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Department of Planning and Permitting

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

In the Matter of the Petition of  
  
HALEKUA DEVELOPMENT  
CORPORATION, a Hawai'i corporation  
  
To Amend the Agricultural Land Use District  
Boundary into the Urban Land Use District  
For Approximately 503.886 acres at Waikele  
and Hō'ae'ae, 'Ewa, O'ahu, City and County of  
Honolulu, State of Hawai'i, Tax Map Key No.  
9-4-02: 01, portion of 52, 70 and 71

DOCKET NO. A92-683  
  
CITY AND COUNTY OF HONOLULU  
DEPARTMENT OF PLANNING AND  
PERMITTING'S TESTIMONY  
STATEMENT OF NO OBJECTION TO 2025  
MOTION FOR AN ORDER AMENDING  
THE MEMORANDUM OF  
UNDERSTANDING OFFSITE  
INFRASTRUCTURE DATE IN CONDITION  
A.1; CERTIFICATE OF SERVICE

CITY AND COUNTY OF HONOLULU DEPARTMENT OF PLANNING AND  
PERMITTING'S TESTIMONY STATEMENT OF NO OBJECTION TO  
2025 MOTION FOR AN ORDER AMENDING THE MEMORANDUM OF  
UNDERSTANDING OFFSITE INFRASTRUCTURE DATE IN CONDITION A.1

The City and County of Honolulu Department of Planning and Permitting ("DPP"), by  
and through its attorneys, Dana M.O. Viola, Corporation Counsel, and Pono I. Arias, Deputy  
Corporation Counsel, hereby submits its statement of no objection to Petitioner's, Haseko Royal

Kunia, LLC (“Petitioner”) 2025 Motion for Order Amending the Memorandum of Understanding’s Offsite Infrastructure Date in Condition A.1 (“2025 Motion”), pursuant to Hawai‘i Administrative Rules (“HAR”) § 15-15-70(f).

I. INTRODUCTION

Petitioner requests that the Land Use Commission (“LUC”) extend its deadline to provide temporary infrastructure to the Royal Kunia Agricultural Park (“Agricultural Park”) from December 31, 2025, “to a date not to exceed September 30, 2028.” The Project’s procedural history and background are set forth in the 2025 Motion, and the discussion below sets forth DPP’s position on the request, the *Ka Pa ‘akai* Analysis, and Hawai‘i Revised Statutes (“HRS”) Chapter 343. The City does not object to the 2025 Motion but notes that other State Departments, such as the Department of Agriculture & Biosecurity (“DAB”), will enjoy the benefits of the temporary infrastructure and is responsible for building the Agricultural Park. Therefore, DAB is best positioned to opine on this matter.

II. DISCUSSION

A. AMENDMENT TO THE MEMORANDUM OF UNDERSTANDING AND 2024 D&O

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Petitioner requests that the LUC amend its Findings of Fact, Conclusions of Law and Decision and Order Granting Motion to Amend the Memorandum of Understanding’s Offsite Infrastructure Date in condition A.1 filed October 7, 2024 (“2024 D&O”) by extending the deadline to install temporary infrastructure from December 31, 2025, to a date no later than September 30, 2028. The Department of Agriculture & Biosecurity (“DAB”) is responsible for building an Agricultural Park, and Petitioner is responsible for building temporary infrastructure to support the Agricultural Park. However, the Agricultural Park is not complete, and Hawaiian

Electric Company, Inc. (“HECO”) requires an end user for Petitioner’s temporary infrastructure before installation. Petitioner is not able to install the temporary infrastructure at this time.

Based on the representations in the 2025 Motion, it appears that the completion timeline has not changed. Petitioner requests that the deadline be extended to September 30, 2028, which is the deadline to install permanent infrastructure. The deadline to install permanent infrastructure remains the same; therefore, it appears that Petitioner is still on track to complete the project.

DAB is best positioned to opine on this matter because DAB is responsible for building the Agricultural Park and is the beneficiary of the temporary and permanent infrastructure. Based on the above, DPP does not object to the 2025 Motion and will defer to the State departments affected by this Motion.

B. KA PA‘AKAI ANALYSIS

The LUC has previously determined that a *Ka Pa‘akai* analysis is not required for this type of action. The LUC made the following finding in the 2024 D&O:

The Commission’s decision on Haseko’s Motion is also not an “act” or “action” that will affect Native Hawaiian customary and traditional rights under the *Ka Pa‘akai* case, and the action being requested [...] is simply an extension of time [...] therefore analysis under the *Ka Pa‘akai* case [is] not required at this time.

2024 D&O at ¶ 49.

The LUC also made the following conclusion of law:

Further analysis under the *Ka Pa‘akai* case is not required for Haseko’s Motion, the subject of which is procedural, because the Commission’s decision on the Motion is not an “act” or “action” that will affect Native Hawaiian customary and traditional rights under the *Ka Pa‘akai* case.

2024 D&O at Conclusions of Law ¶ 19.

The 2025 Motion requests that the LUC amend the same condition as the 2024 D&O, and the findings and conclusions made there are applicable here.

If the LUC applied *Ka Pa 'akai*, then the analysis would end at the first prong. Under *Flores-Case 'Ohana v. Univ. of Hawai'i*, 153 Hawai'i 76, 85, 526 P.3d 601, 610 (2023), an agency must consider the identity and scope of Native Hawaiian traditional and customary rights affected by the proposed action. *Flores Case 'Ohana*, 153 Hawai'i at 85, 526 p.3d at 610 (holding that a state agency must conduct a *Ka Pa 'akai* analysis when it promulgates administrative rules). Here, the proposed action does not implicate Native Hawaiian traditional and customary rights because it is an extension of time to comply with a deadline. This decision does not affect the use of the land. Therefore, the LUC could also find that the action does not satisfy the first prong of the *Ka Pa 'akai* analysis without analyzing the second or third prongs.

C. CHAPTER 343 REVIEW

The LUC has previously determined that this type of action does not require a HRS Chapter 343 analysis:

A HRS Chapter 343 analysis for Haseko's Motion is not required because the subject of the motion is procedural and the action is simply an extension of time that will not result in any changed environmental impacts.

2024 D&O COL at ¶ 15.

Extending the deadline to install temporary infrastructure is procedural in nature and does not result in a change to environmental impacts. In addition, this amendment does not change the completion timeline because Petitioners still maintain the deadline to install permanent infrastructure. DPP agrees that an HRS Chapter 343 analysis is not required for this action.

III. CONCLUSION

DPP does not object to the 2025 Motion but notes that State agencies are better positioned to opine on the matter because they will enjoy the benefit of the temporary infrastructure.

DATED: Honolulu, Hawai‘i, February 27, 2026.

DANA M.O. VIOLA  
Corporation Counsel

By /s/ Pono I. Arias  
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Department of Planning and Permitting

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CERTIFICATE OF SERVICE

I hereby certify that an e-stamped copy of the foregoing document was duly served upon  
the following as indicated below on February 27, 2026.

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DATED: Honolulu, Hawai'i, February 27, 2026.

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26-00308