



BEFORE THE LAND USE COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Petition of	)	DOCKET NO. A03-738
	)	
GENTRY INVESTMENT PROPERTIES	)	FINDINGS OF FACT, CONCLUSIONS OF
	)	LAW, AND DECISION AND ORDER
To Amend the Agricultural Land Use District	)	GRANTING PETITIONER GENTRY
Boundary into the Urban Land Use District	)	INVESTMENT PROPERTIES MOTION
for Approximately 282.614 Acres at	)	RELEASING CONDITIONS 1 THROUGH 22
Honouliuli, 'Ewa District, O'ahu, Hawai'i,	)	IN THE FINDINGS OF FACT,
Tax Map Key Nos.: (1) 9-1-010:007 and 9-1-	)	CONCLUSIONS OF LAW AND DECISION
069:005	)	AND ORDER DATED AND FILED ON
	)	JANUARY 2, 2004; AND CERTIFICATE OF
	)	SERVICE

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**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION AND ORDER**  
**GRANTING PETITIONER GENTRY INVESTMENT PROPERTIES MOTION FOR AN**  
**ORDER RELEASING CONDITIONS 1 THOUGH 22 IN THE FINDINGS OF FACT,**  
**CONCLUSIONS OF LAW, AND DECISION AND ORDER DATED AND FILED ON**  
**JANUARY 2, 2004**  
**AND**  
**CERTIFICATE OF SERVICE**

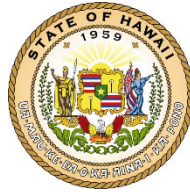
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12/15/2025

BY

DANIEL E. ORODENER

Executive Officer

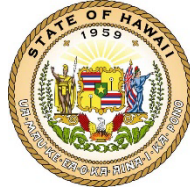


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JANUARY 2, 2004**

The 2025 Motion for Releasing Conditions 1 Through 22 in the Findings of Fact, Conclusions of Law, and Decision and Order dated and filed on January 2, 2004 ("2025 Motion") was filed on January 24, 2025, pursuant to Hawai'i Revised Statutes ("HRS") Chapter 205 and Hawai'i Administrative Rules ("HAR") §§15-15-70 and 15-15-94, and in accordance with Condition No. 20 in the 2004 Decision and Order.

The State of Hawai‘i Land Use Commission (“LUC” or “Commission”), having heard and examined the testimony, exhibits, evidence, and argument of counsel and the parties present, and written and oral testimony by the public, during the September 24, 2025, hearing for GENTRY INVESTMENT PROPERTIES (“Petitioner” or “Gentry”) Motion, along with the pleadings and files herein, hereby makes the following Finding of Facts, Conclusions of Law, and Decision and Order.

### **PROCEDURAL MATTERS**

#### **Previous Procedural Matters**

1. On March 21, 2003, the LUC received the original petition for the District Boundary Amendment to Amend the Agricultural Land Use District Boundary into the Urban Land Use District for approximately 282.614 acres at Honouliuli, ‘Ewa, O‘ahu, Hawai‘i, Tax Map Key Nos.: 9-1-010: 007, and 9-1-069:005 for the development of the ‘Ewa Makai residential community.
2. On January 2, 2004, the Commission issued the Findings of Fact, Conclusions of Law, Decision and Order, and Certificate of Service, which approved the district boundary amendment subject to 22 Conditions (Docket No. A03-738). Condition 20 provided a process for releasing conditions.

#### **2025 Motion to Release Conditions 1 Through 22**

3. On January 24, 2025, the Commission received Petitioner’s Motion, Memorandum in Support of Motion, Declaration of Quentin Machida, Exhibits “1” and “2”, and Certificate of Service (“2025 Motion”).

