

1 LAND USE COMMISSION

2 STATE OF HAWAI'I

3 ACTION

4 A07-774 O'OMA BEACHSIDE VILLAGE, LLC)
5 (O'oma 2nd-Kaloko, North Kona, Hawai'i)
6 _____)

7
8 TRANSCRIPT OF PROCEEDINGS

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10 The above-entitled matter came on for a Public Hearing
11 at Ballroom #1 and 2, King Kamehameha's Kona Beach
12 Hotel, 75-5660 Palani Road, Kailua-Kona, Hawai'i
13 commencing at 3:15 p.m. on Wednesday, November 17,
14 2010 pursuant to Notice.

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19 REPORTED BY: HOLLY M. HACKETT, CSR #130, RPR
20 Certified Shorthand Reporter
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A P P E A R A N C E S

COMMISSIONERS:

KYLE CHOCK

THOMAS CONTRADES

VLADIMIR DEVENS (Chairman)

RONALD HELLER

CHARLES JENCKS

LISA M. JUDGE

DUANE KANUHA

NORMAND LEZY

EXECUTIVE OFFICER: ORLANDO DAVIDSON

ACTING CHIEF CLERK: RILEY HAKODA

STAFF PLANNERS: SCOTT DERRICKSON

DEPUTY ATTORNEY GENERAL: DIANE ERICKSON, ESQ.

AUDIO TECHNICIAN: WALTER MENCHING

Docket No. A07-774 O'Oma Beachside Village, LLC.

For the Petitioner: STEVEN LIM, ESQ.
JENNIFER BENCK, ESQ.

For the County: WILLIAM BRILHANTE, ESQ.
Deputy Corporation Counsel
DARYN ARAI Planning Dept.

For the State: BRYAN YEE, ESQ.
Deputy Attorney General
ABBEY MAYER
Office of Planning

For Intervenor NPS: KATHY BILLINGS, Supt.
National Park Service SALLIE BUCHAL
National Park Service

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CHAIRMAN DEVENS: Call this meeting to order. This is a meeting of the State Land Use Commission. Today is November 17th, 2010. This meeting is being held in Kailua-Kona. The first order of business is the adoption of the minutes. Any changes or corrections by the Commission? Hearing none, is there a motion to adopt?

COMMISSIONER CONTRADES: So moved.

COMMISSIONER HELLER: Second.

CHAIRMAN DEVENS: All those in favor say aye.

VOICE VOTE: Aye.

CHAIRMAN DEVENS: Unanimous. Dan, you want to cover the meeting schedule with us.

MR. DAVIDSON: Thank you, Chair. We should note again for the record that the Docket No. A09-783 James W. McCully, et al, has been withdrawn by the Petitioner, so that docket is off our agenda.

Beyond that, you have the schedule for next month and that we're working on items for 2011. And as always contact either me or Riley if you have any questions.

CHAIRMAN DEVENS: Thank you, Dan. Just for those in the public, today we're going to be

1 addressing only the 'O'oma matter. The Bridge 'Aina
2 Le'a matter will be handled tomorrow. As far as the
3 Bridge 'Aina Le'a matter's concerned there will be
4 arguments that the Commission will take on the Order
5 to Show Cause. It will be taken under advisement.
6 And the Motion to Amend the Conditions will be
7 deferred for another day.

8 We're on the 'O'oma matter. This is a
9 hearing to adopt the Findings of Fact, Conclusions of
10 Law and Decision and Order in Docket No. A07-774
11 'O'oma Beachside Village, LLC. For the record can I
12 have the parties introduce themselves.

13 MS. BENCK: Good afternoon, Chairman, the
14 rest of the Commission. This is Jennifer Benck and
15 Steven Lim both representing the Petitioner, O'oma
16 Beachside Village.

17 CHAIRMAN DEVENS: Good afternoon.

18 MR. BRILHANTE: Good afternoon, Chair.
19 William Brilhante, deputy corporation counsel county
20 of Hawai'i.

21 MR. YEE: Good afternoon. Deputy Attorney
22 General Bryan Yee on behalf of the Office of Planning.
23 With me is Abbey Mayer, Director of the Office of
24 Planning.

