

**STATE OF HAWAI'I
DEPARTMENT OF LAND AND NATURAL RESOURCES OFFICE OF
CONSERVATION AND COASTAL LANDS
Honolulu, Hawai'i**

File No: CDUP MA-3746

November 9, 2017

Board of Land and
Natural Resources
State of Hawai'i
Honolulu, Hawai'i

REGARDING: Time Extension Request for Conservation District Use Permit
(CDUP) MA-3746 for an Above Ground Waterline

APPLICANT: Andrew P. Wilson, LLC

LANDOWNER: County of Maui
Lochland Holdings, LLC
Roy Sakamoto, Commissioner

LOCATION: Honua'ula, Makawao, Maui

TAX MAP KEY(S): (2) 2-1-004: 046, 068, 073, & 113

AREA OF USE: Approximately 12,190 linear feet

SUBZONE: Protective, Resource, & General

BACKGROUND:

On October 23, 2015, the Board of Land and Natural Resources (Board) approved CDUP MA-3746 for an above ground waterline along Mākena-Keone'ō'io Road subject to 27 conditions (see **Exhibit 1**). Since then, the applicant, who represents those who are responsible for the construction and installation of the waterline, filed for an initial time extension (Time Ext. Request MA 17-01) of 1 year to initiate construction. The reason for the time extension request was due to difficulty locating a contractor to submit plan and specifications and commence construction. The time extension was granted by the Chairperson on August 15, 2016.

TIME EXTENSION REQUEST:

Condition No. 8 of CDUP MA-3746 states *"any work done or construction to be done on the land shall be initiated within one year of the approval of such use, in accordance with construction plans that have been signed by the Chairperson, and, unless otherwise*

authorized, shall be completed within three (3) years of the approval. The applicant shall notify the Department in writing when construction activity is initiated and when it is completed."

By correspondence dated September 6, 2017, the applicant is requesting a two year time extension (18 month extension to initiate and 6 months thereafter to complete) to CDUP MA-3746 as there have been ongoing mediation/arbitration hearings regarding outstanding issues on the sale of the property as well as the removal of the prior Commissioner and appointment of a new Court-appointed Commissioner to sell Parcel 68 (see Exhibit 2).

AUTHORITY FOR GRANTING TIME EXTENSIONS:

The authority for the granting of time extensions is provided in Hawai'i Administrative Rules (HAR), §13-5-43, which allows for permittees to request time extensions for the purpose of extending the period of time to comply with the conditions of a permit. As this is the applicant's second time requesting a time extension, HAR §13-5-43(c) states that "*time extensions may be granted by the board upon the second or subsequent requires for a time extension on a board permit, based on supportive documentation from the applicant.*"

BASIS FOR TIME EXTENSIONS:

A time extension may be sought when a Permittee is unable to initiate or complete a project within the stipulated time frame. The Board grants time extensions when a Permittee demonstrates some sort of hardship or delay in initiating work on a particular project. Moreover, the Permittee should be able to demonstrate that the hardship or delay has not been self-imposed and that some good faith effort has been made to undertake the project.

DISCUSSION:

Staff notes that the reasoning/purpose for the original time extension and this current time extension do not quite coincide with one another. The original time extension was due to difficulty in locating a contactor to submit plan and specifications and commence construction, thus giving Staff the impression that the applicant was proceeding with the construction of the waterline. However, the current time extension request is due to ongoing mediation/arbitration delays regarding the selling of the property, which would appear to have nothing to do with the construction of the waterline.

