

BEFORE THE PLANNING COMMISSION
OF THE CITY AND COUNTY OF HONOLULU

STATE OF HAWAII

| | | |
|---|---|---------------------------------------|
| In the Matter of the Application of |) | FILE NO. 2008/SUP-2 (RY) and 86/SUP-5 |
| |) | |
| DEPARTMENT OF ENVIRONMENTAL |) | |
| SERVICES, CITY AND COUNTY OF |) | |
| HONOLULU |) | |
| |) | |
| For a New Special Use Permit to supersede |) | |
| Existing Special Use Permit to allow a |) | |
| 92.5-acre Expansion and Time Extension |) | |
| For Waimanalo Gulch Sanitary Landfill. |) | |
| Tax Map Key Nos. (1) 9-2-003:072 and 073 |) | |

2009 AUG 16 PM 1:10
 DEPARTMENT OF ENVIRONMENTAL SERVICES
 CITY AND COUNTY OF HONOLULU

PETITION TO INTERVENE;

MEMORANDUM IN SUPPORT OF PETITION;

VERIFICATION;

EXHIBIT "A";

CERTIFICATE OF SERVICE

COLLEEN HANABUSA
A Limited Liability Law Company

COLLEEN HANABUSA 2105-0
220 So. King St., Suite 1230
Honolulu, Hawaii 96813
Telephone: (808) 523-5777

Attorney for Petitioners
KO OLINA COMMUNITY ASSOCIATION, COLLEEN
HANABUSA and MAILE SHIMABUKURO

LAND USE COMMISSION
 STATE OF HAWAII
 2009 AUG 11 PM 1:28

ORIGINAL

0965

EXHIBIT K261

EXHIBIT 13

BEFORE THE PLANNING COMMISSION
OF THE CITY AND COUNTY OF HONOLULU

STATE OF HAWAII

In the Matter of the Application of) FILE NO. 2008/SUP-2 (RY) and 86/SUP-5
)
)
)
DEPARTMENT OF ENVIRONMENTAL)
SERVICES, CITY AND COUNTY OF)
HONOLULU)
)
For a New Special Use Permit to supersede)
Existing Special Use Permit to allow a)
92.5-acre Expansion and Time Extension)
For Waimanalo Gulch Sanitary Landfill,)
Tax Map Key Nos. (1) 9-2-003:072 and 073)
_____)

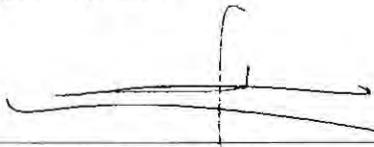
PETITION TO INTERVENE

Come now Petitioners KO OLINA COMMUNITY ASSOCIATION (“KOCA”), COLLEEN HANABUSA (“Hanabusa”) and MAILE SHIMABUKURO (“Shimabukuro”) collectively “Intervenors,” by and through their attorney, Colleen Hanabusa and hereby respectfully request that this Planning Commission (“Commission”) grant them leave to intervene as parties in the matter of a new State Special Use Permit (“SUP”) to supersede the existing SUP to allow a 92.5 acre expansion and time extension of land presently classified as agricultural at Waimanalo Gulch, Hono’uli’uli, ‘Ewa, O’ahu, Hawai’i, Tax Map Key Nos. (1) 9-2-003:072 and 073, for Waimanalo Gulch Sanitary Landfill (“WGSL”) for a total land area of 200.622 acres.

The Notice of Publication appeared on April 3, 2009 in the Honolulu Star Bulletin.

This petition is brought pursuant to the Rules of the Planning Commission ("Commission Rules") §§ 2-15, 2-52 (c), 2-53, 2-55 and 2-56 and HRS § 205-6 and is based upon the attached Memorandum in Support of Petition and the records and files of this case.

DATED: Honolulu, Hawai'i, April 16, 2009.



COLLEEN HANABUSA
Attorney for Petitioners KOCA, Hanabusa
and Shimabukuro

BEFORE THE PLANNING COMMISSION
OF THE CITY AND COUNTY OF HONOLULU
STATE OF HAWAII

| | | |
|---|---|---------------------------------------|
| In the Matter of the Application of |) | FILE NO. 2008/SUP-2 (RY) and 86/SUP-5 |
| |) | |
| |) | |
| DEPARTMENT OF ENVIRONMENTAL |) | |
| SERVICES, CITY AND COUNTY OF |) | |
| HONOLULU |) | |
| |) | |
| For a New Special Use Permit to supersede |) | |
| Existing Special Use Permit to allow a |) | |
| 92.5-acre Expansion and Time Extension |) | |
| For Waimanalo Gulch Sanitary Landfill, |) | |
| Tax Map Key Nos. (1) 9-2-003:072 and 073 |) | |
| _____ |) | |

MEMORANDUM IN SUPPORT OF PETITION

Come now Petitioners KOCA, Hanabusa and Shimabukuro, and hereby respectfully submit their Memorandum in support of their Petition to Intervene.

I. FACTS

The following are relevant facts.

1. The issue of the Waimanalo Gulch Sanitary Landfill ("WGSL") has been before this Commission as "86/SUP-5(RY);" and there are presently at least three (3) Decision and Orders (D&O) entered under said application number.
2. The most recent decision by the Commission was dated January 18, 2008.

3. KOCA (Ko Olina Community Association) is a non profit corporation organized and existing under the laws of the State of Hawai'i. It represents various resort and residential owners throughout the Ko Olina Resort. List of Tax Map Key Number are attached as Exhibit "A".

4. Ko Olina is located directly across Farrington Highway from WGSL.

5. KOCA oversees and regulates the use and enjoyment of the common areas of the property referred to as the "Resort" and is also responsible for the exclusive management and control of areas of common responsibility as well as the maintenance and upkeep of such areas. Petitioner and the owners it represents have grave financial, property and business interests at stake that could be detrimentally affected by the outcome of this proceeding.

6. Hanabusa is a resident of the Leeward Coast of the City and County of Honolulu, as well as a duly elected Senator for the 21st Senatorial District in which WGSL is located. Hanabusa is also a resident and owner of a home located in Ko Olina and a taxpayer.