4. On January 31, 2025, the Commission received a request from the City and County of Honolulu Department of Planning and Permitting (“County” or “DPP”) for an extension of time to file its response to Petitioner’s Motion.
5. On February 3, 2025, the Commission received the State Office of Planning and Sustainable Development’s (“OPSD”) Notice of Position.
6. On April 10, 2025, the Commission received DPP’s letter in Support of Continuing the hearing on Petitioner’s Motion and Continue DPP’s April 10, 2025, Response Deadline.
7. On April 14, 2025, the Commission received Petitioner’s request to reschedule the hearing date on May 7-8, 2025, until September 24-25, 2025. Petitioner requested additional time to provide information that had been requested by the City and County of Honolulu, Department of Planning and Permitting.
8. On August 6, 2025, the Commission received Petitioner’s Supplemental Memorandum in Support of Petitioner’s Motion, Declaration of Quentin Machida, and Exhibits 3 to 22, and Certificate of Service (“Supplemental Memorandum”).
9. On September 5, 2025, the Commission received Petitioner’s Second Supplemental Memorandum in Support of Petitioner’s Motion, Declaration of Quentin Machida, and Exhibits 23 to 32, and Certificate of Service (“Second Supplemental Memorandum”).
10. On September 9, 2025, the Commission received DPP’s Statement of Support for Petitioner’s Motion, Declaration of Franz Krintz, Exhibits A and B, and Certificate of Service.
11. On September 15, 2025, the Commission mailed and emailed its notice of agenda for its September 24, 2025, meeting to all parties, and the O’ahu and Statewide mailing lists.

12. On September 17, 2025, the Commission received public comments from Roseann Freitas in support of Petitioner's Motion which was stamped and posted to the LUC website for public review.
13. On September 18, 2025, the Commission received OPSD's Response to Petitioner's Motion, and Exhibits A and B.
14. On September 19, 2025, the Commission received Petitioner's Third Supplemental Memorandum in Support of Petitioner's Motion, Declaration of Quentin Machida, and Exhibits 33 to 39, and Certificate of Service ("Third Supplemental Memorandum").
15. On September 18, 2025, the Commission received a letter from Watanabe Ing LLP informing that they no longer represented Hawai'i Prince Golf Club.
16. On September 19, 2025, the Commission staff filed its Staff Report with the Commissioners and posted same to the Commission's website for public access and review.
17. On September 22, 2025, the Commission received Petitioner's Amended Certificate of Service for its Third Supplemental Memorandum.
18. On September 24, 2025, the Commission received email correspondence from OPSD and the State Department of Transportation ("DOT") regarding release of Conditions 4 and 5.
19. On September 24, 2025, the Commission held its in-person meeting in Honolulu, O'ahu at the Airport Conference Center (Hawaiian Airlines Terminal Building), 400 Rodgers Boulevard, 7<sup>th</sup> Floor, IIT Suite 700, Room #1, Honolulu, HI 96819, open to the public, to consider the Petitioner's 2025 Motion for an Order to Release Conditions 1 through 22 in the Land Use Commission Decision and Order dated on January 2, 2004.

20. At the hearing the following attended: for Petitioner - Curtis Tabata, Esq., Quentin Machida (CEO Gentry Homes, Ltd.), Brian Maja, Jon Kam, Debra Luning, and Sunny Rosario [09/24/2025 Tr. at 6]; for the DPP - Pono Arias, Esq, Dina Wong and Franz Kraintz [09/24/2025 Tr. at 6-7]; and, for the OPSD - Alison Kato, Esq., Mary Alice Evans, Rachel Beasly and Aaron Setogawa [09/24/2025 Tr. at 7].
21. Eight Commission members present were Brian Lee (Chair), Nancy Carr Smith (Vice-Chair), Ku‘ikeokalani Kamakea-‘Ohelo (Vice-Chair), Mel Kahele, Bruce U‘u, Dan Giovanni, Myles Miyasato, Michael Yamane; with Ken Hayashida (absent).  
Commission staff in attendance: Daniel Orodener (Executive Officer), Martina Segura (Staff Planner), Ariana Kwan (Chief Clerk), and LUC Deputy Attorney General, John Dubiel [09/24/2025 Tr. at 5].
22. In accordance with HRS §84-14, Commissioners were asked by the Chair to disclose any conflicts of interest in any relationship, business, social, or otherwise that they may have with the Petitioner or its representatives or any of the other parties to the proceedings that may give rise to an allegation of bias or impropriety. There were none identified [09/24/2025 Tr. at 7-8]
23. At the September 24, 2025, hearing there were no members of the public present, or online that wished to provide verbal public testimony prior to the parties’ presentations [09/24/2025 Tr. at 10].
24. Staff planner Martina Segura provided a summary of the Staff Report for the record which had been posted to the Commission’s website on September 19, 2025, for public access and review [09/24/2025 Tr. at 10-11].