25 MS. BILLINGS: Good afternoon. Kathy

1 Billings, Kaloko-Honokohau and Sallie Beavers.

2 CHAIRMAN DEVENS: Good afternoon to you all.
3 Let me state the record. On November 5th, 2010 based
4 upon several motions the petition failed to receive
5 six affirmative votes to reclassify the Petition Area.
6 Accordingly, pursuant to Administrative Rule 15-15-13
7 (b) of our rules the Commission must file its Findings
8 of Fact, Conclusions of Law and Decision and Order
9 denying the Petition. This document is before the
10 Commission for consideration, deliberation and action.

11 Before we get to that issue we'll first hear
12 and take public testimony. For those that would like
13 to provide public testimony, if you have signed up we
14 will call you in the order as you've signed up on the
15 sheet.

16 Just a reminder, the hearing at this point
17 as far as the decision has already been made. It's
18 merely to adopt the Findings of Fact, Conclusions of
19 Law and Decision and Order. Any testimony that's been
20 given up to this point has been made part of the
21 record and has been transcribed. Are there any
22 witnesses who wish to provide testimony here today?
23 Dan, if you can call them in the order.

24 MR. DAVIDSON: First witness today is Harry
25 Kim followed by Ron Mitchell.

1 CHAIRMAN DEVENS: Mayor Kim, if I can swear
2 you in.

3 MAYOR HARRY KIM
4 being first duly sworn to tell the truth, was examined
5 and testified as follows:

6 THE WITNESS: Yes, sir.

7 CHAIRMAN DEVENS: If you could just state
8 your name and address for us please.

9 THE WITNESS: Harry Kim. Address 471
10 Ho'okina Place, Hilo, Hawai'i.

11 CHAIRMAN DEVENS: Go ahead, sir.

12 THE WITNESS: Thank you, Mr. Chair, members
13 of the council. Before I start I wish I had more than
14 three minutes to express what I want to say, but I do
15 understand the time limitation. But if it's possible
16 to come back after everyone's finished, I'd sure
17 appreciate IT if that's possible.

18 First of all, on this I did not come before
19 because I really thought -- and I'm not being
20 facetious -- I really thought this was such a good
21 Project for the island of Hawai'i and its people that
22 it would be a favorable thing to present because of
23 our involvement with Mr. Moresco from the day the
24 planning began.

25 When I took the Office of the Mayor of this

1 island, like most people born and raised here we see
2 so many changes. And I knew we had to change this
3 government on how we develop this island. I knew we
4 had to reach the mentality of the landowners and
5 developers in regards to a change in what they do and
6 how they do it.

7 I wanted them to change the relationship
8 with the community and their planning. I wanted them
9 to be aware and accountable of cultural as well as
10 sustainability issues. I would tell every single one
11 of the developers, and I promise you, members of the
12 Commission, I talked to every single developer that
13 was interested in the island of Hawai'i and I give
14 them all the same spiel.

15 I know they have to make money. But I would
16 tell them, "You don't have to make too much or so
17 much. Help me make this a better island, not just a
18 place for you to make money."

19 The question that I would pose to my
20 cabinet, "How do we get there? How do we reach these
21 people? How do we make changes within our limitations
22 with our limited resources and authority of the county
23 government, the laws of the land? How do we balance
24 what we feel personally and our responsibility of
25 economic development?"

1 Chris Yuen was my planning director. And
2 when I interviewed him I told him, "Can you be fair?
3 Can you put away your personal and be fair in regards
4 to what is right for the community and obviously the
5 law?" And he agreed. And naturally I hired him.

6 The responsibility of the mayor many times
7 is really very difficult because you have your
8 personal and you also have your professional
9 administrative responsibilities of economic
10 development. That is your responsibility also, also
11 the rights of the landowner on what their rights are
12 in regards to land purchase and development of that.

13 I think I talked to so many people, and some
14 of 'em were very successful in regards to listening.
15 Limited to this area, Kekeilani Wahine. In regards to
16 the owner, appealing to him, "Can you withhold the
17 development or sale of this land because this is a
18 very, very special place?" And he agreed. First
19 asked for six months thinking I could find the money
20 within six months to buy it from him. And we failed
21 because of the very difficult times in those years.

