

BOARD OF APPEALS  
COUNTY OF HAWAII

HEARING TRANSCRIPT  
DECEMBER 14, 2007

A regularly advertised hearing on the appeal of **JALENE RAMONA HITZEMAN, TRUSTEE OF THE JALENE RAMONA HITZEMAN REVOCABLE LIVING TRUST (BOA 06-000036)** was called to order at 10:10 a.m. in the County of Hawaii, Aupuni Center Conference Room, 101 Pauahi Street, Hilo, Hawai'i, with Chairman Valta A. Cook presiding.

PRESENT: Valta A. Cook                      ABSENT & EXCUSED: Kelly Ann Soo  
David Drury  
Peter Hendricks  
Joel Gimpel  
Diane Gentry  
Kim Tavares

Ivan Torigoe, Counsel to the Board  
Alice Kawaha, Staff to the Board

Robert C. Stonier representing Appellant  
Tobert C. Stonier, Appellant  
Amy Self representing the Planning Director

And six people from the public in attendance

**PETITIONER: JALENE RAMONA HITZEMAN, TRUSTEE OF THE JALENE RAMONA HITZEMAN REVOCABLE LIVING TRUST (BOA 06-000036) -**  
Adoption of Findings of Fact, Conclusions of Law, and Decision and Order, including oral arguments, regarding the Appeal of Decision by the Planning Director dated November 9, 2006, relating to determination of pre-existing lots of record. The subject property is located approximately 3 miles west of Mamalahoa Highway, Kaupakuea Homesteads, South Hilo, Hawai'i, TMK: (3) 2-8-2:12.

COOK:                      Now we'll proceed back to the top of the agenda; and that's the Hitzeman matter, and that's Board of Appeals No.06-000036. Are the parties and their attorney present? If so, if they would come forward.

Well, it appears to be no one here, but that matter is on the agenda. So we will move forward then with -.

GIMPEL:                      The County's representative is here.

COOK: I'm sorry?

GIMPEL: The representative is here.

COOK: I'm sorry the County is. I'm sort of blind this morning. Ms. Self, would you like to tell us where that stands as far as you know? Have you been contacted by the Appellant and/or the Appellant's attorney on this matter?

SELF: Amy Self, Deputy Corporation Counsel, representing the Planning Director and Department. No, I have not received any communication from the Appellant or her counsel. The last thing I received was the Appellant's Statement of No Position regarding the Planning Director's Proposed Findings of Fact and Conclusions of Law.

COOK: Well, at this point in time I think what we had done, we had continued this matter to allow both parties to file Proposed Findings of Fact, Conclusions of Law and to make arguments this morning. Since the Appellant is not here and they filed a Statement of No Position on the Proposed Findings of Fact, Conclusions of Law that were submitted by the Planning Director, then I think we're ready on this matter to, first of all, I think we need a motion to either approve the petition or the appeal or deny the appeal. So I'll accept a motion on that at this point.

GIMPEL: I'll move to deny the appeal.

COOK: Do I have a second to that motion?

GENTRY: Second, second.

COOK: Okay, is there any discussion? Okay, all in favor of the motion, and I'll ask the clerk to call the roll, please.

KAWAHA: Mr. Gimpel?

GIMPEL: Aye.

KAWAHA: Ms. Gentry?

GENTRY: Aye.

KAWAHA: Mr. Drury?

DRURY: Yes.

KAWAHA: Mr. Hendricks?

HENDRICKS: Aye.

KAWAHA: Ms. Tavares?

TAVARES: Aye.

KAWAHA: Chair Cook?

COOK: Yes.

KAWAHA: Chair, there are six ayes. Motion is carried.

COOK: I just want to clarify for the record that everyone here, there were some people who were not here, as I recall, for the original fact hearing that we had. I want to make sure on the record that everyone who has participated in this vote has fully read the records and files herein. Is there anyone on the Board who has not? Then I'm going to assume that everyone has. So the record is clear. Thank you very much. Thank you, Ms. Self.

TORIGOE: Excuse me, Mr. Chairman. You do have a couple of proposed Findings of Fact, Conclusions of Law and Decision. I think it would be proper for the Board to adopt one of the proposed Findings.

COOK: I'm sorry. Okay we have proposed Findings of Fact and Conclusions of Law that have been submitted by both the Appellant and the Planning Director. Since we have approved, we have denied the appeal then it seems to be that it would be proper to consider the Findings of Fact, Conclusions of Law and Decision that have been submitted by the Planning Director. Do I have a motion?

GENTRY: Yeah, I'll move to accept the County's Findings of Fact, Conclusions of Law and Decision and Order in this matter.

GIMPEL: Second.

COOK: Is there any discussion? Okay. Would the clerk call the roll again, please.

KAWAHA: Ms. Gentry?

GENTRY: Aye.

KAWAHA: Mr. Gimpel?

GIMPEL: Aye.

KAWAHA: Mr. Drury?

DRURY: Yes.

KAWAHA: Mr. Hendricks?

HENDRICKS: Aye.

KAWAHA: Ms. Tavares?

TAVARES: Aye.

KAWAHA: Chair Cook?

COOK: Yes.

KAWAHA: Chair, there are six ayes. Motion is carried.

The discussion ended at 10:15 a.m.

Respectfully submitted,

Sharon M. Nomura, Secretary