

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

February 14, 2020

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

**REGARDING:** Conservation District Enforcement HA 20-20 Alleged Unauthorized Land Use – Transient Rental Located in the Conservation District

**LANDOWNER:** James Miles Hugh Wilson,  
Ke'ei Beach LLC,  
Hubert F Est Richards, &  
Elizabeth A Richards

**LOCATION:** 83-677 Ke'ei Beach Road, Ke'ei 1<sup>st</sup> – Ke'ei 2<sup>nd</sup>, South Kona, Hawai'i

**TAX MAP KEY:** (3) 8-3-006:009

**PARCEL SIZE:** 0.5630-acres

**SUBZONE:** General

**DESCRIPTION OF AREA:**

The subject parcel is located at 83-677 Ke'ei Beach Road in the Ke'ei 1<sup>st</sup> ahupua'a of South Kona on the Western side of the island of Hawai'i and is further identified as Tax Map Key (TMK) (3) 8-3-006:009. The parcel is located within the General Subzone of the State Land Use Conservation District (see **Exhibit 1**). The single-family residence (SFR) and attached garage, private wastewater treatment system, private water system comprised of two water catchment tanks, an existing non-conforming pump house and storage shed, and landscaping improvements were permitted under Conservation District Use Application (CDUA) HA-2714 on October 14<sup>th</sup>, 1994 (see **Exhibit 2**). A Site Plan for a shed addition to the house and water storage tanks were approved on August 27<sup>th</sup>, 1996 (see **Exhibit 3**).

The parcel is in close proximity to the shoreline and Ke'ei Beach along Ke'ei Beach Road. The property and associated SFR are in a quiet residential beach community that encompasses the makai portions of the ahupua'as of Ke'ei 1<sup>st</sup> – Ke'ei 2<sup>nd</sup> in a rural coastal area of South Kona on the Island of Hawai'i (see **Exhibit 4**). Vacant lots to the East and West of the property are owned by Kamehameha Schools. Similar SFR's border the parcel to the North and South. The Ke'ei Beach area is believed to be a place of historical and cultural importance as it is said that the area is the site of King Kamehameha the Great's first battle, the Battle of Mokuohai, which helped him gain control over the Island of Hawai'i and inspired his quest to unify all the Hawaiian Islands.

## ALLEGED UNAUTHORIZED LAND USES

On October 15<sup>th</sup>, 2019, the Department of Planning from the County of Hawai'i contacted the Office of Conservation and Coastal Lands (OCCL) regarding Ke'ei Beach LLC's application to register the parcel and associated SFR as a Short-Term Vacation Rental and Nonconforming Use. Based on previous instances of homeowners in the Conservation District attempting to register their properties and SFRs as short-term rentals and nonconforming uses with the County of Hawai'i, the Department of Planning understood that the subject property was under the jurisdiction of OCCL and that Ke'ei Beach LLC was potentially in violation of Hawai'i Administrative Rules (HAR) §13-5 as well as the permit conditions of CDUA HA-2714. This was confirmed by OCCL. The Department of Planning then issued Mr. Hugh Wilson of Ke'ei Beach LLC a letter noting that their transient rental was prohibited in the Conservation District and that the Department of Planning was returning their application (**see Exhibit 5**). The Ke'ei Beach LLC Short-Term Vacation Rental and Nonconforming Use Application was then forwarded to OCCL (**see Exhibit 6**).

After reviewing the Ke'ei Beach LLC Short-Term Vacation Rental and Nonconforming Use Application, OCCL notes that the landowners provided documentation of a Transient Accommodations Tax Certificate of Registration for Ke'ei Beach LLC doing business as Kupuna 'Aina at 83-677 Ke'ei Beach Road with a start date of February 1<sup>st</sup>, 2017 (**see Page 10 of Exhibit 6**). Additionally, the application shows a record of Ke'ei Beach LLC having paid transient accommodations taxes with this tax license from January 2019 through August 2019 (**see Page 17 of Exhibit 6**). OCCL staff researched the typical vacation rental websites for a listing of the subject property and associated SFR but believes that Ke'ei Beach LLC has either removed their listings from these websites or has used other means to promote the property and associated SFR for transient rental purposes. However, the application lists Ms. Colette Tavares, who is a realtor at Reba-Mae Silva Realty LLC according to her LinkedIn page, as the reachable person on the island of Hawai'i for the property and associated SFR (**see Page 2 & Page 13 of Exhibit 6 & Exhibit 7**).

