

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

January 27, 2017

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

GL S-5844

Hawai'i

Authorize Chairperson to Execute "Landlord Waiver and Consent; Exhibit A" Regarding Lessee's Security Agreement with Access Point Financial, Inc. to Facilitate Financing of Furniture, Fixtures and Equipment at Grand Naniloa Hotel Hilo; General Lease No. S-5844, WHR LLC, Lessee; Waiakea, South Hilo, Hawaii, Tax Map Keys: 3rd/ 2-1-01:12 and 2-1-05:13, 16, 17, 27, 32, 46

LEGAL REFERENCE:

Chapter 171, HRS, including but not limited to sections 171-6, and -22; terms and conditions of the subject Lease.

LOCATION:

Portion of Government lands situated at Waiakea, South Hilo, Hawaii, identified by Tax Map Key: (3) 2-1-01:12 and 2-1-05:13, 16, 17, 27, 32, 46, as shown on the attached map labeled Exhibit 1.

AREA:

68.926 acres (net area after exclusions), more or less.

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

CHARACTER OF USE:

Hotel and golf course purposes.

TERM OF LEASE:

65 years, commencing on February 1, 2006 and expiring on January 31, 2071.

ANNUAL RENTAL:

\$580,270.44 minimum base rent, or 2% of gross revenues, whichever is greater, due in semi-annual payments.

REASON FOR REQUEST:

To facilitate financing of WHR LLC's purchase or leasing of furniture, fixtures and equipment for the Grand Naniloa Hotel Hilo.

BACKGROUND:

Mortgage Consent, Estoppel Certificate and Status of Hotel Renovations

At its meeting of May 22, 2015, under agenda Item D-6, as amended, the Board of Land and Natural Resources consented to Lessee WHR LLC's mortgage of the leasehold interest in the subject property in the amount of up to \$20,000,000 to finance the renovation of the hotel, and approved the Board's issuance of an Estoppel Certificate/Forbearance Agreement (Estoppel Certificate) to facilitate the loan. The Board amended the staff submittal to incorporate the following terms and conditions:

Approved as amended. The Board amended the recommendation section of the staff submittal in the following manner: (a) approving the consent to mortgage in an amount up to \$20,000,000; (b) approving the Estoppel Certificate/Forbearance Agreement in the form attached as Exhibit C to the staff submittal; (c) requiring the lessee to provide to the Land Division a copy of the lessee's monthly or periodic loan draw requests (with supporting documentation of costs incurred for work performed at the Naniloa Hotel and golf course sites) to show the loan proceeds being used for the construction of improvements or operations at the Naniloa Hotel and golf course sites; and (d) amending recommendation number 2 by requiring the completion of the Mauna Kea and Mauna Loa Towers by March 31, 2016, and the Kilauea Tower by December 31, 2016.

The Board's terms and conditions were, in turn, incorporated into the Estoppel Certificate dated July 31, 2015. See Exhibit 2 attached. The Estoppel Certificate negotiated to standstill the notices of default that had been issued under the lease due to the State and Lessee receiving the County Notice of Violations (NOVs) in 2013 (discussed further below). The Estoppel Certificate was drafted to include a provision at paragraph (6) stating:

The Lessee, Lender and Lessor hereby agree that the Lessee's failure to satisfy the conditions contained in this Estoppel Certificate shall be a

default on the part of Lessee to observe or perform a covenant and condition contained in the Lease and Lender shall have the rights afforded to it as set forth in Section 20 of the Lease.

This language was not mandated by the Board but, rather, was administratively added by Land Division with the assistance of a deputy attorney general through negotiations with Lessee. Lessee has not complied with the terms and conditions of the Estoppel Certificate. Specifically, Lessee did not complete the Mauna Kea and Mauna Loa Tower renovations by March 31, 2016, and did not complete the Kilauea Tower renovations by December 31, 2016.

Lessee furnished a Soft and Hard Cost Requisition dated December 29, 2016 indicating that Lessee has drawn down approximately \$16,626,000 of the \$20,000,000,¹ and expects to borrow at least another \$1,900,000² for the project. See Exhibit 3 attached (column F titled "Loan").

According to Lessee, the total contract value of the hotel renovations is \$19,977,000, paid for in part by the loan proceeds referenced above and in part by Lessee's own funds. Based on review by staff of Land Division and Engineering Division and the Department's engineering consultants, Lessee has invested at least \$10,000,000 of hard construction costs (excluding planning, design, furniture, fixtures and equipment) in the renovation of the property.

With respect to Lessee's failure to meet the renovation schedule set forth by the Board, staff can report that renovations to the lobby area were substantially complete as of March 31, 2016. However, the lower level lobby area was not substantially complete until approximately May 5, 2016. The Mauna Kea and the Mauna Loa Tower renovations were not substantially completed until September 2016. Lessee published a notice of completion for the renovation work on August 26 and September 2, 2016. To date, Lessee has received certificates of occupancy for the hotel lobby, lower level lobby, Crown Room, guest rooms in the Mauna Kea and Mauna Loa Towers, and a number of commercial spaces in the hotel. On November 10, 2016, the hotel had a soft opening as the Grand Naniloa Hotel Hilo - a Double Tree by Hilton. Attached as Exhibit 4 are photographs taken in October 2016 showing the condition of various parts of the hotel.

A staff inspection on January 4, 2017 confirmed that the restaurant and Kilauea Tower room renovations remained incomplete. See photographs attached as Exhibit 5. Lessee had previously targeted March 31, 2016 for completion of the restaurant and December 31, 2016 for completion of the Kilauea Tower, but is now anticipating substantial completion in January or February 2017.³

1 The Land Board authorized a loan and mortgage up to \$20 million. Staff understands lender Hall Hilo, LLC's maximum loan amount to Lessee is \$18.5 million.

2 Staff understands that any construction costs above the \$1.9 million will be funded by the Lessee or its principal.

3 Additionally, two areas of the hotel are currently not planned to be renovated. These are the Kilohana Room on the top floor of the Mauna Kea Tower and the standalone Polynesian Room. Lessee reports that it has an oversupply of event space at the hotel and cannot justify expending funds to renovate the

County of Hawaii Notice of Violations

The Lessee has made considerable investments in the renovations and in curing the County of Hawaii NOV's that had previously been issued for the property. Based on recent communications with the County of Hawaii Department of Public Works, Building Division, dated December 23, 2016, the County considers the NOV's for the hotel towers, lobby, and restaurant (basically all improvements located makai of Banyan Drive) to be technically resolved.⁴ The NOV's that remain unaddressed relate to the golf course on the mauka side of Banyan Drive, including an unpermitted roof attachment to the golf cart storage and electrical distribution for two outlets, and an unpermitted lean-to-roof attachment to the maintenance building. Attached as Exhibit 6 is a copy of an October 10, 2016 letter from the Building Division to Lessee with an updated status of all NOV's at the premises. Attached as Exhibit 7 is a copy of an email dated December 23, 2016 from David Yamamoto of the Building Division explaining the Building Division's view of the outstanding NOV's.

Mechanic's Lien Applications

When Lessee published its notice of completion with respect to the hotel renovations, two mechanic's lien applications were filed against Lessee and other entities (including the State) in the Circuit Court of the Third Circuit relating to renovation work performed:

Claimant	Mechanic's Lien No.	Date Filed	Amount
Lincoln Builders LLC	M.L. No. 16-1-0003	10/07/16	\$754,743.00 plus reasonable attorneys' fees and costs, and interest
Clifford Okinaga	M.L. No. 16-1-0004	10/24/16	\$75,501.40 plus reasonable attorneys' fees and costs, and interest

The above lien applications have been referred to the Department of the Attorney General (AG) for handling. The AG relates that the lien application in the Lincoln Builders case has not been officially served on the State yet. The lien application in the Okinaga case has been served on the State, and a return date was set for December 8, 2016 in Judge Nakamura's courtroom. At the return date, a settlement conference was set for February 24, 2017 between Okinaga and Lessee's general contractor (in which the State will not participate). No probable cause hearing has been scheduled in the matter.

To date, neither of the applications has resulted in the attachment of a lien to Lessee's leasehold interest in the land. Accordingly, there is technically no default under the terms

Kilohana Room and Polynesian Room at this time. Similarly, no renovations have been made to the golf course facilities.

⁴ There are still open permits for building, electrical and plumbing work for the hotel renovations, some of which are intended to resolve NOV's. But because the correct permits have been pulled to remedy the NOV's, the County views the NOV's as resolved for its purposes.

of the lease resulting from the filing of the applications.⁵

Furthermore, Lessee secured lien waivers from a large number of subcontractors on the project. Attached as Exhibit 8 is a copy of the department's engineering consultant's review of the subcontractors' invoices for work on the Kilauea and Naniloa towers, including notations on those subcontractors who signed lien waivers.

REMARKS:

Lessee now intends to enter into a security agreement with Access Point Financial, Inc. (APF) to facilitate the financing of furniture, fixtures and equipment (FF&E) for the hotel. Attached as Exhibit 9 is the "Landlord Waiver and Consent; Exhibit A" relating to this transaction that Lessee has presented to staff. According to this document, Lessee may grant a security interest to APF in Lessee's now owned or hereafter acquired FF&E and proceeds thereof. APF and Lessee may also enter into financing leases under which APF will finance Lessee's purchase of FF&E initially titled in APF's name. As part of the Landlord Waiver and Consent, Lessee and APF are requesting that the Board subordinate and waive any rights, interest or liens which it may have in the FF&E.

General Lease No. S-5844 provides in relevant part as follows:

19. Lessor's lien. The Lessor shall have a lien on all the buildings and improvements placed on the premises by the Lessee, on all property kept or used on the premises, whether the same is exempt from execution or not and on the rents of all improvements and buildings located on the premises for all Lessor's costs, attorney's fees, rent reserved, for all taxes and assessments paid by the Lessor on behalf of the Lessee, and for the payment of all money provided in this lease to be paid by the Lessee, and this lien shall continue until the amounts due are paid.

Accordingly, by executing the Landlord Waiver and Consent, the Board would be subordinating and waiving any rights, interest or liens it may have in the FF&E and their proceeds, replacements and accessions, including any rights it has under paragraph 19 of the lease. Staff views Lessee's and APF's request as commercially reasonable and has no objection to it. APF needs to ensure that its security interest in the FF&E has priority in order for it to finance FF&E to be used in the hotel. Although Lessee is behind schedule in completing the hotel renovations and in technical default of the Estoppel Certificate, Lessee has made substantial progress on the renovations and the nature of the default does not warrant a denial of the present request in staff's view.

Lessee has provided a proposed exhibit to the security agreement showing the types of FF&E it covers and specifying that the amount financed will not exceed \$2,000,000. See Exhibit 10 attached. Staff is recommending that the exhibit and maximum amount of financing be made a part of the security agreement.


⁵ With no lien attached, the unresolved mechanic's lien applications are like any other unsecured claim a vendor may have against one of the State's lessees for non-payment for goods or services.

The Lessee is current with the lease rent, insurance and performance bond.⁶ As discussed above, there are several outstanding violations with the County of Hawaii Department of Public Works, Building Division, from the previous lessee that have been either corrected or are currently being resolved to the satisfaction of the County building inspectors and the State.

RECOMMENDATION: That the Board:

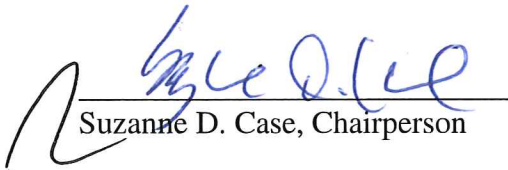
1. Authorize the Chairperson to execute the "Landlord Waiver and Consent; Exhibit A" substantially in the form of Exhibit 9 attached hereto, but incorporating the itemization set forth in Exhibit 10 and establishing the maximum amount financed at \$2,000,000, under the terms and conditions cited above, which are by this reference incorporated herein, and further subject to the following:
 - a. Review and approval by the Department of the Attorney General; and
 - b. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Kevin E. Moore
Assistant Administrator

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson

⁶ On September 15, 2016, a notice of default was issued for non-payment of rent. However, Lessee cured the default and the notice of default was rescinded on December 20, 2016.

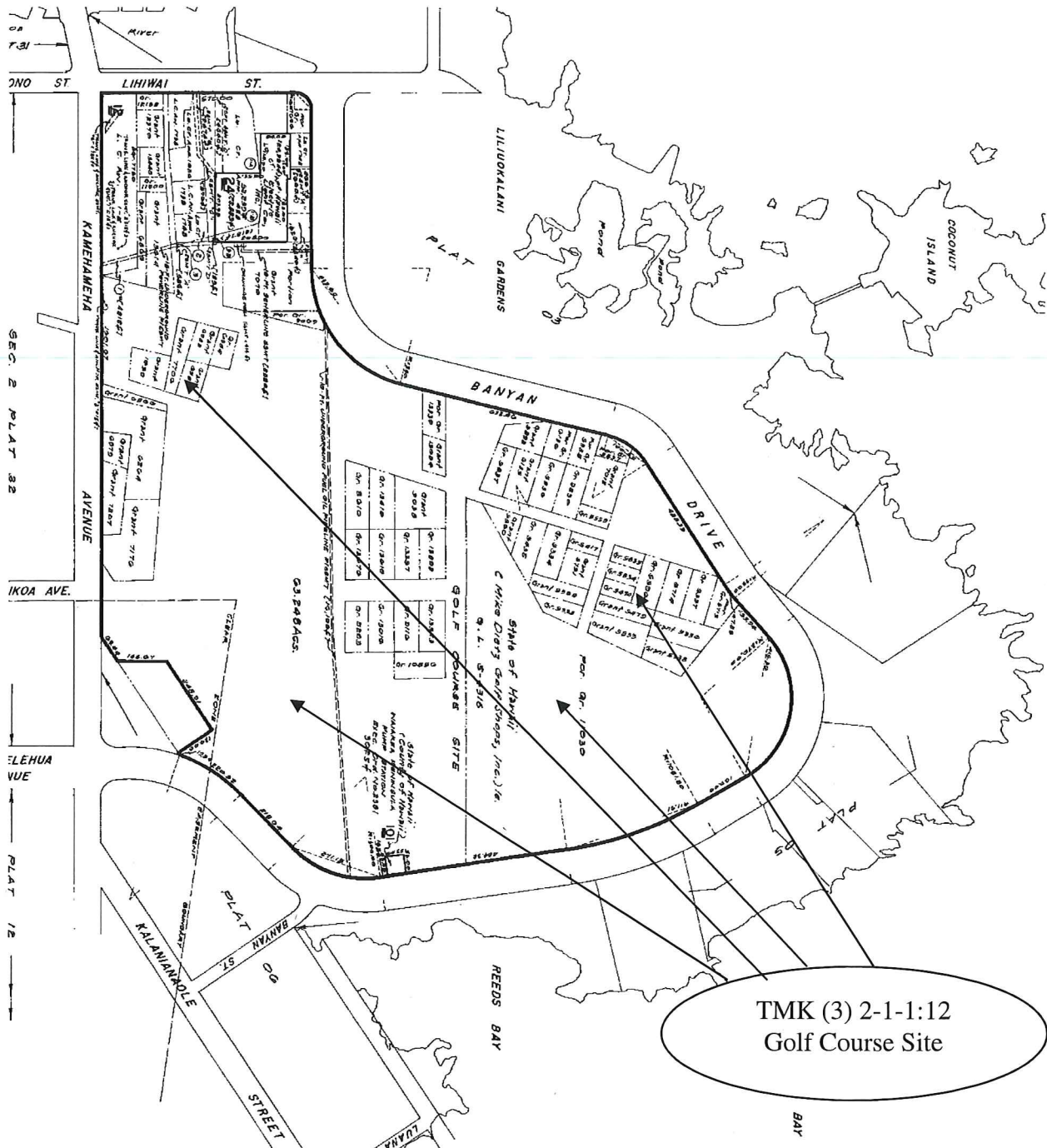
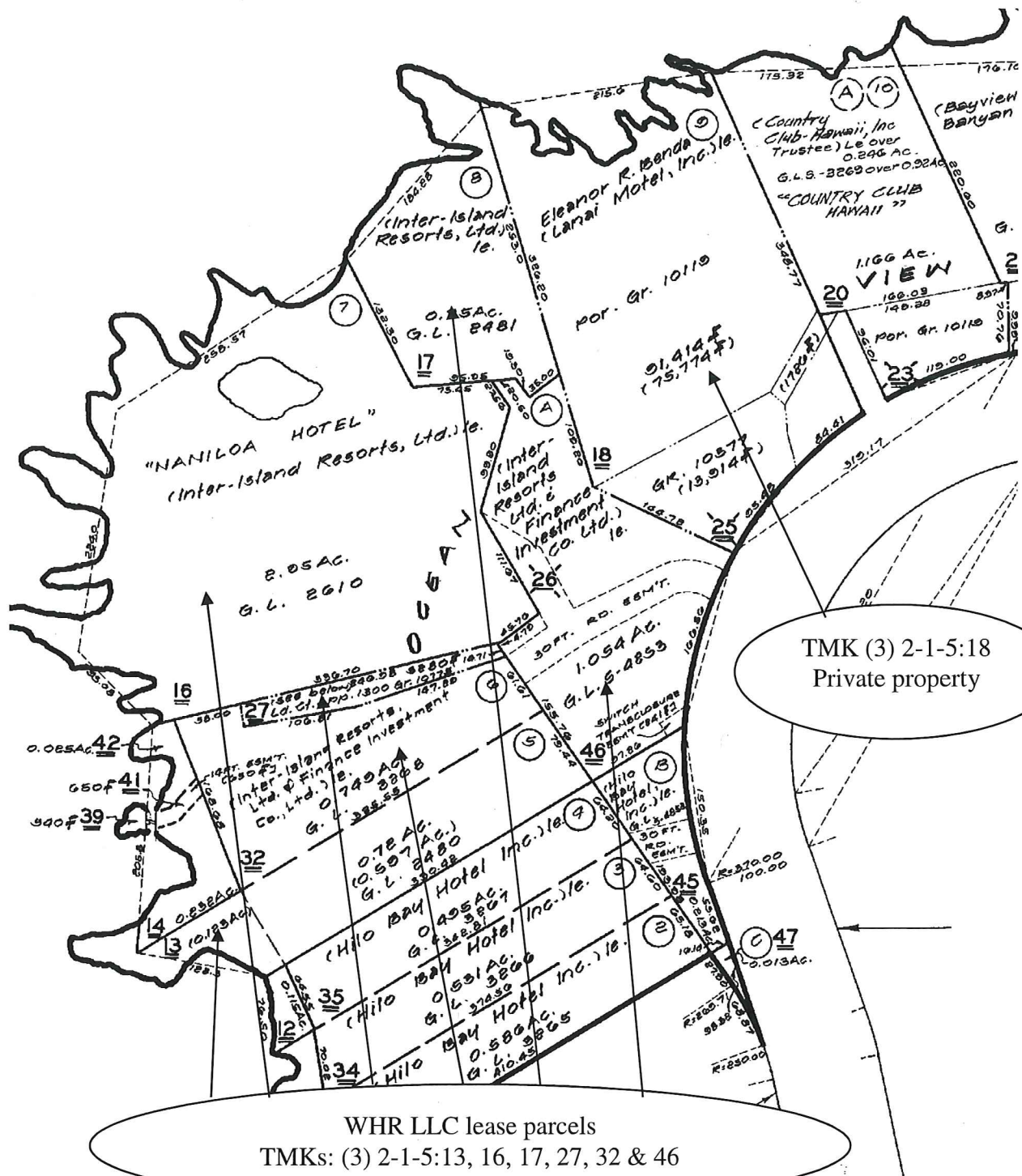