7. Shimabukuro is a resident of the Leeward Coast of the City and County of Honolulu, as well as a duly elected Representative for House District 45. Shimabukuro and her constituents must past the WGSL in order to get in and out of Wai'anae. Shimabukuro is also a mother of an infant child, lives and works in Wai'anae and a taxpayer. With the recent birth of her child, Shimabukuro has a heightened concern over the health and welfare of her child and constituents which prompts her desire to have full intervenor/party status in these proceedings.

8. This Commission did grant KOCA and Hanabusa intevenor/party status on November 14, 2007 in 86/SUP-5 (RY) in the matter of the application which sought a modification of condition 10 of the SUP (Special Use Permit) file No. 86/SUP-5. It is this contested case hearing which resulted with the D&O referenced in paragraph 2 above.

9. In accordance with HRS §205-6, the Land Use Commission ("LUC") did recognize KOCA and Hanabusa as Intervenors in Docket No. SP87-362 on March 6, 2008 based upon their intervenor status before the Planning Commission of the City and County of Honolulu.

10. Sometime in December 2008, the Department of Environmental Services (“ENV”) of the City and County of Honolulu filed an Application for the SUP identified in this proceeding with the Department of Planning and Permitting, City and County of Honolulu (“DPP”). The purpose of the SUP is identified as:

[t]he construction and use of approximately 92.5 acres within the City’s Waimanalo Gulch Sanitary Landfill property for continued landfilling purposes. In addition to the expansion of the area of landfilling, the proposed project will involve the development of landfill associated support infrastructure (e.g. drainage, access roadways, landfill gas & leachate collection and monitoring systems, stockpile sites and other related features, a public drop-off center, and a landfill gas to energy (LFGTE) system. The Special Use Permit will cover the entire 200.622 acre Property.

11. The project name is identified as “Waimanalo Gulch Sanitary Landfill Lateral Expansion.”

12. On December 2, 2008, Eric S. Takamura, then Director of Environmental Services of the City and County of Honolulu (“ENV”) filed the Petition for Land Use District Boundary Amendment, Verification and Exhibits “1”-“32” with the LUC (“Petition”).

13. The LUC Petition identifies Mr. Takamura and the Office of the Corporation Counsel as the duly authorized representatives of the Petitioner ENV. The reason for the filing is the expansion of the WGSL.

14. WGSL is ordered, by the LUC, by its D&O of March 14, 2009, to not accept any trash as of November 1, 2009, or until it reaches capacity whichever occurs first.

15. The Commission caused to be published on April 3, 2009 the Notice of Hearing on ENV’s Application for a new SUP which will seek both the expansion and time extension for the operation of WGSL.

16. This Petition for Intervention is timely under Commission Rule §2-53.

II. RELEVANT PROVISIONS OF LAW AND RULES

HRS §205-6 Special permit. (a) Subject to this section, the county planning commission may permit certain unusual and reasonable uses within agricultural and rural districts other than those for which the district is classified. Any person who desires to use the person's land within an agricultural or rural district other than for an agricultural or rural use, as the case may be, may petition the planning commission of the county within which the person's land is located for permission to use the person's land in the manner desired. Each county may establish the appropriate fee for processing the special permit petition. Copies of the special permit petition shall be forwarded to the land use commission, the office of planning, and the department of agriculture for their review and comment.

(b) The planning commission, upon consultation with the central coordinating agency, except in counties where the planning commission is advisory only in which case the central coordinating agency, shall establish by rule or regulation, the time within which the hearing and action on petition for special permit shall occur. The county planning commission shall notify the land use commission and such persons and agencies that may have an interest in the subject matter of the time and place of the hearing.

(c) The county planning commission may, under such protective restrictions as may be deemed necessary, permit the desired use, but only when the use would promote the effectiveness and objectives of this chapter; provided that a use proposed for designated important agricultural lands shall not conflict with any part of this chapter. A decision in favor of the applicant shall require a majority vote of the total membership of the county planning commission.

(d) Special permits for land the area of which is greater than fifteen acres or for lands designated as important agricultural lands shall be subject to approval by the land use commission. The land use commission may impose additional restrictions as may be necessary or appropriate in granting the approval, including the adherence to representations made by the applicant.

(e) A copy of the decision, together with the complete record of the proceeding before the county planning commission on all special permit requests involving a land area greater than fifteen acres or for lands designated as important agricultural lands, shall be transmitted to the land use commission within sixty days after the decision is rendered.

Within forty-five days after receipt of the complete record from the county planning commission, the land use commission shall act to approve, approve with modification, or deny the petition. A denial either by the county planning

commission or by the land use commission, or a modification by the land use commission, as the case may be, of the desired use shall be appealable to the circuit court of the circuit in which the land is situated and shall be made pursuant to the Hawaii rules of civil procedure.

(f) Land uses substantially involving or supporting educational ecotourism, related to the preservation of native Hawaiian endangered, threatened, proposed, and candidate species, that are allowed in an approved habitat conservation plan under section 195D-21 or safe harbor agreement under section 195D-22, which are not identified as permissible uses within the agricultural district under sections 205-2 and 205-4.5, may be permitted in the agricultural district by special permit under this section, on lands with soils classified by the land study bureau's detailed land classification as overall (master) productivity rating class C, D, E, or U.

RELEVANT COMMISSION RULES

§2-52 Purpose.

...

(c) Persons may petition the commission to intervene in all proceedings before the commission for special use permits, subject to the requirements of this subchapter. [Eff. Jan. 16, 1995] (Auth: RCH§4-105.4; HRS §9-9) (Imp: RCH §4-105.4; HRS §9-9)

§2-53 Petition to intervene. (a) Petition to intervene as a party. Any person or agency, requesting to intervene as a party shall file a petition with the commission within fourteen (14) days of the date of newspaper publication of the notice of a public hearing to be held by the planning commission on a petition for a special use permit. The petitioner, the planning department and the department of land utilization may in every case appear as parties and make recommendations relative to the proposed action.

(b) Contents of petition to intervene as a party. The petition shall include the following points:

(1) The nature and extent of petitioner's interest in right to intervene as a party to the proceedings.

(2) The nature and extent of petitioner's interest in the proceedings, and if the petitioner is an abutting property owner, the tax map key description of the property.

(3) A statement of the specific issues to be raised or contested by the petitioner in the contested case hearing.

