

ORIGINAL

BEFORE THE LAND USE COMMISSION

OF THE STATE OF HAWAII

In The Matter Of The Petition Of)	DOCKET NO. A04-747
)	
KAMEHAMEHA INVESTMENT)	ORDER DENYING MIKAHALA
CORPORATION, A Hawai'i Corporation)	ROY'S UNTIMELY ORAL
)	REQUEST TO INTERVENE
To Amend The Agricultural Land Use District)	
Boundary Into The Rural And Urban Land Use)	
Districts For Approximately 487.246 Acres Of)	
Land At Keauhou I And II And Kahalu'u,)	
North Kona, Hawai'i, Tax Map Key: 7-8-05: 1,)	
6, 27, 28, 37, 38, and 39; 7-8-07: 4; And 7-8-10: 6)	
And 9)	
_____)	

ORDER DENYING MIKAHALA ROY'S UNTIMELY ORAL REQUEST TO
INTERVENE

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ORDER DENYING MIKAHALA ROY'S UNTIMELY ORAL REQUEST TO
INTERVENE

On July 8, 2004, the Land Use Commission ("Commission") met in South Kohala, Hawai'i, to consider the Petition For Land Use District Boundary Amendment ("Petition") filed by Kamehameha Investment Corporation, a Hawai'i corporation ("Petitioner"), in the above-entitled docket. At the meeting, Mikahala Roy, Executive Director of Kulana Huli Honua, Foundation of the Search for Wisdom, a Hawai'i non-profit organization, orally requested to intervene in the proceedings based on concerns regarding, among other things, burials and sacred sites within the Petition Area. The request was untimely¹ and was not accompanied by the \$50 filing fee.

¹ The deadline to file a timely petition for intervention was June 21, 2004.

Present at the meeting were R. Ben Tsukazaki, Esq., on behalf of Petitioner; Bobby Jean Leithead-Todd, Esq., and Norman Hayashi on behalf of the County of Hawai'i Planning Department ("Planning Department"); and John W. K. Chang, Esq., and Abe Mitsuda on behalf of the State Office of Planning ("OP").

Petitioner objected to the oral request to intervene on the bases that it was untimely and did not comply with the provisions in section 15-15-52, Hawai'i Administrative Rules ("HAR"), regarding intervention in district boundary amendment proceedings. The Planning Department stated that it had no position on the oral request to intervene. OP stated that it had no objections to the oral request to intervene if good cause could be shown and if this Commission allowed such intervention in the proceeding.

The Commission questioned Ms. Roy on, among other things, (1) whether there was excusable neglect for the untimeliness of her oral request to intervene; (2) the nature and extent of her interest in the Petition; and (3) whether the admission of her as a party would render the proceedings inefficient and unmanageable.

Following discussion, a motion was made and seconded to deny Mikahala Roy's oral request to intervene on the grounds that said request was untimely and there was insufficient basis to establish good cause for the untimeliness. There being a vote tally of 8 ayes, 0 nays, and 1 absent, the motion carried.

ORDER

This Commission, having duly considered Mikahala Roy's untimely oral request to intervene, the arguments of the parties, the record in this docket, and a motion having been made at its meeting on July 8, 2004, in South Kohala, Hawai'i, and the motion having received the affirmative votes required by section 15-15-13, HAR, and there being good cause for the motion,

HEREBY ORDERS that Mikahala Roy's untimely oral request to intervene be DENIED.

ADOPTION OF ORDER

The undersigned Commissioners, being familiar with the record and proceedings, hereby adopt and approve the foregoing ORDER this 20th day of September, 2004. This ORDER and its ADOPTION shall take effect upon the date this ORDER is certified and filed by this Commission.

Done at Honolulu, Hawai'i, this 20th day of September, 2004, per motion on July 8,, 2004.

APPROVED AS TO FORM



Deputy Attorney General


LAND USE COMMISSION
STATE OF HAWAII

By 
P. ROY CATALANI
Chairperson and Commissioner

By 
RANDALL SAKUMOTO
Vice-Chairperson and Commissioner

By 
PRAVIN DESAI
Commissioner

By 
KYONG-SU IM
Commissioner

By 
ISAAC FIESTA, JR.
Commissioner

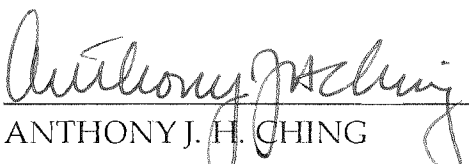
By (absent)
STEVEN LEE MONTGOMERY
Commissioner

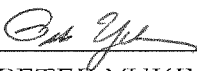
By 
LISA M. JUDGE
Commissioner

Filed and effective on
SEP 20 2004

By 
MICHAEL D. FORMBY
Commissioner

Certified by:


ANTHONY J. H. CHING

By 
PETER YUKIMURA
Commissioner

BEFORE THE LAND USE COMMISSION
OF THE STATE OF HAWAII

In The Matter Of The Petition Of)	DOCKET NO. A04-747
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KAMEHAMEHA INVESTMENT)	CERTIFICATE OF SERVICE
CORPORATION, A Hawai'i Corporation)	
)	
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6, 27, 28, 37, 38, and 39; 7-8-07: 4; And 7-8-10: 6)	
And 9)	
_____)	

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Order Denying Mikahala Roy's
Untimely Oral Request to Intervene was served upon the following by either hand
delivery or depositing the same in the U. S. Postal Service by regular or certified mail as
noted:

DEL.	MARY LOU KOBAYASHI, Director Office of Planning P. O. Box 2359 Honolulu, Hawaii 96804-2359
CERT.	JOHN CHANG, Esq. Deputy Attorney General Hale Auhau, Third Floor 425 Queen Street Honolulu, Hawaii 96813

CERT. LINCOLN ASHIDA, Esq.
Corporation Counsel
County of Hawaii
101 Aupuni Street, Suite 325
Hilo, Hawaii 96720

CERT. CHRISTOPHER YUEN, Director
Planning Department
County of Hawaii
25 Aupuni Street
Hilo, Hawaii 96720

CERT. R. BEN TSUKAZAKI, Esq.
85 W. Lanikaula Street
Hilo, Hawaii 96720-4199

CERT. JIM MEDEIROS, SR.
86-3666 Mamalahoa Highway
Captain Cook, Hawaii 96740

CERT. MIKAHALA ROY
Kulana Huli Honua
P. O. Box 596
Kailua-Kona, Hawaii 96745-0596

Dated: Honolulu, Hawaii, SEP 20 2004.



ANTHONY J. HUCHING
Executive Officer