After discussion with the applicant, it is Staff's understanding that discrepancy for the time extensions is as follows:

Lochland Holdings, LLC originally bought a large area of land, formally known as the Carter Estate. When going through a quiet title claim, it was discovered that the applicant's clients had rights to land in the area. Therefore, as a part of the settlement the applicant's clients were given Parcel 68 and one of the many conditions was for the construction of the water line so that the land could eventually be sold (see Exhibit 3). The original court-

appointed commissioner, Ray P. Wimberley, applied for the waterline that was granted via CDUP MA-3746. When the original time extension was granted on August 15, 2016, the applicant's clients had the intention of construction the waterline, however, subsequently, Commissioner Wimberley made a motion to have the land sold at public auction. Due to this decision, the applicant filed a counter motion as he believed that the selling of the land at public auction would not bring in enough money to cover the cost of the installation of the waterline as well as a number of monetary payouts that were also conditioned as a part of the original settlement. Therefore, the plans to move forward with the construction of the waterline were halted. As an outcome to the applicant's motion, in October 2016, Judge Peter T. Cahill issued a court order in which Commissioner Wimberley was dismissed; a new Commissioner, Mr. Roy Sakamoto was appointed; and it was decided that the property (Parcel 68) was to be sold "as is," which included all existing commitments and entitlements. This meant that the applicant's clients were no longer required to construct the waterline for the purposes of selling the property. The current time extension request is due to the current Commissioner being unable to sell the property as quickly as he had originally thought.

Staff notes that the OCCL originally recommended denial of CDUP MA-3746 as it has been the policy of this Office to discourage speculation of any kind. However, the Board voted to approve the permit.

Staff, therefore, recommends the following:

RECOMMENDATION:

That the Board of Land and Natural Resources **APPROVE** an extension to October 23, 2019 to start and complete the installation of the waterline, subject to the following conditions:

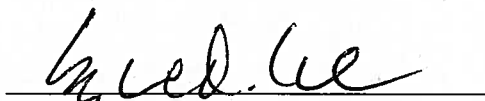
1. That Condition 8 of CDUA MA-3746 is amended to provide that the Permittee has until October 23, 2019 to complete any work or construction to be done on the land; and
2. That all other conditions imposed by the Board under CDUP MA-3746, as amended, shall remain in effect.

Respectfully submitted,



Lauren Yasaka, Staff Planner
Office of Conservation and Coastal Lands

Approved for submittal:



SUZANNE D. CASE., Chairperson
Board of Land and Natural Resources

DAVID Y. IGE
GOVERNOR OF HAWAII



SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

KEKOA KALUHIWA
FIRST DEPUTY

JEFFREY T. PEARSON
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
OFFICE OF CONSERVATION AND COASTAL LANDS
POST OFFICE BOX 621
HONOLULU, HAWAII 96809

RECEIVED
OFFICE OF CONSERVATION
AND COASTAL LANDS
2015 NOV 19 A 11:38
DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

REF:OCCL:LY

CDUP: MA-3746

NOV - 3 2015

Arsima A. Muller, Esq.
Carlsmith Ball LLP
ASB Tower, Suite 2100
1001 Bishop Street
Honolulu, HI 96813

SUBJECT: Conservation District Use Permit MA-3746

Dear Ms. Muller:

On October 23, 2015, the Board of Land and Natural Resources approved your Client's (Mr. Ray P. Wimberley, Commissioner) Conservation District Use Application (CDUA) MA-3746 for an above ground waterline located at Honua'ula, island of Maui, further identified as Makena-Keone'ō'io Road and Tax Map Keys (TMKs) (2) 2-1-004: 046, 068, subject to the following standard conditions:

1. The permittee shall comply with all applicable statutes, ordinances, rules, and regulations of the federal, state, and county governments, and applicable parts of this chapter;
2. The permittee, its successors and assigns, shall indemnify and hold the State of Hawaii harmless from and against any loss, liability, claim, or demand for property damage, personal injury, and death arising out of any act or omission of the applicant, its successors, assigns, officers, employees, contractors, and agents under this permit or relating to or connected with the granting of this permit;
3. The permittee shall obtain appropriate authorization from the department for the occupancy of state lands, if applicable;
4. The permittee shall comply with all applicable department of health administrative rules;
5. The single family residence shall not be used for rental or any other commercial purposes unless approved by the board. Transient rentals are prohibited, with the exception of wilderness camps approved by the board;
6. The permittee shall provide documentation (e.g., book and page or document number) that the permit approval has been placed in recordable form as a part of the deed instrument, prior to submission for approval of subsequent construction plans;
7. Before proceeding with any work authorized by the department or the board, the permittee shall submit four copies of the construction plans and specifications to the chairperson or an authorized