(4) The effect of any decision in the proceeding on the petitioner's interest.

(c) Filing requirements. The original and fifteen (15) copies of the petition to intervene and a certificate of service on all parties prepared in conformance with section 2-15 of these rules shall be filed with the commission in a timely manner.

...

§2-55 Hearing on petition to intervene.

...

(c) Leave to intervene shall be freely granted, provided that the commission may deny petition to intervene when in the commission's discretion it appears that:

- (1) The position of the party requesting intervention concerning the proposed action is substantially the same as the position of a party already admitted to the proceeding; and
- (2) The admission of additional parties will render the proceedings inefficient and unmanageable. [Eff. Jan 16, 1995] (Auth: RCH §HRS §9-9) (Imp: RCH §4-105.4; HRS §9-9)

III. ARGUMENT

A. Intervention Should Be Granted.

When interpreting statutes and administrative rules, it is a well established that:

The general principles of construction which apply to statutes also apply to administrative rules. As in statutory construction, courts look first at an administrative rule's language. If an administrative rule's language is unambiguous, and its literal application is neither inconsistent with the policies of the statute the rule implements nor produces an absurd or unjust result, courts enforce the rule's plain meaning.

Cases relied upon are: *International Blvd. Of Elec. Workers, Local 1357 v. Hawaiian Tel. Co.*, 68 Haw. 316, 323, 713 P.2d 943, 950 (1986); *Allstate Ins. Co. v. Ponce*, 105 Hawai'i 145, 454, 99 P.3d 96, 105 (2004).

Commission Rules §§2-53 and 2-55(c) provide for the contents of a petition and specifies that intervention shall be freely granted with only two basis upon which the Commission may deny intervention. The provisions are similar to that found in the LUC Rules § 15-15-52(d) and Hawai'i Rules of Civil Procedure 24 (b). The provisions of Hawai'i Rules of Civil Procedure are discussed in *State v. Campbell*, 106 Haw. 453, 458-462 (2005) and *Hoopai v Civil Service Comm'n*, 106. Haw. 205, 216 (2004).

KOCA, Hanabusa and Shimabukuro can demonstrate that they should be permitted intervention under these provisions of this Commission's Rules.

B. The Requirements of § 2-53(b) are addressed as follows.

Under the referenced Commission Rule, this Petition for Intervention shall make reference to the following:

(1) Nature of Petitioners' statutory or other right.

KOCA. Petitioner KOCA represents numerous resort and residential owners of property located at the Ko Olina resort & Marina ("Resort"), which is situated directly across of Farrington Highway from the Waimanalo Gulch Sanitary Landfill facility. Under the KOCA Declaration, Petitioner oversees and regulates the use and enjoyment of the common areas of the Resort and is responsible for the exclusive management and control of areas of common responsibility as well as the maintenance and upkeep of such areas. Petitioner and the owners it

represents have grave financial, propriety, and business interests at stake that could be detrimentally affected by the outcome of this proceeding. Although other property owners may petition for intervention in this proceeding, Petitioner is unlike other residents, owners or community associations, since Petitioner represents the Resort in general and its guests.

Hence, the Resort is uniquely and adversely affected by the Waimanalo Gulch Sanitary Landfill facility and activities surrounding its dumping operations. Petitioner's right to protect its unique interests and those of the owners it represents by ensuring compliance with previous SUP conditions and procedural requirements in this matter is established under Chapter 205 Hawaii Revised States and the Commission's Rules. Among other things, HRS§ 205-6 clearly contemplated that all persons "that may have an interest in the subject matter" are to be given consideration in the hearing and action on petition for special permit. Petitioner is such a person with a special interest in the subject matter that is not duplicated by other persons, including other residents, owners or homeowners associations in the region.

HANABUSA and SHIMABUKURO. Petitioner Hanabusa is a resident of the Leeward Coast in the City and County of Honolulu, as well as a duly elected State Senator for the 21st Senatorial District representing residents of the Leeward Coast.

Petitioner Hanabusa is a resident of and owner in a home located in Ko Olina which is located across Farrington Highway from Waimanalo Gulch.

Petitioner Hanabusa is a tax payer in the State of Hawai'i and the City and County of Honolulu.

Petitioner Shimabukuro is the duly elected Representative of the 45th Honolulu District located on the Wai'anae Coast and a taxpayer.

Petitioners Hanabusa and Shimabukuro also add the recent Hawai'i Supreme Court case, *The Sierra Club, et al. v. The Department of Transportation of the State of Hawaii, et al.*, 115 Hawaii 299 (2007), makes clear that the issue of procedural errors is deemed to be injury for standing purposes. It is contended that the process followed by ENV in its Application is laden with such errors.

The rights of elected officials to participate as full party intervenors have been granted in matter before the Public Utilities Commission. *In the Matter of the Application of Hawaiian Electric*, 81 Haw. 459, 918 P.2d 561 (1996). Hanabusa and Shimabukuro should also be allowed to rely upon this authority.

In addition, the cases of *Malama Maha'ulepu v. Land Use Commission*, 71 Haw. 332 (1990) and *Neighborhood Board No. 24 (Waianae Coast) v. State Land Use Commission*, 64 Haw. 265 (1982) did permit intervention. Clearly these authorities would support the rights of Petitioners to intervene in that their interests are not any less important than those raised in the cases cited above. A major element of justice being served is to ensure that the members of the public and those who have been aggrieved should have representation in these proceedings.

(2) Nature of the Petitioner's interest, and if abutting property owner, the TMKs.

The interest of KOCA and Hanabusa have been discussed above. The tax map key numbers have been provided as Exhibit "A".

Shimabukuro is not and does not claim an interest as an abutting property owner

(3) Specific Issues to be raised or contested.

The specific issues to be raised are related to the opposition to this Application. Specific areas will include but not be limited to:

- (a) Promise made of closure.
- (b) Stability of the landfill.
- (c) The culturally significant outcropping as best stated by OHA as follows:

OHA has made a field visit to the project site and we noted three significant cultural features that were still intact in the project area. We are also aware of the probable existence of others yet to be discovered in the project area. OHA is further saddened that the larger setting that this project sits in is one that has been highly developed and degraded. Therefore, what TCPs [Traditional Cultural Properties] that remain must be protected.