## DISCUSSION

Chapter 13-5, Hawai'i Administrative Rules (HAR) and Chapter 183C, Hawai'i Revised Statutes (HRS) regulates land uses in the Conservation District by identifying a list of uses that may be allowed through a Conservation District Use Permit (CDUP) and a set of standard conditions that the permittee must abide by. These chapters also provide for the penalties, collection of administrative costs, costs associated with land and/or habitat restoration, and damages to state land for uses that are not allowed or for which no permit has been obtained.

Condition #4 of CDUA HA-2714 states that *the single family dwelling shall not be used for rental or any other commercial purposes.*

Condition #12 of CDUA HA-2714 states that *failure to comply with any of these conditions shall render this Conservation District Use Application null and void.*

Condition #5 of HAR §13-5-42 (a) (5) states that *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.*

Transient Rental is defined in HAR §13-5-2 (2) as *the use of a single-family residence or structure for less than one hundred eighty consecutive days in exchange for compensation, including but not limited to monetary payment, services, or labor of employees.*

Based on Ke'e'i Beach LLC's Short-Term Vacation Rental Registration/Nonconforming Use Certificate application, the owners' of the parcel with TMK: (3) 8-3-006:009 and CDUA HA-2714 appear to have been using the property and associated single-family residence for transient rental purposes. These actions are in direct violation of HAR §13-5 and the Conditions of their CDUA HA-2714.

## ANALYSIS:

The stated purpose of the Conservation District law is to protect and conserve natural resources. The section of the law, Haw. Rev. Stat. (HRS) § 183C-7, that refers to penalty for violation of conservation law should have a deterrent effect on the landowner to prevent them from doing or allowing malfeasance within the Conservation District. HRS, §183C-7 **Penalty for violation** notes (a) The department shall prescribe administrative procedures as it deems necessary for the enforcement of this chapter and (b) Any person violating this chapter or any rule adopted in accordance with this chapter shall be fined not more than \$15,000 per violation in addition to administrative costs, costs associated with land or habitat restoration, and damages to public land or natural resources, or any combination thereof. After written or verbal notification from the department, willful violation of this chapter or any rule adopted in accordance with this chapter may incur and additional fine of up to \$15,000 per day per violation for each day in which the violation persists.

Staff has considered the Department's mechanism for the imposition of fines for the unauthorized uses of a SFR for transient rental purposes. Haw. Rev. Stat. § 183C-7 allows for the imposition of up to a \$15,000 fine per violation for violating the statute. The *Conservation District Violation Penalties Schedule* identifies Non-identified Land Use as subject to penalties by the Board of Land and Natural Resources.

Pursuant to HAR, §13-5-1, the purpose of the Conservation District is to conserve, protect, and preserve the important natural and cultural resources of the State through appropriate management and use to promote their long-term sustainability and the public health, safety, and welfare. Pursuant to HAR, §13-5-14, the objective of the General Subzone is to designate open space where specific conservation uses may not be defined, but where urban use would be premature. The use of the property and associated SFR for transient rental purposes intensifies human activities as well as the uses and stresses of the area's natural and cultural resources. Transient rentals are not consistent with neither the intentions of Hawai'i's residential neighborhoods nor the character of rural residential areas such as South Kona. Based on the above, the use of the property and associated SFR for transient rental activities do not align with neither the purpose of the Conservation District nor the objective of the General Subzone and are therefore strictly prohibited in these areas.

## FINDINGS

The use of the subject property and single-family residence for transient rental purposes are in violation of Chapter 183C, HRS, Title 13-5, HAR, and CDUA HA-2714. Based upon our

investigation, OCCL finds that:

1. The location of the transient rental, Tax Map Key: (3) 8-3-006:009, is in the State Land Use Conservation District *General* Subzone;
2. The single-family residence has been used as a transient rental.