EXHIBIT 1



$$\begin{array}{l}) \\) \\) \\) \\) \\) \\) \\) \\) \\) \\) \end{array}$$

REGULAR SYSTEM

To:

Tax Map Key Nos. (3) 2-1-005-
013, 016, 017, 027, 032, 046 and (3)
2-1-001-012

KNOW ALL MEN BY THESE PRESENTS:

That, as of this 31st day of July, 2015 (the "Effective Date"), the STATE OF HAWAII, by its Board of Land and Natural Resources, hereinafter referred to as the "Lessor," certifies to HALL HILO, LLC, a Texas limited liability company, whose address is 6801 Gaylord Parkway, Suite 100, Frisco, Texas 75034, as "Lender," that to the best of Lessor's knowledge:

(1) The Lessor has leased to WHR LLC, a Hawaii limited liability company (hereinafter "Lessee"), as successor in interest to Hawaii Outdoor Tours, Inc., pursuant to that certain Quitclaim Assignment and Assumption of Ground Lease, executed by David Farmer, duly appointed Trustee of the Bankruptcy Estate of Hawaii Outdoor Tours, Inc., in the United States Bankruptcy Court for the District of Hawaii in that certain proceeding entitled "In re Hawaii Outdoor Tours, Inc." designated as Case No. 12-02279 (Chapter 11), the premises

PRELIM. APPR'D.
Department of the
Attorney General

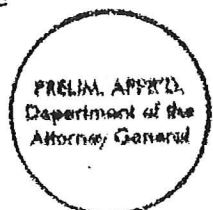
described in General Lease No. S-5844 dated January 20, 2006 (the "Lease"), on file in the Land Division, Department of Land and Natural Resources of the State of Hawaii;

(2) As of the Effective Date, the following are the defaults that exist under the Lease:

a. The Lessee has failed to complete renovations of all facilities to applicable building codes, the Americans With Disabilities Act, and to a standard expected by the State or required by the Lease collectively, the "Required Renovations"). Presently, the Required Renovations in respect of the Mauna Kea and Mauna Loa Towers are described in (i) Plans and specifications submitted by the Lessee and approved by the Lessor at the November 14 2014 Land Board meeting, Item D-5, (ii) Plans and specifications submitted by the Lessee and approved by the Lessor at the March 13, 2015 Land Board meeting, Item D-10 and (iii) the Construction schedule submitted by the Lessee, modified by the Lessor and approved at the May 22, 2015 Land Board meeting, Item D-6. The Lessee shall complete the Required Renovations to the Mauna Kea and Mauna Loa Towers no later than March 31, 2016. The Required Renovations in respect of the Kilauea Tower shall be described in plans and specifications to be submitted by the Lessee to the Lessor sufficiently in advance of construction in order to permit the Lessee to complete the renovation of the Kilauea Tower no later than December 31, 2016.

b. The Lessee has failed to provide satisfactory evidence that all Notices of Violation issued by the County of Hawaii have been cured to the satisfaction of the County of Hawaii, such as those notices issued against the property demised by the Lease (collectively, the "County NOVs"). All County NOVs that are outstanding as of the Effective Date are more particularly outlined in that certain Letter dated May 11, 2015 from the County of Hawaii to the Lessee, attached hereto as Exhibit A and incorporated herein by this reference (the "County Standstill Letter"). Pursuant to the County Standstill Letter, the County of Hawaii has agreed to refrain from further enforcing the County NOVs during the specified cure periods more particularly identified in the County Standstill Letter.

(3) Except as set forth in Paragraph 2 above, as far as Lessor is aware, the Lessee is not in default in any respect as of this date nor has any event occurred which with the



passage of time or the giving of notice would constitute a default;

(4) Except as set forth in Paragraph 2 above, there are no claims for damages, rents due, or other liability which Lessor is aware of against Lessee arising out of General Lease No. S-5844 or performance of the terms, covenants or conditions of the Lease; and

(5) General Lease No. S-5844 is in full force and effect and has not been modified, supplemented, extended or amended as of the Effective Date.

(6) The Lessee, Lender and Lessor hereby agree that the Lessee's failure to satisfy the conditions contained in this Estoppel Certificate shall be a default on the part of Lessee to observe or perform a covenant and condition contained in the Lease and Lender shall have the rights afforded to it as set forth in Section 20 of the Lease.

(7) The Lessor hereby agrees notwithstanding the defaults identified in Section 2 above, that Lessor will forbear from exercising any remedies under the Lease as long as:

a. On or before March 31, 2016, the Lessee shall have substantially completed the Required Renovations for the Mauna Loa Tower and the Mauna Kea Tower in accordance with the plans and specifications previously approved by Lessor, the Board of Land and Natural Resources. On or before December 31, 2016, the Lessee shall have substantially completed the Required Renovations for the Kilauea Tower in accordance with the plans and specifications approved by Lessor, the Board of Land and Natural Resources.

b. As long as the Lessee completes all of the aforesaid Required Renovations by the respective deadlines of March 31, 2016 and December 31, 2016, and the work necessary to cure all of the outstanding County NOV's by the dates set forth in the County Standstill Letter, and the County of Hawaii, pursuant to the County Standstill Letter (as the same may be amended, modified or extended with the approval of the Lessor and Lender), takes no further action to enforce the County NOV's, the Lessor will not exercise its remedies under the Lease solely for the outstanding County NOV's. It is specifically understood and agreed by the parties that the Lessor may exercise its remedies under the Lease subject to Section 20 therein if (i) the Lessee fails to complete the aforesaid Required Renovations

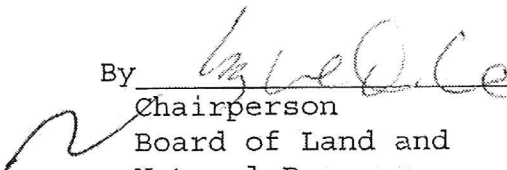
by the respective deadlines of March 31, 2016 and December 31, 2016, and the work necessary to cure all of the outstanding County NOVs by the dates set forth in the County Standstill Letter, or (ii) the County of Hawaii pursues any type of enforcement action on the County NOVs.

c. On or before the execution of this Agreement, the Lessee shall provide evidence of payment in full of all amounts owed to any governmental entity or public utility for such matters as taxes, assessments, electrical, sewer and water charges.



IN WITNESS WHEREOF, the STATE OF HAWAII, by its Chairperson of the Board of Land and Natural Resources, has caused the seal of the Department of Land and Natural Resources to be hereunto affixed and have caused these presents to be executed the day, month and year first above written.

STATE OF HAWAII

By 
Chairperson
Board of Land and
Natural Resources

APPROVED AS TO FORM:


Deputy Attorney General

Dated: July 30, 2015

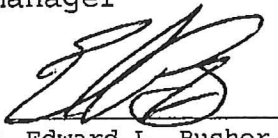


WHR LLC,
a Hawaii limited liability company


By: TOWER HOTELS HILO LLC,
a Hawaii limited liability
company
Its: Manager

By: TOWER HOTELS LLC,
A Hawaii limited
Liability company
Its: Manager

By: TOWER DEVELOPMENT
INC.
A Hawaii
corporation
Its Manager

By: 
Name: Edward L. Bushor
Its: President

By: TOWER DEVELOPMENT, INC.
a Hawaii corporation
Its: Manager

By: 
Name: Edward L. Bushor
Its: President

HALL HILO, LLC,
a Texas limited liability company

By: _____
Name:
Title:



WHR LLC,
a Hawaii limited liability company

By: TOWER HOTELS HILO LLC,
a Hawaii limited liability
company
Its: Manager

By: TOWER HOTELS LLC,
A Hawaii limited
Liability company
Its: Manager

By: TOWER DEVELOPMENT
INC.
A Hawaii
corporation
Its Manager

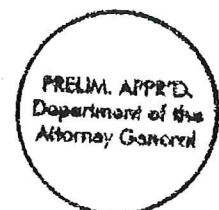
By: _____
Name: _____
Its: _____

By: TOWER DEVELOPMENT, INC.
a Hawaii corporation
Its: Manager

By: _____
Name: _____
Its: _____

HALL HILO, LLC,
a Texas limited liability company

By: mf
Name: Michael Saynes
Title: President



STATE OF HAWAII)

) SS.

CITY AND COUNTY OF HONOLULU)

On JUNE 29, 2015, before me personally appeared Edward L. Bushor, to me personally known, who, being by me duly sworn or affirmed, did say that such person(s) executed the foregoing instrument as the free act and deed of such person(s), and if applicable, in the capacities shown, having been duly authorized to execute such instrument in such capacities.



N. T. De Felice
Type or print name: NANI T. DEFELICE
Notary Public, State of
Hawaii

My commission expires: JUNE 3, 2017

Date of Doc: JUNE 29, 2015

Pages: 6

Name of Notary: NANI T. DEFELICE FIRST JUDICIAL Circuit

State of Hawaii

Doc. Description: ESTOPPEL
CERTIFICATE



N. T. De Felice
Notary Signature

6/29/2015
Date

NOTARY

CERTIFICATION



STATE OF Texas
COUNTY OF Collin

§
§
§

The foregoing instrument was acknowledged before me this 26 day of June, 2015, by Michael J. Jaynes, the President of HALL HILO, LLC, a Texas limited liability company, on behalf of said limited liability company.

Carol Rattan Gill
Notary Public

(SEAL)

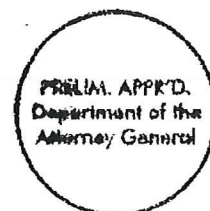
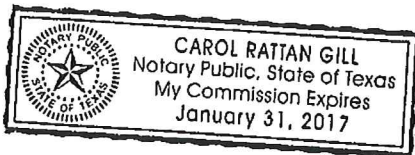


Exhibit A

County Standstill Letter

PRELIM. APPR'D.
Department of the
Attorney General

William P. Kenoi
Mayor

Walter K. M. Lau
Managing Director



Warren H. W. Lee
Director

Brandon A. K. Gonzalez
Deputy Director

County of Hawai'i
DEPARTMENT OF PUBLIC WORKS
Aupuni Center
101 Pauahi Street, Suite 7 • Hilo, Hawai'i 96720-4224
(808) 961-8321 • Fax (808) 961-8630
www.co.hawaii.hi.us

May 11, 2015

Mr. Ed Bushor
President & CEO
Tower Development Inc.
1050 Bishop Street, Suite 530
Honolulu, Hawai'i 96813
ed@towerdevcon.com

Mr. Stuart Miller
Vice President Development
Tower Development Inc.
1050 Bishop Street, Suite 530
Honolulu, Hawai'i 96813
stuart@towerdevcon.com

Dear Messrs Bushor and Miller:

Re: Naniloa Hotel, 93 Banyan Drive, TMKs 2-1-005-013, 016, 027, and 032
Naniloa Golf Course, 1713 Kamehameha Avenue, TMK 2-1-001-012
Notices of Violations

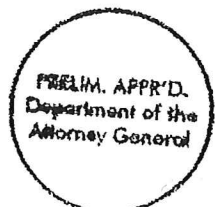
The County of Hawai'i appreciates your efforts to address the outstanding violations for the properties listed above.¹

In support of your demonstrated efforts to address the outstanding violations, the County of Hawai'i will temporarily suspend further enforcement actions (i.e. seeking your removal from the property) related to the aforementioned code violations in order to afford Tower Development, Inc. a specified time period to cure said code violations. Final completion dates for each listed violation shall be no later than the dates specifically stated in Attachment A. If, however, the said code violations are not cured by the completion dates in Attachment A, or if upon subsequent inspections, new

¹ A detailed listing identifying the current outstanding building, electrical, and plumbing code violations, as stated in the County of Hawai'i Department of Public Works letter dated March 11, 2015 is included as Attachment A.

EXHIBIT "A"

County of Hawai'i is an Equal Opportunity Provider and Employer.




Mr. Ed Bushor
Mr. Stuart Miller
May 11, 2015
Page 2

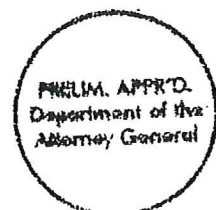
violations are identified at any time, the County will seek full enforcement for each and every violation identified.

In addition, for the time period of the temporary suspension, all additional safety measures currently in place shall remain in full effect until such a time as deemed to be no longer necessary by the County of Hawai'i.

Respectfully,


Brandon Gonzalez
Deputy Director

cc: Warren H.W. Lee, P.E., Director, Department of Public Works
David Yamamoto, Chief, Building Division
Joy Matsumoto, Supervising Building Inspector
Gary Kaho'ohanohano, Supervising Electrical Inspector
Gantry Andrade, Battalion Chief, Fire Prevention
Duane Kanuha, Director, Department of Planning
William Brilhante, Assistant Corporation Counsel
Renee Schoen, Deputy Corporation Counsel
Gordon Heit, District Land Agent, Department of Land and Natural Resources



ATTACHMENT A
Outstanding Violations

Item	Violation	Completion Date
1.	Mauna Kea Guest Rooms Renovation building inspection required	1/31/2016
2.	Mauna Kea Fire Sprinkler building inspection required	1/31/2016
3.	Kilauea Tower Guest Room Renovation building inspection required	12/31/2016
4.	Mauna Loa Tower Guest Room Renovation building inspection required	1/31/2016
5.	Kilauea Tower Fire Sprinkler building inspection required	1/31/2016
6.	Mauna Loa Tower Fire Sprinkler building inspection required	1/31/2016
7.	Lobby Common Area Fire Sprinkler building inspection required	1/31/2016
8.	Crown Room Fire Sprinkler building inspection required	1/31/2016
9.	Beauty Salon conversion to Chiropractor Nutritional Health Office building permit required	1/31/2016
10.	Mauna Loa Guest Room conversion to Beauty Salon building permit required	1/31/2016
11.	Mauna Kea Tower Health Spa Demolition building permit required	9/30/2016
12.	Mauna Kea Tower Lower Level Restaurant (Ting Hao) Demolition building permit required	1/31/2016
13.	Kilauea Tower Guest Rooms conversion to Meeting Rooms building permit required	12/31/2016
14.	Renovate Alarm System	3/31/2016
15.	Kilauea Tower Guest Room Renovation electrical inspection required	12/31/2016
16.	Renovate Fire Alarm System electrical inspection required	3/31/2016
17.	Beauty Salon conversion to Chiropractor Nutritional Health Office electrical permit required	1/31/2016
18.	Mauna Loa Guest Room conversion to Beauty Salon electrical permit required	1/31/2016
19.	Mauna Kea Tower Health Spa Demolition electrical permit required	9/30/2016
20.	Kilohana Room Demolition electrical permit required	9/30/2016
21.	Mauna Kea Tower Lower Level Restaurant (Ting Hao) Demolition electrical permit required	1/31/2016
22.	Kilauea Tower Guest Rooms conversion to Meeting Rooms electrical permit required	12/31/2016



23.	Kilauea Tower Guest Room Renovation plumbing inspection required	12/31/2016
24.	Mauna Loa Tower Guest Room Renovation plumbing inspection required	1/31/2026
25.	Beauty Salon conversion to Chiropractor Nutritional Health Office plumbing permit required	1/31/2016
26.	Mauna Loa Guest Room conversion to Beauty Salon plumbing permit required	1/31/2016
27.	Mauna Kea Tower Health Spa Demolition electrical permit required	9/30/2016
28.	Kilohana Room Demolition plumbing permit required	9/30/2016
29.	Mauna Kea Tower Lower Level Restaurant (Ting Hao) Demolition plumbing permit required	1/31/2016
30.	Kilauea Tower Guest Rooms conversion to Meeting Rooms plumbing permit required	12/31/2016
31.	Golf Course: building permit required for various improvements.	12/31/2016
32.	Golf Course: Obtain electrical permit(s) to remove and/or correct unpermitted and non-conforming electrical	12/31/2016
33.	Golf Course: Disconnect defective electrical and tag unsafe.	12/31/2016