The Department of Planning and Permitting, as a county agency, is mandated by Hawai'i Const. Article XII, section 7, "to preserve and protect customary and traditional practices of Native Hawaiians." Ka Pa'akai O Ka'Aina v. Land Use Comm'n, 94 Haw. 31, 45 (2000). . . . OHA urges that nothing more be done with this project until full cultural assessment has been made of the project area.

- (d) Violations of management, including the Notice of Violations and Order imposed by the State Department of Health.
- (e) Blasting to create the landfill.
- (f) Health, safety and water quality concerns.
- (g) Procedural matters such as the filing of a boundary amendment and SUP which creates a burden upon any interested party to the WGSJ expansion and extension issues.

(4) Effect of any decision.

Clearly, if the decision is to grant the SUP, the effect will be substantial on Petitioners.

As revealed in the Final Supplemental Environmental Impact Statement ("FSEIS"), to the health

concerns was a subject of the Notice of Violations (“NOV”) and accompanying Order of the Department of Health (“DOH”). The concerns of the cultural findings and the impact of the need to blast on a regular basis to create the necessary air space for the expansion of the WGSL augment concerns as to effect of the decision will have upon the health, safety and stability of the landfill.

It is also evident from prior testimony received by the Commission, that there have been constructed three structural berms to ensure slope stability at WGSL. Add to this blasting along with other existing problems would detrimentally affect all who are concerned about the effect of any permit which allows the landfill operations to continue.

C. Intervention Should Be Freely Granted.

Under §2-55 (c), a petition for leave to intervene shall be freely granted except that discretion is given to this Commission to deny in two situations. Those situations are if the applicants’ positions are similar to someone already in the proceeding; and the granting of the application would render the proceeding inefficient and unmanageable.

Neither situation applies to the Petitioners for the following reasons:

1. The Petitioners position is not substantially similar to a party.

The parties to this proceeding are the City and County of Honolulu through its representatives who are the Applicants and the City and County of Honolulu’s Department of Planning and Permitting (“DPP”). Petitioners are unaware of any other party admitted to these proceeding.

It is clearly evident that these parties do not have positions similar to that of KOCA and/or Hanabusa and/or Shimabukuro.

2. Admission will not render proceedings inefficient and unmanageable.

As evidenced by the SUP proceeding in which this Commission permitted the intervention of KOCA and Hanabusa in November 2007, their participation did not render the proceeding inefficient and unmanageable. Neither did their intervention in the LUC proceedings render that proceeding inefficient and unmanageable.

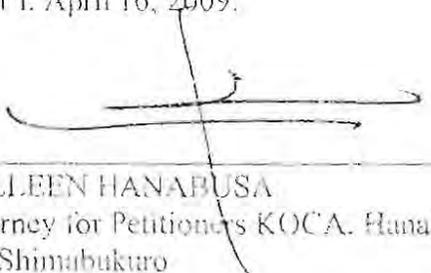
In that Shimabukuro will also be represented by Hanabusa, she will not be an added burden to the proceeding.

The criteria is one written to freely grant intervention unless it can be found that the applicants would run afoul of the two points. No such finding can be made as to KOCA, Hanabusa and Shimabukuro.

III. CONCLUSION

For the above stated reasons, Petitioners KOCA, Hanabusa and Shimabukuro respectfully request that the Planning Commission grant them leave to intervene into 2008/SUP-2.

DATED: Honolulu, Hawai'i, April 16, 2009.



COLLEEN HANABUSA
Attorney for Petitioners KOCA, Hanabusa
and Shimabukuro

BEFORE THE PLANNING COMMISSION
OF THE CITY AND COUNTY OF HONOLULU

STATE OF HAWAII

In the Matter of the Application of) FILE NO. 2008/SUP-2 (RY) and
) 86/SUP-5
)
DEPARTMENT OF ENVIRONMENTAL)
SERVICES, CITY AND COUNTY OF)
HONOLULU)
)
For a New Special Use Permit to supersede)
Existing Special Use Permit to allow a)
92.5-acre Expansion and Time Extension)
For Waimanalo Gulch Sanitary Landfill,)
Tax Map Key Nos. (1) 9-2-003:072 and 073)
_____)

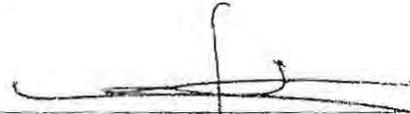
VERIFICATION

Petitioners KOCA, Hanabusa and Shimabukuro verify the contents of this Petition

For the record, KOCA's address is 92-1480 Aliinui Drive, Kapolei, HI 96707
(phone number is (808) 671-2512) and KOCA has authority to represent its
membership. Relevant TMK nos. are attached on Exhibit "A". Colleen Hanabusa's
residence address is 92-109J Koio Drive, Kapolei HI 96707 (phone number is (808) 679-
0200) TMK: 1-9-1-56-5-10; State Capitol Room 409 (phone number is (808) 586-7793).
Maile Shimabukuro's residence address is 86-024 Glenmonger St., Waianae, HI 96792
(phone number is (808)349-3075); State Capitol Room 406 (phone is (808)586-8460).

Petitioners note that their signature maybe provided in counter parts and ask that they be accepted as a complete filing.

Dated: Honolulu, Hawaii, April 16, 2009.



COLLEEN HANABUSA
Attorney for Petitioners KOCA, Hanabusa and
Shimabukuro



COLLEEN HANABUSA
Petitioner Hanabusa



KEN WILLIAMS
Petitioner KOCA

MAILE SHIMABUKURO
Petitioner Shimabukuro

Petitioners note that their signature may be provided in counter parts and ask that they be accepted as a complete filing.

Dated: Honolulu, Hawaii, April 16, 2009.