25. The Commission began the evidentiary portion of the hearing, during which presentations were made by the Petitioner, the DPP and the OPSD. The evidentiary portion of the hearing was closed on September 24, 2025.
26. Following the closing of the evidentiary portion of the hearing, the Commission provided for a second round of public testimony. There were no members of the public present, or online that wished to provide verbal public testimony [09/24/2025 Tr. at 49].
27. After the Petitioner, DPP, and OPSD were given the opportunity to provide final comments, the LUC entered deliberations on this matter. The Commissioners present verified that they had reviewed the record and were prepared to deliberate on the matter. Following discussion, a motion was made to approve the Motion to Release Conditions 1 through 22, and to authorize the Chairperson to sign the Findings of Fact, Conclusions of Law and Decision and Order.
28. The motion received 8 affirmative votes, with one absent, and therefore, the motion passed.

### **FINDINGS OF FACT**

#### **PETITIONER'S POSITION**

29. Petitioner filed a Motion to Release Conditions 1 Through 22 ("2025 Motion" or "Motion") and Exhibits 1 and 2 on January 24, 2025; a Supplemental Memo and Exhibits 3-22 on August 6, 2025; a Second Supplemental Memo and Exhibits 23-32 on September 5, 2025; a Third Supplemental Memo and Exhibits 33-39 on September 19, 2025; an Amended Certificate of Service on September 22, 2025; and introduced Maps 1 and 2, and Images 1, 2, 3, and 4 at the Commission hearing on September 24, 2025.



30. During the LUC's September 24, 2025, hearing, Petitioner presented their arguments and witnesses in support of the Petitioners Motion to Release Conditions 1 through 22 for the following reasons [09/24/2025 Tr. at 11-37]:

- a. 'Ewa Makai is part of a larger project called 'Ewa by Gentry which is 1,283 acres and consisting of approximately 8,500 homes. 'Ewa Makai represents 282 acres and 1,634 homes which have been built and sold as of 2020 [09/24/2025 Tr. at 12; Petitioner's Third Supplemental Memo, Exhibit 38].
- b. Petitioner stated that Condition 1 had been satisfied based on the affordable housing agreement between DPP and Gentry dated November 19, 2004, DPP's agreement letter dated August 1, 2007, and DPP's letter acknowledging fulfillment of the affordable housing requirements and agreements for the larger 'Ewa by Gentry project of which 'Ewa Makai is a part dated March 16, 2020 [Petitioner's Motion, Exhibit 1 Appendices 2 and 3; 09/24/2025 Tr. at 13-14].
- c. Petitioner stated that Condition 2 had been satisfied based on a public facilities agreement with the State Department of Education ("DOE"), the contribution of 18 acres of land to DOE for the construction of a new middle school, a right of entry agreement dated in 2009 to allow entry prior to actual conveyance, and the warranty deed conveying the 18 acres in 2010 [Petitioner's Motion, Exhibit 1 Appendices 4-6; 09/24/2025 Tr. at 14-15].
- d. Petitioner stated that Condition 3 had been satisfied based on the County Department of Environmental Services acceptance letter of the 'Ewa by Gentry wastewater pump station dated March 23, 2011, and Gentry's payments for

upgrades to a pump station from ‘Ewa by Gentry [Petitioner’s Third Supplemental Motion, Exhibits 34-35; 09/24/2025 Tr. At 15].

