

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

August 12, 2016

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.:15OD-205

OAHU

Amend Prior Board Action dated March 11, 2016, item D-8, Grant of Term, Non-Exclusive Easement to Brigitte J. Coley, Trustee under the Brigitte J. Coley Trust dated August 6, 2013 for Pier Purposes; Assess Administrative Cost of \$500; Termination of Revocable Permit No. S-7592; Issue a new Interim Revocable Permit to Brigitte J. Coley, Trustee under the Brigitte J. Coley Trust dated August 6, 2013, Waikiki, Honolulu, Oahu, Tax Map Key: (1) 3-6-001:Seaward of 036

This Amendment Pertains to Additional Easement Area and to Add Seawall Purposes, in addition to Pier Purposes.

BACKGROUND:

On March 11, 2016, under agenda item D-8, the Board approved the subject request for a 55-year term, non-exclusive easement for pier purposes covering an original area of 112 square feet. A copy of the prior approval is attached as **Exhibit 1**.

REMARKS:

Subsequently, the applicant provided the map and legal description of the encroachment. Department of Accounting and General Services, Survey Division (DAGS) determined that, in addition to the pier, portions of the seawall are also located makai of the shoreline, i.e. encroaching. The map approved by DAGS (**Exhibit 2**) indicates that the entire encroaching area is approximately 331 square feet. Staff recommends the Board amend its prior action by expanding the easement area and purpose to 331 square feet, more or less, and "seawall and pier purposes" respectively.

The Office of Conservation and Coastal Lands (OCCL) has no comments to the proposed amendment as a result of the additional area.

Staff did not solicit comments from other agencies, other than OCCL. There are no other pertinent issues or concerns. Staff does not have any objections to the request.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

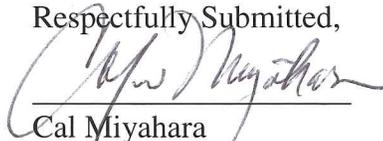
In accordance with Hawaii Administrative Rule Sections 11-200-8 and the Exemption List for the Department of Land and Natural Resources approved by the Environmental Council and dated June 5, 2015, the subject request is exempt from the preparation of an

environmental assessment pursuant to Exemption Class No. 1, Item 46. See exemption declaration attached as **Exhibit 3**.

RECOMMENDATION: That the Board:

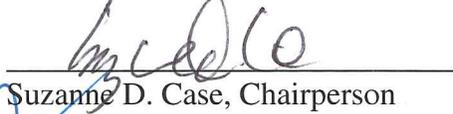
1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Amend its prior action of March 11, 2016, item D-8 by:
 - a. Changing the purpose of the easement to “Pier and Seawall Purposes”;
 - b. Replacing the easement area of 112 square feet with 331 square feet, more or less;

Respectfully Submitted,



Cal Miyahara
Shoreline Disposition Specialist

APPROVED FOR SUBMITTAL:


Suzanne D. Case, Chairperson

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

March 11, 2016

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.:15OD-205

OAHU

Grant of Term, Non-Exclusive Easement to Brigitte J. Coley, Trustee under the Brigitte J. Coley Trust dated August 6, 2013 for Pier Purposes; Assess Administrative Cost of \$500; Termination of Revocable Permit No. S-7592; Issue a new Interim Revocable Permit to Brigitte J. Coley, Trustee under the Brigitte J. Coley Trust dated August 6, 2013, Waikiki, Honolulu, Oahu, Tax Map Key: (1) 3-6-001:Seaward of 036

APPLICANTS:

Brigitte J. Coley, Trustee under the Brigitte J. Coley Trust dated August 6, 2013

LEGAL REFERENCE:

Section 171-6, 13, 17, 53(c), and 55 Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government land located seaward of Waikiki, Honolulu, Oahu, identified by Tax Map Key: (1) 3-6-001:seaward of 036, as shown on the attached map labeled **Exhibit A.**

AREA:

112 square feet, more or less, subject to review and approval by the Department of Accounting and General Services, Survey Division.