COLLEEN HANABUSA
Attorney for Petitioners KOCA, Hanabusa and
Shimabukuro

COLLEEN HANABUSA
Petitioner Hanabusa

KEN WILLIAMS
Petitioner KOCA



MAILE SHIMABUKURO
Petitioner Shimabukuro

EXHIBIT A

Partial List of Tax Map Keys
(see following pages)

BEACH VILLAS AT KO OLINA- OCEAN TOWER

| | | | |
|---------------|---------------|----------------|----------------|
| 1-9-1-57-9-1 | 1-9-1-57-9-41 | 1-9-1-57-9-81 | 1-9-1-57-9-121 |
| 1-9-1-57-9-2 | 1-9-1-57-9-42 | 1-9-1-57-9-82 | 1-9-1-57-9-122 |
| 1-9-1-57-9-3 | 1-9-1-57-9-43 | 1-9-1-57-9-83 | 1-9-1-57-9-123 |
| 1-9-1-57-9-4 | 1-9-1-57-9-44 | 1-9-1-57-9-84 | 1-9-1-57-9-124 |
| 1-9-1-57-9-5 | 1-9-1-57-9-45 | 1-9-1-57-9-85 | 1-9-1-57-9-125 |
| 1-9-1-57-9-6 | 1-9-1-57-9-46 | 1-9-1-57-9-86 | 1-9-1-57-9-126 |
| 1-9-1-57-9-7 | 1-9-1-57-9-47 | 1-9-1-57-9-87 | 1-9-1-57-9-127 |
| 1-9-1-57-9-8 | 1-9-1-57-9-48 | 1-9-1-57-9-88 | 1-9-1-57-9-128 |
| 1-9-1-57-9-9 | 1-9-1-57-9-49 | 1-9-1-57-9-89 | 1-9-1-57-9-129 |
| 1-9-1-57-9-10 | 1-9-1-57-9-50 | 1-9-1-57-9-90 | 1-9-1-57-9-130 |
| 1-9-1-57-9-11 | 1-9-1-57-9-51 | 1-9-1-57-9-91 | 1-9-1-57-9-131 |
| 1-9-1-57-9-12 | 1-9-1-57-9-52 | 1-9-1-57-9-92 | 1-9-1-57-9-132 |
| 1-9-1-57-9-13 | 1-9-1-57-9-53 | 1-9-1-57-9-93 | 1-9-1-57-9-133 |
| 1-9-1-57-9-14 | 1-9-1-57-9-54 | 1-9-1-57-9-94 | 1-9-1-57-9-134 |
| 1-9-1-57-9-15 | 1-9-1-57-9-55 | 1-9-1-57-9-95 | 1-9-1-57-9-135 |
| 1-9-1-57-9-16 | 1-9-1-57-9-56 | 1-9-1-57-9-96 | 1-9-1-57-9-136 |
| 1-9-1-57-9-17 | 1-9-1-57-9-57 | 1-9-1-57-9-97 | 1-9-1-57-9-137 |
| 1-9-1-57-9-18 | 1-9-1-57-9-58 | 1-9-1-57-9-98 | 1-9-1-57-9-138 |
| 1-9-1-57-9-19 | 1-9-1-57-9-59 | 1-9-1-57-9-99 | 1-9-1-57-9-139 |
| 1-9-1-57-9-20 | 1-9-1-57-9-60 | 1-9-1-57-9-100 | 1-9-1-57-9-140 |
| 1-9-1-57-9-21 | 1-9-1-57-9-61 | 1-9-1-57-9-101 | 1-9-1-57-9-141 |
| 1-9-1-57-9-22 | 1-9-1-57-9-62 | 1-9-1-57-9-102 | 1-9-1-57-9-142 |
| 1-9-1-57-9-23 | 1-9-1-57-9-63 | 1-9-1-57-9-103 | 1-9-1-57-9-143 |
| 1-9-1-57-9-24 | 1-9-1-57-9-64 | 1-9-1-57-9-104 | 1-9-1-57-9-144 |
| 1-9-1-57-9-25 | 1-9-1-57-9-65 | 1-9-1-57-9-105 | 1-9-1-57-9-145 |
| 1-9-1-57-9-26 | 1-9-1-57-9-66 | 1-9-1-57-9-106 | 1-9-1-57-9-146 |
| 1-9-1-57-9-27 | 1-9-1-57-9-67 | 1-9-1-57-9-107 | 1-9-1-57-9-147 |
| 1-9-1-57-9-28 | 1-9-1-57-9-68 | 1-9-1-57-9-108 | 1-9-1-57-9-148 |
| 1-9-1-57-9-29 | 1-9-1-57-9-69 | 1-9-1-57-9-109 | 1-9-1-57-9-149 |
| 1-9-1-57-9-30 | 1-9-1-57-9-70 | 1-9-1-57-9-110 | 1-9-1-57-9-150 |
| 1-9-1-57-9-31 | 1-9-1-57-9-71 | 1-9-1-57-9-111 | 1-9-1-57-9-151 |
| 1-9-1-57-9-32 | 1-9-1-57-9-72 | 1-9-1-57-9-112 | 1-9-1-57-9-152 |
| 1-9-1-57-9-33 | 1-9-1-57-9-73 | 1-9-1-57-9-113 | 1-9-1-57-9-153 |
| 1-9-1-57-9-34 | 1-9-1-57-9-74 | 1-9-1-57-9-114 | 1-9-1-57-9-154 |
| 1-9-1-57-9-35 | 1-9-1-57-9-75 | 1-9-1-57-9-115 | 1-9-1-57-9-155 |
| 1-9-1-57-9-36 | 1-9-1-57-9-76 | 1-9-1-57-9-116 | 1-9-1-57-9-156 |
| 1-9-1-57-9-37 | 1-9-1-57-9-77 | 1-9-1-57-9-117 | 1-9-1-57-9-157 |
| 1-9-1-57-9-38 | 1-9-1-57-9-78 | 1-9-1-57-9-118 | 1-9-1-57-9-158 |
| 1-9-1-57-9-39 | 1-9-1-57-9-79 | 1-9-1-57-9-119 | 1-9-1-57-9-159 |
| 1-9-1-57-9-40 | 1-9-1-57-9-80 | 1-9-1-57-9-120 | |

