

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Petition of)	DOCKET NO. A88-626
UNITED REALTY, INC.)	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 Hawaii, Tax)	
Map Key Number: 2-2-02:2)	
_____)	

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 LAND USE COMMISSION
 HAWAII

ORDER GRANTING MOTIONS FOR CLARIFICATION
OF DECISION AND ORDER AND FOR APPROVAL
OF CHANGE OF OWNERSHIP AND
NAME OF DOCKET

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Gensiro Kawamoto (hereinafter referred to as "Petitioner"), filed Motion For Clarification of Decision and Order on January 5, 1990, and Motion For Approval and Notice of Change of Ownership on January 24, 1990, pursuant to Section 15-15-70 of the Hawaii Land Use Commission Rules.

The State Land Use Commission (hereinafter the "Commission"), having considered Petitioner's motions and supporting affidavit and documents, and the stipulation and arguments of the parties, hereby makes the following findings of facts, conclusions of law and decision and order:

FINDINGS OF FACT

Procedural Matters

1. On January 5, 1990, the Commission received Motion for Clarification of Decision and Order and affidavit from Gensiro Kawamoto.

2. On January 24, 1990, the Commission received Motion for Approval and Notice of Change of Ownership from Gensiro Kawamoto.

3. On February 1, 1990, the Commission conducted a hearing on the motions pursuant to an agenda filed with the Lieutenant Governor's Office on January 23, 1990. The Commission deferred action on the motion to a later date due to concerns raised by the parties as to the requirements of Condition Numbers 1 and 13 of the Decision and Order.

4. On March 5, 1990, the Commission received Stipulation and Agreement of the Parties and Exhibits A-C filed by the Office of State Planning and Petitioner.

5. On March 15, 1990, the Commission received a written statement from Elizabeth Stone.

6. On March 20, 1990, the Commission continued the hearing on the matter pursuant to an agenda filed with the Lieutenant Governor's Office on March 9, 1990. At the hearing, Petitioner orally moved for a name change to the docket to replace United Realty, Inc. with Gensiro Kawamoto in addition to the above two motions.

Petitioner's Basis for the Motions

7. Petitioner's Motion for Clarification of Decision and Order requests the Commission approve an increase in the number of residential units from 880 to 1,050. In support of its motion, Petitioner indicated the following:

"...Petitioner's predecessor-in-interest stated 880 units are to be constructed, however, the number of units presented to the Planning Commission of the County of Maui for its approval has been increased to 1,050 for the reasons that (1) the preliminary estimated cost of the project has increased from an estimated \$15,795,430.00 to an estimated \$20,245,430.00 due to (i) inflation, (ii) the County of Maui's requirement that all of the utility lines shall be placed underground, (iii) additional water resource and appurtenances costs, (iv) additional waste-water facility costs and (2) Petitioner's desire to construct more affordable units. Since the quantity of low-income, low-moderate and moderate units are stated in percentages, to-wit 50.6% of the project, 86 more affordable units will be provided by Petitioner."

8. In support of Petitioner's Motion for Approval and Notice of Change of Ownership, and oral motion for a docket name change to Gensiro Kawamoto, Petitioner provided evidence indicating its ownership of the subject property including a copy of the deed conveying interest in the property which was recorded on December 5, 1989, with the Bureau of Conveyances.

Position of the Parties

9. The Office of State Planning did not object to the motions.

10. The County of Maui Planning Department did not object to the motions.

CONCLUSIONS OF LAW

Pursuant to Chapter 205, Hawaii Revised Statutes and the Hawaii Land Use Commission Rules, the Commission, having considered Petitioner's motions and supporting evidence, the Stipulation of Petitioner and the Office of State Planning and the position of the parties, concludes that granting of the subject motions is reasonable and non-violative of chapter 205 and the Hawaii Land Use Commission Rules.

ORDER

IT IS HEREBY ORDERED that Petitioner's Motion for Clarification of Decision and Order, Motion for Approval and Notice of change of Ownership, and motion to change name of docket to Gensiro Kawamoto, are approved and that the approval of Motion for Clarification of Decision and Order is subject to the following clarifications:

1. Condition no. 13 requires Mr. Kawamoto to offer for sale, and to make a good faith effort to sell, all of the market-priced housing units in the development.

2. Condition no. 1 requires, with regard to the affordable housing unit requirements, that Mr. Kawamoto must make a good faith effort to sell all of the housing units within the development except the 50 units represented at the hearing as being set aside for elderly housing unless agreement is reached between Mr. Kawamoto and the Housing Finance and Development Corporation (HFDC) of the State of Hawaii, and the

County of Maui as to the number of affordable units which may be provided as rentals and as to the rentals to be charged for such units.

Except as clarified or modified herein, all existing conditions contained in the Commission's February 28, 1989 order are continued in full force and effect.

DOCKET NO. A88-626 - UNITED REALTY, INC.

Done at Honolulu, Hawaii, this 10th day of May 1990,
per motion on March 20, 1990.

LAND USE COMMISSION
STATE OF HAWAII

By _____ (absent)
RENTON L. K. NIP
Chairman and Commissioner

By *Frederick P. Whittemore*
FREDERICK P. WHITTEMORE
Vice Chairman and Commissioner

By *Lawrence F. Chun*
LAWRENCE F. CHUN
Commissioner

By _____ (absent)
SHARON R. HIMENO
Commissioner

By _____ (absent)
ALLEN K. HOE
Commissioner

By *Allen Y. Kajioka*
ALLEN Y. KAJIOKA
Commissioner

By *Eusebio Lapenia, Jr.*
EUSEBIO LAPENIA, JR.
Commissioner

By *James M. Shinno*
JAMES M. SHINNO
Commissioner

By *Elton Wada*
ELTON WADA
Commissioner

Filed and effective on
May 10, 1990

Certified by:

Esther Wada
Executive Officer

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_____)	

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Order Granting Motions For Clarification Of Decision And Order And For Approval Of Change Of Ownership And Name Of Docket was served upon the following by either hand delivery or depositing the same in the U. S. Postal Service by certified mail:

HAROLD S. MASUMOTO, Director
Office of State Planning
State Capitol, Room 410
Honolulu, Hawaii 96813

CERT. CHRISTOPHER L. HART, Planning Director
Planning Department, County of Maui
200 South High Street
Wailuku, Hawaii 96793

CERT. GLENN KOSAKA, ESQ.
Corporation Counsel
Office of the Corporation Counsel
County of Maui
200 South High Street
Wailuku, Hawaii 96793

CERT. LAWRENCE N.C. ING , ESQ., Attorney for Petitioner
2145 Wells Street, Suite 204
Wailuku, Hawaii 96793

DATED: Honolulu, Hawaii, this 10th day of May 1990.



ESTHER UEDA
Executive Officer