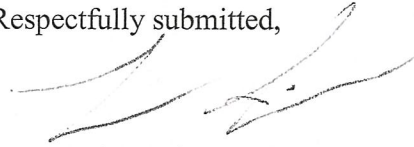
**AS SUCH, STAFF RECOMMENDS AS FOLLOWS:**

That, pursuant to HRS, §183C-7 and HAR, §13-5-6, the Board finds the landowners in violation of HAR, §13-5-42 as well as the conditions of CDUA HA-2714 and is subject to the following:

1. That the landowners are fined \$15,000.00 in one instance for violating the provisions of HRS §183C-7, HAR §13-5-42, and CDUA HA-2714 for the use of the subject property and associated single-family residence as a transient rental which is a prohibited land use within the Conservation District;
2. That the landowners are fined an additional \$2,000 for administrative costs associated with the subject violations;
3. That the landowners shall pay all designated fines and administrative costs (\$17,000.00) within one hundred eighty (180) days from the date of the Board's action;
4. That the landowners cease all transient rental activities on the subject property;
5. That the landowners remove all advertisements associated with the subject property and single-family residence from any websites that promote transient rental accommodations;
6. That the landowners sign a declaration stating that they will not carry out any future transient rental activities on the subject property and associated single-family residence and record the declaration in recordable form;
7. That the landowners provide DLNR and OCCL with all applicable documentation that would demonstrate that the above actions have satisfactorily been performed;
8. That in the event of failure of the landowners to comply with any order herein, the landowner shall be fined an additional \$15,000 per day until the order is complied with; and
9. That in the event of failure of the landowners to comply with any order herein, this matter shall be turned over to the Attorney General for disposition, including all administrative costs;
10. That in the event that the DLNR and OCCL find that the landowners have continued to use the subject property and associated single-family residence for transient rental, rental, or commercial purposes, the permit will be revoked, and the landowners will be required to remove the single-family residence;

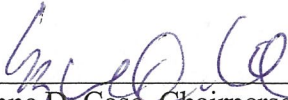
11. The above noted conditions of Enforcement file HA 20-20 shall be recorded with the deed instrument pursuant to HAR, §13-5-6(e).

Respectfully submitted,



Trevor Fitzpatrick, Staff Planner  
Office of Conservation and Coastal Lands

Approved for submittal:



Suzanne D. Case, Chairperson  
Board of Land and Natural Resources



TMK: (3) 8-3-006:009 Ke'ei Beach LLC Parcel



Ke'ei Beach LLC TMK: (3) 8-3-006:009

Conservation Subzones

CONDIST

General

Resource

Limited

Protective

Special

Undesignated

**Exhibit 1**

Produced by Trevor Fitzpatrick @ OCCL All boundaries are approximate

Date: 11/7/2019





DEPUTES  
JOHN P. KEPPELER, II  
DONA L. MANAIKE

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

REF:OCEA:BKW

P. O. BOX 621  
HONOLULU, HAWAII 96809

AQUACULTURE DEVELOPMENT  
PROGRAM  
AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
CONSERVATION AND  
ENVIRONMENTAL AFFAIRS  
CONSERVATION AND  
RESOURCES ENFORCEMENT  
CONVEYANCES  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
LAND MANAGEMENT  
STATE PARKS  
WATER AND LAND DEVELOPMENT

OCT 20 1994

File No.: HA-5/12/94-2714  
180-Day Exp. Date: 11/8/94

Mr. James Miles Hugh Wilson  
Suite 600, Park Central  
2970 Clairmont Road N.E.  
Atlanta, Georgia 30329

Dear Mr. Wilson:

Subject: Conservation District Use Application for a Single  
Family Residence at Keeli, South Kona, Hawaii,  
TMK: 8-3-06: 09

We are pleased to inform you that your Conservation District Use  
Application for a single family residence was approved on October  
14, 1994, subject to the following conditions:

1. The applicant shall comply with all applicable statutes, ordinances, rules and regulations of the Federal, State and County governments, and applicable parts of Section 13-2-21, Administrative Rules, as amended;
2. The applicant, 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 applicant shall comply with all applicable Department of Health Administrative Rules;
4. The single family dwelling shall not be used for rental or any other commercial purposes;
5. The applicant shall provide documentation (i.e. book/page or document number) that this 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**