22 MR. DAVIDSON: Excuse me, Mayor, 30 seconds.

23 THE WITNESS: I'm gonna -- can I come back
24 after, sir?

25 CHAIRMAN DEVENS: Mayor, you know, because

1 we don't have that many witnesses and we do have some
2 extra time we'll give you some extra time.

3 THE WITNESS: Thank you, sir. Limited
4 specific goals of this area. We had a dream, using
5 that word, of a 17-mile stretch for the Kona area that
6 would belong to the people. We knew that we had the
7 Natural Energy Lab and the state at that time wanted
8 to discuss with the county, turn it over to the county
9 government.

10 We know we had the National Park obviously.
11 And it came back, Kohanaiki issue. The developer was
12 willing to work with the community after, what, 12,
13 13, 14 years of a conflict including the Supreme
14 Court.

15 And the community would -- and I wish they
16 were here because people like Angel Pilago, and even
17 Janice Sogi, those were the community people that made
18 Kohanaiki what it was. Don't just make a narrow strip
19 of land for the people. Give them a whole section of
20 that property.

21 And what they came through was more than
22 what I was expecting, and a lot of joy because how the
23 community worked with the developer.

24 Then there was 'O'oma. The first approach
25 to 'O'oma was negative. The owner did not want to

1 work with us. And there was a huge parcel of
2 beachfront. And then came Mr. Moresco. When I found
3 out we have a new majority owner, at least there was
4 still a hope that we can do this because it was the
5 last big piece of the 17-mile stretch for the people
6 of Hawai'i.

7 Mr. Moresco committed at day 1 that he would
8 try. If I go way too much -- I really would like to
9 tell you how I talked to him because they're all the
10 same. And I know I'm going to go way over my time.
11 But this is what I told Mr. Moresco in my office.

12 I said, "Mr. Moresco, next time you go to
13 Kona on the Kawaihae Road, I want you to look makai
14 from the Kawaihae Road junction to Kailua-Kona. I
15 want you to count on your hands how many places there
16 are signs without signs being posted that says, 'E
17 komo mai. This is your place." And all you're gonna
18 find is four or five places even at that, limited.

19 "Now imagine if this is your land of
20 Hawaiiana. How would you feel with all of these signs
21 that say, "Don't come in"? Help me build a place that
22 makes Hawai'i better. Don't be the last straw that
23 will break the back of people. I want you to help me
24 take off straws."

25 And that's what I told him. He committed

1 that he would try. The disappointment in regards to
2 what I read in the paper, and that's all I know, is
3 that I thought, I bragged to people in Honolulu when I
4 was invited by the Honolulu Magazine in regards to
5 working with developers. I said, "Keep your eye on
6 this place called 'O'oma." And this was way before
7 they went to you, this Commission. "Keep your eye on
8 this issue because they're going to make land use."

9 And I said, "I asked this man, Mr. Moresco,
10 to help me develop a template that we as people can
11 take to other developers and say, 'This is what you
12 can do. Yes, it can be better, but look at what they
13 did by listening to try to make Hawai'i a better
14 place.'"

15 I thought when they came in and said this is
16 what they're willing to give -- I don't know the
17 specifics, excuse me -- but I knew it was over a
18 thousand feet. And I used to tell my friends, "That's
19 over three football fields. That's going to be a
20 sign."

21 I asked them for a development in regards to
22 everything. When the people of Kohanaiki, Natural
23 Energy Lab, the National Park and 'O'oma see this
24 property and the development there's no big sign that
25 says, "Don't come in. This is only for the rich."

1 Help me create a village that says, "E komo
2 mai." And no insult intended, but don't be the e komo
3 mai like the State Capitol building, a nice big sign
4 with big doors that who wants to go in there? Develop
5 a village that people want to come and eat and drink,
6 sit and play. Help me make a village.

7 I'm asking this Commission members to please
8 take a look at what we worked on. I have no ties with
9 any developer. I promise you that. I came here on my
10 own accord because I wanted to talk to you about how
11 this started. That this is a good development and,
12 yes, it can be better.