EXHIBIT 1

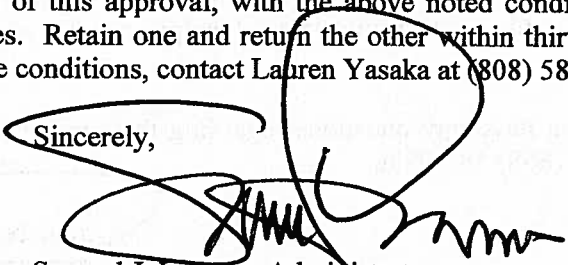
representative for approval for consistency with the conditions of the permit and the declarations set forth in the permit application. Three of the copies will be returned to the permittee. Plan approval by the chairperson does not constitute approval required from other agencies;

8. Unless otherwise authorized, any work or construction to be done on the land shall be initiated within one year of the approval of such use, in accordance with construction plans that have been signed by the chairperson, and shall be completed within three years of the approval of such use. The permittee shall notify the department in writing when construction activity is initiated and when it is completed;
9. All representations relative to mitigation set forth in the accepted environmental assessment or impact statement for the proposed use are incorporated as conditions of the permit;
10. The permittee understands and agrees that the permit does not convey and vested right(s) or exclusive privilege;
11. In issuing the permit, the department and the board have relied on the information and data that the permittee has provided in connection with the permit application. If, subsequent to the issuance of the permit such information and data prove to be false, incomplete, or inaccurate, this permit may be modified, suspended or revoked, in whole or in part, and the department may, in addition, institute appropriate legal proceedings;
12. When provided or required, potable water supply and sanitation facilities shall have the approval of the department of health and the county department of water supply;
13. Provisions for access, parking, drainage, fire protection, safety, signs, lighting, and changes on the landscape shall be provided;
14. Where any interference, nuisance, or harm may be caused, or hazard established by the use, the permittee shall be required to take measures to minimize or eliminate the interference, nuisance, harm, or hazard;
15. Obstruction or public roads, trails, lateral shoreline access, and pathways shall be avoided or minimized. If obstruction is unavoidable, the permittee shall provide alternative roads, trails, lateral beach access, or pathways acceptable to the department;
16. Except in case of public highways, access roads shall be limited to a maximum of two lanes;
17. During construction, appropriate mitigation measures shall be implemented to minimize impacts to off-site roadways, utilities, and public facilities;
18. Cleared areas shall be revegetated, in accordance with landscaping guidelines provided in this chapter, within thirty days unless otherwise provided for in a plan on file with and approved by the department;
19. Use of the area shall conform with the program of appropriate soil and water conservation district or plan approved by and on file with the department, where applicable.
20. Animal husbandry activities shall be limited to sustainable levels in accordance with good soil conservation and vegetation management practices;

21. The permittee shall obtain a county building or grading permit or both for the use prior to final construction plan approval by the department;
22. For all landscaped areas, landscaping and irrigation shall be contained and maintained within the property, and shall under no circumstances extend seaward of the shoreline as defined in section 205A-1, HRS;
23. Artificial light from exterior lighting fixtures, including but not limited to floodlights, uplights, or spotlights used for decorative or aesthetic purposes, shall be prohibited if the light directly illuminates or is directed to project across property boundaries toward the shoreline and ocean water, except as may be permitted pursuant to section 205A-71, HRS. All exterior lighting shall be shielded to protect the night sky;
24. Where applicable, provisions for protection of beaches and the primary coastal dune shall be established by the permittee, to the satisfaction of the department, including but not limited to avoidance, relocation, or other best management practices;
25. The permittee acknowledges that the approved work shall not hamper, impede, or otherwise limit the exercise of traditional, customary, or religious practices or native Hawaiians in the immediate area, to the extent the practices are provided for by the Constitution of the State of Hawai'i, and by Hawai'i statutory and case law; and
26. Other terms and conditions as prescribed by the chairperson;
27. Failure to comply with any of these conditions shall render this Conservation District Use Permit void under Chapter 13-5, as determined by the chairperson or board.