SOFT AND HARD COST REQUISITION

Page 1 of 1

OWNER/BORROWER:
PROJECT:WHR, LLC
H&O Nanticoke HotelAPPLICATION: 23
APPLICATION DATE: 11/30/2016

ITEM NO.	DESCRIPTION OF WORK	C SCHEDULED VALUE (Budget)	D Changes Resolutions 7/9/16	E Revised Value (Budget) (C + D)	F Loan	G Donor's Equity & Other Source of Funds	H	I	J MATERIALS PRESENTLY STORED (NOT IN USE D OR E)	K TOTAL COMPLETED AND STORED TO DATE (H + I + J)	L Percent of Completion	M BALANCE TO FINISH (E-K)	N RETAINAGE * 0% - 5%
							WORK COMPLETED FROM PREVIOUS APPLICATION	THIS PERIOD					
Hard Cost & FF&E													
2	Acquisition Cost	\$ 6,950,000.00		\$ 6,950,000.00		\$ 6,950,000.00	\$ 6,950,000.00			\$ 6,950,000.00	100.00%	-	
3	FF&E	3,120,551.00	430,693.00	3,551,244.00	\$ 3,126,965.05		3,126,965.05			3,126,965.05	88.05%	424,278.95	
4	Closing Cost	308,452.00	(50,018.00)	258,434.00	1,050.00	22,306.00	257,034.00			257,034.00	99.46%	1,400.00	
5	Hard Construction Cost	15,486,059.00		15,486,059.00	11,503,479.92	1,181,134.00	14,007,253.76	575,813.11		14,583,066.87	94.17%	565,473.77	337,518.36
Total Construction & Related		\$ 25,865,062.00	\$ 380,675.00	\$ 26,245,737.00	\$ 14,631,494.97	\$ 8,153,440.00	\$ 24,341,252.81	\$ 575,813.11		\$ 24,917,065.92	94.04%	\$ 991,152.72	\$ 337,518.36
Soft & Other Costs													
5	Architect & Engineering	\$ 1,102,258.00		\$ 1,102,258.00	\$ 221,706.38	\$ 700,568.00	\$ 1,101,426.66			\$ 1,101,426.66	99.92%	831.14	
6	Permits/Utility Tap	300,000.00	(266,000.00)	34,000.00	12,571.62	3,645.00	16,216.73			16,216.73	47.70%	17,783.27	
7	Lender Construction Consultant	67,000.00		67,000.00	33,527.02		44,215.05			44,215.05	50.82%	42,784.95	
8	Construction Mgmt./Developer Fee	240,000.00		240,000.00	160,000.00		210,000.00			210,000.00	87.50%	30,000.00	
9	Pre-Opening	300,000.00		300,000.00	27,861.50	79,488.00	107,349.50			107,349.50	35.78%	192,650.50	
10	Thrd Party Consultants	236,882.00	(113,150.00)	236,882.00	3,799.04	97,127.04	108,501.04			108,501.04	45.80%	128,380.96	
11	Legal	298,372.00	5,268.00	303,640.00		98,606.00	303,640.00			303,640.00	100.00%	-	
12	DLNR Lease Pmt. During Construction	250,000.00		250,000.00		250,000.00	250,000.00			250,000.00	100.00%	-	
13	Lender Deposits, Legal, Other	285,000.00	(1,525.00)	283,475.00		281,197.00	283,475.00			283,475.00	99.46%	1,525.00	
14	OS&E	698,540.00		698,540.00	655,340.00	43,200.00	698,540.00			698,540.00	100.00%	-	
15	Contingency	-		-		-	-			-		-	
Total Soft Costs		\$ 3,798,052.00	\$ (375,407.00)	\$ 3,532,320.00	\$ 1,114,805.56	\$ 1,553,831.04	\$ 3,123,014.18	\$ -		\$ 3,123,364.18	88.30%	\$ 413,955.82	\$ -
Financing Costs													
16	Lender's Origination Fee	\$ 370,000.00		\$ 370,000.00		\$ 370,000.00	\$ 370,000.00			\$ 370,000.00	100.00%	-	
17	Mortgage Banking Fee	185,000.00		185,000.00		185,000.00	185,000.00			185,000.00	100.00%	-	
18	Closing/Other Costs	100,000.00	(5,268.00)	94,732.00	1,000.00	46,408.00	94,732.00			94,732.00	100.00%	-	
19	Interest Reserve	1,125,000.00		1,125,000.00	879,019.23		774,317.56	\$ 109,702.20		884,019.76	78.58%	240,980.24	
Total Financing Costs		\$ 1,780,000.00	\$ (5,268.00)	\$ 1,774,732.00	\$ 880,019.23	\$ 601,408.00	\$ 1,424,049.56	\$ 109,702.20	\$ -	\$ 1,533,751.76	86.42%	\$ 240,980.24	\$ -
* Total Uses of Cash		\$ 31,443,114.00	\$ -	\$ 31,557,789.00	\$ 16,626,319.76	\$ 10,308,679.04	\$ 26,888,316.55	\$ 685,515.31		\$ 28,574,181.86	93.71%	\$ 1,646,088.78	\$ 337,518.36

Signature
Title
Company

Date

12-29-16

A larger image of this table is shown on the following two pages

EXHIBIT 3

SOFT AND HARD COST REQUISITION

OWNER/BORROWER:
PROJECT:

WHR, LLC
Hilo Naniloa Hotel

A ITEM NO.	B DESCRIPTION OF WORK	C SCHEDULED VALUE (Budget)	D Changes Replications 75/16	E Revised Value (Budget) (C + D)	F Loan	G Borrower's Equity & Other Source of Funds
Hard Cost & FF&E						
2	Acquisition Cost	\$ 6,950,000.00		\$ 6,950,000.00		\$ 6,950,000.00
3	FF&E	3,120,551.00	430,693.00	3,551,244.00	\$ 3,126,955.05	
4	Closing Cost	308,452.00	(50,018.00)	258,434.00	1,050.00	22,306.00
5	Hard Construction Cost	15,486,059.00		15,486,059.00	11,503,479.92	1,181,134.00
	Total Construction & Related	\$ 25,865,062.00	\$ 380,675.00	\$ 26,245,737.00	\$ 14,631,494.97	\$ 8,153,440.00
Soft & Other Costs						
5	Architect & Engineering	\$ 1,102,258.00		\$ 1,102,258.00	\$ 221,708.38	\$ 700,568.00
6	Permits/Utility Tap	300,000.00	\$ (266,000.00)	34,000.00	12,571.62	3,645.00
7	Lender Construction Consultant	87,000.00		87,000.00	33,527.02	
8	Construction Mgmt./Developer Fee	240,000.00		240,000.00	160,000.00	
9	Pre-Opening	300,000.00		300,000.00	27,861.50	79,488.00
10	Third Party Consultants	236,882.00	(113,150.00)	236,882.00	3,799.04	97,127.04
11	Legal	298,372.00	5,268.00	303,640.00		98,606.00
12	DLNR Lease Pmt. During Construction	250,000.00		250,000.00		250,000.00
13	Lender Deposits, Legal, Other	285,000.00	(1,525.00)	285,000.00		281,197.00
14	OS&E	698,540.00		698,540.00	655,340.00	43,200.00
15	Contingency					
	Total Soft Costs	\$ 3,798,052.00	\$ (375,407.00)	\$ 3,537,320.00	\$ 1,114,805.56	\$ 1,553,831.04
Financing Costs						
16	Lender's Origination Fee	\$ 370,000.00		\$ 370,000.00		\$ 370,000.00
17	Mortgage Banking Fee	185,000.00		185,000.00		185,000.00
18	Closing/Other Costs	100,000.00	(5,268.00)	94,732.00	1,000.00	46,408.00
19	Interest Reserve	1,125,000.00		1,125,000.00	879,019.23	
	Total Financing Costs	\$ 1,780,000.00	\$ (5,268.00)	\$ 1,774,732.00	\$ 880,019.23	\$ 601,408.00
	* Total Uses of Cash	\$ 31,443,114.00	\$ -	\$ 31,557,789.00	\$ 16,626,319.76	\$ 10,308,679.04

Signature
Title
Company

Date

12-29-16

APPLICATION:
APPLICATION DATE:23
11/30/2016

	WORK COMPLETED		J MATERIALS PRESENTLY STORED (NOT IN USE D OR E)	K TOTAL COMPLETED AND STORED TO DATE (H + I + J)	L Percent of Completion	M BALANCE TO FINISH (B-K)	N RETAINAGE * 10% - 5%
	H FROM PREVIOUS APPLICATION	I THIS PERIOD					
	\$ 6,950,000.00			\$ 6,950,000.00	100.00%	-	
	3,126,965.05			3,126,965.05	88.05%	424,278.95	
	257,034.00			257,034.00	99.46%	1,400.00	
	14,007,253.76	575,813.11		14,583,066.87	94.17%	565,473.77	337,518.36
	\$ 24,341,252.81	\$ 575,813.11		\$ 24,917,065.92	94.94%	\$ 991,152.72	\$ 337,518.36
	\$ 1,101,426.86			\$ 1,101,426.86	99.92%	831.14	
	16,216.73			16,216.73	47.70%	17,783.27	
	44,215.05			44,215.05	50.82%	42,784.95	
	210,000.00			210,000.00	87.50%	30,000.00	
	107,349.50			107,349.50	35.78%	192,650.50	
	108,501.04	-		108,501.04	45.80%	128,380.96	
	303,640.00			303,640.00	100.00%	-	
	250,000.00			250,000.00	100.00%	-	
	283,475.00			283,475.00	99.46%	1,525.00	
	698,540.00	-		698,540.00	100.00%	-	
	-			-		-	
	\$ 3,123,014.18	\$ -		\$ 3,123,364.18	88.30%	\$413,955.82	\$ -
	\$ 370,000.00			\$ 370,000.00	100.00%	-	
	185,000.00			185,000.00	100.00%	-	
	94,732.00			94,732.00	100.00%	-	
	774,317.56	\$ 109,702.20		884,019.76	78.58%	240,980.24	
	\$ 1,424,049.56	\$ 109,702.20	\$ -	\$ 1,533,751.76	86.42%	\$240,980.24	\$ -
	\$ 28,888,316.55	\$ 685,515.31		\$ 29,574,181.86	93.71%	\$ 1,646,088.78	\$ 337,518.36



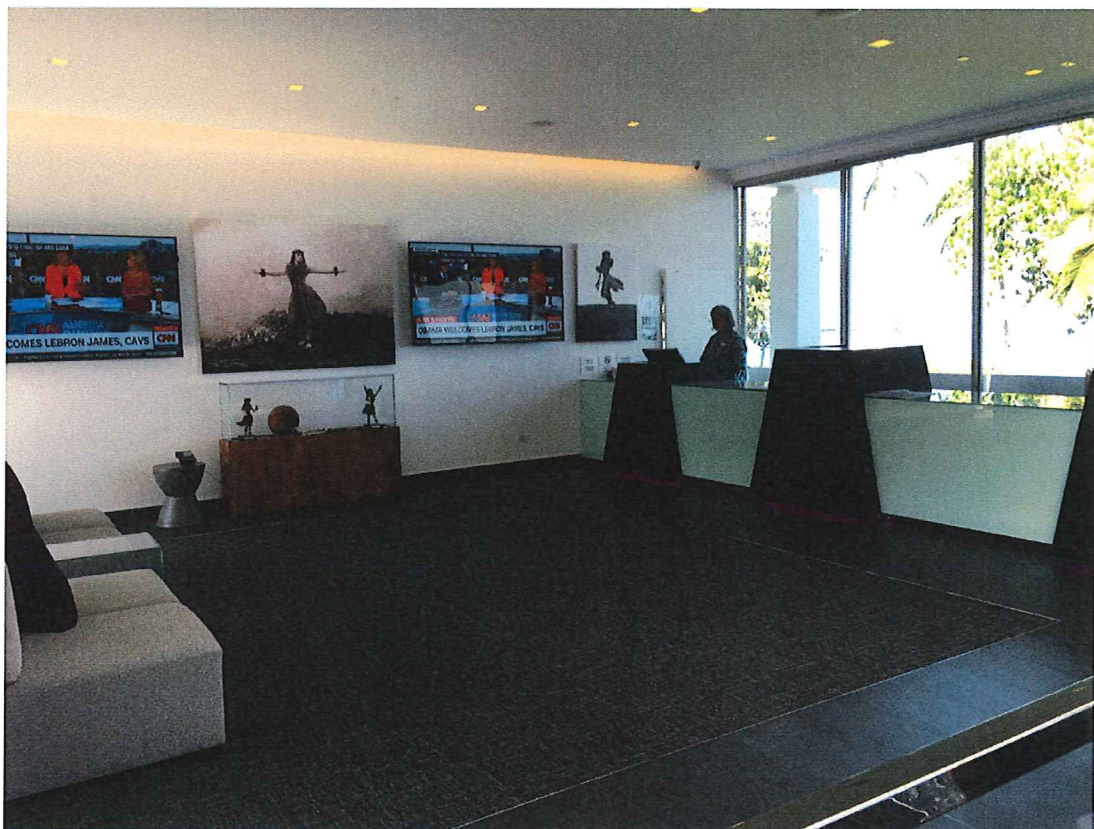
Rooftops of Kilauea Tower, Lobby and Porte-Cochere