EXHIBIT A

6. Before proceeding with any work authorized by the Board, the applicant shall submit four (4) copies of the construction plans and specifications to the Chairperson or his authorized representative for approval for consistency with the conditions of the permit and the declarations set forth in the permit application. Three (3) of the copies will be returned to the applicant. Plan approval by the Chairperson does not infer approval required of other agencies. Compliance with Condition 1 remains the responsibility of the applicant;
7. Any work or construction to be done on the land shall be initiated within one (1) year of the approval of such use, and all work and construction must be completed within three (3) years of the approval of such use;
8. That precautionary measures shall be taken to prevent excessive erosion, chemical products, debris, or other contaminants associated with construction activities from entering the ocean;
9. The applicant shall notify the Department in writing when construction activity is initiated and when it is completed;
10. That in issuing this permit, the Department and Board has relied on the information and data which the permittee has provided in connection with his permit application. If, subsequent to the issuance of this permit, such information and data prove to be false, incomplete or inaccurate, this permit may be modified, suspended or revoked, in whole part, and or the Department may, in addition, institute appropriate legal proceedings;
11. That all representations relative to mitigation set forth in the accepted application for this proposed use are hereby incorporated as conditions of this approval;
12. That failure to comply with any of these conditions shall render this Conservation District Use Application null and void; and
13. Other terms and conditions as prescribed by the Chairperson.

Please acknowledge receipt of this permit, with the above noted conditions, within thirty (30) days, in the space provided on the following page. Please sign two copies. Retain one and return the other within thirty (30) days.



Mr. Wilson

-3-

File No.: HA-2714

Should you have any questions on any of these conditions, please feel free to contact our Office of Conservation and Environmental Affairs staff at 587-0377.

Very truly yours,

  
KEITH W. AHUE

Receipt acknowledged

  
Applicant's Signature

Date 10/28/94

cc: Steven S.C. Lim  
Hawaii Board Member  
Hawaii Land Agent  
Hawaii Planning Dept.  
Hawaii DP&R, DWS  
DOH/OHA/OSP/DOT

BENJAMIN J. CAYETANO  
GOVERNOR OF HAWAII



**STATE OF HAWAII**  
**DEPARTMENT OF LAND AND NATURAL RESOURCES**  
**LAND DIVISION**  
P.O. BOX 621  
HONOLULU, HAWAII 96809

RECEIVED  
DIVISION OF  
LAND MANAGEMENT  
AUG 27 8 46 AM '96

AQUACULTURE DEVELOPMENT  
PROGRAM  
AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
CONSERVATION AND  
RESOURCES ENFORCEMENT  
CONVEYANCES  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
LAND DIVISION  
STATE PARKS  
WATER RESOURCE MANAGEMENT

AUG 12 1996

FILE NO.: HA-2714

Mr. John P. Dinmore  
Dinmore & Cisco Architects, Inc.  
75-167 Kalani Street, Suite 202  
Kailua Kona, Hawaii 96740

Dear Mr. Dinmore:

SUBJECT: Site Plan Approval for the Addition of a Shed  
at Keeli, South Kona, Hawaii; TMK: 8-3-6:09

We are in receipt of your Site Plan Approval request including the construction plans for the addition of a shed. The purpose of the shed is to house an existing water tank.

The addition of the shed can be considered as an accessory use pursuant to Chapter 13-5, of the Hawaii Administrative Rules (HAR); Section 13-5-23 (L-7) Structures, Accessory, of the Department's HAR.

**ANALYSIS:**

Section 13-5-23, Structures, Accessory, specifically allows the "Construction or placement of structures accessory to an existing structure, building, or facility under an existing conservation district use permit." It further states that, "Accessory uses shall be allowed only if they are consistent with the purpose of the Conservation District."

The proposed shed is consistent with the purpose of the Conservation District subzone inasmuch as this is a very minor addition that will serve to protect the water tank from the elements and will not alter the existing land use on the property. Conservation District Use Permit (CDUP) NO.: HA-2714 was approved by the Board on October 14, 1994, subject to thirteen conditions.

