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**STATE LAND USE COMMISSION PREVAILS IN HAWAII SUPREME COURT CASE  
REGARDING SPECIAL PERMIT FOR OVERNIGHT CAMP ON  
PRIME AGRICULTURAL LAND**

**FOR IMMEDIATE RELEASE**

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HONOLULU, HI – In a victory for the Hawai'i Land Use Commission, the Hawai'i Supreme Court issued a decision supporting the Land Use Commission's position on the issuance of special permits for overnight camps on prime agricultural land.

In March 2016, the Land Use Commission issued a declaratory ruling that Ho'omana Foundation could not use the special-permit process to authorize an overnight camp that would service commercial, recreational campers on Class B land in an agricultural district near Lāhainā, Maui, on the grounds that Hawai'i law expressly excludes overnight camps from the definition of permitted uses on Class A and B agricultural lands. A Hawai'i circuit court and the Hawai'i Intermediate Court of Appeals ("ICA"), however, sided with Ho'omana Foundation, holding that the Commission could issue such a special permit.

The Hawai'i Supreme Court, in a 3-2 decision, reversed the ICA's decision, siding with the Commission, holding that uses expressly not permissible in the state agricultural district need to be addressed in a district boundary amendment proceeding, rather than through special permits. The Court relied on well-established rules of statutory construction, as well as the need to protect agricultural land as mandated by Hawai'i law. The Court also emphasized the objectives underlying the state land use statutes, which are to "protect and conserve natural resources and foster intelligent, effective, and orderly land allocation and development." In making this decision, the Court overruled a 1990 Hawai'i Supreme Court decision, *Maha'u Lepu v. Land Use Commission*.

The Land Use Commission was represented in this case by the Department of the Attorney General. First Deputy Solicitor General Robert T. Nakatsuji argued the case before the Court at Lahainaluna High School on Maui as part of the Judiciary's Courts in the Community program.

First Deputy Solicitor General Nakatsuji states:

“We appreciate that the Court properly interpreted the law at issue in the same way as the Land Use Commission and believe that this decision will help protect the integrity of our land-use laws in the future.”

Daniel E. Orodener, Executive Officer of the Land Use Commission, states:

“The Hawai'i Supreme Court's decision supports our position originally taken by back in 2016 that the special-permit process cannot be used to approve overnight camps on prime agricultural lands. Although it has been a long road, the Commission is very happy with the outcome of this case, which resolves a lot of uncertainty with respect to special permits.”

The case is *Ho'omoana Foundation v. Land Use Commission*, No. SCWC-17-0000181 (Haw. Mar. 10, 2023). A copy of the decision can be found [here](#). A copy of the dissenting opinion can be found [here](#).

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