

BEFORE THE ENVIRONMENTAL MANAGEMENT COMMISSION
COUNTY OF HAWAI'I, STATE OF HAWAI'I

KAI ALA PARTNERS LLC,

Applicant/Appellant,

vs.

RAMZI I. MANSOUR, DIRECTOR,
DEPARTMENT OF ENVIRONMENTAL
MANAGEMENT, COUNTY OF HAWAI'I

Appellee.

**FINDINGS OF FACT, CONCLUSIONS OF
LAW, AND ORDER**

HEARINGS:

Date: January 7, 2022 and April 20, 2022

FINDINGS OF FACT

1. On October 12, 2021, Under Part 7, of the Hawai'i County Environmental Management Commission's ("EMC") Rules of Practice and Procedure, Kai Ala Partners LLC ("Appellant") filed an appeal, challenging the June 10, 2021 decision of the Director of the Department of Environmental Management, County of Hawai'i ("Appellee") to impose a monthly sewer maintenance fee for an unoccupied unit located on Appellant's property.
2. Hearings were held on January 7, 2022 and April 20, 2022, where Appellant and Appellee presented documentary and oral evidence.
3. Appellant maintained that the structure Appellee determined to be an unoccupied unit, per Hawai'i County Code ("HCC"), Section 21-2, was not an unoccupied unit.
4. The Director asserted that the structure satisfied the definition of "unoccupied unit" as set forth in HCC § 21-2.

5. At its meeting on April 20, 2022, the EMC found that the structure at issue, located on Appellant’s property at 75-5944 Ali‘i Drive, Kailua-Kona, 96740, does not receive a water bill.

CONCLUSIONS OF LAW

1. HCC § 21-2 defines an “unoccupied unit” as “a unit that is not occupied but has accessibility to a sewer, plumbing fixtures located on it, and currently receives a water bill.”

2. In relevant part, HCC § 21-31 states that “[u]noccupied units will be assessed a monthly maintenance fee equal to the current monthly sewer user fee.”

3. Under EMC’s Rules of Practice and Procedure, Rule 7-4(4)(a) and (b), the EMC has the authority to reverse Appellee’s decision if it “violates the law” or is “clearly erroneous[.]”

4. The EMC finds that Appellee’s decision violated HCC § 21-31 and was clearly erroneous because the structure on Appellant’s property was not currently receiving a water bill, as required by HCC §§ 21-31 and 21-2.

DECISION AND ORDER

Based on its consideration of the evidence and argument presented at the hearings and under the authority of EMC Rule 7-12, Appellee’s June 10, 2021 decision to bill Appellant a “monthly maintenance fee equal to the current monthly sewer user fee” for the structure at issue on Appellant’s property located at 75-5944 Ali‘i Drive, Kailua-Kona, 96740 is **REVERSED**.

Dated: Hilo, Hawai‘i, _____.

GEORJEAN ADAMS, Chairperson,
Environmental Management Commission,
County of Hawai‘i, State of Hawai‘i