Please have your client acknowledge receipt of this approval, with the above noted conditions, in the space provided below. Please sign two copies. Retain one and return the other within thirty (30) days. Should you have any questions on any of these conditions, contact Lauren Yasaka at (808) 587-0386.

Sincerely,


Samuel J. Lemmo, Administrator
Office of Conservation and Coastal Lands

Receipt acknowledged:

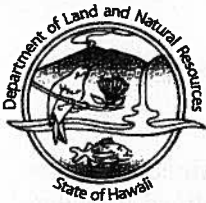

Applicant's Signature

Date

11-17-15

c: Chairperson
DOFAW, NARS
DOFAW, Maui Branch
MDLO

DAVID Y. IGE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
OFFICE OF CONSERVATION AND COASTAL LANDS
POST OFFICE BOX 621
HONOLULU, HAWAII 96809

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT
KEKOA KALUHIWA
FIRST DEPUTY
JEFFREY T. PEARSON, P.E.
DEPUTY DIRECTOR - WATER
AQUATIC RESOURCES
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BUREAU OF CONVEYANCES
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CONSERVATION AND COASTAL LANDS
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FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

REF:OCCL:LY

CDUP: MA-3746

Arsima A. Muller, Esq.
Carlsmith Ball LLP
ASB Tower, Suite 2100
1001 Bishop Street
Honolulu, HI 96813

JAN 29 2016

SUBJECT: Clarification Regarding Approval Letter for Conservation District Use Permit MA-3746

Dear Ms. Muller:

On November 3, 2015, our Office sent you a letter notifying you that the Board of Land and Natural Resources approved your Client's (Mr. Ray P. Wimberley, Commissioner) Conservation District Use Application (CDUA) MA-3746 for an above ground waterline located at Honua'ula, island of Maui, further identified as Mākena-Keone'ō'io Road and Tax Map Keys (TMKs) (2) 2-1-004: 046, 068, subject to 27 standard conditions.

We wish to clarify that although the letter encompassed all of the standard conditions outlined under Hawaii Administrative Rules (HAR) §13-5-42, pursuant to the Board's action, conditions No. 5 and No. 20 do not apply to the project since the approval has nothing to do with a single family residence or animal husbandry.

Should you have any questions regarding the applicability of certain conditions, please contact Lauren Yasaka at (808) 587-0386.

Sincerely,

A handwritten signature in black ink, appearing to read "Samuel J. Lemmo", is written over a large, stylized circular flourish.

Samuel J. Lemmo, Administrator
Office of Conservation and Coastal Lands

c: Chairperson
DOFAW, NARS
DOFAW, Maui Branch
MDLO

EXHIBIT 1

MA-18-5

ANDREW P. WILSON, LLC

107 Lihikai Street
Hilo, Hawaii 96729
(808) 936-2291
Wilsona811@hawaii.rr.com

RECEIVED
OFFICE OF CONSERVATION
AND COASTAL LANDS

2017 SEP 11 A 11:49

September 6, 2017

DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

Mr. Samuel Lemmo
State of Hawai'i Department of Land and Natural Resources
Office of Conservation and Coastal Lands
P.O. Box 624
Honolulu, HI 96809

Subject: Time Extension Request for Conservation District Use Permit
(CDUP) MA-3746
Regarding the Initiation and Completion of Constructive of the
Above-Ground Waterline along Mākena-Keone'o'io Road
Located at Honua'ula, Makawao, Maui
Tax Map Key: (2) 2-1-004: 046, 068, 073 & 113

Dear Mr. Lemmo,

I represent the Plaintiffs' Snowden in the underlying litigation that led to the above-entitled matter.