13 In regards to working with the developer
14 somehow on the beachfront, how it came to be developed
15 together. So when you drive that 30-mile stretch next
16 time instead of seeing only three or four places you
17 will see e komo mai of Kohanaiki, of 'O'oma that says,
18 "Come on in. This is your place."

19 And I know I've gone way back, way beyond
20 the time allowed me. I appreciate it, members of the
21 Commission. But this is how strongly I felt that this
22 was good for Hawai'i. That this is a template of all
23 developers that what we can do as -- we have a
24 responsibility for economic development. I know that.

25 And I promise you there were conflicts

1 within me as an individual that this is my home from
2 birth of over 70 years. And I don't like a lot of
3 things I saw. And that's why we made this commitment
4 when we had the fortune of having a job that we could
5 talk to developers and landowners. And we talked to
6 every one of them on this same spiel as I'm talking to
7 you. Thank you, sirs, for the time.

8 CHAIRMAN DEVENS: Mayor Kim, let me see if
9 the parties have any questions for this witness.
10 None. Commissioners? None. Thank you very much for
11 your testimony and taking the time to be being here.

12 THE WITNESS: Thank you.

13 MR. DAVIDSON: Next witness is Ron Mitchell
14 followed by Daisy Mitchell.

15 CHAIRMAN DEVENS: Can I swear you in, Mr.
16 Mitchell.

17 RON MITCHELL
18 being first duly sworn to tell the truth, was examined
19 and testified as follows:

20 THE WITNESS: I swear.

21 CHAIRMAN DEVENS: State your name and
22 address for us, please.

23 THE WITNESS: My name is Ron Mitchell, P. O.
24 Box 2627, Kailua-Kona, Hawai'i.

25 CHAIRMAN DEVENS: Thank you.

1 THE WITNESS: Aloha, Commissioners. Thank
2 you again for being here in Kona. I'm a supporter of
3 'O'oma Beachside Village and a linear cultural
4 descendant of this ahupua'a. My testimony today is on
5 behalf of my client, Dennis Moresco, who cannot be
6 here today but who has ensured 'O'oma Beach remains
7 peaceful and clean over the past several years.

8 In 2002 Gary and Karen Eoff, organizer, of
9 Protect Kohanaiki Ohana, requested a proposal for
10 caretaker services for what is known as Kohanaiki
11 Beach, aka Pine Trees. The Eoffs were disturbed with
12 the rave parties and the blatant misuse of the beach
13 and they had foresight of our services. Due to the
14 lack of funding the proposal was not executed.

15 In 2003 Kaleo Kuali'i also requested the
16 same and funding was provided by Kohanaiki landowner
17 and developer. Kohanaiki is an example of our combined
18 five year working relationship between the community,
19 landowner, developer and us.

20 It became evident to me that the
21 neighboring, property, 'O'oma, needed to be in harmony
22 to gain the same effect. The landowner at the time
23 was Cliff Morris, who was approached with services,
24 but no funding was available.

25 As a result 'O'oma was crowded with 45

1 homeless campsites. I was an eye witness to a troubled
2 woman carrying a long knife. And this was a concern.
3 I stopped her, inquired of her problem. She confessed
4 slashing the tent of a fellow homeless dweller because
5 he owed her money for drugs.

6 Access to Pine Trees was through 'O'oma.
7 And this was one of the many issues which plagued us.
8 us, O'oma. Mr. Morris hired us. And with the help of
9 community policing, we managed to keep unauthorized
10 campers off of O'oma Beach.

11 MR. DAVIDSON: Thirty seconds.

12 THE WITNESS: Okay. Unfortunately they did
13 return after a week. It was advised by former Police
14 Chief Lawrence Mahuna to hire a company to take care
15 of his property on a continuous basis, and that it was
16 not a police function to do so.

17 At the last hearing tearful testimonies were
18 given to deny this petition. Unfortunately the
19 opposing public does not realize this petition is for
20 the betterment of their children. The 1100-foot
21 setback from the beachfront will remain in
22 conservation and kept for the children's children.

23 Without Mr. Moresco's participation and
24 cleanup efforts over the past five years, O'oma would
25 not be the beach it is today. It would be a trash

1 dump, homeless tenancy, housing for every criminal
2 activity you can think of, and the raiding of natural
3 resources, example: Lava rocks and imu stones.