In addition, we have determined that this action is an exempt activity pursuant to the Environmental Impact Rules, Section 11-200-8(a), HAR.

**Exhibit 3**

Therefore, authorization is hereby granted to the Landowner for the addition of a shed within the Conservation District at Keei, South Kona, Hawaii; TMK: 8-3-6:09, subject to the following conditions:

1. The applicant shall comply with all applicable statutes, ordinances, rules and regulations of the Federal, State and County governments, and applicable parts of Section 13-5-42, Hawaii Administrative Rules;
2. All conditions imposed under CDUP #HA-2714 shall remain in effect;
3. The applicant shall comply with all applicable Department of Health Administrative Rules;
4. The applicant, 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 approval.

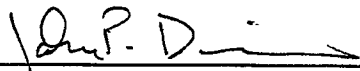
Please acknowledge receipt of this approval, with the above noted conditions, in the space provided below. Please sign two copies. Retain one and return the other within thirty (30) days.

If you have any questions on any of these conditions, please contact the Planning Branch at 587-0378.

Aloha,

  
MICHAEL D. WILSON

Receipt acknowledged:

 ARCHITECT FOR MILES WILSON  
Applicant's Signature

Date: 8.22.96

cc: Hawaii Board Member



# Exhibit 4: Ke'ei 1st - Ke'ei 2nd

South Kona, Hawaii

## Legend

 Ke'ei Beach LLC at TMK: (3) 8-3-006:009 and address 83-677 Ke'ei Beach Rd



Google Earth

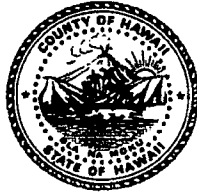
© 2018 Google



Harry Kim  
Mayor

Wil Okabe  
Managing Director

West Hawai'i Office  
74-5044 Ane Keohokalole Hwy  
Kailua-Kona, Hawai'i 96740  
Phone (808) 323-4770  
Fax (808) 327-3563



**County of Hawai'i**  
**PLANNING DEPARTMENT**

Michael Yee  
Director

Duane Kanuha  
Deputy Director

East Hawai'i Office  
101 Pauahi Street, Suite 3  
Hilo, Hawai'i 96720  
Phone (808) 961-8288  
Fax (808) 961-8742

October 15, 2019

Hugh Wilson, Member  
Ke'ei Beach LLC  
BO Box 2844  
Park City, UT 84060

**Exhibit 5**

Dear Mr. Wilson,

**SUBJECT: RETURN OF SHORT-TERM VACATION RENTAL  
REGISTRATION/NONCONFORMING USE CERTIFICATE APPLICATION**  
**Applicant: Ke'ei Beach LLC**  
**Landowner: Ke'ei Beach LLC**  
**Proposal: Register a Short-Term Vacation Rental and Apply for a  
Nonconforming Use Certificate**  
**Tax Map Key: (3) 8-3-006:009**

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This letter is to acknowledge receipt of your Registration for a Short-Term Vacation Rental (STVR) and Nonconforming Use Certificate Application, with associated documents, and filing fee. Your application indicates that you have been operating a vacation rental on the subject property since at least May of 2018.

After a thorough review of the application documents, we must return these submittals as the subject parcel is located entirely within the State Land Use (SLU) Conservation District. All uses on properties within the SLU Conservation District are under the direct jurisdiction of the State of Hawai'i Department of Land and Natural Resources, Office of Conservation and Coastal Lands (DLNR-OCCL).

Please be aware that Hawai'i Administrative Rules, Chapter 13-5-42 (a)(5) states that: *"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."* Furthermore, Conservation District Use Permit (HA-5/12/94-2714) was granted for the construction of a single-family residence on December 23, 1994 on the subject property. Condition No. 4 of the CDUP prohibits the use of the single family dwelling as a rental or other commercial purposes. Based on the preceding, operation of an STVR on the property is prohibited. For your information, we are providing a copy of this letter and information related to this STVR application to the DLNR-OCCL.



Hugh Wilson, Member  
Ke'ei Beach LLC  
October 15, 2019  
Page 2 of 2

Finally, we will return the \$500 filing fee under separate cover.