BEACH VILLAS AT KO OLINA - BEACH TOWER

| | | | |
|----------------|----------------|----------------|----------------|
| 1-9-1-57-32-1 | 1-9-1-57-32-25 | 1-9-1-57-32-49 | 1-9-1-57-32-73 |
| 1-9-1-57-32-2 | 1-9-1-57-32-26 | 1-9-1-57-32-50 | 1-9-1-57-32-74 |
| 1-9-1-57-32-3 | 1-9-1-57-32-27 | 1-9-1-57-32-51 | 1-9-1-57-32-75 |
| 1-9-1-57-32-4 | 1-9-1-57-32-28 | 1-9-1-57-32-52 | 1-9-1-57-32-76 |
| 1-9-1-57-32-5 | 1-9-1-57-32-29 | 1-9-1-57-32-53 | 1-9-1-57-32-77 |
| 1-9-1-57-32-6 | 1-9-1-57-32-30 | 1-9-1-57-32-54 | 1-9-1-57-32-78 |
| 1-9-1-57-32-7 | 1-9-1-57-32-31 | 1-9-1-57-32-55 | 1-9-1-57-32-79 |
| 1-9-1-57-32-8 | 1-9-1-57-32-32 | 1-9-1-57-32-56 | 1-9-1-57-32-80 |
| 1-9-1-57-32-9 | 1-9-1-57-32-33 | 1-9-1-57-32-57 | 1-9-1-57-32-81 |
| 1-9-1-57-32-10 | 1-9-1-57-32-34 | 1-9-1-57-32-58 | 1-9-1-57-32-82 |
| 1-9-1-57-32-11 | 1-9-1-57-32-35 | 1-9-1-57-32-59 | 1-9-1-57-32-83 |
| 1-9-1-57-32-12 | 1-9-1-57-32-36 | 1-9-1-57-32-60 | 1-9-1-57-32-84 |
| 1-9-1-57-32-13 | 1-9-1-57-32-37 | 1-9-1-57-32-61 | 1-9-1-57-32-85 |
| 1-9-1-57-32-14 | 1-9-1-57-32-38 | 1-9-1-57-32-62 | 1-9-1-57-32-86 |
| 1-9-1-57-32-15 | 1-9-1-57-32-39 | 1-9-1-57-32-63 | 1-9-1-57-32-87 |
| 1-9-1-57-32-16 | 1-9-1-57-32-40 | 1-9-1-57-32-64 | 1-9-1-57-32-88 |
| 1-9-1-57-32-17 | 1-9-1-57-32-41 | 1-9-1-57-32-65 | 1-9-1-57-32-89 |
| 1-9-1-57-32-18 | 1-9-1-57-32-42 | 1-9-1-57-32-66 | 1-9-1-57-32-90 |
| 1-9-1-57-32-19 | 1-9-1-57-32-43 | 1-9-1-57-32-67 | 1-9-1-57-32-91 |
| 1-9-1-57-32-20 | 1-9-1-57-32-44 | 1-9-1-57-32-68 | 1-9-1-57-32-92 |
| 1-9-1-57-32-21 | 1-9-1-57-32-45 | 1-9-1-57-32-69 | 1-9-1-57-32-93 |
| 1-9-1-57-32-22 | 1-9-1-57-32-46 | 1-9-1-57-32-70 | 1-9-1-57-32-94 |
| 1-9-1-57-32-23 | 1-9-1-57-32-47 | 1-9-1-57-32-71 | 1-9-1-57-32-95 |
| 1-9-1-57-32-24 | 1-9-1-57-32-48 | 1-9-1-57-32-72 | |

KAI LANI

| | | | |
|---------------|---------------|---------------|----------------|
| 1-9-1-56-2-1 | 1-9-1-56-2-30 | 1-9-1-56-2-59 | 1-9-1-56-2-88 |
| 1-9-1-56-2-2 | 1-9-1-56-2-31 | 1-9-1-56-2-60 | 1-9-1-56-2-89 |
| 1-9-1-56-2-3 | 1-9-1-56-2-32 | 1-9-1-56-2-61 | 1-9-1-56-2-90 |
| 1-9-1-56-2-4 | 1-9-1-56-2-33 | 1-9-1-56-2-62 | 1-9-1-56-2-91 |
| 1-9-1-56-2-5 | 1-9-1-56-2-34 | 1-9-1-56-2-63 | 1-9-1-56-2-92 |
| 1-9-1-56-2-6 | 1-9-1-56-2-35 | 1-9-1-56-2-64 | 1-9-1-56-2-93 |
| 1-9-1-56-2-7 | 1-9-1-56-2-36 | 1-9-1-56-2-65 | 1-9-1-56-2-94 |
| 1-9-1-56-2-8 | 1-9-1-56-2-37 | 1-9-1-56-2-66 | 1-9-1-56-2-95 |
| 1-9-1-56-2-9 | 1-9-1-56-2-38 | 1-9-1-56-2-67 | 1-9-1-56-2-96 |
| 1-9-1-56-2-10 | 1-9-1-56-2-39 | 1-9-1-56-2-68 | 1-9-1-56-2-97 |
| 1-9-1-56-2-11 | 1-9-1-56-2-40 | 1-9-1-56-2-69 | 1-9-1-56-2-98 |
| 1-9-1-56-2-12 | 1-9-1-56-2-41 | 1-9-1-56-2-70 | 1-9-1-56-2-99 |
| 1-9-1-56-2-13 | 1-9-1-56-2-42 | 1-9-1-56-2-71 | 1-9-1-56-2-100 |
| 1-9-1-56-2-14 | 1-9-1-56-2-43 | 1-9-1-56-2-72 | 1-9-1-56-2-101 |
| 1-9-1-56-2-15 | 1-9-1-56-2-44 | 1-9-1-56-2-73 | 1-9-1-56-2-102 |
| 1-9-1-56-2-16 | 1-9-1-56-2-45 | 1-9-1-56-2-74 | 1-9-1-56-2-103 |
| 1-9-1-56-2-17 | 1-9-1-56-2-46 | 1-9-1-56-2-75 | 1-9-1-56-2-104 |
| 1-9-1-56-2-18 | 1-9-1-56-2-47 | 1-9-1-56-2-76 | 1-9-1-56-2-105 |
| 1-9-1-56-2-19 | 1-9-1-56-2-48 | 1-9-1-56-2-77 | 1-9-1-56-2-106 |
| 1-9-1-56-2-20 | 1-9-1-56-2-49 | 1-9-1-56-2-78 | 1-9-1-56-2-107 |
| 1-9-1-56-2-21 | 1-9-1-56-2-50 | 1-9-1-56-2-79 | 1-9-1-56-2-108 |
| 1-9-1-56-2-22 | 1-9-1-56-2-51 | 1-9-1-56-2-80 | 1-9-1-56-2-109 |
| 1-9-1-56-2-23 | 1-9-1-56-2-52 | 1-9-1-56-2-81 | 1-9-1-56-2-110 |
| 1-9-1-56-2-24 | 1-9-1-56-2-53 | 1-9-1-56-2-82 | 1-9-1-56-2-111 |
| 1-9-1-56-2-25 | 1-9-1-56-2-54 | 1-9-1-56-2-83 | 1-9-1-56-2-112 |
| 1-9-1-56-2-26 | 1-9-1-56-2-55 | 1-9-1-56-2-84 | 1-9-1-56-2-113 |
| 1-9-1-56-2-27 | 1-9-1-56-2-56 | 1-9-1-56-2-85 | 1-9-1-56-2-114 |
| 1-9-1-56-2-28 | 1-9-1-56-2-57 | 1-9-1-56-2-86 | 1-9-1-56-2-115 |
| 1-9-1-56-2-29 | 1-9-1-56-2-58 | 1-9-1-56-2-87 | 1-9-1-56-2-116 |