4 Changing the O'oma lands from conservation
5 to urban would promise the public to use the beach
6 area and even prevent slipping back into the
7 continuous abuse, mistreatment from those who do not
8 understand or do not have the desire to respect the
9 O'oma property. Mahalo.

10 CHAIRMAN DEVENS: Did you get a chance to
11 read everything you wanted to read?

12 THE WITNESS: Yes, I did.

13 CHAIRMAN DEVENS: Okay. Any questions for
14 this witness? Commissioners? None. Thank you very
15 much for your testimony.

16 THE WITNESS: Thank you.

17 MR. DAVIDSON: Daisy Mitchell followed by
18 Reggie Lee.

19 DAISY MITCHELL
20 being first duly sworn to tell the truth, was examined
21 and testified as follows:

22 THE WITNESS: Yes.

23 CHAIRMAN DEVENS: State your name and
24 address, please.

25 THE WITNESS: Daisy Mitchell, P. O. Box 2627

1 Kailua-Kona, Hawai'i.

2 CHAIRMAN DEVENS: Go ahead.

3 THE WITNESS: Aloha, Commissioners and thank
4 you again for your valuable time in this matter. I'm
5 a support of 'O'oma Beachside Village. My reason for
6 being here today is because I am an eyewitness of good
7 stewardship of O'oma. Born and raised in Kona my
8 father has taken my family on fishing trips to O'oma
9 and Kohanaiki. It was a must to ask permission from
10 the owner --

11 CHAIRMAN DEVENS: Sorry, ma'am, the court
12 reporter is going to have a hard time keeping up. If
13 you could slow it down a little.

14 THE WITNESS: I know I'm within three
15 minutes because I timed it myself. (Laughter)

16 CHAIRMAN DEVENS: We'll let you finish.
17 It's okay.

18 THE WITNESS: Okay. All right. Let's go
19 back to "born and raised." Born and raised in Kona my
20 father has taken my family on fishing trips to O'oma
21 and Kohanaiki. It was a must to ask permission from
22 the owners or caretakers of the property before
23 entering. Honor and respect of others' property was
24 essential.

25 My memory of 'O'oma was peaceful, clean and

1 bountiful for mempachi fish. Going to the beach was a
2 lesson to always leave the place in a better condition
3 than the way we found it. Take our opala, our
4 rubbish, and thank the Lord for provision and
5 enjoyment of the beach. This is generation of good
6 stewardship in my family.

7 But as the years passed and the population
8 grew, 'O'oma turned into a well liked beach spot and a
9 colonized camping-ground for mistreatment. I recall
10 an incident when the beach was shut down for potential
11 hepatitis infection. My father's response to this
12 was, "People are taking advantage of the property and
13 there's no party to take care of the land and honor
14 the blessings of it."

15 I find it amazing after 20 years God has
16 placed my husband and our company at 'O'oma to be
17 caretakers of this property. I personally counted
18 over 45 homeless camp sites at 'O'oma, witnessed drug
19 trafficking, assault, trash dumping and blatant abuse
20 and misuse of the land; eyewitness to a 10-hour late
21 night rave party, counted over 80 cars traveling down
22 the old Jeep road, loud music, screaming and the next
23 morning walking the beach covered with the sea of
24 green beer bottles and passed out participants.

25 After the beach evacuation in 2003, this was

1 a blessing from God to naturally clean the beach and
2 restore O'oma to the tranquil beach of my youth. All
3 unauthorized campers were evacuated to safety and not
4 allowed back to reside.

5 As a fundraising effort for our youth group
6 to clean up the beach, my husband, Ron Mitchell, made
7 a request to the landowner. Two 12-hour days, a team
8 of 20 adults and teens bagged 75 construction size
9 rubbish bags, organized abandoned cars, furniture,
10 make-shift toilets, beds, a motorcycle, 50 broken and
11 burned pallets, and five truckloads were hauled to the
12 local transfer station.

13 Thanks to Mr. Dennis Moresco it has been
14 over five years and O'oma is serene. What the
15 opposing public doesn't realize is this: Without good
16 stewardship O'oma will become the dumping ground I
17 witnessed. True, malama the 'aina is 'maka'ainana,
18 which is to be a good steward and caretaker of the
19 land.

