delivery or depositing the same in the U. S. Postal Service by certified mail:


GREGORY G.Y. PAI, PH.D., Director
Office of State Planning
P. O. Box 3540
Honolulu, Hawaii 96811-3540

CERT. DAVID W. BLANE, Director of Planning
Planning Department, County of Maui
250 South High Street
Wailuku, Hawaii 96793

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Office of the Corporation Counsel
County of Maui
200 South High Street
Wailuku, Hawaii 96793

CERT. CAROL Y. ASAI-SATO, ESQ., Attorney for Petitioner
Rush Moore Craven Sutton Morry & Beh
745 Fort Street, 20th Floor
Honolulu, Hawaii 96813

DATED: Honolulu, Hawaii, this 28th day of June 1996.



ESTHER UEDA
Executive Officer