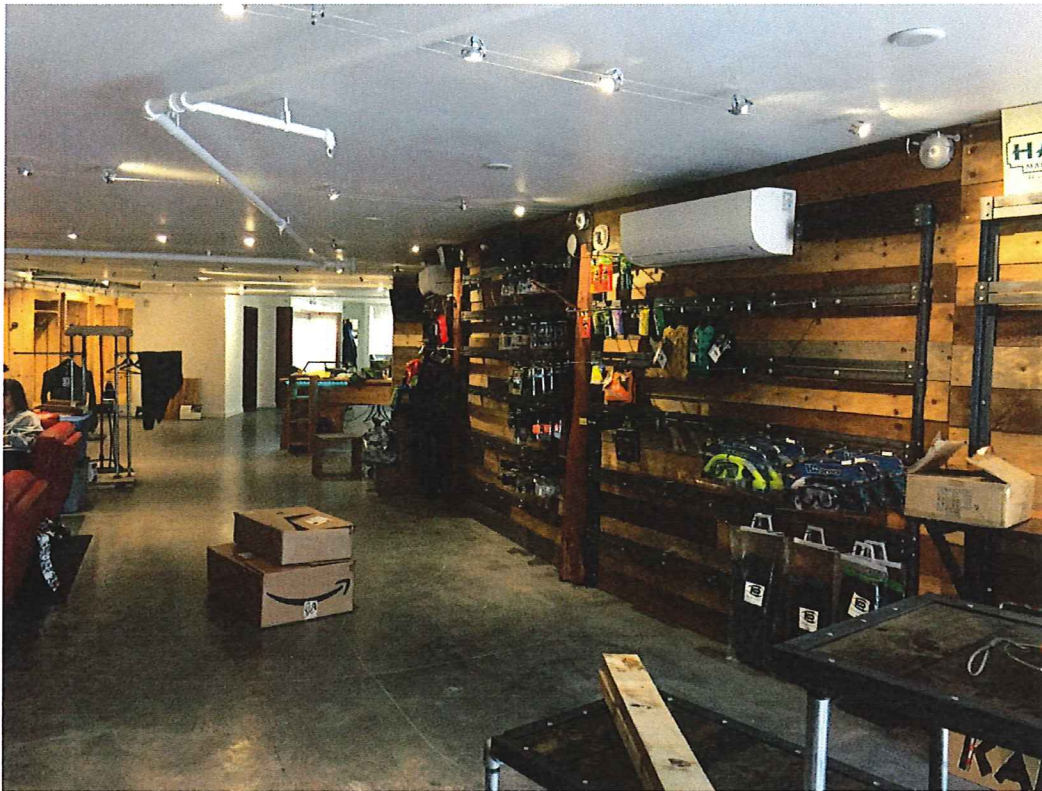
Porte-Cochere / Lobby



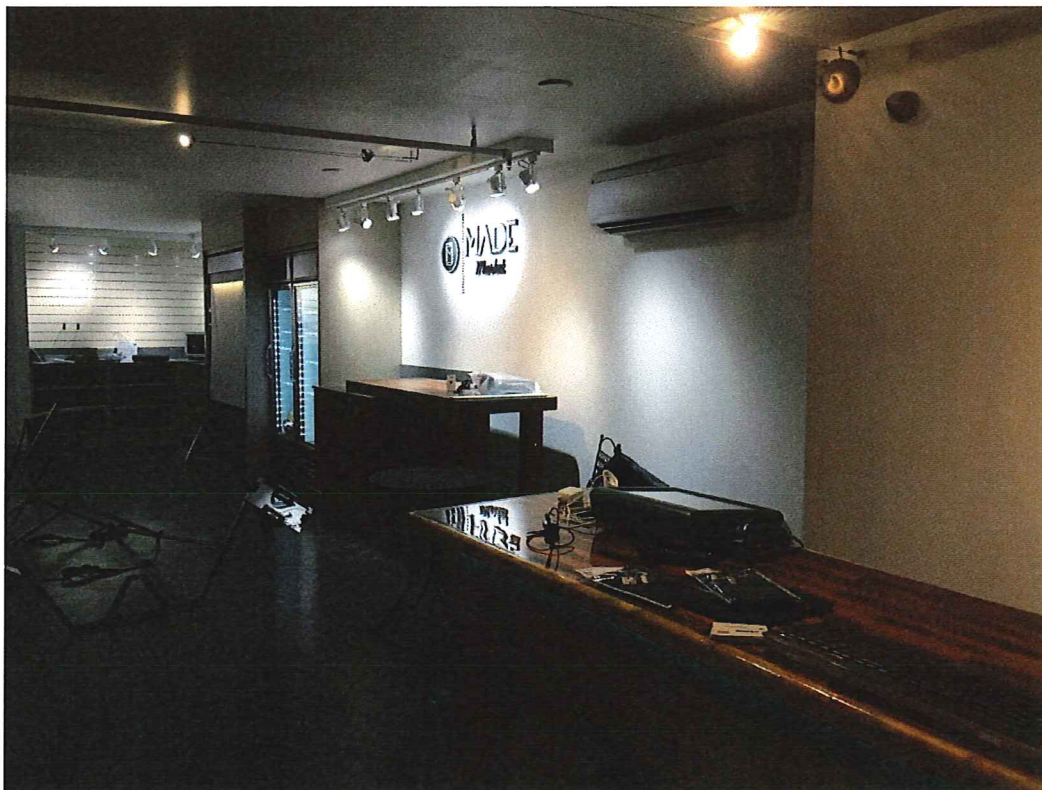
Lobby/Lower Level Lobby



Lobby – Front Desk



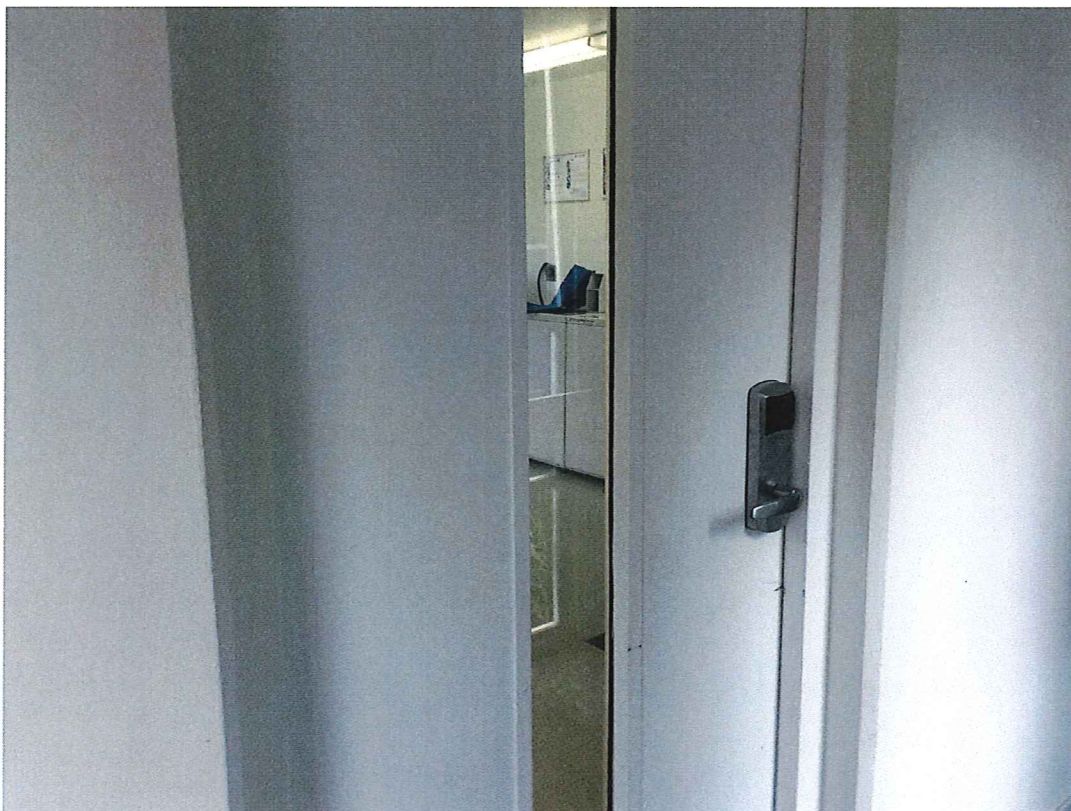
Interior of Guest Activities Store (Kapoho Kine Adventures-Sublessee)



Made Market Adjacent to Tour Activities Counter



Guest Laundry Room



Secured Door to Laundry Room



Finished Guest Room – Mauna Loa Tower



Finished Guest Room – Mauna Loa Tower



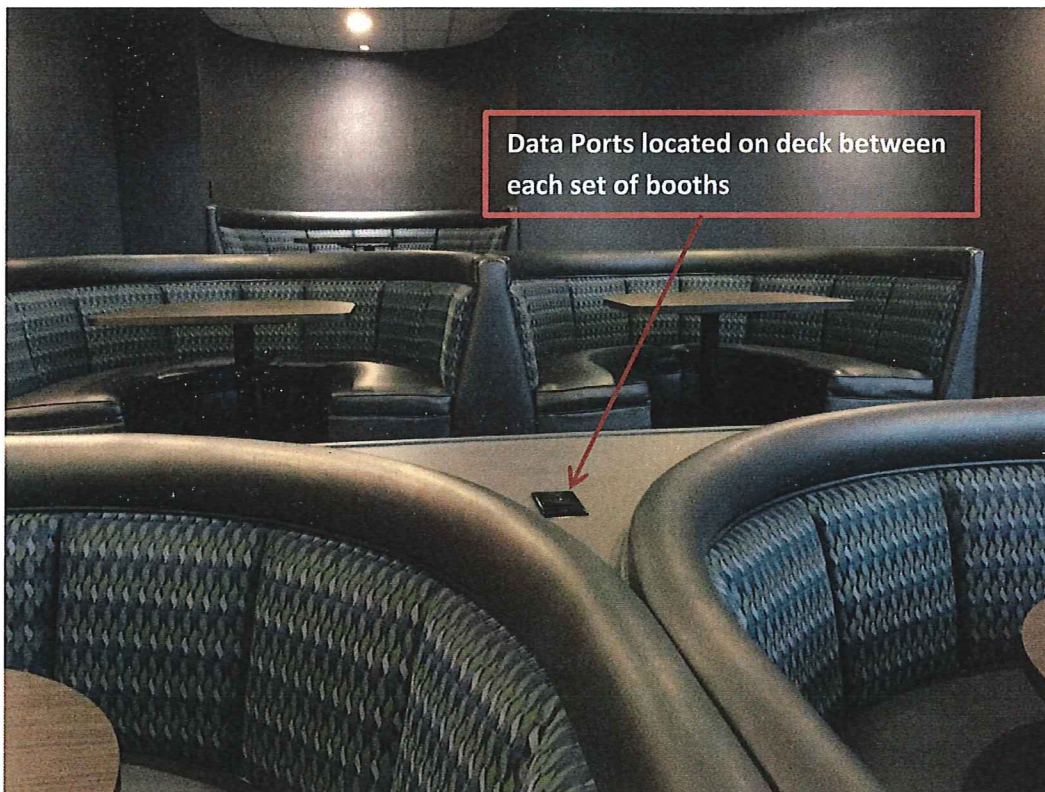
Newly Carpeted Hallway – Mauna Loa Tower



Newly Carpeted Hallway – Mauna Kea Tower



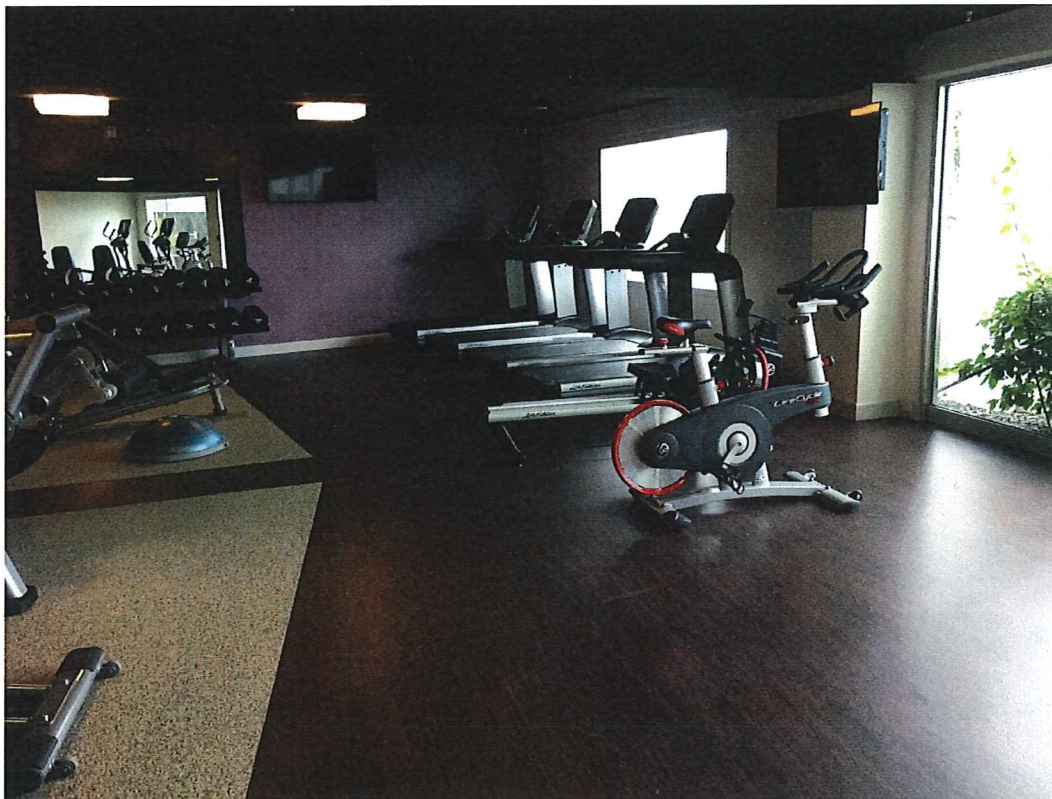
Crown Room



Refurbished Booths in Crown Room



Entrance to Fitness Center



Interior of Fitness Center



Restaurant Construction



Restaurant Construction



Restaurant Construction



Planned Entrance to Restaurant



Pool Area



RESTAURANT DINING AREA



RESTAURANT AREA UNDER CONSTRUCTION



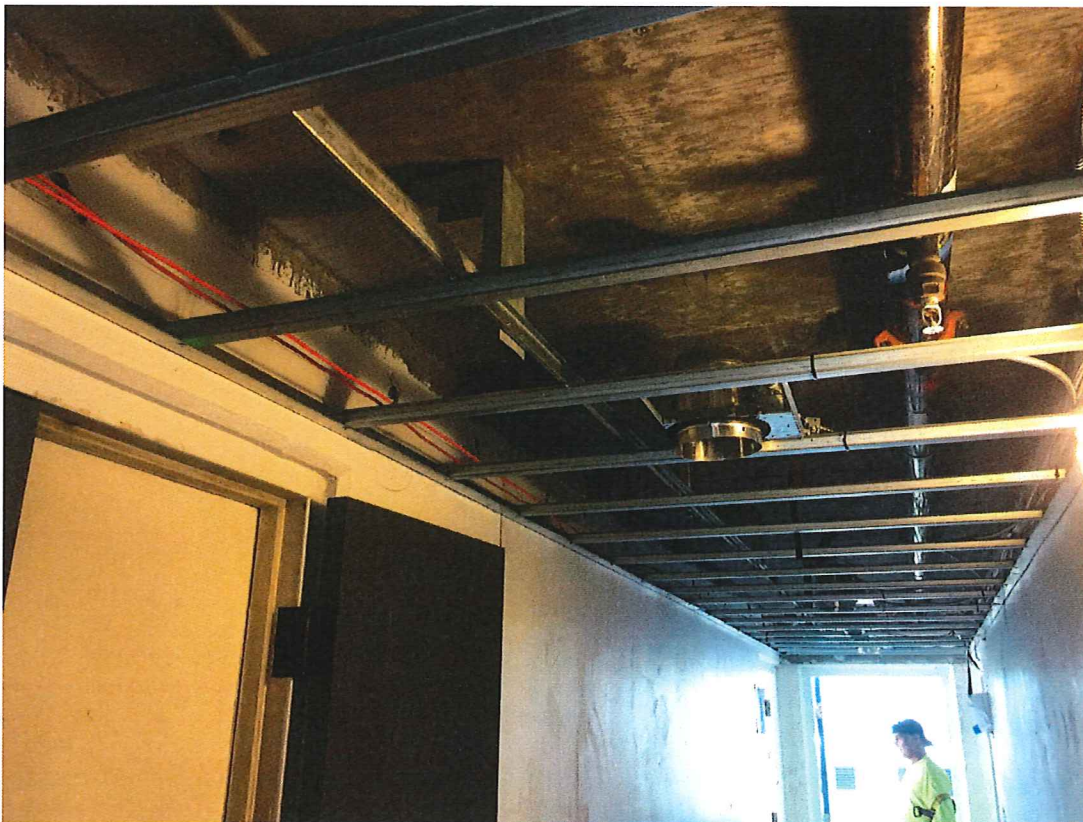
RESTAURANT BAR FRAME-IN



RESTAURANT BAR FRAME-IN



KILAUEA TOWER HALLWAY



KILAUEA TOWER HALLWAY OPEN CEILING



KILAUEA TOWER ROOM FRAME-IN



KILAUEA TOWER ROOM-UNDER CONSTRUCTION



BUILDING DIVISION • DEPARTMENT OF PUBLIC WORKS

101 Pauahi Street, Suite 7, Hilo, Hawai'i 96720

74-5044 Ane Keohokalole Highway, Building E, Kailua-Kona, Hawaii 96740

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October 10, 2016

Mr. Ed Bushor
President & CEO
Tower Development Inc.
1050 Bishop Street, Suite 530
Honolulu, Hawaii 96813
ed@towerdevcon.com

Mr. Stuart Miller
Vice President Development
Tower Development Inc.
1050 Bishop Street, Suite 530
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Re: Naniloa Hotel, 93 Banyan Drive, TMK 2-1-005-013, 016, 027 and 032
Naniloa Golf Course, 1713 Kamehameha Avenue, TMK 2-1-001-012
Status of Notice of Violations

The following summary and details below are an update for Naniloa Hotel regarding progress made and status addressing building, electrical and plumbing code violations.

Item	Violation	Status	Estimated Completion
A.1.a.	Mauna Kea Guest Rooms Renovation building inspection required	HOT Inc building permit transferred; supplement permit issued; inspection completed. (violation addressed)	To complete 1/31/16 Completed 4/21/16
A.1.b.	Mauna Kea Fire Sprinkler building inspection required	HOT Inc building permit transferred; supplement permit issued; inspection completed. (violation addressed)	To complete 1/31/16 Completed 9/12/16
A.2.a.	Kilauea Tower Guest Room Renovation building inspection required	HOT Inc building permit to be transferred or voided; permit application in review, inspection required.	To complete 12/31/16
A.2.b.	Mauna Loa Tower Guest Room Renovation building inspection required	HOT Inc building permit voided; new permit issued and framing inspection completed (violation addressed).	To complete 1/31/16 Completed 2/16/16

Item	Violation	Status	Estimated Completion
A.2.c.	Kilauea Tower Fire Sprinkler building inspection required	HOT Inc building permit transferred; supplement permit issued; inspection required.	To complete 1/31/16
A.2.d.	Mauna Loa Tower Fire Sprinkler building inspection required	HOT Inc building permit transferred; supplement permit issued; inspection completed. (violation addressed)	To complete 1/31/16 Completed 9/12/16
A.2.e.	Lobby Common Area Fire Sprinkler building inspection required	HOT Inc building permit transferred; supplement building permit issued; inspection completed. (violation addressed)	To complete 1/31/16 Completed 9/12/16
A.2.f.	Crown Room Fire Sprinkler building inspection required	HOT Inc building permit transferred; supplement permit issued; inspection completed. (violation addressed)	To complete 1/31/16 Completed 9/29/16
A.3.a.	Beauty Salon conversion to Chiropractor Nutritional Health Office building permit required	HOT Inc building permit application cancelled; space vacated; permit to be submitted when use determined. (violation addressed)	To complete 1/31/16 Completed 9/29/16
A.3.b.	Mauna Loa Guest Room conversion to Beauty Salon building permit required	HOT Inc building permit application cancelled; new permit issued; inspection completed. (violation addressed)	To complete 1/31/16 Completed 2/4/16
A.4.a.	Mauna Kea Tower Health Spa building (demolition) permit required	HOT Inc building permit application cancelled; new permit issued. (violation addressed)	To complete 9/30/16 Completed 2/1/16
A.4.b.	Kilohana Room Demolition building permit required	Building permit issued, inspection completed. (violation addressed)	Completed 12/5/14
A.4.c.	Mauna Kea Tower Lower Level Restaurant (Ting Hao) building (demolition) permit required	Building permit issued. (violation addressed)	To complete 1/31/16 Completed 2/1/16
A.5.a.	Kilauea Tower Guest Rooms conversion to Meeting Rooms building permit required	HOT Inc building permit application cancelled; new building permit application in review; inspection required.	To complete 12/31/16
A.6.a.	Kilauea Tower Kitchen Range Hood Exhaust Duct	Unprotected opening sealed, building permit issued,	Completed 10/23/14

Item	Violation	Status	Estimated Completion
	Unprotected Openings.	inspection completed. (violation addressed)	
A.7.a.	Mauna Kea Guest Room Renovation electrical inspection required	Electrical inspection completed. (violation addressed).	Completed 3/10/14
A.7.b	Renovate Alarm System (Mauna Kea) electrical inspection required	Electrical (supplemental) permit issued; inspection completed. (violation addressed)	To complete 3/31/16 Completed 9/22/16
A.8.a.	Kilauea Tower Guest Room Renovation electrical inspection required	Electrical permit linked to building application/permit and inspection required.	To complete 12/31/16
A.8.b.	Mauna Loa Tower Guest Room Renovation electrical inspection required	Electrical inspection completed. (violation addressed).	Completed 3/10/14
A.8.c.	Renovate Fire Alarm System (Kilauea, Mauna Loa) electrical inspection required	Electrical (supplemental) permit issued, inspection required.	To complete 3/31/16
A.9.a.	Beauty Salon conversion to Chiropractor Nutritional Health Office electrical permit required	Electrical (as-built) permit application submitted to be cancelled; space vacated; permit to be submitted when use determined. (violation addressed)	To complete 1/31/16 (Completed 9/29/16)
A.9.b.	Mauna Loa Guest Room conversion to Beauty Salon electrical permit required	Electrical permit issued, room 109 inspection completed. (violation addressed)	To complete 1/31/16 Completed 11/25/15
A.10.a.	Mauna Kea Tower Health Spa Demolition electrical permit required	Electrical (demolition) permit issued. (violation addressed)	To complete 9/30/16 (Completed 7/26/16)
A.10.b	Kilohana Room Demolition electrical permit required	Electrical (demolition) permit issued. (violation addressed)	To complete 9/30/16 (Complete 6/16/16)
A.10.c.	Mauna Kea Tower Lower Level Restaurant (Ting Hao) Demolition electrical permit required	Electrical (demolition) permit issued. (violation addressed)	To complete 1/31/16 (Completed 7/26/16)
A.11.a.	Former Polynesian Room electrical conduit/outlet install to address non-complying extension cord	Electrical permit issued, inspection completed. (violation addressed)	Completed 4/2/14