20 O'oma Beachside Village is a responsible
21 future plan. It is in the best interest of this
22 community to allow Mr. Moresco to keep the 1100-foot
23 setback from beach as conservation land for our future
24 generations and allow him to continue his efforts to
25 malama the 'aina.

1 For without his good stewardship, I am
2 concerned O'oma will revert back to a dumping ground
3 and housing for illicit inhabitants who will abuse the
4 land. Thank you.

5 CHAIRMAN DEVENS: Thank you for your
6 testimony. Any questions for this witness?
7 Commissioners? None. Thank you very much.

8 MR. DAVIDSON: The last signed up witness is
9 Reggie Lee.

10 REGGIE LEE
11 being first duly sworn to tell the truth, was examined
12 and testified as follows:

13 THE WITNESS: I do.

14 CHAIRMAN DEVENS: If you could tell us your
15 name and address, please.

16 THE WITNESS: My name is Reggie Lee. My
17 mailing address is P. O. Box 3630, Kailua-Kona,
18 Hawai'i.

19 CHAIRMAN DEVENS: Okay.

20 THE WITNESS: First of all, I want to thank
21 you for this opportunity to be here. I don't envy you
22 the situation you're in. But, you know, I know that,
23 you know, the decision that was made, you know, you,
24 it kinda really hurts the 'ohana. Yeah?

25 My family was born, raised here on this

1 ahupua'a: 'O'oma, Kohanaiki, Honokohau, Kaloko. We
2 traversed that for generations. Today our kids don't
3 have jobs. And this is one of a strong backing that
4 why we backed this Project and we looked at this
5 Project as a great Project. The village, the way they
6 were going to set it up with business on the bottom
7 and your living on the top.

8 Two days ago my friend, he's dying of
9 cancer. He has six boys. His boy just graduated from
10 high school. They're looking for jobs. They calling
11 me for jobs, "Can you get my kid a job?" You know,
12 and the worst part about it is not only him. His wife
13 has cancer.

14 And they don't -- you know, what he's gonna
15 do? If they don't have jobs here what are the kids
16 gonna do? Where are they going? I think lot of these
17 projects will fall on each other so it's gonna give us
18 a long period of jobs for the kids in Hawai'i.

19 We don't want -- what is Hawai'i without
20 Hawaiians? If the kids have to move away from here we
21 won't all have our keikis here. And this is why, one
22 of the reasons why I really backed this Project.

23 And another is, you know, I'm down at the
24 beach all the time at the Kohanaiki. And there's so
25 many people coming up asking for jobs. There's so

1 many people that back this Project but they won't come
2 out, you know. Maybe we should have started a
3 petition, a positive petition on our part. But, you
4 know, it's too late now. Well, I hope it's not too
5 late.

6 I hope we can really think about this 'cause
7 it impacts everyone, you know, whether it's Japanese,
8 it's the Portuguese, the Hawaiian, it's gonna impact
9 everybody.

10 'Cause we want -- we want, I want the people
11 to come back to this ahupua'a 'cause we don't need any
12 more people moving here 'sept we gotta keep our people
13 here. Thank you very much.

14 COMMISSIONER DEVENS: Any questions for this
15 witness? Commission? Hearing none, thank you very
16 much for your testimony. Thank you all for the
17 testimony provided today and for coming out today.

18 At that point, Commissioners, what's your
19 pleasure on this matter? Commissioner Lezy.

20 COMMISSIONER LEZY: Thank you, Chair. I'd
21 like to call for an executive session so we may meet
22 with our attorney to discuss our rights and
23 obligations.

24 COMMISSIONER DEVENS: Second that. All
25 those in favor say aye.

1 VOICE VOTE: Aye.

2 CHAIRMAN DEVENS: Unanimous.

3 (Executive session was held.)

4 CHAIRMAN DEVENS: Thank you for your
5 patience. We're back on the record. Commissioners,
6 is there a motion on this matter? Commissioner
7 Heller.