By letter dated August 15, 2016, we received a one-year extension for initiation of construction to CDUP MA-3746 wherein construction was to be initiated prior to October 23, 2017 and completed by October 23, 2018. See letter attached, Exh A.

This letter shall serve as a second extension pursuant to HAR §13-5-43, which provides: Time Extension: (b) *Time extensions may be granted as determined by the chairperson on all departmental permits and on the first request for extension of a board permit of up to two years to initiate or complete a project, based on supportive documentation from the Applicant.*

Unfortunately, we spent the past many months involved in numerous continued Court and mediation/arbitration hearings, some of which included the waterline, that eventually led to the removal of the prior Commissioner and appointment of a new Court-appointed Commissioner to sell the subject property. The process required many hearings in Maui with the efforts of all parties to finally resolve some outstanding issues on the sale of the property. Unfortunately, the inevitable result was an inability to meet the conditions granted in the August 15, 2016 letter.

EXHIBIT 2

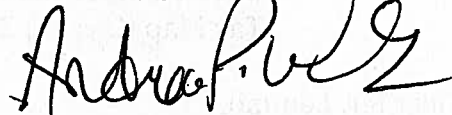
ANDREW P. WILSON, LLC

Mr. Samuel Lemmo
State of Hawai'i Department of Land and Natural Resources
Office of Conservation and Coastal Lands
September 6, 2017
Page 2

Because HAR §13-5-43 allows for an extension of up to 2 years, and the first extension was for only one year, we are requesting a second one-year extension.

Thank you for your consideration in this matter. If you have any questions, feel free to contact me at 808.936.2291.

Very truly yours,

A handwritten signature in black ink, appearing to read "Andrew P. Wilson", written over a horizontal line.

Andrew P. Wilson

APW/ghk

EXHIBIT 2

ANDREW P. WILSON, LLC

107 Lihikai Street
Hilo, Hawaii 96729
(808) 936-2291
Wilsona811@hawaii.rr.com

October 5, 2017

Mr. Samuel Lemmo
State of Hawai'i Department of Land and Natural Resources
Office of Conservation and Coastal Lands
P.O. Box 624
Honolulu, HI 96809

Subject: Time Extension Request for Conservation District Use Permit
(CDUP) MA-3746
Regarding the Initiation and Completion of Constructive of the
Above-Ground Waterline along Mākena-Keone'o'io Road
Located at Honua'ula, Makawao, Maui
Tax Map Key: (2) 2-1-004: 046, 068, 073 & 113

Dear Mr. Lemmo:

This letter shall supplement our letter dated September 6, 2017 wherein we seek an extension to install a water line as detailed in the subject above.

Attached as Exhibit A is a Court order wherein Circuit Court Judge Peter T. Cahill appointed a new Commissioner to sell the subject property. There as been no sale of the subject property to a third person.

Attached to this letter is also a Declaration prepared by the Court-Appointed Commissioner Roy Sakamoto, detailing his efforts to sell the property and time estimates (two years) for completing the requirements of the above referenced permit.

Paragraph 6 of the use permit above provides:

6. The permittee shall provide documentation (e.g., book and page or document number) that the permit approval has been placed in recordable form as a part of the deed instrument, prior to submission for approval of subsequent construction plans;

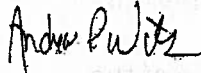
EXHIBIT 2

ANDREW P. WILSON, LLLC

Mr. Samuel Lemmo
State of Hawai'i Department of Land and Natural Resources
Office of Conservation and Coastal Lands
October 3, 2017
Page 2

Because there has been no submission for approval of construction plans, there has not yet been prepared the permit approval in recordable form. You can be assured this, and all other conditions, will be met.