- e. Petitioner stated that Condition 4 had been satisfied based on payment of ‘Ewa Highway impact fees as of December 31, 2023, participation in building projects that were identified in the ‘Ewa Regional Transportation Projects Matrix, and presentations to ‘Ewa Neighborhood Board regarding traffic improvements [Petitioner’s Supplemental Motion, Exhibit 5; Petitioner’s Supplemental Motion, Exhibits 3-4; 09/24/2025 Tr. At 15-20 (Maja) and 20-24 (Luning)].
- f. Petitioner stated that Condition 5 had been satisfied based on plat maps showing the width of setbacks along Fort Weaver Road and photographic documentation showing the landscaped areas along the road setback areas [Petitioner’s Supplemental Motion, Exhibit 7; 09/24/2025 Tr. At 25-26 (Maja); in mid-hearing Petitioner submitted Maps 1 and 2, and Images 1 to 4].
- g. Petitioner stated that Condition 6 had been satisfied based on Petitioner’s compliance with HRS Chapter 6E and no archaeological resources encountered during development [09/24/2025 Tr. At 27].
- h. Petitioner stated that Condition 7 had been satisfied based on communications and attempted communications with OHA and various people regarding the naming of ‘Ewa Makai Middle School and a private community park [Petitioner’s Supplemental Motion, Exhibits 10-11; 09/24/2025 Tr. At 27].
- i. Petitioner stated that Condition 8 had been satisfied based on the perceived inability for Petitioner to comply with HRS Chapter 342G, the County’s 2019 Integrated Solid Waste Management Plan, and Gentry’s implementation of

responsible solid waste management practices [DPP Statement, Exhibit B; 09/24/2025 Tr. At 27-31].

- j. Petitioner stated that Condition 9 had been satisfied based on an email to OPSD from the DOH Clean Air Branch dated April 4, 2025, and that a review of their records for complaints or enforcement actions shows the condition to be satisfied [OPSD Response, Exhibit A; 09/24/2025 Tr. At 31-32].
- k. Petitioner stated that Condition 10 had been satisfied based on DPP letters accepting ‘Ewa Makai East and ‘Ewa Makai West drainage master plans, [Petitioner’s Motion, Exhibits 1 and 2; 09/24/2025 Tr. At 32-33 and 46-48].
- l. Petitioner stated that Condition 11 had been satisfied based on DPP letters accepting ‘Ewa Makai East and ‘Ewa Makai West drainage master plans, Gentry’s participation in Kalo‘i Gulch regional drainage meetings, and a 2003 agreement with Hawai‘i Prince Hotel to address drainage issues [Petitioner’s Motion, Exhibits 1 and 2; Petitioner’s Supplemental Memo, Exhibit 14; 09/24/2025 Tr. At 34].
- m. Petitioner stated that Condition 12 had been satisfied based on Honolulu Board of Water Supply (“BWS”) letter confirming Gentry Investment Properties and ‘Ewa Makai had fulfilled Condition 12 [Petitioner’s Motion, Exhibit A; 09/24/2025 Tr. At 33-34].
- n. Petitioner stated that Condition 13 had been satisfied based on avigation and noise easements in favor of the State DOT [Petitioner’s Supplemental Memo, Exhibits 15-17; Petitioner’s Second Supplemental Memo, Exhibits 23-32; 09/24/2025 Tr. At 35].

- o. Petitioner stated that Condition 14 had been satisfied based on a project map showing ‘Ewa Makai located outside of the prohibited noise level area [Petitioner’s Supplemental Memo, Exhibit 18; 09/24/2025 Tr. At 35].
- p. Petitioner stated that Condition 15 had been satisfied based on State Civil Defense letter dated August 10, 2005, stating that the siren for the project passed final inspection [Petitioner’s Supplemental Memo, Exhibit 19; 09/24/2025 Tr. At 35].
- q. Petitioner stated that Condition 16 had been satisfied based on a list of energy saving features that were incorporated into homes within ‘Ewa Makai [Petitioner’s Supplemental Memo, Exhibit 20; 09/24/2025 Tr. At 35-36].
- r. Petitioner stated that Condition 17 had been satisfied based on the 2003 proposed ‘Ewa Makai Land Use Plan and the current Land Use Plan showing compliance with representations made to the Commission [Petitioner’s Supplemental Memo, Exhibits 21-22; 09/24/2025 Tr. At 36].
- s. Petitioner stated that Condition 18 had been satisfied based on no change in ownership interest prior to development, so the condition was never made applicable [09/24/2025 Tr. At 36].
- t. Petitioner stated that Condition 19 had been satisfied based on Gentry history of annual report filings to the Commission [Petitioner’s Motion, Exhibit 1; 09/24/2025 Tr. At 36].
- u. Petitioner stated that Condition 20 had been satisfied based on the filing of their motion to request release of conditions [09/24/2025 Tr. At 36].
- v. Petitioner stated that Condition 21 had been satisfied based on documentation showing that a Notice of Imposition of Conditions had been filed within seven

