

BOARD OF APPEALS
COUNTY OF HAWAI'I

HEARING TRANSCRIPT
MAY 8, 2009

The following is public testimony provided by **THEA L. KUMOVE** regarding the appeal of **KENNETH FUJIYAMA (BOA 09-000075)** at 11:04 a.m., in the County of Hawaii, Aupuni Center Conference Room, 101 Pauahi Street, Hilo, Hawai'i, with Vice-Chairman Peter Hendricks presiding.

PRESENT: Peter Hendricks
David Drury
Charlene Hart
Karen Maedo
Kim Tavares

ABSENT & EXCUSED: Joel Gimpel

Renee Schoen, Counsel to the Board
Alice Kawaha, Staff to the Board

PETITIONER: KENNETH FUJIYAMA (BOA 09-000075) - Appeal of Decision by the Planning Director dated February 12, 2009, Notice of Violation and Order (ZCV 2009-017E), operating an unpermitted Charter School in an agricultural zone without an approved Special Permit. The subject property consists of 22.35 acres and is the site of the existing Nani Mau Gardens, Panaewa Farm Lots, South Hilo, Hawai'i, TMK: (3) 2-2-48:13.

HENDRICKS: Next item, I believe someone was wanting to speak to Item No. 2 which apparently has been withdrawn, Petitioner Kenneth Fujiyama, Board of Appeals 09-000075. Is that person in the audience?

KUMOVE: Yes. I'm not sure if I filled out the paper correctly or not.

KAWAHA: Okay, I'll take it.

KUMOVE: I put that I'm here for myself and as a real estate salesperson.

HENDRICKS: Since we haven't seen the application yet, could you just please state your name before you start.

KUMOVE: Hi, my name is Thea Kumove and I attended -. I have a real estate sales person license that I have currently inactive, placed on inactive status. And I wasn't aware that this petition was withdrawn. But it's my understanding that he also has a real estate office located at this Nani Mau Gardens; and I, and he's a licensed contractor. I was taking a continuation class that's required by the State of Hawaii to renew your real estate license. And he was taking the class also, and he stood up and he just started asking me

questions that had absolutely nothing to do with the real estate class. And I said, well, I don't understand your asking me these questions, but you own this building and you think that you can just ask me anything when I'm sitting here in a real estate class. And some of the things he was talking about was unlicensed people that he seemed to be affiliated with. And when I tried to ask him about it after, you know, go back and asked him, he was like, oh, why I don't have to answer you, you know, what do you have to do with anything. So I think that -.

I went yesterday to ask the Planning Department about this particular meeting and they didn't tell me that it was, the appeal was withdrawn. And I'm not, and I thought that he opposed -.

In the newspaper there was something in Hawaiian Acres that was zoned, that they'd get a charter school or something there and the public didn't like it on an agricultural lot. So they, and it's my understanding that they weren't allowed to have a school there and they had to move it somewhere else.

So I'm in the process of filing a complaint with the Real Estate Commission because people like me, he has to work through a broker. But I think that if he's a licensed broker and a construction contractor, then I think it's interesting that he can run something without a permit. And so I'm not sure, you know, if I'm representing -. So, you know, when I tried to ask him, well, where's your real estate office he wouldn't tell me where it was. And when I went to the Planning Department yesterday they looked it on the computer and I think that that's the address given for the real estate office to get at this same location. But they weren't, they're like, well, we don't have anything to do with that. So that's my comment.

HENDRICKS: Thank you. Just for your information, we also just found out several days ago that the appeal was withdrawn. So it wasn't anything that was held back from the public. And for your information, there have been a couple of actions about charter schools in the Puna district in the last several years, not just this one. So that's -. Our only jurisdiction here on this Board is to decide on final decisions of the Department of Public Works Director or the Planning Director on planning, zoning and other decisions. So this is the venue for the public to come when it's perceived that the decisions were incorrect by either of those department heads. We don't have jurisdiction in other places so we have to be careful and just stay with our jurisdiction or kuleana. But thank you. Since you're testifying then this will be on the record.

KUMOVE: Everything is okay that I brought up these other subject matters, that he is a licensed contractor and a broker?

HENDRICKS: That would be another agency. That's not our jurisdiction. But since you did testify it is on the record; and I'm sure we can provide you with the proper agency to go to. And I'm trying to think of which one that would be, the appropriate licensing agency, probably. So thank you.

The testimony concluded at 11:07 a.m.

Respectfully submitted,

Sharon M. Nomura, East Hawai'i Secretary