KO OLINA HILLSIDE VILLAS

| | | | |
|----------------|----------------|-----------------|-----------------|
| 1-9-1-56-13-1 | 1-9-1-56-13-45 | 1-9-1-56-13-89 | 1-9-1-56-13-132 |
| 1-9-1-56-13-2 | 1-9-1-56-13-46 | 1-9-1-56-13-90 | 1-9-1-56-13-133 |
| 1-9-1-56-13-3 | 1-9-1-56-13-47 | 1-9-1-56-13-91 | 1-9-1-56-13-134 |
| 1-9-1-56-13-4 | 1-9-1-56-13-48 | 1-9-1-56-13-92 | 1-9-1-56-13-135 |
| 1-9-1-56-13-5 | 1-9-1-56-13-49 | 1-9-1-56-13-93 | 1-9-1-56-13-136 |
| 1-9-1-56-13-6 | 1-9-1-56-13-50 | 1-9-1-56-13-94 | 1-9-1-56-13-137 |
| 1-9-1-56-13-7 | 1-9-1-56-13-51 | 1-9-1-56-13-95 | 1-9-1-56-13-138 |
| 1-9-1-56-13-8 | 1-9-1-56-13-52 | 1-9-1-56-13-96 | 1-9-1-56-13-139 |
| 1-9-1-56-13-9 | 1-9-1-56-13-53 | 1-9-1-56-13-97 | 1-9-1-56-13-140 |
| 1-9-1-56-13-10 | 1-9-1-56-13-54 | 1-9-1-56-13-98 | 1-9-1-56-13-141 |
| 1-9-1-56-13-11 | 1-9-1-56-13-55 | 1-9-1-56-13-99 | 1-9-1-56-13-142 |
| 1-9-1-56-13-12 | 1-9-1-56-13-56 | 1-9-1-56-13-100 | 1-9-1-56-13-143 |
| 1-9-1-56-13-13 | 1-9-1-56-13-57 | 1-9-1-56-13-101 | 1-9-1-56-13-144 |
| 1-9-1-56-13-14 | 1-9-1-56-13-58 | 1-9-1-56-13-102 | 1-9-1-56-13-145 |
| 1-9-1-56-13-15 | 1-9-1-56-13-59 | 1-9-1-56-13-103 | 1-9-1-56-13-146 |
| 1-9-1-56-13-16 | 1-9-1-56-13-60 | 1-9-1-56-13-104 | 1-9-1-56-13-147 |
| 1-9-1-56-13-17 | 1-9-1-56-13-61 | 1-9-1-56-13-105 | 1-9-1-56-13-148 |
| 1-9-1-56-13-18 | 1-9-1-56-13-62 | 1-9-1-56-13-106 | 1-9-1-56-13-149 |
| 1-9-1-56-13-19 | 1-9-1-56-13-63 | 1-9-1-56-13-107 | 1-9-1-56-13-150 |
| 1-9-1-56-13-20 | 1-9-1-56-13-64 | 1-9-1-56-13-108 | 1-9-1-56-13-151 |
| 1-9-1-56-13-21 | 1-9-1-56-13-65 | 1-9-1-56-13-109 | 1-9-1-56-13-152 |
| 1-9-1-56-13-22 | 1-9-1-56-13-66 | 1-9-1-56-13-110 | 1-9-1-56-13-153 |
| 1-9-1-56-13-23 | 1-9-1-56-13-67 | 1-9-1-56-13-111 | 1-9-1-56-13-154 |
| 1-9-1-56-13-24 | 1-9-1-56-13-68 | 1-9-1-56-13-112 | 1-9-1-56-13-155 |
| 1-9-1-56-13-25 | 1-9-1-56-13-69 | 1-9-1-56-13-113 | 1-9-1-56-13-156 |
| 1-9-1-56-13-26 | 1-9-1-56-13-70 | 1-9-1-56-13-114 | 1-9-1-56-13-157 |
| 1-9-1-56-13-27 | 1-9-1-56-13-71 | 1-9-1-56-13-115 | 1-9-1-56-13-158 |
| 1-9-1-56-13-28 | 1-9-1-56-13-72 | 1-9-1-56-13-116 | 1-9-1-56-13-159 |
| 1-9-1-56-13-29 | 1-9-1-56-13-73 | 1-9-1-56-13-117 | 1-9-1-56-13-160 |
| 1-9-1-56-13-30 | 1-9-1-56-13-74 | 1-9-1-56-13-118 | 1-9-1-56-13-161 |
| 1-9-1-56-13-31 | 1-9-1-56-13-75 | 1-9-1-56-13-119 | 1-9-1-56-13-162 |
| 1-9-1-56-13-32 | 1-9-1-56-13-76 | 1-9-1-56-13-120 | 1-9-1-56-13-163 |
| 1-9-1-56-13-33 | 1-9-1-56-13-77 | 1-9-1-56-13-121 | 1-9-1-56-13-164 |
| 1-9-1-56-13-34 | 1-9-1-56-13-78 | 1-9-1-56-13-122 | 1-9-1-56-13-165 |
| 1-9-1-56-13-35 | 1-9-1-56-13-79 | 1-9-1-56-13-123 | 1-9-1-56-13-166 |
| 1-9-1-56-13-36 | 1-9-1-56-13-80 | 1-9-1-56-13-124 | 1-9-1-56-13-167 |
| 1-9-1-56-13-37 | 1-9-1-56-13-81 | 1-9-1-56-13-125 | 1-9-1-56-13-168 |
| 1-9-1-56-13-38 | 1-9-1-56-13-82 | 1-9-1-56-13-126 | 1-9-1-56-13-169 |
| 1-9-1-56-13-39 | 1-9-1-56-13-83 | 1-9-1-56-13-127 | 1-9-1-56-13-170 |
| 1-9-1-56-13-40 | 1-9-1-56-13-84 | 1-9-1-56-13-128 | 1-9-1-56-13-171 |
| 1-9-1-56-13-41 | 1-9-1-56-13-85 | 1-9-1-56-13-129 | 1-9-1-56-13-172 |
| 1-9-1-56-13-42 | 1-9-1-56-13-86 | 1-9-1-56-13-130 | 1-9-1-56-13-173 |
| 1-9-1-56-13-43 | 1-9-1-56-13-87 | 1-9-1-56-13-131 | 1-9-1-56-13-174 |
| 1-9-1-56-13-44 | 1-9-1-56-13-88 | | |