days of the Decision and Order with the State Bureau of Conveyances [Petitioner's Motion, Exhibit 1, Appendix 9; 09/24/2025 Tr. At 37].

- w. Petitioner stated that Condition 22 had been satisfied based on documentation showing that the Declaration of Land Use Conditions had been filed on February 11, 2004, with the State Bureau of Conveyances [Petitioner's Motion, Exhibit 1, Appendix 10; 09/24/2025 Tr. At 37].
31. Petitioner in closing arguments stated that evidence provided by Gentry, DPP, and OPSD constitutes adequate, substantial, and sufficient evidence for the release of all conditions and there was good cause for the Commission to grant Petitioner's motion [09/24/2025, Tr. At 43-44].

#### **OFFICE OF PLANNING AND SUSTAINABLE DEVELOPMENT POSITION**

32. The OPSD filed a Notice of Position on February 3, 2025, a Response to Petitioner's Motion with Exhibits A and B on September 18, 2025, and an email correspondence from OPSD and DOT on September 24, 2025. OPSD reviewed Petitioner's Motion and supporting documents and that it had no objections and was in support of the approval of Petitioner's Motion for the following reasons:
- a. OPSD noted that several conditions directly affect State interests, specifically Conditions 2, 4, 5, 6, 7, 9, 13, 14, and 15. OPSD solicited comments from relevant State agencies by letter dated February 27, 2025, and copies of those letters sent and responses received are contained in OPSD Exhibit A and the email response between OPSD and DOT dated September 24, 2025.
  - b. OPSD stated that Condition 2 had been satisfied based on documents provided by Petitioner and the fact that 'Ewa Makai Middle School was currently in operation

[OPSD Response, pgs. 2-3; Petitioner's Motion, Exhibit 1, Appendices 4 and 6; DPP Statement in Support of Motion, pg. 3]

- c. OPSD stated that Condition 4 has been satisfied based on additional documentation provided by Petitioner to OPSD and review by DOT [OPSD Response, pgs. 2-5; OPSD Exhibit B; Petitioner's Supplemental Memo, Exhibits 5 and 6; Petitioner's Third Supplemental Memo, pg. 2, Exhibits 33 to 36; DPP's Statement, pgs. 4-5; OPSD email from DOT; 09/24/2025 Tr. At 41].
- d. OPSD stated Condition 5 has been satisfied based on maps provided showing the landscaped building setbacks [OPSD Response, pg. 3; Petitioner's Motion, Exhibit 1; Petitioner's Supplemental Memo, Exhibits 7 and 8; DPP's Statement, pgs. 4-5; Petitioner's Third Supplemental Memo, pgs. ; OPSD email from DOT; 09/24/2025 Tr. At 41].
- e. OPSD stated that Condition 6 has been satisfied based on Petitioner's assertion that the 'Ewa Makai development was completed in 2020, and no archaeological resources were encountered. OPSD conducted a search of the State Historic Preservation Division's Hawai'i Cultural Resource Information System ("HICRIS") database and found no archaeological resources reported [OPSD Response, pg. 3].
- f. OPSD stated that Condition 7 has been satisfied based on Petitioner's discussions with the Office of Hawaiian Affairs ("OHA") director of education in 2010 who participated in the naming of the 'Ewa Makai Middle School and a private community park [OPSD Response, pg. 3; Petitioner Motion, Exhibit 1].