Very truly yours,



Andrew P. Wilson

APW/ghk
Attachments

EXHIBIT 2

FILED

BICKERTON DANG, LLP
STANLEY H. ROHRIG, ESQ. 664
(Of Counsel)
101 August Street, Suite 124
Hilo, HI 96720
Telephone: (808) 969-1441
Email: shrohrig@bsdsl.com

2016 OCT 24 AM 10:49

H. FERNANDEZ-KAHAKAOWILA, CLERK
SECOND CIRCUIT COURT
STATE OF HAWAII

ANDREW P. WILSON 1227
107 Liliha Street
Hilo, Hawaii 96720
(808) 936-2291
Wilson811@hawaii.rr.com

Attorney for Defendants
Snowden

IN THE CIRCUIT COURT OF THE SECOND CIRCUIT

STATE OF HAWAII

LOCHLAND HOLDINGS, LLC,

Plaintiffs,

vs.

KELEAU; NAHAUHULU (K); LILIA KAHU
(w), et al,

Defendants.

CIVIL NO. 96-0755 (2)
(Other Civil Action)

MEDIATORS' ORDER NO. 3

JUDGE: Honorable Peter T. Cahill

Trial: No Trial Date Set

MEDIATORS' ORDER No. 3

I hereby certify that this is a full, true and
correct copy of the Original.

The Court Ordered the parties to mediation to decide the issues pursuant to and as set forth in ORDER ON COMMISSIONER'S MOTION FOR ORDER TO SELL GRANT 2844:1 VIA PUBLIC AUCTION AND FOR INSTRUCTIONS CONCERNING DLNR NOTICE AND ORDER, DATED MARCH 3, 2016 filed herein on July 21, 2016.

The Commissioner Ray P. Wimberley, attorneys Arsima A. Muller and Catherine L. M. Hall on behalf of Plaintiff Lochland Holdings, LLC ("Plaintiff"), Stanley H. Roehrig and Andrew P. Wilson on behalf of Defendant Snowden, and Paul Horikawa on behalf of Defendant Rittmeister, having brought before the Mediators Judge (Ret) E. John McConnell and Michael W. Gibson on September 15, 2016 at 9:30 a.m., the issues briefed and presented, pursuant to Mediators Order No. 2, which was duly signed by the Mediators.

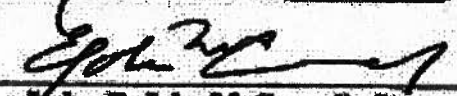
The parties, through counsel, having presented their arguments before the Mediators and good cause appearing therefore, now therefore, pursuant to the Amended Final Judgment And Decree filed here in on December 18, 2007 and the agreement of the parties attached thereto as part of the amended final judgment, it is hereby ordered as follows:


1. ~~The parties hereby acknowledge that this constitutes a formal settlement agreement and Mediators' order and intend to be bound thereby as reflected in Exhibit "A" attached hereto and made a part of this Mediators' order. This Mediators' order may be signed in counterparts.~~
2. Roy Sakamoto should be appointed Commissioner and Real Estate Broker to list Grant 2844:1 for not less than \$1.75 Million Dollars. He shall receive a 6% brokers fee for his work, but no Commissioner's fee;
3. Ray Wimberley shall take all reasonable and necessary steps to transfer title to Grant 2844:1 to Roy Sakamoto and to be discharged by the Court as Commissioner herein. In addition to the transfer of title, Ray Wimberley shall also assign to Roy Sakamoto all permits and other entitlements pertaining to Grant 2844:1 for purposes of sale;
4. The property, Grant 2844:1, shall be sold "as is," including all present existing commitments and entitlements.

5. This order is entered under the authority of AMENDED FINAL JUDGMENT AND DECREE filed, December 18, 2007, specifically paragraph O., pg. 26, which reads:

Any disputes relating to terms of this Agreement which cannot be resolved by and among the Parties shall be submitted to the Mediators for final determination and resolution. Any determination and/or resolution rendered by the Mediators shall be final and unappealable.

DATED in Honolulu, this 19 day of October, 2016.


Hon. Judge E. John McConnell, Circuit Court of the 2nd Circuit (Ret.)


Michael W. Gibson, Esq.