Item	Violation	Status	Estimated Completion
	electrical permit required		
A.12.a.	Kilauea Tower Guest Rooms conversion to Meeting Rooms electrical permit required	Electrical permit linked to building application/permit required.	To complete 12/31/16
A.13.a.	Non-conforming electrical work – conduit below lobby exposed to physical damage	Electrical inspection completed. (violation addressed)	Completed 3/10/14
A.13.b.	Non-conforming electrical work – Mauna Loa Tower fire system junction boxes inaccessible	Electrical inspection completed. (violation addressed).	Completed 3/10/14
A.13.c.	Non-conforming electrical work – Mauna Kea Tower electrical boxes improperly installed.	Electrical inspection completed. (violation addressed).	Completed 3/10/14
A.14.a.	Mauna Kea Tower Guest Rooms Renovations plumbing inspection required.	Plumbing inspection completed. (violation addressed)	Completed 1/29/15
A.14.b.	Kilauea Tower Guest Room Renovation plumbing inspection required	Existing permit to be voided or transferred and linked to building application/permit required.	To complete 12/31/16
A.14.c.	Mauna Loa Tower Guest Room Renovation plumbing inspection required	Existing plumbing permit expired (contractor change), new plumbing permit issued, inspection completed floors 1-12. (violation addressed)	To complete 1/31/16 Completed 2/5/16
A.15.a.	Beauty Salon conversion to Chiropractor Nutritional Health Office plumbing permit required	Plumbing (as-built) permit application submitted to be cancelled; space vacated; permit to be submitted when use determined. (violation addressed)	To complete 1/31/16 (Completed 9/29/16)
A.15.b.	Mauna Loa Guest Room conversion to Beauty Salon plumbing permit required	Plumbing permit issued, room 109 rough-in inspection completed. (violation addressed)	To complete 1/31/16 Complete 1/22/16
A.16.a.	Mauna Kea Tower Health Spa Demolition electrical plumbing permit required	Plumbing (demolition) permit issued. (violation addressed)	To complete 9/30/16 Complete 3/28/16

Item	Violation	Status	Estimated Completion
A.16.b	Kilohana Room Demolition plumbing permit required	Plumbing (demolition) permit issued, inspection completed. (violation addressed)	To complete 9/30/16 Completed 6/3/16
A.16.c.	Mauna Kea Tower Lower Level Restaurant (Ting Hao) Demolition plumbing permit required	Plumbing (demolition) permit issued, inspection completed. (violation addressed)	To complete 1/31/16 Complete 3/28/16
A.17.a.	Kilauea Tower Guest Rooms conversion to Meeting Rooms plumbing permit required	Plumbing permit linked to building application/permit required	To complete 12/31/16
B.1.a.	Generator power connected to Kilauea Tower/ Lobby/ Office electrical permit required.	Electrical permit issued, inspection completed. (violation addressed)	Completed 4/2/14
B.2.a.	Restore permanent electrical service to Kilauea Tower / Lobby / Office	Electrical permit issued, inspection completed. (violation addressed); inspection pending unrelated pre-existing cabinet clearance discrepancy to be corrected, electrical permit and inspection required.	Completed 4/2/14 To complete 12/31/16
C.1.a.	Golf Course: building permit required for various improvements.	Building permit required.	To complete 12/31/16
C.2.a.	Golf Course substandard unsafe buildings	Building cleared/cleaned of debris, secured, inspected daily (violation addressed)	Completed 11/20/14
C.3.a.	Golf Course building found to be unsafe	Building cleared/cleaned of debris, secured, inspected daily (violation addressed)	Completed 11/20/14
C.4.a.	Golf Course: Obtain electrical permit(s) to remove and/or correct unpermitted and non-conforming electrical	Main disconnect locked out and tagged out. Electrical permit required.	To complete 12/31/16
C.5.a.	Golf Course: Disconnect defective electrical and tag unsafe.	Main disconnect locked out and tagged out. Electrical permit required.	To complete 12/31/16

The remainder of this communication provides greater detail and history of each violation.

A. 93 Banyan Drive, TMK 2-1-005:013, 016, 027 and 032 (May 9, 2013 NOV and October 8, 2013 Order)

After a review of our records and files, the current status of the following items listed in the notice of violation for 93 Banyan Drive, TMK 2-1-005:013, 016, 027 and 032 (Reference: May 9, 2013 Notice of Violation, October 8, 2013 Order) are as follows:

1. Building inspection required (work completed and in use without required inspection): B2007-1611H and B2009-0969H Mauna Kea guest room renovations; B2008-2445H, Mauna Kea fire sprinkler (ground – 8th floor);
 - a. Building permit B2007-1611H and B2009-0969H (HOT Inc), linked electrical permit E2007-1394H final inspection complete 4/3/14, linked plumbing permit M2007-1331H final inspection complete 1/29/15. WHR LLC reported 1/19/15 discrepancies corrected and permit E2007-1394H to be voided. Final inspection scheduled 3/6 and 3/11/14. Final inspection pending: transfer of building permit 2007-1611H and B2009-0969H; letter from architect to change the area of rescue location and alteration of rooms 914, 915, and 916; permit required for new area of rescue and alteration of rooms 914, 915, and 916; and WHR LLC letter of resolution stating who is authorized to represent (sign) on their behalf.

Completed to date: Received letter of resolution identifying authorized representative (Stu Miller) 5/19/15; permit B2007-1611H and B2009-0969H transferred 7/27/15 from HOT Inc to Tower Construction Hawaii. Building application A2016-BH00140 for interior alteration to Mauna Kea Tower levels 2 – 9 including rooms 914, 915 and 916 submitted 2/4/16, review in progress. Building application A2014-BH02413, -BH02414, -BH02415, -BH02416 and -BH02417 ADA Improvements/Alterations to Elevator Core of Mauna Kea Tower submitted 12/19/14, returned for correction 1/29/15, resubmitted 2/3/16, review in progress. [B2007-1611H and B2009-0969H final inspection completed 4/21/16.](#) [Building permit application A2014-BH02413 thru BH02417 ADA Improvements/Alterations to Elevator Core of Mauna Kea Tower separate from initial NOV. \(violation addressed\)](#)

- b. B2008-2445H (HOT Inc): Permit supplemented by permit BH2015-00167 (WHR LLC) for Alteration Upgrade of Fire Alarm System in Mauna Kea Tower issued 2/2/15. WHR LLC requested 1/19/15 to have permit B2008-02445H voided. However, currently unable to void permit, BH-2015-00167 does not address fire sprinkler system work scope. WHR LLC noted intent to submit new permit application for fire sprinkler system and B2008-2445H to be voided.

[Complete to date: B2008-02445H transferred to WHR 3/22/16. Building/Fire final inspection completed 9/12/16. \(violation addressed\)](#)

2. Building inspection required (work in progress requires inspection): B2007-1612H Kilauea guest room renovations; B2007-1613H Mauna Loa guest room renovations;

B2008-2444H Kilauea ground to 6th floor fire sprinkler system; B2009-1770H Mauna Loa ground to 12th floor fire sprinkler system; B-2009-1771 lobby/registration/office and former Sandalwood Lounge fire sprinkler system; B2009-1772H Crown Room fire sprinkler system.

- a. B2007-1612H (HOT Inc): Permit will be supplemented or voided and superseded by WHR LLC report 11/20/14 that Kilauea Tower outstanding violations to be addressed concurrent with renovation work it intends to pursue and have scheduled for 2015.

Complete to date: Building application A2016-BH01134 Kilauea Tower Level 1-6 Partial Demolition and Renovation submitted 8/12/16, returned for correction 9/30/16. B2007-1612H transferred to WHR 3/22/16 and can be expired or superseded when permit application A2016-BH01134 is issued. Building/fire inspection pending completion of renovation.

- b. Building permit B2007-1613H (HOT Inc): WHR LLC reported 1/19/15 existing permit superseded by building permit BH2014-1415 (WHR LLC for Mauna Loa Tower Guest Room Renovation Levels 1 -12) issued 8/29/14 and to have permit B2007-1613H voided. Pending request letter from WHR LLC authorized representative.

Completed to date: Received letter of resolution identifying authorized representative (Stu Miller) 5/19/15; building permit B2007-1613H voided; building permit BH2014-1415 framing inspection completed floors 1-4 on 2/4/16 and floors 9-12 on 2/8/16, floor 7&8 on 2/16/16. (violation addressed).

- c. Building permit B2008-2444H (HOT Inc): Permit supplemented by permit BH2014-00168 (WHR LLC) for Alteration Upgrade of Fire Alarm System in Kilauea Tower issued 2/2/15. WHR LLC reported 1/19/15 to have permit B2008-2444H voided. However, currently unable to void permit, BH-2015-00168 does not address fire sprinkler system work scope. WHR LLR noted intent to submit new permit application for fire sprinkler system and B2008-2444H to be voided.

Complete to date: B2008-2444H transferred to WHR 3/22/16. Building application A2016-BH01134 Kilauea Tower Level 1-6 Partial Demolition and Renovation submitted 8/12/16, returned for correction 9/30/16. Building/fire inspection pending completion of renovation.

- d. Building permit B2009-1770H (HOT Inc). Permit supplemented by permit BH2015-00171 (WHR LLC) for Alteration Upgrade of Fire Alarm System in Mauna Loa Tower issued 2/2/15. WHR LLC reported 1/19/15 to have permit B2009-1770H voided. However, currently unable to void permit, BH-2015-00171 does not address fire sprinkler system work scope. WHR LLR noted intent to submit new permit application for fire sprinkler system and B2009-1770H to be voided.

Completed to date: Building (application A2014-BH00971 received 5/28/14) permit BH2014-01415 issued 8/29/14 for Alteration/Addition to Mauna Loa Tower including Fire Sprinkler. [BH2014-01415 transferred to WHR 3/22/16.](#) [Building/Fire final inspection completed 9/12/16. \(violation addressed\)](#)

- e. Building Permit B2009-1771H (HOT Inc). Permit supplemented by permit BH2015-00169 (WHR LLC) for Alteration Upgrade of Fire Alarm System in Lobby and Common Area submitted 6/3/14 issued 2/2/15. WHR LLC reported 1/19/15 to have permit B2009-1771H voided. However, currently unable to void permit, BH-2015-00169 does not address fire sprinkler system work scope. WHR LLR noted intent to submit new permit application for fire sprinkler system and B2009-1771H to be voided.

Completed to date: Building (application A2014-BH00970 received 5/28/14) permit BH2014-01416 issued 8/29/14 for Alteration/Addition Lobby and Common Area including Fire Sprinkler, received copy of fire sprinkler shop drawings 1/11/16. [Existing building permit B2008-1771H transferred to WHR 3/22/16.](#) [Building/Fire final inspection completed 9/12/16. \(violation addressed\)](#)

- f. Building B2009-1772H (HOT Inc). Permit supplemented by BH2015-00170 (WHR LLC) for Alteration Upgrade of Fire Alarm System in Crown Room issued 2/2/15. WHR LLC reported to have permit B2009-1772H voided. However, currently unable to void permit, BH-2015-00170 does not address fire sprinkler system work scope. WHR LLR noted intent to submit new permit application for fire sprinkler system and B2009-1772H to be voided.

Completed to date: [Existing building permit B2009-1772H transferred to WHR 3/22/16.](#) [Building/Fire final inspection completed 9/12/16. \(violation addressed\)](#)

- 3. Building permit required (change in occupancy use, alteration work completed and in use without required permit and inspection): Mauna Kea Tower main level former Beauty Salon conversion to Health Spa; Mauna Loa Tower former hotel guest room conversion to Beauty Salon.

- a. Building application A2013-BH01797 (HOT Inc) submitted 10/3/13 for As-Built Beauty Salon Conversion to Chiropractor/Nutritional Health Office, returned for correction 10/15/13, resubmitted 11/22/13, returned for corrections 12/17/13. Applicant HOT Inc has not submitted corrections to date and assumed to have abandoned application. WHR LLC reported 1/19/15 it will submit permit application for as-built construction of Beauty Salon conversion to Health Spa and to have application A2013-BH01797 cancelled. A2013-BH1797 cancellation pending request letter from WHR LLC authorized representative.

Completed to date: Received letter of resolution identifying authorized representative (Stu Miller) 5/19/15; building application A2013-BH01797

cancelled. Building permit application A2016-BH00308 As-Built Construction of Beauty Salon Conversion to Health Spa submitted 3/8/16, returned 4/12/16, resubmitted 6/23/16, returned 6/23/16, resubmitted 6/27/16, returned 8/5/16. WHR LLC letter 9/28/16 stated former Beauty Solon/Health Spa space vacated, not to be occupied until a use is determined and renovation/use permit application completed. WHR LLC letter 9/29/16 request to cancel application A2016-BH00308. (violation addressed)

- b. Building application A2013-BH01582 (HOT Inc) submitted 9/5/13 for as-built Guest Room 109 Conversion to Beauty Salon, returned for corrections 9/17/13, resubmitted 11/22/13, returned for corrections 12/10/13. Applicant HOT Inc has not submitted corrections to date and assumed to have abandoned application. Building permit BH2014-01415 (WHR LLC) for Mauna Loa Tower Guess Room Renovation issued 8/29/14, WHR LLC reported 1/19/15 it will restore/renovate guess room 109 and to have application A2013-BH01582 cancelled. A2013-BH1582 cancellation pending request letter from WHR LLC authorized representative.

Completed to date: Received letter of resolution identifying authorized representative (Stu Miller) 5/19/15; building application A2013-BH01582 cancelled; building permit BH2014-01415 room 109 framing inspection completed 2/4/16. (violation addressed)

- 4. Building permit required (demolition work completed without required permit): former health spa demolition; former Kilohana Room bar demolition; former Ting Hao Restaurant demolition including the removal of stairway;
 - a. Building application A2013-BH01579 (HOT Inc) submitted 9/5/13 for Mauna Kea Tower Spa and Kilohana Room As-Built Demolition was returned for corrections 9/17/13, resubmitted 11/22/13, returned for corrections 2/19/14. Applicant HOT Inc has not submitted corrections to date and assumed to have abandoned application. WHR LLC reported 11/20/14 that it will submit application for As-Built Construction for Mauna Kea former Health Spa included with renovation plans. A2013-BH1579 cancellation pending request letter from WHR LLC authorized representative.

Completed to date: Received letter of resolution identifying authorized representative (Stu Miller) 5/19/15; building application A2013-BH1579 cancelled; building permit BH2016-00138 Alteration to Existing Kitchen Space in Lower Level Mauna Kea Tower issued 2/1/16 included former Health Spa area, identification of pre-demolition existing condition difficult. (violation addressed)

- b. Building permit BH2014-01987 (WHR LLC) for Kilohana Room Bar/Kitchen Demolition issued 12/03/14, building inspection completed 12/5/14 (violation addressed). WHR LLC reported 1/19/15 to have application A2013-BH01579

cancelled. A2013-BH1579 cancellation pending request letter from WHR LLC authorized representative.

Completed to date: Received letter of resolution identifying authorized representative (Stu Miller) 5/19/15; building application A2013-BH1579 cancelled (technical issue addressed). (violation addressed)

- c. Building application A2014-BH02359 (WHR LLC) submitted 12/10/14 for Mauna Kea Tower Lower Level Existing Kitchen (Ting Hao) Alteration returned for correction 1/30/15 (pending resubmission). WHR LLC anticipates construction will commence 2nd qtr 2015.

Completed to date: Building permit BH2016-00138 alteration to existing kitchen space in lower level Mauna Kea Tower issued 2/1/16. Building application A2013-BH1579 cancelled; building permit BH2016-00138 Alteration to Existing Kitchen Space in Lower Level Mauna Kea Tower issued 2/1/16, [identification of pre-demolition existing condition difficult](#). ([violation addressed](#))

- 5. Building permit required (work in progress without required permit): Kilauea Tower alteration and change of occupancy use - guest rooms conversion to meeting rooms.

- a. Building application A2013-BH01581 (HOT Inc) submitted 9/5/13 for Kilauea Tower demolition 1st floor guest room conversion to future meeting rooms, returned for corrections 9/17/13, resubmitted 10/16/13, returned for corrections 10/16/13, resubmitted 11/22/13, returned for corrections 2/19/14. Applicant HOT Inc has not submitted corrections to date and assumed to have abandoned application. WHR LLC reported 11/20/14 that it intends to renovate the Kilauea Tower in 3rd qtr 2015 and address all existing violation concurrent with renovation. No action to date indicated by way of permit application. A2013-BH1581 cancellation pending request letter from WHR LLC authorized representative.

Completed to date: Received letter of resolution identifying authorized representative (Stu Miller) 5/19/15; building application A2013-BH1581 cancelled. [Building application A2016-BH01134 Kilauea Tower Level 1-6 Partial Demolition and Renovation submitted 8/12/16, returned for correction 9/30/16. Building/fire inspection pending completion of renovation.](#)

- 6. Non-compliant: Kitchen Range Hood Exhaust Duct unprotected openings in two-hour fire-resistive shaft enclosure.

- a. Building application A2014-BH00758 (WHR LLC) submitted 4/24/14 for Kilauea Tower Kitchen Alteration to Remove Range Hood and Seal Floor Penetrations, building permit BH2014-01196 issued 7/23/14, inspection completed 10/23/14. ([violation addressed](#))

7. Electrical inspection required (work complete and in use without required inspection): E2007-1394H Mauna Kea guest room renovation; E2007-2308H Renovate Fire Alarm System.