- g. OPSD stated that Condition 9 has been satisfied based on Petitioner's consultation with the State Department of Health ("DOH") and OPSD received confirmation from DOH that the condition had been satisfied [Petitioner's Motion, Exhibit 1; OPSD Response, pgs. 3-4; OPSD Exhibit A].
  - h. OPSD stated that Condition 13 has been satisfied based on Petitioner's grant of avigation and noise easements for portions of the property to DOT and DOT's confirmation [OPSD Response, pg. 4; OPSD Exhibit A; Petitioner's Motion, Exhibit 1, Appendix 7; Petitioner's Supplemental Memo, Exhibits 15-17; Petitioner's Second Supplemental Memo, Exhibits 23-32].
  - i. OPSD stated that Condition 14 has been satisfied based on DOT confirmation that no residential units were constructed within areas exposed to noise levels of 65 Ldn or greater [OPSD Response, pg. 4; OPSD Exhibit A; Petitioner's Motion, Exhibit 1].
  - j. OPSD stated that it assumed that Condition 15 has been satisfied based on an August 5, 2005, letter from the State Civil Defense Office stating that a siren had been installed, inspected, and found acceptable [OPSD Response, pg. 4; Petitioner's Motion, Exhibit 1].
33. During the LUC's September 24, 2025, hearing, OPSD presented their arguments and statement in support of the Petitioner's Motion to Release Conditions 1 through 22 [09/24/2025 Tr. At 40-41].

## **COUNTY DEPARTMENT OF PLANNING AND PERMITTING POSITION**

34. The DPP filed a Statement in Support for Petitioner's Motion on September 9, 2025, stating that it supported the release of all conditions [DPP Statement, pgs. 2 and 12].

35. During the LUC September 24, 2025, hearing, DPP represented that it supported the release of all conditions with their focus on Conditions 4, 5, 8, and 10 [DPP Statement, pgs. 2-12; 09/24/2025 Tr. At 38 and 44] for the following reasons:
- a. Regarding Condition 4, DPP stated that impact fees are calculated based on building permits and DPP reviewed and confirmed the numbers provided by Petitioner were accurate [DPP's Statement, pgs. 3-4; 09/24/2025 Tr. At 38].
  - b. Regarding Condition 5, DPP stated that testimony provided at the hearing provides some evidence to determine that there is landscaping in the setback area in addition to the maps provided [Petitioner's Motion, Exhibit 7 and 8; DPP's Statement, pg. 4; 09/24/2025 Tr. At 24-26, 38; Petitioner's Map 1, Map 2, Image 1, Image 2, Image 3, Image 4].
  - c. Regarding Condition 8, DPP stated that the County prepared a solid waste management plan that is now in place that incorporates efficient waste management and reduction strategies to ensure that the intent is met [DPP Statement, Exhibit B; 09/24/2025 Tr. At 39].
  - d. Regarding Condition 10, DPP stated that the additional testimony provided addressed some of the concerns and that DPP had accepted Petitioner's Drainage Master Plan and confirmed that the drainage improvements had been constructed [DPP Statement, pg. 5; 09/24/2025 Tr. At 39 and 48].
36. Based upon the record and files herein, the LUC hereby finds that there is a preponderance of evidence in the record to support granting the Petitioner's Motion to Release Conditions 1 through 22 in the Findings of Fact, Conclusions of Law, and Decision and Order dated and filed on January 2, 2004.



37. After discussion during the September 24, 2025, LUC meeting, a motion was made to approve the Petitioner's 2025 Motion to Release Conditions 1 through 22, and to authorize the Chairperson to sign the Findings of Fact, Conclusions of Law, and Decision and Order. A vote was taken on this motion. There being a vote of 8 ayes, 0 nays, and 1 absent, the motion passed.

### **RULINGS ON FINDINGS OF FACT**

Any of the findings of fact submitted by Petitioner or other parties not already ruled upon by the Commission by adoption herein, or rejected by clearly contrary findings of fact herein, are hereby denied and rejected.

Any conclusion of law herein improperly designated as a finding of fact should be deemed or construed as a conclusion of law; any finding of fact herein improperly designated as a conclusion of law should be deemed or construed as a finding of fact.