ZONING:

State Land Use District: Conservation
City & County of Honolulu LUO: R-10 [for the abutting private property]

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: No

APPROVED BY THE BOARD OF
LAND AND NATURAL RESOURCES
AT ITS MEETING HELD ON

March 11, 2016 *uo*

EXHIBIT " 1 "

D-8

CURRENT USE STATUS:

Encumbered by Revocable Permit No. 7592, Hearst Hope, Permittee, for pier purposes.
See Remarks Section.

CHARACTER OF USE:

Right, privilege and authority to use, maintain, repair, replace and remove existing pier over, under and across State-owned land.

COMMENCEMENT DATE:

To be determined by the Chairperson.

CONSIDERATION:

One-time payment to be determined by independent appraisal establishing fair market rent, subject to review and approval by the Chairperson.

EASEMENT TERM:

Fifty-five (55) years

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rule Sections 11-200-8 and the Exemption List for the Department of Land and Natural Resources approved by the Environmental Council and dated June 5, 2015, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, Item 46. See exemption declaration attached as **Exhibit B**.

DCCA VERIFICATION:

Not applicable.

APPLICANT REQUIREMENTS: Applicants shall be required to:

1. Provide survey maps and descriptions according to State DAGS standards and at Applicants' own cost;
2. Pay for an appraisal to determine one-time payment; and
3. Obtain concurrent resolution from the Legislature pursuant to 171-53 (c), HRS.

REMARKS:

In 1952, Mr. Vincent Moranz, property owner at the time, was granted a permit (SPNHG 800.6-344) for construction of the pier by the Army Corp of Engineers.

In 1989, after purchasing the property, Ms. Hope Hearst applied for a revocable permit

for the pier and was issued Revocable Permit (RP) S-6662.

In 2010, RP S-7592 which incorporated the latest insurance requirement provision was issued, while other conditions of the permit remained the same.

Hope Hearst Trust transferred the ownership of the abutting property to the Applicant.

Thereafter, staff informed the Applicant that upon the transfer of the abutting private property, the revocable permit became invalid. The Applicant agreed to a new 55-year term, non-exclusive easement for the pier.

Upon approval of today's request, Applicant will be reminded of the requirement for concurrent resolution from both houses of the legislature under the Hawaii Revised Statutes 171-53(c), prior to the issuance of the easement.

Office of Conservation and Coastal Lands has no objections and Office of Hawaiian Affairs did not respond to the request for comments.

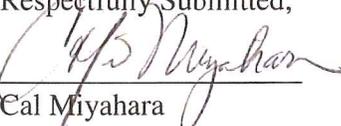
For housekeeping purposes, staff requests the Board authorize the termination of RP S-7592 and approve the issuance of a RP, which will expire upon issuance of the proposed easement. The monthly rent for the new RP will be \$40 pursuant to the Board policy on the minimum rent for new disposition adopted at its meeting on May 13, 2005, item D-19.

RECOMMENDATION: That the Board:

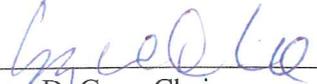
1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Assess a non-refundable administrative cost of \$500, under Section 171-6, HRS.
3. Authorize the subject requests to be applicable in the event of a change in the ownership of the abutting parcel described as Tax Map Key: (1) 3-6-001:036, provided the succeeding owner has not had a lease, permit, easement or other disposition of State lands terminated within the last five (5) years due to non-compliance with such terms and conditions.
4. Authorize the issuance of a revocable permit to Brigitte J. Coley, Trustee of the Brigitte J. Coley Trust dated August 6, 2013 covering the subject area for pier purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - a. The standard terms and conditions of the most current revocable permit form, as may be amended from time to time;
 - b. Monthly rent of \$40.00