KO OLINA KAI - GOLF ESTATES

| | | | |
|---------------|---------------|---------------|---------------|
| 1-9-1-56-5-1 | 1-9-1-56-5-16 | 1-9-1-56-5-31 | 1-9-1-56-5-46 |
| 1-9-1-56-5-2 | 1-9-1-56-5-17 | 1-9-1-56-5-32 | 1-9-1-56-5-47 |
| 1-9-1-56-5-3 | 1-9-1-56-5-18 | 1-9-1-56-5-33 | 1-9-1-56-5-48 |
| 1-9-1-56-5-4 | 1-9-1-56-5-19 | 1-9-1-56-5-34 | 1-9-1-56-5-49 |
| 1-9-1-56-5-5 | 1-9-1-56-5-20 | 1-9-1-56-5-35 | 1-9-1-56-5-50 |
| 1-9-1-56-5-6 | 1-9-1-56-5-21 | 1-9-1-56-5-36 | 1-9-1-56-5-51 |
| 1-9-1-56-5-7 | 1-9-1-56-5-22 | 1-9-1-56-5-37 | 1-9-1-56-5-52 |
| 1-9-1-56-5-8 | 1-9-1-56-5-23 | 1-9-1-56-5-38 | 1-9-1-56-5-53 |
| 1-9-1-56-5-9 | 1-9-1-56-5-24 | 1-9-1-56-5-39 | 1-9-1-56-5-54 |
| 1-9-1-56-5-10 | 1-9-1-56-5-25 | 1-9-1-56-5-40 | 1-9-1-56-5-55 |
| 1-9-1-56-5-11 | 1-9-1-56-5-26 | 1-9-1-56-5-41 | 1-9-1-56-5-56 |
| 1-9-1-56-5-12 | 1-9-1-56-5-27 | 1-9-1-56-5-42 | 1-9-1-56-5-57 |
| 1-9-1-56-5-13 | 1-9-1-56-5-28 | 1-9-1-56-5-43 | 1-9-1-56-5-58 |
| 1-9-1-56-5-14 | 1-9-1-56-5-29 | 1-9-1-56-5-44 | 1-9-1-56-5-59 |
| 1-9-1-56-5-15 | 1-9-1-56-5-30 | 1-9-1-56-5-45 | 1-9-1-56-5-60 |

OTHER PROPERTIES

| | | | |
|-------------|-------------|-------------|-------------|
| 9-1-056-003 | 9-1-057-026 | 9-1-057-005 | 9-1-056-009 |
| 9-1-056-008 | 9-1-056-017 | 9-1-057-006 | 9-1-057-023 |
| 9-1-056-025 | 9-1-057-001 | 9-1-057-007 | 9-1-057-033 |
| 9-1-056-023 | 9-1-057-030 | 9-1-056-007 | 9-1-056-024 |
| 9-1-056-020 | 9-1-057-034 | 9-1-057-013 | 9-1-057-010 |
| 9-1-056-015 | 9-1-057-035 | 9-1-057-014 | 9-1-057-031 |
| 9-1-056-016 | 9-1-057-036 | 9-1-057-015 | 9-1-057-011 |
| 9-1-056-028 | 9-1-057-037 | 9-1-057-020 | 9-1-057-022 |
| 9-1-056-001 | 9-1-056-006 | 9-1-056-022 | 9-1-057-021 |

BEFORE THE PLANNING COMMISSION
OF THE CITY AND COUNTY OF HONOLULU

STATE OF HAWAII

In the Matter of the Application of) FILE NO. 2008/SUP-2 (RY) and 86/SUP-5
)
)
DEPARTMENT OF ENVIRONMENTAL)
SERVICES, CITY AND COUNTY OF)
HONOLULU)
)
For a New Special Use Permit to supersede)
Existing Special Use Permit to allow a)
92.5-acre Expansion and Time Extension)
For Waimanalo Gulch Sanitary Landfill,)
Tax Map Key Nos. (1) 9-2-003:072 and 073)
_____)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this date, a copy of the foregoing will be duly served upon the following parties at their respective addresses by the manner indicated thereto:

| | <u>Mail</u> | <u>Delivery</u> |
|---|-------------|-----------------|
| CARRIE K.S. OKINAGA, ESQ. GARY Y. TAKEUCHI, ESQ. Corporation Counsel City & County of Honolulu 530 South King Street, Room 110 Honolulu, Hawai'i 96813 | | x |
| TIMOTHY STEINBERGER, P.E., DIRECTOR Department of Environmental Services City & County of Honolulu 1000 Uluohia Street, Suite 308 Kapolei, HI 96707 | x | |

DAVID TANOUE, DIRECTOR
Planning Department
City & County of Honolulu
650 South King Street, 7th Floor
Honolulu, Hawai'i 96813

X

DATED: Honolulu, Hawai'i, April 16, 2009



COLLEEN HANABUSA
Attorney for Petitioners KOCA, Hanabusa
And Shimabukuro