### **CONCLUSIONS OF LAW**

1. HAR §15-15-70 Based upon the record and files herein and the findings set forth above, the LUC concludes that there is preponderance of evidence in the record to support the decision below, and is necessary or appropriate in granting the approval, including but not limited to, ensuring the adherence to representations made by the Petitioner.
2. HRS §205-1© authorizes the Commission to “adopt rules guiding its conduct[.]”
3. As defined in HAR §15-15-03,  
“Proceeding” means any matter brought before the commission over which the commission has jurisdiction and shall include, but not be limited to:

- (1) Petitions for district boundary amendment;

- (2) Petitions for special permit;
  - (3) Proceedings for the adoption, amendment, or repeal of rules under sections 91-3 and 205-7, HRS;
  - (4) Petitions for declaratory orders under section 91-8, HRS;
  - (5) An investigation or review instituted or requested to be initiated by the commission; and
  - (6) All other matters in the administration of chapter 205, HRS.
- 4. Pursuant to HAR §15-15-70(a), any party may make a motion before, during, or after the close of hearing.
  - 5. Pursuant to HAR §15-15-94(a), if a petitioner desires to have a modification or deletion of a condition that was imposed by the Commission, or modification of the Commission's order, the petitioner shall file a motion in accordance with HAR §15-15-70 , including proper service and affidavits or declarations if the motion requires the consideration of facts not appearing in the record.
  - 6. HRS §91-10(5) provides "Except as otherwise provided by law, the party initiating the proceeding shall have the burden of proof, including the burden of producing evidence as well as the burden of persuasion. The degree or quantum of proof shall be a preponderance of the evidence."
  - 7. HAR §15-15-59(a), provides that "...Unless otherwise provided by law, the party initiating the proceeding shall have the burden of proof, including the burden of producing evidence and the burden of persuasion."
  - 8. Pursuant to HAR §15-15-94(b), for good cause shown, the Commission may act to modify or delete any of the conditions imposed or modify the Commission's order.

9. The courts have recognized that an agency, acting as a factfinder, has the discretion to determine the credibility of a witness and weigh the evidence before it.<sup>1</sup>

### **DECISION AND ORDER**

The LUC, having duly considered the written and oral arguments presented by the Petitioner, GENTRY INVESTMENT PROPERTIES, the DPP, the OPSD, and members of the public, and a motion having been made and seconded at the meeting on September 24, 2025, held at the Airport Conference Center (Hawaiian Airlines Terminal Building), 400 Rodgers Boulevard, 7<sup>th</sup> Floor, IIT Suite 700, Room #1, Honolulu, O‘ahu, 96819, and the motion having received the affirmative votes required by HAR § 15-15-13, and there being good cause for the motion,

HEREBY FINDS AND CONCLUDES that, pursuant to HRS Chapter 205 and the Commission Rules under HAR chapter 15-15, upon consideration of the decision-making criteria set forth in HRS § 205-17, and based upon the preponderance of the evidence and good cause shown, the Petitioner’s 2025 Motion for Releasing Conditions 1 Through 22 in the Findings of Fact, Conclusions of Law, and Decision and Order dated and filed on January 2, 2004, is GRANTED and Conditions 1 through 22 of the 2004 Decision and Order are now fully satisfied and released.

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<sup>1</sup> *State v. Pioneer Mill Co., Ltd.*, 64 Haw. 168, 179, 637 P. 2d 57, 65 (1996) (citing *Territory v. Adelmeyer*, 45 Haw. 144, 163, 363 P.2d 979, 989 (1961)); *State v. Eastman*, 81 Hawai‘i 131, 139, 913 P.2d 57, 65 (1996); *Sierra Club v. D.R. Horton-Schuler Homes, LLC*, 136 Hawai‘i 505, 52, 364 P.3d 213, 230 (2015); *In re Gray Line Hawai‘i, Ltd.*, 93 Hawai‘i 45, 52-53, 995 P.2d 776, 783-784 (2000); and *Brown-Hunter v. Colvin*, 806 F.3d 487, 492 (9<sup>th</sup> Cir. 2015)).