- c. Review and approval by the Department of the Attorney General; and
 - d. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
5. Terminate Revocable Permit No. 7592 upon issuance of the revocable permit described in Section 4 above.
6. Subject to the Applicants fulfilling all of the Applicant Requirements listed above, authorize the issuance of a term, non-exclusive easement to Brigitte J. Coley, Trustee of the Brigitte J. Coley Trust dated August 6, 2013, covering the subject area for pier purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
- a. The standard terms and conditions of the most current term shoreline encroachment easement document form, as may be amended from time to time;
 - b. Throughout the term (unless sooner abandoned or otherwise terminated herein) this easement shall run with the land and shall inure to the benefit of the real property described as tax map key no. (1) 3-6-1-001:036, provided however, that the Grantee shall carry the required liability insurance covering the easement area and comply with all other terms and conditions as provided herein, and that the Grantee, or authorized representative of the Grantee's estate, shall notify the Grantor in writing when this easement is sold, assigned, conveyed, or otherwise transferred, and Grantee shall notify the Grantee's successors or assigns of the insurance requirement in writing, separate and apart from this easement document.
 - c. Approval by the Governor and concurrence from the Legislature pursuant to 171-53 (c), HRS;
 - d. Review and approval by the Department of the Attorney General;
 - e. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State; and
 - f. Any shoreline hardening policy that may be adopted by the Board prior to execution of the grant of easement