8 COMMISSIONER HELLER: Yes. We have before
9 us a draft Findings of Fact, Conclusions of Law and
10 Decision and Order provided to us by the Deputy AG.
11 I'd like to make a motion that we approve the form of
12 this document.

13 CHAIRMAN DEVENS: Is there a second?

14 COMMISSIONER JENCKS: Second.

15 CHAIRMAN DEVENS: There's a second.
16 Discussion? Commissioner Kanuha.

17 CHAIRMAN KANUHA: Mr. Chairman, after my
18 review of the proposed Findings of Fact, the
19 Conclusions of Law and the Decision and Order I'd like
20 to suggest some amendments to, I guess it's Finding
21 112.

22 And what I'd like to suggest after the
23 section that says, "Adverse impacts on Kona
24 International Airport" I'd like to suggest adding "and
25 consequences of allowing an urban area in close

1 proximity to it," comma, "preservation of the
2 Conservation District," comma, and the rest would stay
3 the same.

4 And the reason I'm suggesting those changes
5 is that language of concerns related to the motion is
6 basically taken right out of our minutes.

7 CHAIRMAN DEVENS: Thank you. Any further
8 discussion? Commissioner Heller, are you willing to
9 amend the motion to incorporate what Commissioner
10 Kanuha has proposed?

11 COMMISSIONER HELLER: Yes. I would accept
12 that as a friendly amendment.

13 CHAIRMAN DEVENS: Is there a second?

14 COMMISSIONER JENCKS: Second.

15 CHAIRMAN DEVENS: Any further discussion?
16 Roll call.

17 MR. DAVIDSON: It's been moved and seconded
18 to approve the form of the order in A07-774.
19 Commissioner Heller?

20 COMMISSIONER HELLER: Yes.

21 MR. DAVIDSON: Commissioner Jencks?

22 COMMISSIONER JENCKS: Yes.

23 MR. DAVIDSON: Commissioner Chock?

24 COMMISSIONER CHOCK: Yes.

25 MR. DAVIDSON: Commissioner Contrades?

1 COMMISSIONER CONTRADES: Yes.

2 MR. DAVIDSON: Commissioner Judge?

3 COMMISSIONER JUDGE: Yes.

4 MR. DAVIDSON: Commissioner Kanuha?

5 CHAIRMAN KANUHA: Yes.

6 MR. DAVIDSON: Commissioner Lezy?

7 COMMISSIONER LEZY: Yes.

8 MR. DAVIDSON: Chair Devens?

9 CHAIRMAN DEVENS: Yes.

10 MR. DAVIDSON: Motion passes eight/zero,
11 Chair.

12 CHAIRMAN DEVENS: Parties have anything else
13 they want to add to the record at this time? Mr. Lim?
14 Ms. Benck?

15 MR. LIM: No, nothing further. I'm assuming
16 we'll receive a copy of the D&O.

17 CHAIRMAN DEVENS: Certainly.

18 MR. LIM: Would that come very quickly by
19 tomorrow or so?

20 CHAIRMAN DEVENS: We'll check with Dan as
21 soon as we go off the record. But we'll try to get it
22 out as soon as possible.

23 MR. LIM: Thank you very much.

24 CHAIRMAN DEVENS: County?

25 MR. BRILHANTE: Nothing further, Chair.

1 CHAIRMAN DEVENS: OP?

2 MR. YEE: Nothing from OP.

3 CHAIRMAN DEVENS: Parks?

4 MS. BILLINGS: No.

5 CHAIRMAN DEVENS: Commissioners, anything
6 more for the record? Hearing nothing more we'll stand
7 adjourned. Thank you very much.

8 (The proceedings were adjourned at 4:00 p.m.)

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C E R T I F I C A T E

I, HOLLY HACKETT, CSR, RPR, in and for the State of Hawai'i, do hereby certify;

That I was acting as court reporter in the foregoing LUC matter on the 17th day of November 2010

That the proceedings were taken down in computerized machine shorthand by me and were thereafter reduced to print by me;

That the foregoing represents, to the best of my ability, a true and correct transcript of the proceedings had in the foregoing matter.

DATED: This _____ day of _____ 2010

HOLLY M. HACKETT, CSR #130, RPR
Certified Shorthand Reporter