

COUNTY OF HAWAI‘I PLANNING DEPARTMENT

Requirement to Inform Surrounding Property Owners and Lessees of Contested Case Procedure

These requirements are prepared in accordance with the Planning Commission’s Rules of Practice and Procedure, Rule 4, Contested Case Procedure, effective June 5, 2017. Rule 4, Contested Case Procedure affects “all cases where the action of the Commission is the final action of a County official or agency, prior to the opportunity for appeal to Circuit Court, whenever it is required. It shall therefore be followed in all cases where statutes provide for direct appeal from the Commission to Circuit Court.” Applications affected by Rule 4 include Planned Unit Development Permits, Special Permits, Shoreline Setback Variances, Special Management Area (SMA) Use Permits and Use Permits.

First Notice (For a sample of a First Notice Letter, [click here](#))

Within (10) days after the Planning Department or Planning Commission has officially acknowledged receipt of your application, you are required to serve notice of your application on surrounding property owners and lessees of record, in accordance with the Hawai‘i County Zoning Code, Section 25-2-4.

Second Notice (For a sample of a Second Notice Letter, [click here](#))

Planned Unit Development Applications, Special Permit Applications, Shoreline Setback Variance Applications and Use Permit Applications: You are required to serve a second notice to surrounding owners and lessees of record within ten (10) days after receiving notice from the Director of the date of the scheduled hearing but not less than ten (10) days prior to the date of the scheduled hearing.

SMA Use Permit Applications: You are required to serve a second notice within ten (10) days after receiving notice from the Director of the date of the scheduled hearing but not less than twenty (20) days prior to the date of the scheduled hearing.

Both notices shall include the following information:

1. Name of the applicant;
2. Precise location of the property involved, including tax map key identification, location map and site plan;
3. Nature of the application and the proposed use of the property;
4. Date on which the application was filed with the director or the commission;
5. Inform the landowner and lessee that they have a right to submit a written request for a contested case procedure. Should they seek to intervene as a party, they shall file a written request on the attached form, “Petition for Standing in Contested Case Hearing.” You should include this form in both notices to the landowners and lessees. The request shall be filed with the Planning Commission at Aupuni Center, 101 Pauahi Street, Suite 3, Hilo, Hawai‘i 96720; and accompanied by a filing fee of \$200 payable to the Director of Finance. The

required information shall be submitted no later than seven (7) calendar days, prior to the Commission's first scheduled public hearing to consider the application;

6. Inform the landowner and lessee that should they choose not to submit a written request for a contested case procedure, they may express their support/opposition in writing or by oral testimony at the Planning Commission public hearing to be scheduled; and
7. Planning Department mailing address and phone number should there be any questions.

In addition, the second notice shall include the date, time and place that the scheduled public hearing will be held to consider the application.

Who Should Be Notified?

When the subject property is located within the State Land Use Urban or Rural District, notice shall be served to owners and lessees of record of all lots within three hundred feet (300') of the perimeter boundary of the subject property.

When the subject property is located within the State Land Use Agricultural District, notice shall be served to owners and lessees of record of all lots within five hundred feet (500') of the perimeter boundary of the subject property. Except that if the surrounding properties are located within either the State Land Use Urban or Rural District, notice shall be served to owners and lessees of record of all lots within three hundred feet (300') of the perimeter boundary of the subject property.

Data available from the Real Property Tax division of the Department of Finance shall be utilized in determining the names and addresses of the affected owners and lessees of record.

The applicant shall also provide notice to such other owners and lessees of record when the applicant has actual knowledge of such names or as informed by the Planning Director or Planning Commission.

Proof of service for the first notice and second notice shall be submitted to the Planning Director or Planning Commission prior to the date of public hearing. Proof of service may consist of certified mail receipts, proof of mailing (Post Office form can be found [here](#)), affidavits (sample affidavit can be found [here](#)), declarations or the like. The list of names, addresses and tax map keys of those individuals notified and one copy of the first and second notification letter, including all required attachments (e.g. Contested Case Petition, List of Names/Addresses/TMKs of Surrounding Property Owners/Lessees of Record, Vicinity Map, Site Plan, etc.) shall also be submitted.

Should you have any questions, please contact the Planning Department at 961- 8288 or 327-4770.

Updated 6/22/17

PETITION FOR STANDING IN A CONTESTED CASE HEARING

(Page 1 of 2)

NAME: _____

ADDRESS: _____

PHONE NO.: _____

APPLICANT/

DOCKET NO.: _____

A. Is your interest in this matter clearly distinguishable from that of the general public?

Yes_____ No_____

If the answer is "yes", please explain:

If the answer is "no", please explain how the proposed action will nevertheless cause you actual or threatened injury:

B. Are you a government agency whose jurisdiction includes the land involved in the subject request?

Yes_____ No_____

If the answer is "yes", please explain the nature of the agency's jurisdiction:

C. Do you lawfully reside on or have some property interest in the land involved in the subject request?

Yes_____ No_____

If the answer is "yes", please explain:

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Yes_____ No_____

[illegible]

STATE OF HAWAI'I)
) SS.
COUNTY OF HAWAI'I)

Notary Public, State of Hawai‘i

My commission expires: _____