Respectfully Submitted,

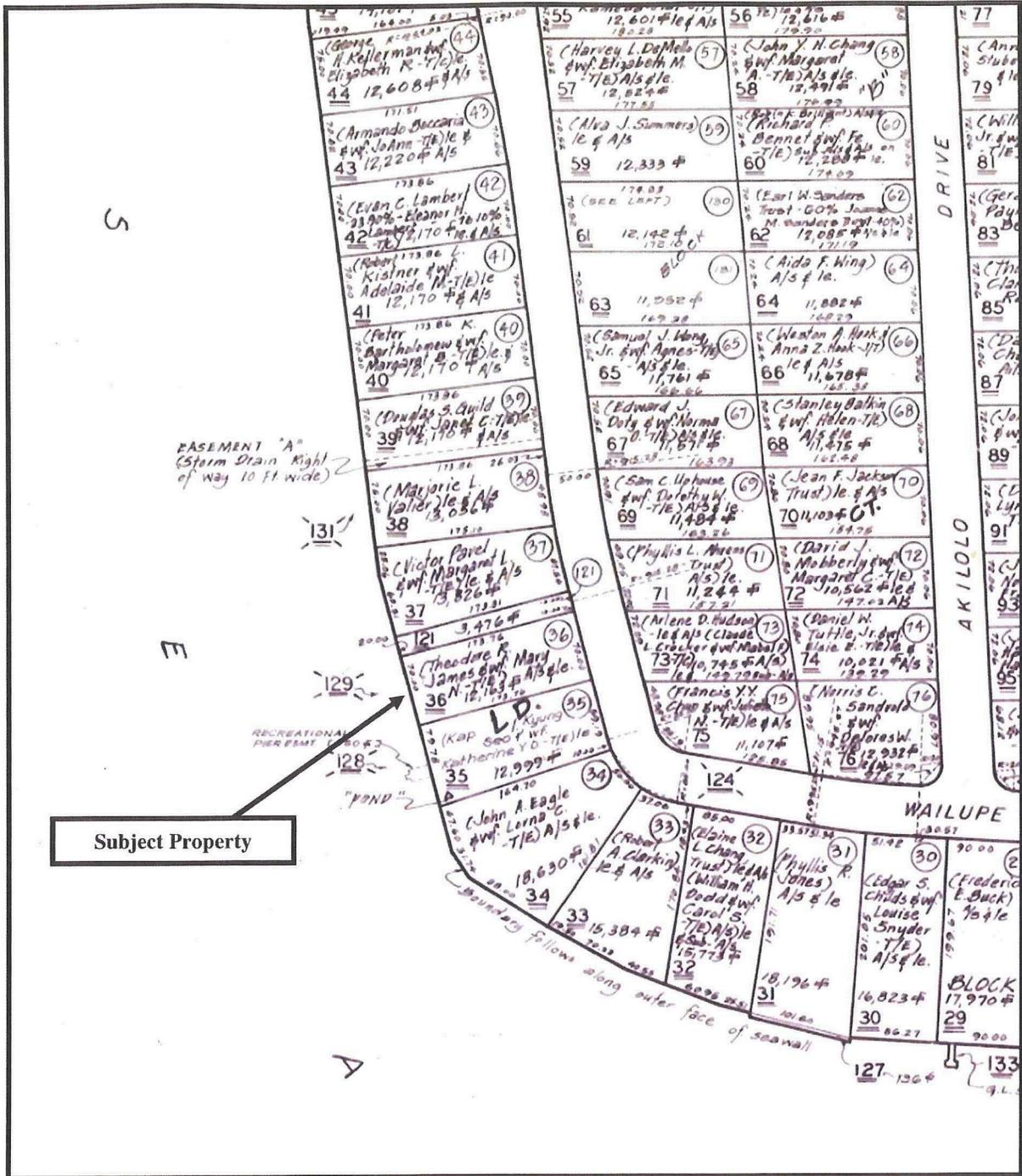

Cal Miyahara
Shoreline Disposition Specialist

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson





TMK: (1) 3-6-001:seaward of 036

EXHIBIT A

EXEMPTION NOTIFICATION

Regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200, HAR

Project Title: Easement for pier purposes

Project / Reference No.: PSF 150D-205

Project Location: Waikiki, Honolulu, Oahu, Tax Map Key: (1) 3-6-001:seaward of 036.

Project Description: Easement for the legal encroachment on State lands.

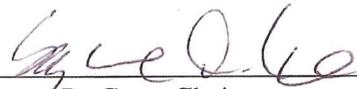
Chap. 343 Trigger(s): Use of State Land

Exemption Class No.: In accordance with Hawaii Administrative Rule Sections 11-200-8 and the Exemption List for the Department of Land and Natural Resources approved by the Environmental Council and dated June 5, 2015, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, Item 46.

The applicant is not planning on conducting major change to the existing topographical and vegetation condition of the property. As such, staff believes that the request would involve negligible or no expansion or change in use of the subject area beyond that previously existing.