- a. Electrical permit E2007-1394H (HOT Inc) Mauna Kea guest room renovation, inspection completed 3/10/14. (violation addressed).
- b. Electrical permit E2007-2308H Fire Alarm System (HOT Inc). Supplemental permit BH2015-00167 (WHR LLC) for Alteration Upgrade of Fire Alarm System in Mauna Kea Tower issued 2/2/15. Electrical permit linked to building permit BH2015-00167 required.

Complete to date: Electrical (application A2016-EH00211 submitted 2/12/16), permit EH2016-00243 issued 2/22/16 for Alteration Upgrade of Fire Alarm system in Mauna Kea Tower. [E2007-2307H voided 3/11/16. Final electrical inspection completed 9/22/16. \(violation addressed\)](#)

8. Electrical inspection required (work in progress requires inspection): E2007-1395H Kilauea guest room renovations; E2007-1396 Mauna Loa guest room renovations; E2007-2308H Renovate Fire Alarm System.

- a. Electrical permit E2007-1395H (HOT Inc) inspection pending exposing concealed work. WHR LLC reported 11/20/14 it intends to renovate the Kilauea Tower in 3rd qtr 2015 and address all existing violation concurrent with renovation.

Completed to date: [Building application A2016-BH01134 Alteration to Renovate w/ Partial Demolition Kilauea Tower Guest Rooms Level 1-6 submitted 2/12/16 in review. Linked electrical permit and inspection required.](#)

- b. Electrical permit E2007-1396 (HOT Inc) Mauna Loa guest room renovations, inspection completed 3/10/14. (violation addressed).
- c. Electrical permit E2007-2308 (HOT Inc) Renovate Fire Alarm System, last inspected 2/3/14, pending correction of miscellaneous discrepancies (i.e., need access to electrical box, fixtures removed but not replaced, improper use of box extension ring, needed replacement boxes, etc.), inspection completed 3/10/14 (discrepancies corrected). Building permit supplemented by application permit BH2015-00168/00171 (WHR LLC) for Alteration Upgrade of Fire Alarm System in Kilauea/Mauna Loa Tower respectively issued 2/2/15. Permit E2007-2308H status active (inspection required). Electrical permit associated with building permit BH2015-00168/00171 required.

Completed to date: Electrical (application A2016-EH00212 / A2016-EH00210 submitted 2/12/16) permit EH2016-00244/EH2016-00242 issued 2/22/16 for

Alteration Upgrade of Fire Alarm system in Kilauea Tower / Mauna Loa Tower, respectively. E2007-2308 voided 3/11/16. EH2016-00242 Alteration Upgrade of Fire Alarm System Mauna Loa Tower electrical inspection completed 7/7/16, Fire Department inspection completed 9/12/16. EH2016-00244 Alteration Upgrade of Fire Alarm System Kilauea Tower electrical inspection required.

9. Electrical permit required (alteration work completed and in use without required permit and inspection): Mauna Kea Tower main level former Beauty Salon conversion to Health Spa; Mauna Loa Tower former hotel guest room conversion to Beauty Salon.

- a. WHR LLC reported 11/20/14 that it will submit permit application for As-Built Construction for Beauty Salon conversion to Health Spa by 2/15/15. Linked electrical permit required.

Completed to date: WHR LLC letter 9/28/16 stated former Beauty Salon/Health Spa space vacated, not to be occupied until a use is determined and renovation/use permit application completed. WHR LLC letter 9/29/16 request to cancel application A2016-BH00308. (violation addressed)

To complete: A2016-EH00318 to be cancelled. (technical issue)

- b. Building application A2014-00971 (WHR LLC) submitted 5/28/14 for Mauna Loa Tower Guess Room Renovation, building permit BH2014-01415 issued 8/29/14, includes restoration/renovation of guess room 109, reported 11/20/14 that anticipates construction will commence 1st qtr 2015. Linked electrical permit required.

Completed to date: Electrical permit (application 8/10/15) EH2015-01825 issued 9/11/15 for alteration/renovation Mauna Loa Guess Room levels 1 – 12. Electrical rough-in inspection room 109 completed 11/25/15. (violation addressed).

10. Electrical permit required (demolition work completed without required permit): former health spa; former Kilohana Room bar; former Ting Hao Restaurant;

- a. WHR LLC reported 11/20/14 that it will submit permit application for As-Built Construction by 2/15/15. Associated (linked) electrical permit required.

Completed to date: Electrical application A2016-EH01071 Alteration to Existing Kitchen Space Located in the Lower Level of Mauna Kea Tower (former Ting Hao and Health Spa) submitted 7/14/16, permit EH2016-01155 issued 7/26/16, linked to building permit BH2016-00138, identification of pre-demolition existing condition difficult. (violation addressed)

- b. Building permit BH2014-01987 (WHR LLC) for Kilohana Room Bar/Kitchen Demolition issued 12/03/14, building inspection completed 12/5/14

Completed to date: Electrical application A2016-EH00794 submitted 5/24/16, permit EH2016-00798 issued 5/26/16, electrical inspection completed 6/6/16. (violation addressed)

- c. Building application A2014-BH02359 (WHR LLC) submitted 12/10/14 for Mauna Kea Tower Lower Level Existing Kitchen (Ting Hao) Alteration returned for correction 1/30/15. Linked electrical permit required.

Completed to date: Building (application A2014-BH02359) permit B2016-00138 alteration to existing kitchen space at lower level Mauna Kea Tower including former Health Spa area issued 2/1/16. Linked electrical application A2016-EH01071 Alteration to Existing Kitchen Space Located in the Lower Level of Mauna Kea Tower (former Ting Hao and Health Spa) submitted 7/14/16, permit EH2016-01155 issued 7/26/16, linked to building permit BH2016-00138, identification of pre-demolition existing condition difficult. (violation addressed)

- 11. Electrical permit required (work complete and in use without required permit and inspection): Former Poly Room for service counter, non-compliant flexible power extension cord in use.

- a. HOT Inc installed conduit and receptacle to address/replace non-compliant flexible power extension cord. Permit E2013-02053 final inspection completed 4/2/14. (violation addressed).

- 12. Electrical permit required (work in progress without required permit): Kilauea Tower former guest rooms conversion to meeting rooms.

- a. WHR LLC reported 11/20/14 it intends to renovate the Kilauea Tower in 3rd qtr 2015 and address all existing violation concurrent with renovation.

Completed to date: Building application A2016-BH01134 Alteration to Renovate w/ Partial Demolition Kilauea Tower Guest Rooms Level 1-6 submitted 2/12/16, in review. Linked electrical permit required.

- 13. Non-compliant electrical work: conduit entering building below lobby area exposed to physical damage; Mauna Loa fire system junction box (ground – 13th floor) inaccessible (covered by drywall); Mauna Kea electrical boxes not installed so that the front edge of the box will not be set back of the finished surface more than 6mm (1/4 in.).

- a. Exposed conduit entering building below lobby encased in concrete and electrical box installation corrected

Completed to date: Electrical application A2013-EH00761 Circuit for Breakfast Line, permit EH2013-00707 issued 5/15/13, inspection completed 5/29/13. (violation addressed)

- b. Mauna Loa Tower fire system junction box access no action indicated by inspection or other. Electrical permit E2007-2308 (HOT Inc) Renovate Fire Alarm System, last inspected 2/3/14, pending correction of miscellaneous discrepancies (i.e., need access to electrical box, fixtures removed but not replaced, improper use of box extension ring, needed replacement boxes, etc.), inspection completed 3/10/14. (violation addressed)
 - c. Mauna Kea Tower electrical box installations corrected. (violation addressed)
14. Plumbing inspection required (work complete and in use without required inspection): M2007-1331H Mauna Kea guest room renovation; Plumbing inspection required (work in progress requires inspection): M2007-1332H Kilauea guest room renovations; M2007-1333H Mauna Loa guest room renovations.
- a. Plumbing permit M2007-1331H (HOT Inc) final inspection completed 1/29/15 (violation addressed)
 - b. Plumbing permit M2007-1332H no action indicated by way of inspection. WHR LLC reported 11/20/14 it intends to renovate the Kilauea Tower in 3rd qtr 2015 and address all existing violation concurrent with renovation. WHR LLC reported 1/19/15 that a separate permit will be obtained. Status of permit M2007-1332H pending.

Completed to date: Building application A2016-BH01134 Alteration to Renovate w/ Partial Demolition Kilauea Tower Guest Rooms Level 1-6 submitted 2/12/16, in review. Linked plumbing permit and inspection.

- c. Building permit BH2014-01415 (WHR LLC) for Mauna Loa Tower Guest Room Renovation issued 8/29/14, reported 11/20/14 that anticipates construction will commence 1st qtr 2015. WHR LLC reported 1/19/15 that a separate permit will be obtained and to have permit M2007-1333H voided (update.)

Completed to date: plumbing permit MH 2015-00908 for Mauna Loa Tower Guest Room submitted 10/9/15, issued 11/19/15. MH2015-00908 voided (contractor name change), new permit MH2016-00048 submitted 1/11/16 and issued on 1/25/16. Rough-in inspection (room 109) completed floors 1 – 12 on 1/22/16 and 2/5/16. M2007-1333H voided. (violation addressed).

15. Plumbing permit required (alteration work completed and in use without required permit and inspection): Mauna Kea Tower main level former Beauty Salon

conversion to Health Spa; Mauna Loa Tower former hotel guest room conversion to Beauty Salon.

- a. Building application A2013-BH01797 (HOT Inc) submitted 10/3/13 for As-Built Beauty Salon conversion to Chiropractor/Nutritional Health Office, returned for correction 10/15/13, resubmitted 11/22/13, returned for corrections 12/17/13. Applicant HOT Inc has not submitted corrections to date and assumed to have abandoned application. WHR LLC reported 11/20/14 that it will submit permit application for As-Built Construction for Beauty Salon conversion to Health Spa by 2/15/15, linked plumbing permit required. WHR LLC reported 1/19/15 to have application A2013-BH01797 cancelled (update).

Completed to date: Received letter of resolution identifying authorized representative (Stu Miller) 5/19/15; building application A2013-BH01797 cancelled. [WHR LLC letter 9/28/16 stated former Beauty Salon/Health Spa space vacated, not to be occupied until a use is determined and renovation/use permit application completed. WHR LLC letter 9/29/16 request to cancel application A2016-BH00308. \(violation addressed\)](#)

[To complete: A2016-PH00202 to be cancelled. \(technical issue\)](#)

- b. Building permit BH2014-01415 (WHR LLC) for Mauna Loa Tower Guest Room Renovation issued 8/29/14, reported 11/20/14 that anticipates construction will commence 1st qtr 2015. Linked plumbing application/permit required. MH 2015-00908 for Mauna Loa Tower Guest Room issued on 10/9/15.

Completed to date: plumbing permit MH 2015-00908 for Mauna Loa Tower Guest Room submitted 10/9/15, issued 11/19/15. MH2015-00908 voided (contractor name change), new permit MH2016-00048 submitted 1/11/16 and issued on 1/25/16. Rough-in inspection (room 109) completed floors 1 – 12 on 1/22/16 and 2/5/16 (violation addressed).

16. Plumbing permit required (demolition work completed without required permit): former health spa; former Kilohana Room bar; former Ting Hao Restaurant.

- a. WHR LLC reported 11/20/14 that it will submit permit application for As-Built Construction by 2/15/15.

Completed to date: building permit BH2016-00138 Alteration to Existing Kitchen Spaces Lower Level Mauna Kea Tower including former Health Spa area issued 2/1/16. [Linked plumbing application A2016-PH00209 submitted 3/4/16, linked permit MH2016-00206 issued 3/28/16, linked to building permit BH2016-00138, identification of pre-demolition existing condition difficult. \(violation addressed\)](#)

- b. Building permit BH2014-01987 (WHR LLC) for Kilohana Room Bar/Kitchen Demolition issued 12/03/14, building inspection completed. Associated (linked) plumbing permit required.

Completed to date: plumbing application A2016-PH00386 Demolition of Improvements in Kilohana Room Bar and Kitchen submitted 5/24/16, permit MH2016-00363 issued 5/26/16, inspection completed 6/3/16. (violation addressed)

- c. Building application A2014-BH02359 (WHR LLC) submitted 12/10/14 for Mauna Kea Tower Lower Level Existing Kitchen (Ting Hao) Alteration returned for correction 1/30/15. Associated (linked) plumbing permit required.

Completed to date: Building (application A2014-BH02359) permit B2016-00138 Alteration to Existing Kitchen Space at Lower Level Mauna Kea Tower including former Health Spa area issued 2/1/16. [Linked plumbing application A2016-PH00209 submitted 3/4/16, linked permit MH2016-00206 issued 3/28/16, linked to building permit BH2016-00138, identification of pre-demolition existing condition difficult. \(violation addressed\)](#)

- 17. Plumbing permit required (work in progress without required permit): Kilauea Tower former guest rooms conversion to meeting rooms.

- a. WHR LLC reported 11/20/14 it intends to renovate the Kilauea Tower in 3rd qrt 2015 and address all existing violation concurrent to renovation.

Completed to date: [Building application A2016-BH01134 Alteration to Renovate w/ Partial Demolition Kilauea Tower Guest Rooms Level 1-6 submitted 2/12/16, in review. Linked electrical permit require.](#)

B. 93 Banyan Drive, TMK 2-1-005:013, 016, 027 and 032 (October 10, 2013 NOV and October 28, 2013 Order)

After a review of our records and files, the following items listed in the notice of violation for 93 Banyan Drive, TMK 2-1-005:013, 016, 027 and 032 (Reference: October 10, 2013 Notice of Violation, October 28, 2013 Order) have been corrected and their status are as follows:

- 1. Non-compliance, electrical permit required (work complete and in use without required permit): The lobby/registration/office and Kilauea Tower continues to operate on emergency generator power. Required permit pending plan and schedule for restoration of permanent electrical service.
 - a. Electrical permit E2014-00483 issued 3/28/14 for Temporary Power. Utility power since restored 4/2/14, Temporary Power removed, final inspection completed (violation addressed).

2. Restore permanent electrical service and/or remove all temporary emergency electrical work: Plan/schedule and restore permanent electrical service to the lobby/registration/office, and Kilauea Tower. Obtain all required approvals and permits before commencing with this work.
 - a. Electrical permit E2014-00374 issued 3/7/14 for 1500 kv Cable Replacement, inspection 4/2/14 cable replacement completed, utility power reestablished, final inspection pending cabinet clearance discrepancy that WHR LLC reported 11/20/14 to be addressed concurrent to Kilauea Tower Renovation scheduled.

Completed to date: Building application A2016-BH01134 Alteration to Renovate w/ Partial Demolition Kilauea Tower Guess Rooms Level 1-6 submitted 2/12/16, in review. Linked electrical permit required.

C. 1713 Kamehameha Avenue, TMK 2-1-001:012 (October 10, 2013 NOV)

After a review of our records and files, the current status of the following items listed in the notice of violation for 1713 Kamehameha Avenue, TMK 2-1-001:012 (Reference October 10, 2013 Notice of Violation) are as follows:

1. Obtain building permit (construction, alteration without a required permit): 1) added decorative lattice/wire mesh enclosing lanai; 2) added wooden closure of 6-foot height between Pro-Shop and Restaurant; 3) added roof attachment to Golf Cart Storage; 4) added lean-to roof attachment to Maintenance Building.
 - a. WHR LLC reported 11/20/14 they are targeting to proceed with improvement summer of 2015.
2. Substandard/unsafe buildings: general dilapidation or improper maintenance, structures unsafe and constitute a hazard to safety, health and public welfare. Building permit required for any alteration, repair or demolition.
 - a. WHR LLC reported 11/20/14 that buildings have been cleared/cleaned of debris, secured, inspected daily (violation addressed) and they are targeting to proceed with improvement summer of 2015.
3. Ensure compliance with all requirements of HCC Section 5-51, such as refraining from entering and/or the building or affected portion thereof except for the purpose of conducting required repair or demolition work.
 - a. WHR LLC reported 11/20/14 that buildings have been cleared/cleaned of debris, secured, inspected daily (violation addressed) and they are targeting to proceed with improvement summer of 2015
4. Obtain electrical permit(s) to remove and or correct unpermitted and non-conforming electrical work. Nonconforming and defective installations pursuant to the 2008 National Electrical Code (NEC) Articles: 110.3(B); 110.26(D); 230.50(B); 300.5(A); 314.28(3)(C); 334.12(B)(4); 334.15(B); 344.30; and 511.12.

- a. WHR LLC reported 1/19/15 unpermitted and non-conforming electrical work addressed mid-2014. Electrical inspection completed 2/11/15 corrective report. Unpermitted work (golf cart storage/charging area) and electrical work performed requires permit.
- 5. Disconnect defective electrical installations from their power source and tag as unsafe to operate until corrective action is made, inspected, and approved.
 - a. Electrical inspection completed 2/11/15, defective electrical work corrected and tagged. Electrical permit required.

If you have any further questions regarding this matter, please contact the Building Chief, David Yamamoto at 961-8466.

Respectfully,



David Yamamoto, P.E.
Building Chief

Cc: Warren H.W. Lee, Director
Brandon Gonzales, Deputy Director
David Abelaye, Supervising Building Inspector
Gary Kaho'ohanohano, Supervising Electrical Inspector
Rodney Astrande, Supervising Plumbing Inspector
Robert Perreira, Battalion Chief, Fire Prevention
Duane Kanuha, Director, Department of Planning
Ronald Kim, Deputy Corporation Counsel
Bill Brihante, Assistant Corporation Counsel
Gordon Heit, Department of Land and Natural Resources

From: Brilhante, William
Sent: Friday, December 23, 2016 3:38 PM
To: Tsuji, Russell Y
Subject: Naniloa

Hi Russell!

Attached for your review are the latest reports regarding the Naniloa NOV matters. After review, please let me know if there is anything else you need.

Happy Holiday to you and your family.