ADOPTION OF DECISION AND ORDER

The undersigned Commissioners, being familiar with the record and proceedings, hereby adopt and approve the foregoing DECISION AND ORDER on 12/15/2025. This DECISION AND ORDER may be executed in counterparts. This DECISION AND ORDER shall take effect upon the date this DECISION AND ORDER is certified by this Commission.

Done at Honolulu, Hawai'i, this day 12/15/2025, per motion on September 24, 2025.

APPROVED AS TO FORM

LAND USE COMMISSION

  
\_\_\_\_\_  
JOHN DUBIEL, ESQ.  
Deputy Attorney General

STATE OF HAWAI'I

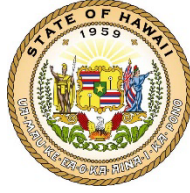
By   
\_\_\_\_\_  
BRIAN LEE  
Chairperson and Commissioner

Filed and effective on:

12/15/2025

Certified by:

  
\_\_\_\_\_  
DANIEL E. ORODENKER  
Executive Officer



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In the Matter of the Petition of	)	DOCKET NO. A03-738
	)	
GENTRY INVESTMENT PROPERTIES	)	FINDINGS OF FACT, CONCLUSIONS OF
	)	LAW, AND DECISION AND ORDER
To Amend the Agricultural Land Use District	)	GRANTING PETITIONER GENTRY
Boundary into the Urban Land Use District	)	INVESTMENT PROPERTIES MOTION
for Approximately 282.614 Acres at	)	RELEASING CONDITIONS 1 THROUGH 22
Honouliuli, 'Ewa District, O'ahu, Hawai'i,	)	IN THE FINDINGS OF FACT,
Tax Map Key Nos.: (1) 9-1-010:007 and 9-1-	)	CONCLUSIONS OF LAW AND DECISION
069:005	)	AND ORDER DATED AND FILED ON
	)	JANUARY 2, 2004; AND CERTIFICATE OF
	)	SERVICE

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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION AND ORDER GRANTING THE MOTION FOR RELEASING CONDITIONS 1 THROUGH 22 IN THE FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION AND ORDER DATED AND FILED ON JANUARY 2, 2004,; was served upon the following, by either hand delivery or depositing the same in the U.S. Postal Service by regular or certified mail on the date appearing below, as follows:

HAND  
DEL.: MARY ALICE EVANS, Director  
LEODOLOFF ASUNCION  
Office of Planning and Sustainable Development  
P. O. Box 2359  
Honolulu, Hawai'i 96804-2359

HAND  
DEL.: ALISON S. KATO, Esq.  
Deputy Attorney General  
Department of the Attorney General  
425 Queen Street  
Honolulu, Hawai'i 96813

HAND  
DEL.: DAWN TAKEUCHI-APUNA, Director  
FRANZ KRAINTZ and DINA WONG  
Department of Planning and Permitting  
City and County of Honolulu  
650 South King Street, 7th Floor  
Honolulu, Hawai'i 96813

HAND  
DEL.: PONO ARIAS, Esq.  
Deputy Corporation Counsel  
Department of the Corporation Counsel  
530 South King Street, Room 110  
Honolulu, HI 96813

CERTIFIED  
DEL.: CURTIS T. TABATA Esq.  
BENJAMIN M. MATSUBARA  
Matsubara, Kotake & Tabata  
888 Mililani Street, Suite 308  
Honolulu, Hawai'i 96813

CERTIFIED  
DEL.: GERICK SHINSATO  
Area Director of Finance - PRH  
100 Holomoana Street  
Honolulu, Hawai'i 96815

CERTIFIED  
DEL.: PETER D. KWAN, Vice President  
Haseko Construction Management Group, Inc.  
c/o Haseko Hawai'i Inc.  
91-1001 Kaimālie Street, #205  
'Ewa Beach, Hawai'i 96706

Dated 12/15/2025

Honolulu, Hawai'i.



DANIEL E. ORODENKER

Executive Officer