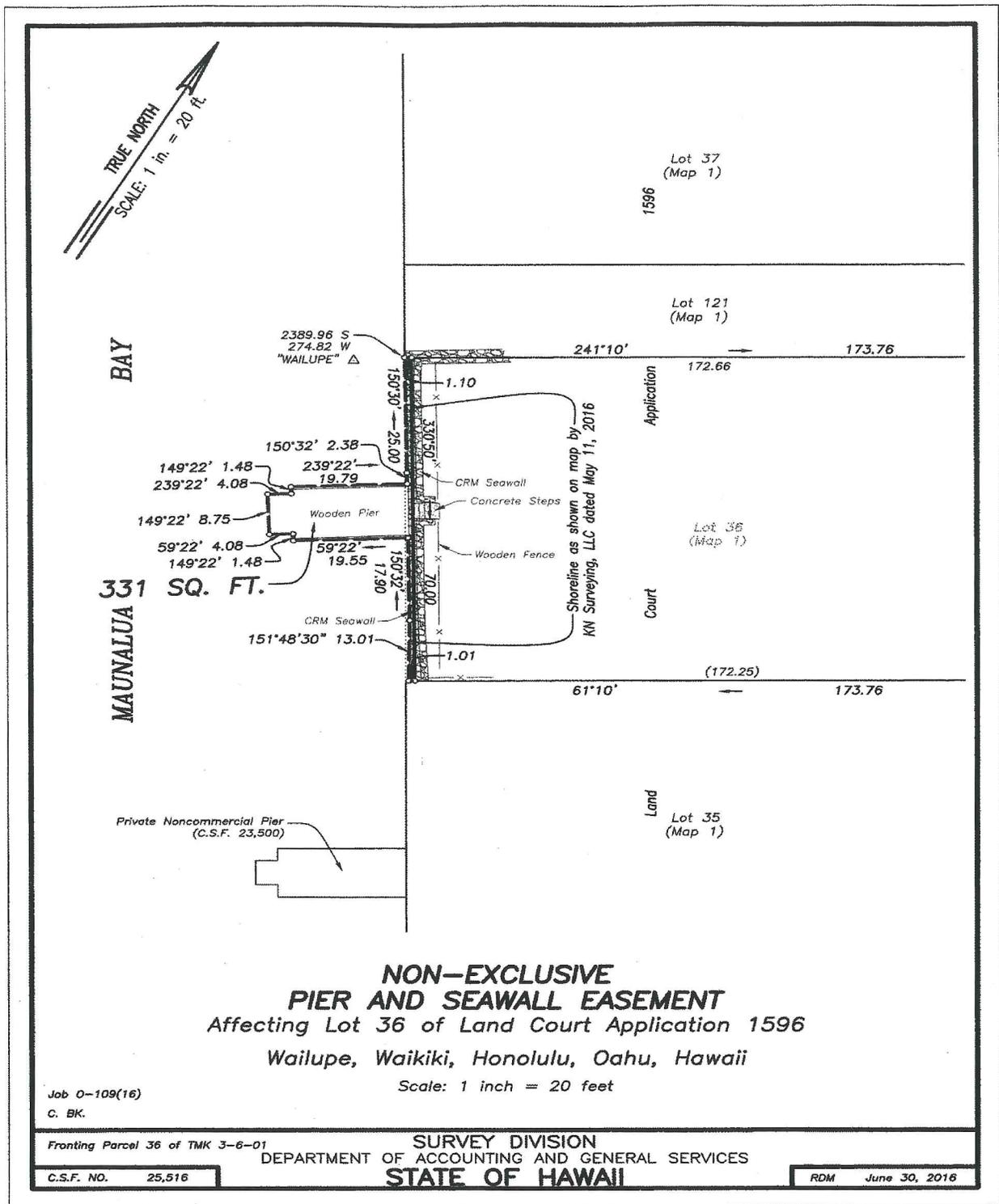
Consulted Parties Agencies as noted in the submittal.

Recommendation: That the Board finds this project will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.



 Suzanne D. Case, Chairperson
 Date: 3/1/16

EXHIBIT B



TMK: (1) 3-6-001:seaward of 036

EXHIBIT 2

EXEMPTION NOTIFICATION

Regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200, HAR

Project Title: Easement for pier and seawall purposes

Project / Reference No.: PSF 15OD-205

Project Location: Waikiki, Honolulu, Oahu, Tax Map Key: (1) 3-6-001:seaward of 036.

Project Description: Easement for the legal encroachment on State lands.

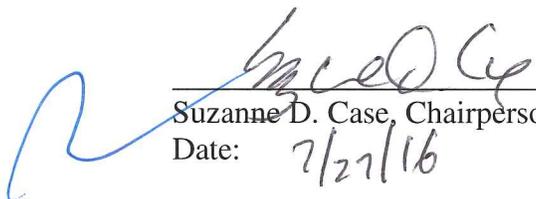
Chap. 343 Trigger(s): Use of State Land

Exemption Class No.: In accordance with Hawaii Administrative Rule Sections 11-200-8 and the Exemption List for the Department of Land and Natural Resources approved by the Environmental Council and dated June 5, 2015, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, Item 46, which states the "Creation or termination of easement, covenants, or other rights in structures or land".

The applicant is not planning on conducting major change to the existing topographical and vegetation condition of the property. As such, staff believes that the request would involve negligible or no expansion or change in use of the subject area beyond that previously existing.

Consulted Parties Agencies as noted in the submittal.

Recommendation: That the Board finds this project will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.



 Suzanne D. Case, Chairperson
 Date: 7/27/16

EXHIBIT 3