Bill

From: Yamamoto, David
Sent: Friday, December 23, 2016 1:48 PM
To: Demarco, Frank
Cc: Simeon, Allan; Henry, Sharron; Brilhante, William
Subject: RE: Naniloa

The last NOV status update to DLNR was dated October 10, 2016. Since then, in regards to Kilauea Tower new building permit w/ associated electrical/plumbing permits were issued (10/28, 12/01, 11/21 respectively) w/ inspections to proceed as typical for construction. With these new permits, it appears all NOV issues associated with Naniloa Hotel was technically resolved.

Violations that remain unaddressed are associated with the Naniloa "Golf Course", in particular 1) unpermitted roof attachment to golf cart storage including electrical distribution for lighting/outlets; 2) unpermitted lean-to roof attachment to Maintenance Building.

Kilauea Tower Observations (11/18/16)

1. Missing the sign date of the claimant on the unconditional waivers:
 - a. Carpetisle Flooring America.
 - b. Dal-Tile (Dated: February 119, 2016)–apparent mistype of day.
 - c. HN Glass.
 - d. Protex Painting.
 - e. Skylights Honolulu Company.
2. Apparent duplicate signature of “Jodie Camp” on:
 - a. HN Glass (Hermilo Navarro).
 - b. Source Direct.
3. Assumptions:
 - a. Total amount of unconditional if paid full are accurate on release summary sheet.
 - b. “Retention Held to Date” amount is accurate.
 - c. “Total Kilauea Tower” amount is accurate.
4. These vendors are missing release forms. but are indicated on the summary sheet:
 - a. Big Island Countertops.
5. Detailed release forms indicate that these vendors received unconditional final:
 - a. Pacific Source.
 - b. Source Direct Imports.
 - c. Tazz Lighting.
6. Differences in printed documents and electronic files on CDs (missing from printed hardcopy, updated from printed copy):
 - a. Hirayama Bros Electrical (split between Kilauea and Other Areas).
 - b. Otis Elevators (split between KT Ele and Main Elevators).
 - c. Protex Painting (split between Kilauea Tower and All Areas).
 - d. Saflok (split between Kilauea Tower and All Areas).
 - e. Skylights Honolulu (split between Kilauea Tower and All Areas).
 - f. Tower Construction (24 sheets).
7. Total amount by adding existing line items indicated on summary sheet:
 - a. \$828,642.57
8. Updated total amount by adding confirmed existing line items and adjusted/corrected line items:
 - a. \$939,368.83 (difference of \$110,726.26, or 13% higher than original values).

Kilauea Tower	Existing	Updated Amount of Unconditional	Unconditional Received
AFM Inc.	\$ 5,300.00	\$ 5,300.00	✓
Bacon Universal	\$ 6,145.79	\$ 6,145.79	
Bay Area Molding & Door	\$ 9,937.13	\$ 9,937.13	✓
Big Island Countertops	\$ 8,229.19	\$ 8,229.19	
Bob's Fencing	\$ 6,684.65	\$ 6,684.65	
Business Services	\$ 9,739.07	\$ 9,739.07	
Carpetisle Flooring	\$ 75,825.01	\$ 75,825.01	✓
Dal-Tile	\$ 5,921.63	\$ 5,921.63	✓
Emerald Isle Pipe Supply	\$ 116,880.20	\$ 116,880.20	
Fastenal	\$ 385.52	\$ 385.52	✓
Fastrac	\$ 9,307.13	\$ 9,307.13	✓
Hawaii Johns	\$ 220.00	\$ 220.00	
Hirayama Bros Electrical	\$ 12,410.92	\$ 12,410.92	
HN Glass	\$ 35,340.00	\$ 35,340.00	✓
Honsador	\$ 50,671.45	\$ 50,671.45	
JBL Hawaii, Inc.	\$ 17,854.08	\$ 17,854.08	✓
Otis Elevators	\$ 28,317.60	\$ 28,317.60	
Pacific Source	\$ 14,065.38	\$ 14,065.38	✓
Protex Painting	\$ 11,625.00	\$ 11,625.00	
Saflok	\$ 10,710.00	\$ 10,710.00	
Skylights Honolulu	\$ 63,408.26	\$ 63,408.26	
Source Direct Imports	\$ 3,826.18	\$ 3,826.18	✓
Tazz Lighting	\$ 18,285.05	\$ 18,285.05	✓
Tower Construction Hawaii, Inc.	\$ 82,338.72	\$ 50,065.38	
Tower Construction Hawaii, Inc.	\$ 2,898.95	\$ 2,898.95	
Tower Construction Hawaii, Inc.	\$ 6,257.08	\$ 6,257.08	
Tower Construction Hawaii, Inc.	\$ 2,058.25	\$ 2,058.25	
Tower Construction Hawaii, Inc.	\$ 67,159.86	\$ 67,159.86	
Tower Construction Hawaii, Inc.	\$ 23,546.71	\$ 23,546.71	
Tower Construction Hawaii, Inc.	\$ 18,246.97	\$ 18,246.97	
Tower Construction Hawaii, Inc.	\$ 499.58	\$ 499.58	
Tower Construction Hawaii, Inc.	\$ 227.43	\$ 227.43	
Tower Construction Hawaii, Inc.	\$ 371.96	\$ 371.96	
Tower Construction Hawaii, Inc.	\$ 4,778.88	\$ 4,778.88	
Tower Construction Hawaii, Inc.	\$ 32,296.17	\$ 32,296.17	
Tower Construction Hawaii, Inc.	\$ 5,806.95	\$ 5,806.95	
Tower Construction Hawaii, Inc.	\$ 400.10	\$ 400.10	
Tower Construction Hawaii, Inc.	\$ 200.00	\$ 200.00	
Tower Construction Hawaii, Inc.	\$ 15,728.74	\$ 15,728.74	
Tower Construction Hawaii, Inc.	\$ 1,985.69	\$ 1,985.69	
Tower Construction Hawaii, Inc.	\$ 3,000.00	\$ 3,000.00	
Tower Construction Hawaii, Inc.	\$ 596.35	\$ 596.35	
Tower Construction Hawaii, Inc.	\$ 34,355.45	\$ 34,355.45	
Tower Construction Hawaii, Inc.	\$ 204.18	\$ 204.18	
Tower Construction Hawaii, Inc.	\$ 3,112.87	\$ 3,112.87	
Tower Construction Hawaii, Inc.	\$ 1,482.44	\$ 1,482.44	
Tower Construction Hawaii, Inc.		\$ 142,996.60	
	\$ 828,642.57	\$ 939,365.83	

Total Completed to Date:	\$	939,365.83
Retention Held to Date:	\$	33,735.03
Remaining to Complete:	\$	1,278,270.05
Total Kilauea Tower:	\$	2,251,370.91

Naniloa Tower Observations (11/21/16)

1. Missing the sign date of the claimant on the unconditional waivers:
 - a. Aquatic Solutions.
 - b. Carpetisle (08.31.2016).
 - c. Hirayama Bros (thru 7.31.15).
 - d. Mid City Restaurant Supply.
 - e. Skylights Honolulu Company (thru 09-30-2015).
 - f. System Engineering (thru 06-30-2016).
2. Missing the signature and date of the claimant on the unconditional waivers:
 - a. System Engineering (thru 05-31-2015).
3. These vendors are missing release forms, but are indicated on the summary sheet:
 - a. Budget Upholstery.
 - b. Consolidated Electrical Distributors.
 - c. Ekahi Fire Protection.
 - d. EMCC.
 - e. Mico Mechanical.
 - f. OK Farms.
 - g. Schweitzer Special Inspections.
 - h. Starhome Hawaii.
4. Detailed release forms indicate that these vendors did not receive unconditional final:
 - a. RSL Drywall.
 - b. Sun Construction.
5. Differences in printed documents and electronic files on CDs (missing from printed hardcopy, updated from printed copy):
 - a. Bob's Fencing (found on the CD).
 - b. CED (found on the CD).
 - c. Lifeline Fire & Security-\$6,340.50 (found on the CD).
 - d. Saflok (found on CD).
 - e. Tower Construction-Fees, Insurance and Taxes (found on CD).
 - f. W. Andrade-Unconditional Progress-\$12,470.00 (updated from printed version).
 - g. W. Andrade-Lobby Demo-Unconditional Progress-\$4,601.87 (updated from printed version).

6. Differences in "Amount of Unconditional" listed and amount documented on unconditional waivers:
 - a. CCI.
 - b. Clifford Okinaga.
 - c. CRH Construction.
 - d. Emerald Pipe Supply.
 - e. Good Fellas Inc.
 - f. Hirayama Bros Electric Inc.
 - g. Lifeline Fire & Safety.
 - h. Otis Elevator Co.
 - i. Pacific Direct Connect.
 - j. Plus Interiors.
 - k. Protex Painting.
 - l. Saflok.
 - m. Skylights Honolulu.
 - n. Sun Construction.
7. Assumptions:
 - a. Total amount of unconditional if paid full are accurate on release summary sheet.
 - b. "Total Bond Amount" amount is accurate.
8. Total amount by adding existing line items indicated on summary sheet:
 - a. \$10,087,218.31.
9. Updated total amount by adding confirmed existing line items and adjusted/corrected line items:
 - a. \$10,508,985.18 (difference of \$421,766.87, or 4% higher than original value).
10. Additional notes about waivers:
 - a. Clean Sewer Lines–Note says "Please see attached outstanding invoices thanks!"
 - b. Dal Tile Waiver–Apparent to be the same one used in the KT unconditional release
 - c. Fastenal–Apparent to be the same one used in the KT unconditional release
 - d. HN Glass–Apparent to be the same one used in the KT unconditional release

Naniloa Tower	Existing	Updated Amount of Unconditional	Unconditional Received
Aloha Maiden Cleaning Service LLC	\$ 9,885.36	\$ 9,885.36	✓
Amazing Glazing	\$ 8,333.40	\$ 8,333.40	✓
American Furniture Manufacturers Incorporated	\$ 33,764.00	\$ 33,764.00	✓
Aquatic Solutions	\$ 50,250.25	\$ 50,250.25	✓
Bob's Fencing	\$ 14,583.30	\$ 14,583.30	
Budget Upholstrey	\$ 14,463.35	\$ 14,463.35	
Business Services Hawaii	\$ 29,317.80	\$ 29,317.80	
Carpetisle Flooring America	\$ 231,367.07	\$ 231,367.07	✓
CCI	\$ 117,845.70	\$ 233,947.73	
CED	-	-	
Clean Sewer Lines	\$ 3,020.84	\$ 3,020.84	✓
Clifford Okinaga	\$ 56,203.24	\$ 100,278.43	
Climate Master	\$ 75,000.24	\$ 75,000.24	
Consolidated Electrical Distributors	\$ 3,749.05	\$ 3,749.05	✓
CR Construction	\$ 292,588.07	\$ 292,588.07	✓
CRH Construction	\$ 234,431.26	\$ 324,431.26	
Custom Island Rocks	\$ 6,560.00	\$ 6,560.00	✓
Dal Tile	\$ 14,676.32	\$ 14,676.32	✓
DAT Inc	\$ 40,434.02	\$ 40,434.02	
Design 360	-	\$ 7,500.00	
Division 7	\$ 14,583.24	\$ 14,583.24	
Ekahi Fire Protection	\$ 261,677.68	\$ 261,677.68	
EMCC	\$ 7,500.00	\$ 7,500.00	✓
Emerald Pipe Supply	\$ 424,001.06	\$ 566,697.36	
Fastenal	\$ 2,368.90	\$ 2,368.90	✓
Fastrac Supply	\$ 65,575.89	\$ 65,575.89	✓
Ferguson	\$ 126,180.10	\$ 126,180.10	✓
Fire Rated Product Specialities	\$ 200.50	\$ 200.50	✓
Fleurco Products Inc	\$ 24,720.00	\$ 24,720.00	✓
Ford Painting Professionals	\$ 316,049.80	\$ 316,049.80	✓
GDS Solutions, LLC	\$ 356,654.88	\$ 356,654.88	✓
Gilbert Prescott	\$ 1,350.00	\$ 1,350.00	✓
Good Fellas Inc.	\$ 90,684.27	\$ 90,414.27	
Grainger	\$ 13,994.73	\$ 13,994.73	✓
Hawaii Bookmark	\$ 12,501.24	\$ 12,501.24	✓
Hirayama Bros Electric Inc	\$ 559,072.81	\$ 661,204.19	
Hilton Crane Service	\$ 2,119.78	\$ 2,119.78	✓
HN Glass	\$ 54,545.00	\$ 54,545.00	✓
Inspire Solutions	\$ 400.00	\$ 400.00	✓
Island Bath and Hardware	\$ 16,687.92	\$ 16,687.92	✓
Island Plastering and Drywall, LLC	\$ 191,378.18	\$ 191,378.18	✓
Jan Guard	\$ 20,888.31	\$ 20,888.31	✓
JBL Hawaii, LTD	\$ 65,301.49	\$ 65,301.49	✓
JPF Welding	\$ 24,220.00	\$ 24,220.00	✓
Keoki Gutters	\$ 1,200.00	\$ 1,200.00	
Kilohana Lighting, Inc.	\$ 248.74	\$ 248.74	✓
KL Installations	\$ 158,383.76	\$ 158,383.76	✓
KT Construction	\$ 6,916.00	\$ 6,916.00	
Lifeline Fire & Safety	\$ 25,146.67	\$ 52,207.84	
Lincoln Builders	\$ 181,906.10	\$ 181,906.10	
Loeffler Construction	\$ 55,349.00	\$ 55,349.00	✓
Masland	\$ 12,568.98	\$ 12,568.98	✓
Mico Mechanical	\$ 137,302.54	\$ 137,302.54	
Mid City Resturant Supply	\$ 212,893.38	\$ 212,893.38	✓
Norman S Wright	\$ 17,676.12	\$ 17,676.12	✓
Ohana Controls	\$ 10,450.00	\$ 10,450.00	✓
OK Farms	\$ 14,500.00	\$ 14,500.00	✓

Otis Elevator Co.	\$ 100,716.75	\$ 89,304.75	
Pacific Direct Connect	\$ 180,842.59	\$ 150,702.16	
Pacific Source	\$ 86,583.33	\$ 86,583.33	✓
Pinnacle Lumber and Plywood	\$ 51,580.94	\$ 51,580.94	✓
Plus Interiors	\$ 28,433.35	\$ 15,110.77	
Pono Stone	\$ 6,939.53	\$ 6,939.53	✓
Protex Painting	\$ 260,456.49	\$ 250,407.54	
Puna certified Nursery	\$ 8,312.45	\$ 8,312.45	✓
Rainbow Isle Refrigeration and AC	\$ 146,481.00	\$ 146,481.00	✓
Raising the Standard	\$ 1,312.29	\$ 1,312.29	✓
RSL Drywall	\$ 800.00	\$ 800.00	✓
Safe Step	\$ 22,984.50	\$ 22,984.50	✓
Saflok	\$ 20,319.29	\$ 20,302.29	
Schweitzer Special Inspections	\$ 1,364.58	\$ 1,364.58	✓
Shaw	\$ 292,582.94	\$ 292,582.94	
Skylights Honolulu	\$ 262,645.48	\$ 221,007.24	
Smith & Company	\$ 1,958.00	\$ 1,958.00	✓
SNS Welding & Fabrication	\$ 21,876.29	\$ 21,876.29	✓
Source Direct	\$ 37,942.18	\$ 37,942.18	✓
Spider	\$ 23,715.66	\$ 23,715.66	✓
Starhome Hawaii	\$ 36,556.82	\$ 36,556.82	✓
Sun Construction	\$ 51,896.17	\$ 50,946.17	✓
Systems Engineering Group LLC	\$ 226,828.30	\$ 226,828.30	
Tazz Lighting	\$ 118,607.49	\$ 118,607.49	✓
Tower Construction Hawaii	\$ 15,219.21	\$ 15,219.21	
Tower Construction Hawaii	\$ 220,349.74	\$ 220,349.74	
Tower Construction Hawaii	\$ 28,077.95	\$ 28,077.95	
Tower Construction Hawaii	\$ 56,708.41	\$ 56,708.41	
Tower Construction Hawaii	\$ 23,700.18	\$ 23,700.18	
Tower Construction Hawaii	\$ 8,299.22	\$ 8,299.22	
Tower Construction Hawaii	\$ 122,491.23	\$ 122,491.23	
Tower Construction Hawaii	\$ 109,540.63	\$ 109,540.63	
Tower Construction Hawaii	\$ 366,363.79	\$ 366,363.79	
Tower Construction Hawaii	\$ 12,037.81	\$ 12,037.81	
Tower Construction Hawaii	\$ 8,575.87	\$ 8,575.87	
Tower Construction Hawaii	\$ 8,951.16	\$ 8,951.16	
Tower Construction Hawaii	\$ 142,996.60	\$ 142,996.60	
Tower Construction Hawaii	\$ 12,562.75	\$ 12,562.75	
Tower Construction Hawaii	\$ 25,971.39	\$ 25,971.39	
Tower Construction Hawaii	\$ 27,813.84	\$ 27,813.84	
Tower Construction Hawaii	\$ 969,705.00	\$ 969,705.00	
Tower Construction Hawaii	\$ 356,013.95	\$ 356,013.95	
Tower Construction Hawaii	\$ 149,689.97	\$ 149,689.97	
Tower Construction Hawaii	\$ 150,334.93	\$ 150,334.93	
Tower Construction Hawaii	\$ 37,699.37	\$ 37,699.37	
Tower Construction Hawaii	\$ 92,500.97	\$ 92,500.97	
Tower Construction Hawaii	\$ 11,175.00	\$ 11,175.00	
Tower Construction Hawaii	\$ 7,137.61	\$ 7,137.61	
Tower Construction Hawaii	\$ 48,206.40	\$ 48,206.40	
Tower Construction Hawaii	\$ 7,504.53	\$ 7,504.53	
Tower Construction Hawaii	\$ 10,251.64	\$ 10,251.64	
Tower Construction Hawaii	\$ 8,271.42	\$ 8,271.42	
Tower Construction Hawaii	\$ 9,447.05	\$ 9,447.05	
Tower Construction Hawaii	\$ 17,987.77	\$ 17,987.77	
Tower Construction Hawaii	\$ 4,779.91	\$ 4,779.91	
Tower Construction Hawaii	\$ 8,265.02	\$ 8,265.02	
Tower Construction Hawaii	\$ 108,857.30	\$ 108,857.30	
W. Andrade Construction Services	\$ 81,906.94	\$ 81,906.94	

White Environmental Consultants Inc.	\$ 17,434.31	\$ 17,434.31	✓
Zen Wood Working Inc	\$ 84,982.68	\$ 84,982.68	✓
	\$ 10,087,218.31	\$ 10,508,985.18	

Total Completed to Date:	\$	10,508,985.18
Total Remaining to Complete on Original Bond:	\$	865,901.82
Total Bond Amount:	\$	11,374,887.00

LANDLORD WAIVER AND CONSENT; EXHIBIT A

THIS WAIVER AND CONSENT is made as of this _____ day of _____, 2016 by the State of Hawaii by Chairperson of the Board of Land and Natural Resources ("Landlord") and WHR LLC, a Hawaii limited liability company ("Borrower") in favor of ACCESS POINT FINANCIAL, INC., a Delaware corporation ("APF").