APPROVED AND SO ORDERED

/S/ PETER T. CAHILL (SEAL)

JUDGE OF THE ABOVE ENTITLED COURT

Lechland Holdings LLC v. Kekau, et al.
Civil No. 96-0755(2), 2nd Civ. Ct.

The undersigned parties agree to be bound to the following terms in the Lechland/Snowden partition action.

1. Ray Sabamoto should be appointed Commissioner and broker to sell Grant 2844:1 for \$1.75 million. He shall receive a 6% broker fee but no commission fee.

2. Ray Winkler shall take all necessary steps to transfer title to Sabamoto of Grant 2844:1 and to be discharged as Commissioner. In addition to title Winkler shall assign to Sabamoto all permits and other entitlements reasonable and

3. The parties acknowledge that a formal settlement agreement ^{and mediation order} will be prepared by counsel but intend to be bound hereby.

4. The property may be sold as-is including all present existing commitments and entitlements

John Raley 9/15/16
AS Commissioner 9-15-16

Richard W. 9-15-16

Paul 9/15/2016

Oct 10, 2016 Sept 15, 2016

John 9/15/16

Michael W 9-15-2016

ANDREW P. WILSON 1227
107 Lilikoi Street
Hilo, Hawai'i 96720
(808) 936-2291
wilsona811@hawaii.rr.com

IN THE CIRCUIT COURT OF THE SECOND CIRCUIT

STATE OF HAWAII

LOCHLAND HOLDINGS LLC,

Plaintiff,

vs.

KELEAU, et al.,

Defendants.

CIVIL NO. 96-0755(2)
[Other Civil Action]

SECOND SUPPLEMENTAL
DECLARATION OF
ROY SAKAMOTO

JUDGE: Honorable Peter T. Cahill
Trial: No Trial Date Set

DECLARATION OF ROY SAKAMOTO

ROY SAKAMOTO states as follows:

1. I am an adult who is more than eighteen (18) years of age, I have been licensed by the State of Hawaii to sell real estate for more than forty (40) years, I am competent to testify matters set forth in this Declaration and the statements contained in this Declaration are based upon personal knowledge.
2. I am the President of Sakamoto Properties Limited, a Hawaii corporation, hereafter referred to as "Sakamoto Properties", that is engaged in the business of selling real estate.
3. Sakamoto Properties has sold real property that has a value of more than ONE BILLION AND NO/100 DOLLARS (\$1,000,000,000.00).
4. I participated in the purchase of the Kapahua golf courses and adjacent properties that alone had a value of more than ONE HUNDRED MILLION DOLLARS (\$100,000,000.00).
5. I conducted site visits of the real property in Makana, Hawaii, that is described as Grant 2884, Apana I, hereafter referred to as the "Property".

EXHIBIT 2

6. I was appointed by Circuit Court Judge Peter T. Cahill to be the Commissioner to sell the subject property by Court Order filed October 24, 2015.

7. Since my appointment, I have taken the following steps to sell the property:

- a) I and my staff have visited the property many times;
- b) I have caused the property to be listed in the Multiple Listing Service (MLS);
- c) I have had videos prepared of the property for showing;
- d) I have marketed the property for sale in China and my sources in Japan;
- e) My staff and I* have attended numerous meetings throughout Maui advertising and marketing the property;
- f) We have received numerous inquiries about the property and I remain confident the property should be sold within a year or so;
- g) Because I am appointed by the Court to sell the property with all existing commitments and entitlement, I believe the ability for a purchaser to build a waterline to the property is important to maintain a reasonable and fair price for the Hawaiian beneficiaries who are currently entitled to receive the sale proceeds as a result a long and complicated quiet title case in the 2nd Circuit;
- h) In my opinion, it will take approximately two years from now for a purchaser to come up with all necessary plans and permits for the property;

