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# Manoa Estates wins LUC vote in dispute on conservation land

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The state Land Use Commission yesterday voted 7 to 2 to retroactively urbanize conservation land in Manoa for an existing single-family home condominium project which critics charge was deliberately built illegally.

The decision means the developer of the controversial project, Manoa Estates, has hurdled a major obstacle in retaining parts of the project earlier found to be illegally encroaching on conservation

land.

"We don't know if we're going to appeal," said Jack Schweigert, who represented former renters of the project opposing the reclassification. "The Land Use Commission should not have heard this case. They can't ratify an illegal act."

Francis Izumi, attorney for the landowner — Manoa Finance Co., Inc. — said his clients must now get additional permits from the city.

Manoa Finance was fined \$21,500 in November by the state Board of Land and Natural Resources because a number of structures in the project sat on conservation land.

The land board agreed with its staff that the violations were intentional. The developer admitted there were violations but denied they were done knowingly.

In addition to paying the fine, Manoa Finance agreed to try to get LUC approval for reclassifying conservation land adjacent its project to urban so the structures in violation would no longer be illegal.

If the LUC denied the reclassification request, the matter would have gone back to the land board for a final decision which the developers have agreed not to appeal.

But over the no votes of Carol Whitesell and William W.L. Yuen, the commission yesterday supported the reclassification request.

Those supporting the petition felt all necessary requirements had been met. Some also said they should not take into account whether the developer intentionally violated conservation land regulations.

While saying it was an irrelevant issue, commission chairman Charles Duke added he did not feel the land board's

staff had proved Manoa Estates' conservation land violations were intentional.

Yuen said he too was unconvinced the violations were planned. Still, he felt the area sought for reclassification did not meet the usual criteria for urban land. For example, he said it was too steep.

Whitesell's objection was based on her belief that the violations were intentional. "I don't think people should profit by breaking the law and I think that's what's happening here," she said.

The reclassification request had been supported by the state Department of Planning and Economic Development, which felt it was "reasonable," met land use guidelines and did not significantly impact surrounding conservation areas.

The city Department of General Planning said it "is not opposed" to the project although it earlier questioned whether the LUC should make a decision if the issue hinged on the question of an intentional violation.

In other action yesterday, the commission denied a request by the Liliuokalani Trust to reclassify 75 acres of agriculture land for a regional shopping center in Kailua-Kona on the Big Island.

The center was proposed on land mauka of Queen Kaahumanu Highway near Palani Road. The state and Hawaii County opposed the request, one reason being to limit development in the area makai of the highway.

Commissioners were deadlocked 4 to 4 on the petition, with Big Island commissioner Mitsuo Oura voting yes. Five votes are needed for approval.

The commission, meanwhile, unanimously approved another request by Liliuokalani Trust to reclassify 100 acres of agricultural land mauka of the highway for an extension of an existing industrial site.