RECITALS

A. Landlord is the Lessor of real property and Borrower is the Lessee and owner of physical improvements therein ("Ground Lease") located at 93 Banyan Drive, Hilo, HI 96720 ("Property"); with related improvements and fixtures known as the Grand Naniloa Hotel, a Doubletree by Hilton (collectively, "Premises").

B. APF and Borrower, a tenant at the Premises, may now or hereafter enter into a security agreement under which APF may be granted a security interest in some or all of the Borrower's now owned or hereafter acquired equipment, furniture and fixtures and all proceeds, replacements and accessions to any or all of the foregoing (collectively, "Borrower Personal Property"). APF and Borrower also may enter into financing leases under which APF will finance Borrower's purchase of equipment, furniture and fixtures initially titled in APF's name during the term of the lease (such leased property, together with all proceeds, replacements and accessions to any or all of the foregoing, is collectively referred to as "APF Personal Property").

C. Some or all of the Borrower Personal Property and the APF Personal Property (collectively, "Personal Property") will be placed, stored or otherwise located on the Premises.

D. APF has required, as a condition for APF to enter into such loans and/or leases with Borrower and extend certain financial accommodations to Borrower, that Landlord subordinate and waive any rights, interest or liens which it may have or claim to the Personal Property. Landlord, for the benefit of Borrower and Borrower's operations at the Premises, and Borrower have agreed to the foregoing in order to induce APF to enter into such transaction with Borrower and extend certain financial accommodations to Borrower.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated herein, the mutual covenants and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. Representations, Warranties and Covenants of Landlord. Landlord hereby represents and warrants to, and covenants and agrees with, APF as follows:

(a) Except as set forth in Exhibit A attached hereto, no current default or event of default has occurred and is continuing under the lease of the Premises between Landlord and Borrower ("Ground Lease"). To Landlord's best knowledge, information and belief, no state of facts or conditions exist which, with the giving of applicable notice or the expiration of applicable grace or cure periods, or both, would constitute a current default or an event of default under the Ground Lease, except as noted in Exhibit A.

(b) Landlord is the only owner of the Property. No consent or joinder from any party is required in connection with, or as a condition to, Landlord's execution of this Agreement.

(c) The leasing of the Personal Property by Borrower from APF, and/or Borrower's grant of a security interest in the Personal Property to APF, shall not constitute a default or an event of default under the Ground Lease.

(d) Landlord has granted all necessary consents to the security interest granted by Borrower to APF and to the improvements to the Premises, if any, which are being financed by APF.

(e) The Personal Property shall not be removed from the Premises by or on behalf of Landlord without the prior written consent of APF.

(f) The insurance maintained by Borrower with respect to the Personal Property may name APF as an additional insured and as primary loss payee.

(g) Nothing contained herein shall be interpreted to obligate APF in any respect with regard to the Ground Lease.

(h) The validity and enforceability of this Agreement shall not be impaired, diminished, annulled or adversely affected by the modification, alteration, extension or renewal of any debt or finance lease obligation of Borrower to APF.

2. Representations, Warranties, Covenants and Agreements of Borrower. Borrower hereby represents and warrants to, and covenants and agrees with APF as follows:

(a) Borrower has furnished APF with a true, accurate and complete copy of the Ground Lease.

(b) Borrower shall not default under the provisions of the Ground Lease and any such default shall constitute an "Event of Default" under Borrower's lease or loan with APF.

(c) Nothing contained herein shall be interpreted to obligate APF in any respect with regard to the Ground Lease.

3. Subordination. Landlord hereby agrees that APF's right, title and interest in and to the Personal Property, and to all proceeds there from (including without limitation insurance proceeds), whether now in existence or hereafter arising, shall be prior and superior to any and all liens which Landlord may now or in the future have in the Personal Property, however and whenever arising. Landlord hereby subordinates in favor of APF any such liens which Landlord may now or in the future have. Landlord hereby, waives, relinquishes and releases any right, privilege or power which Landlord now has, or may hereafter have, under or by virtue of any law or any agreement, instrument or other document, to claim or assert any right, title or interest in or to the Personal Property, including without limitation any right, privilege or power to (i) levy or distrain upon the Personal Property for rent, in arrears, in advance or both, or (ii) claim or assert any right, title or interest in or to the Personal Property as security or collateral for any debt or obligation secured by the Premises.

3. APF's Right of Entry. APF hereby is authorized and directed at any time to enter the Premises for periodic inspections of the Personal Property and, after a default with respect to the Ground Lease, to remove the Personal Property from the Premises, whether or not such removal requires a physical detachment of the Personal Property from the Premises or causes injury thereto; provided, however, that, by its acceptance hereof, APF agrees to repair, or pay the reasonable cost to repair, any physical injury to the Premises caused directly by the removal of the Personal Property (but APF shall not be liable for any diminution in the value of the Premises resulting from the removal of any of the Personal Property).

4. Notice of Default. Borrower shall promptly notify APF in writing of any notice of default received from Landlord under the Ground Lease, and APF shall have the right (but is not obligated) to cure such default on behalf of Borrower within 30 days from the date it receives such notice. Borrower agrees that any sums (including reasonable legal fees) expended by APF to cure a default by Borrower under the Ground Lease shall be deemed secured by the Personal Property under the applicable transaction documents entered with APF.

5. Power to Execute Agreement. Each party hereby represents and warrants to the other that it has full power and authority to execute this Agreement, that the execution and delivery of this Agreement by the party making this representation has been fully authorized and directed, that the persons executing this Agreement on behalf of the party making this representation have been duly authorized to do so, and that this Agreement, once executed, shall be the valid and binding obligation of the party making this representation, enforceable against it in accordance with its terms.

6. Notices, Demands and Requests. All notices and other communications under this Agreement are to be in writing, addressed to the respective party to the address as set forth below such

party's signature hereto, and shall be deemed to have been duly given (a) upon delivery, if delivered in person with receipt acknowledged by the recipient thereof, (b) one business day after having been timely deposited for overnight delivery, fee prepaid, with any reputable overnight courier service, or (c) three business days after having been deposited in any post office or mail depository regularly maintained by the U.S. Postal Service and sent by certified mail, postage prepaid, return receipt requested. Each party may establish a new address from time to time by written notice to the other given in accordance with this section; provided, however, that no such change of address will be effective until written notice thereof is actually received by the party to whom such change of address is sent. Notice to additional parties designated by a party entitled to notice are for convenience only and are not required for notice to a party to be effective in accordance with this section.

7. Miscellaneous.

(a) Entire Agreement; Modification. This Agreement supersedes all prior agreements, understandings, representations and communications between the parties, whether oral or written, with respect to the transactions contemplated hereby. Neither this Agreement nor any provisions hereof will be modified, supplemented or waived, except by an instrument in writing signed by both parties hereto and then only to the extent expressly provided in such writing.

(b) Binding Effect. The Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, legal representatives, successors, successors and assigns, whether by voluntary action of the parties or by operation of law. The foregoing shall not be construed to permit assignments or other transfers otherwise prohibited. If any party consists of more than one person or entity, the obligations and liabilities of each such person or entity hereunder shall be joint and several.

(c) Applicable Law. This Agreement and all the rights and obligations hereunder will be governed in accordance with the laws of the State of Hawaii (without regard to its conflict of laws principles).

(d) Enforceability. If any provision of this Agreement is found by competent judicial authority to be invalid or unenforceable, the other provisions of this Agreement that can be carried out without the invalid or unenforceable provision will not be affected, and such invalid or unenforceable provision will be ineffective only to the extent of such invalidity or unenforceability and shall be construed to the greatest extent possible to accomplish fairly the purposes and intentions of the parties hereto. All rights and remedies under this Agreement are distinct and cumulative not only as to each other but as to any rights or remedies afforded by law or equity. They may be exercised together, separately or successively. Any failure by a party to exercise any of its remedies does not constitute a waiver of that remedy in the future as to the same or any other default.

(e) Ambiguity; Headings; Gender; and Certain Terms. Neither this Agreement nor any uncertainty or ambiguity herein shall be construed or resolved against Lessor by virtue of the fact that such document has originated with Lessor as drafter. Both parties agree that this Agreement shall be construed and interpreted according to the ordinary meaning of the words used so as to fairly accomplish the purposes and intentions of the parties hereto. Section headings are for convenience only and shall not enter into interpretation of this Agreement. Words used in this Agreement may be used interchangeably in singular or plural form, and any pronoun shall be deemed to cover all genders. "Herein," "hereof" and "hereunder" and other words of similar import refer to this Agreement as a whole and not to any particular section, paragraph or other subdivision. Reference to days for performance shall mean calendar days unless business days are expressly indicated.

(f) Multiple Counterparts. This Agreement may be executed in one or more counterparts, each of which counterpart will, for all purposes, be deemed an original, but all such counterparts together will constitute one instrument.

(g) Consent to Jurisdiction. Each party hereto agrees and consents to the jurisdiction and venue of any state or federal court sitting in Hawaii with respect to any legal action, proceeding, or dispute between them and hereby expressly waives any and all rights under applicable law or in equity to object to the jurisdiction and venue of said courts. Each party further irrevocably consents to service of

process as prescribed by applicable law , to the address for such party last provided in accordance with the notice provision of this Agreement.

IN WITNESS WHEREOF, the parties have entered into this Agreement and affixed their seals hereto as of the date first above written, intending to be legally bound hereby.

STATE OF HAWAII:

BORROWER:

BOARD OF LAND AND NATURAL RESOURCES

WHR LLC

By _____

By _____

Name: _____

Name: _____

Title: **Chairperson**

Title: _____

Address for Landlord:

Address for Borrower:

**1151 Punchbowl Street
Honolulu, Hawaii 96813**

**93 Banyan Drive
Hilo, Hawaii 96720**

Attn: _____

Attn: Ed Bushor

ACCESS POINT FINANCIAL, INC.

By: _____

Name:

Title:

Address for APF:

**Access Point Financial, Inc.
1 Ravinia Drive, Suite 900
Atlanta, GA 30346**

EXHIBIT A

William P. Kenoi
Mayor

Walter K. M. Lau
Managing Director



Warren H. W. Lee
Director

Brandon A. K. Gonzalez
Deputy Director

County of Hawai'i
DEPARTMENT OF PUBLIC WORKS
Aupuni Center
101 Pounhi Street, Suite 7 • Hilo, Hawai'i 96720-4224
(808) 961-8321 • Fax (808) 961-8630
www.co.hawaii.hi.us

May 11, 2015

Mr. Ed Bushor
President & CEO
Tower Development Inc.
1050 Bishop Street, Suite 530
Honolulu, Hawai'i 96813
ed@towerdevcon.com

Mr. Stuart Miller
Vice President Development
Tower Development Inc.
1050 Bishop Street, Suite 530
Honolulu, Hawai'i 96813
stuart@towerdevcon.com

Dear Messrs Bushor and Miller:

Re: Naniloa Hotel, 93 Banyan Drive, TMKs 2-1-005-013, 016, 027, and 032
Naniloa Golf Course, 1713 Kamehameha Avenue, TMK 2-1-001-012
Notices of Violations

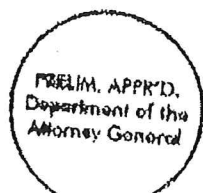
The County of Hawai'i appreciates your efforts to address the outstanding violations for the properties listed above.¹

In support of your demonstrated efforts to address the outstanding violations, the County of Hawai'i will temporarily suspend further enforcement actions (i.e. seeking your removal from the property) related to the aforementioned code violations in order to afford Tower Development, Inc. a specified time period to cure said code violations. Final completion dates for each listed violation shall be no later than the dates specifically stated in Attachment A. If, however, the said code violations are not cured by the completion dates in Attachment A, or if upon subsequent inspections, new

¹ A detailed listing identifying the current outstanding building, electrical, and plumbing code violations, as stated in the County of Hawai'i Department of Public Works letter dated March 11, 2015 is included as Attachment A.

EXHIBIT "A"

County of Hawai'i is an Equal Opportunity Provider and Employer.



Mr. Ed Bushor
Mr. Stuart Miller
May 11, 2015
Page 2

violations are identified at any time, the County will seek full enforcement for each and every violation identified.

In addition, for the time period of the temporary suspension, all additional safety measures currently in place shall remain in full effect until such a time as deemed to be no longer necessary by the County of Hawai'i.

Respectfully,


Brandon Gonzalez
Deputy Director

cc: Warren H.W. Lee, P.E., Director, Department of Public Works
David Yamamoto, Chief, Building Division
Joy Matsumoto, Supervising Building Inspector
Gary Kaho`ohanohano, Supervising Electrical Inspector
Gantry Andrade, Battalion Chief, Fire Prevention
Duane Kanuha, Director, Department of Planning
William Brilhante, Assistant Corporation Counsel
Renee Schoen, Deputy Corporation Counsel
Gordon Heit, District Land Agent, Department of Land and Natural Resources



EXHIBIT

Copy of Agreement with Landlord-Lease Agreement-Landlord Agreement

(a.) DLNR Lease # S-5844 Dated 1-20-06

(b.) Quitclaim Assignment & Assumption of Ground Lease Optimize

William P. Kenoi
Mayor

Walter K. M. Lau
Managing Director



Warren H. W. Lee
Director

Brandon A. K. Gonzalez
Deputy Director

County of Hawai'i
DEPARTMENT OF PUBLIC WORKS
Aupuni Center
101 Pauahi Street, Suite 7 • Hilo, Hawai'i 96720-4224
(808) 961-8321 • Fax (808) 961-8630
www.co.hawaii.hi.us

May 11, 2015

Mr. Ed Bushor
President & CEO
Tower Development Inc.
1050 Bishop Street, Suite 530
Honolulu, Hawai'i 96813
ed@towerdevcon.com

Mr. Stuart Miller
Vice President Development
Tower Development Inc.
1050 Bishop Street, Suite 530
Honolulu, Hawai'i 96813
stuart@towerdevcon.com

Dear Messrs Bushor and Miller:

Re: Naniloa Hotel, 93 Banyan Drive, TMKs 2-1-005-013, 016, 027, and 032
Naniloa Golf Course, 1713 Kamehameha Avenue, TMK 2-1-001-012
Notices of Violations

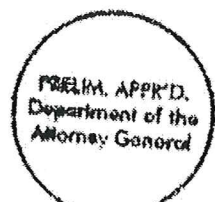
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¹ A detailed listing identifying the current outstanding building, electrical, and plumbing code violations, as stated in the County of Hawai'i Department of Public Works letter dated March 11, 2015 is included as Attachment A.

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Page 2

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In addition, for the time period of the temporary suspension, all additional safety measures currently in place shall remain in full effect until such a time as deemed to be no longer necessary by the County of Hawai'i.

Respectfully,



Brandon Gonzalez
Deputy Director

cc: Warren H.W. Lee, P.E., Director, Department of Public Works
David Yamamoto, Chief, Building Division
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Renee Schoen, Deputy Corporation Counsel
Gordon Heit, District Land Agent, Department of Land and Natural Resources



WHR LLC DoubleTree by Hilton LEASE #007038301 2014-1452		
WHR LLC	MAX LEASE AMOUNT	\$2,000,000.00
DoubleTree by Hilton		
LOAN #007038301		
2014-1452		
VENDOR NAME	EQUIPT.	PAYMENT AMOUNT
Best Buy for Business	TV's	\$ 329,183.80
Leggett & Platt	Bed Bases	\$ 13,345.00
Leggett & Platt	Bed Bases	\$ 24,303.25
Midcity Restaurant Supply	Buffet Equipt	\$ 33,381.70
Midcity Restaurant Supply	Made Market Equipt.	\$ 19,027.98
Midcity Restaurant Supply	Buffet Equipt	\$ 28,125.09
Midcity Restaurant Supply	Restaurant Equipt.	\$ 357,322.00
Verdant Environmental Technolog Smart Thermostats	Smart Thermostats	\$ 123,864.94
Verdant Environmental Technolog Smart Thermostats	Smart Thermostats	\$ 4,817.59
Sysco Guest Supply	Mattress / Box Springs	\$ 161,102.53
Sysco Guest Supply	Mattress	\$ 12,880.19
Sysco Guest Supply	Mattress	\$ 207,902.53
Sysco Guest Supply	Box Springs	\$ 16,917.80
Sysco Guest Supply	Mattress	\$ 82,676.53
Sysco Guest Supply	Box Springs	\$ 5,963.00
Happy Valley Service	2 Unimac Washer/extractor, 2 Unimac Dryers, 1 Dryer with reversing Propane ext Hotel Laundry Equipment	\$ 176,075.96
Oracle	Micros Point of Sale 3700	\$ 75,985.49
Uniguest	Business Center Equipment	\$ 7,651.22
Avarisource	Network Switches	\$ 9,809.00
A3 Telecon	Phone System	\$ 169,131.21
Hawaii Farm Services	Lawn Mower	\$ 5,312.47
Restaurant FFE	Unallocated Proforma	\$ 130,000.00
TOTAL		\$ 1,994,779.28