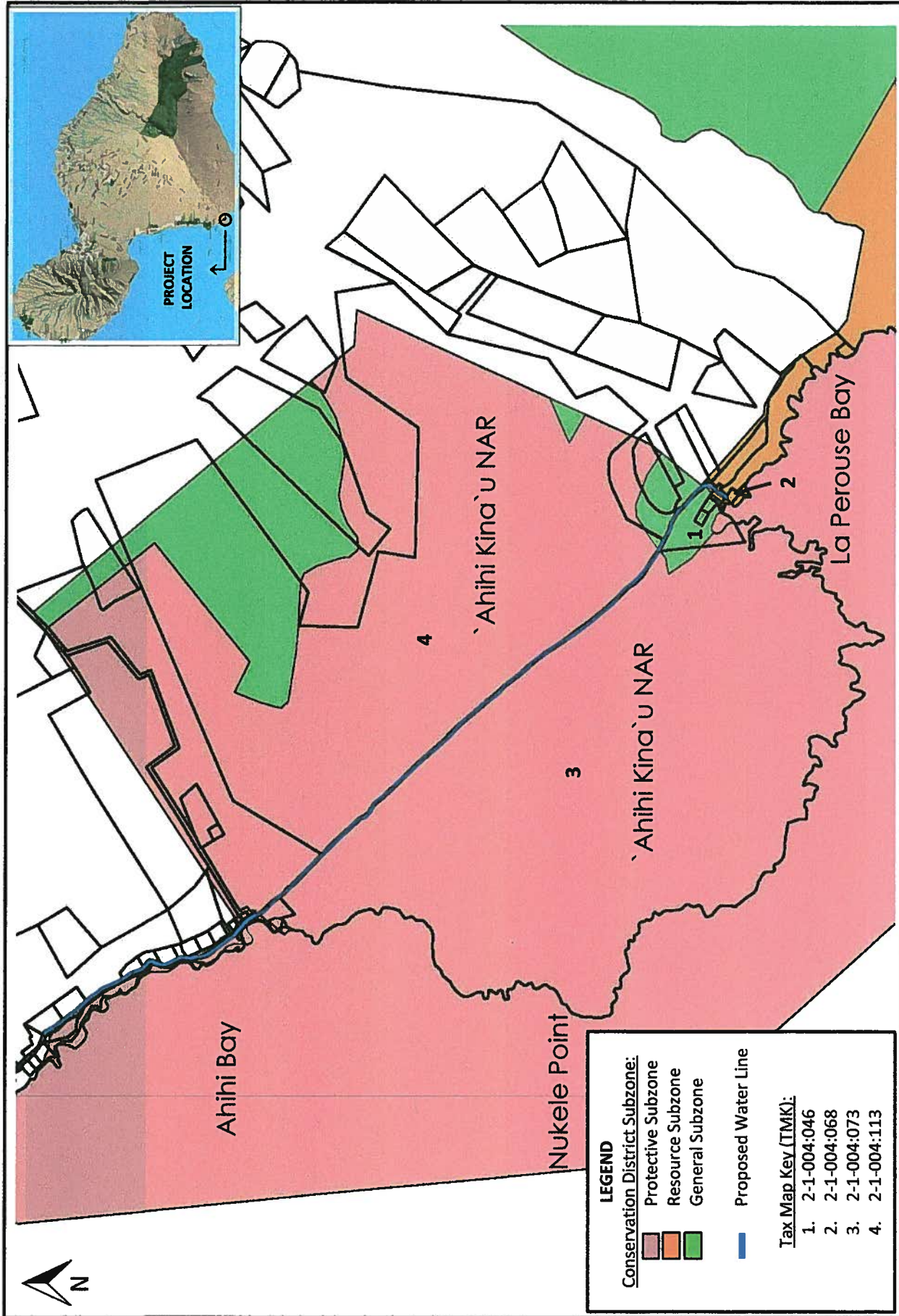
8. I humbly request the Board to grant a 2 (two) year extension for the terms and conditions detailed in CDUA Permit MA-3746.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

DATED: Lahaina, Hawaii, this 5th day of October, 2017.



Roy Sakamoto



CONSERVATION SUBZONE AND LOCATION MAP