Should you have any questions, please contact Christian Kay of the Planning Department at (808) 961-8136 or email [christian.kay@hawaiicounty.gov](mailto:christian.kay@hawaiicounty.gov).

Sincerely,

  
MICHAEL VEE  
Planning Director

CRK:crk

\\Coh33\planning\public\Admin Permits Division\Letters\STVR Letters\10.15.19 - STVR & NUC Return - 83006009 - Ke'ei Beach LLC.docx

Encl.: STVR Registration/Nonconforming Use Certificate Application Submittal Documents  
CDUP HA-5/12/94-2714

cc: C. Lato, Senior Account Clerk  
Samuel J. Lemmo, Administrator  
DLNR-OCCL



STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES

REF:OCEA:BKW

P. O. BOX 621  
HONOLULU, HAWAII 96809

AQUACULTURE DEVELOPMENT  
PROGRAM  
AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
CONSERVATION AND  
ENVIRONMENTAL AFFAIRS  
CONSERVATION AND  
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CONVEYANCES  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
LAND MANAGEMENT  
STATE PARKS  
WATER AND LAND DEVELOPMENT

OCT 20 1994

File No.: HA-5/12/94-2714  
180-Day Exp. Date: 11/8/94

Mr. James Miles Hugh Wilson  
Suite 600, Park Central  
2970 Clairmont Road N.E.  
Atlanta, Georgia 30329

Dear Mr. Wilson:

Subject: Conservation District Use Application for a Single  
Family Residence at Keei, South Kona, Hawaii,  
TMK: 8-3-06: 09

We are pleased to inform you that your Conservation District Use  
Application for a single family residence was approved on October  
14, 1994, subject to the following conditions:

1. The applicant shall comply with all applicable statutes, ordinances, rules and regulations of the Federal, State and County governments, and applicable parts of Section 13-2-21, Administrative Rules, as amended;
2. The applicant, 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 applicant shall comply with all applicable Department of Health Administrative Rules;
4. The single family dwelling shall not be used for rental or any other commercial purposes;
5. The applicant shall provide documentation (i.e. book/page or document number) that this approval has been placed in recordable form as a part of the deed instrument, prior to submission for approval of subsequent construction plans;

6. Before proceeding with any work authorized by the Board, the applicant shall submit four (4) copies of the construction plans and specifications to the Chairperson or his authorized representative for approval for consistency with the conditions of the permit and the declarations set forth in the permit application. Three (3) of the copies will be returned to the applicant. Plan approval by the Chairperson does not infer approval required of other agencies. Compliance with Condition 1 remains the responsibility of the applicant;
7. Any work or construction to be done on the land shall be initiated within one (1) year of the approval of such use, and all work and construction must be completed within three (3) years of the approval of such use;
8. That precautionary measures shall be taken to prevent excessive erosion, chemical products, debris, or other contaminants associated with construction activities from entering the ocean;
9. The applicant shall notify the Department in writing when construction activity is initiated and when it is completed;
10. That in issuing this permit, the Department and Board has relied on the information and data which the permittee has provided in connection with his permit application. If, subsequent to the issuance of this permit, such information and data prove to be false, incomplete or inaccurate, this permit may be modified, suspended or revoked, in whole part, and or the Department may, in addition, institute appropriate legal proceedings;
11. That all representations relative to mitigation set forth in the accepted application for this proposed use are hereby incorporated as conditions of this approval;
12. That failure to comply with any of these conditions shall render this Conservation District Use Application null and void; and
13. Other terms and conditions as prescribed by the Chairperson.

Please acknowledge receipt of this permit, with the above noted conditions, within thirty (30) days, in the space provided on the following page. Please sign two copies. Retain one and return the other within thirty (30) days.

Mr. Wilson

-3-

File No.: HA-2714

Should you have any questions on any of these conditions, please feel free to contact our Office of Conservation and Environmental Affairs staff at 587-0377.

Very truly yours,



KEITH W. AHUE

Receipt acknowledged

\_\_\_\_\_  
Applicant's Signature

Date \_\_\_\_\_

cc: Steven S.C. Lim  
Hawaii Board Member  
Hawaii Land Agent  
Hawaii Planning Dept.  
Hawaii DP&R, DWS  
DOH/OHA/OSP/DOT

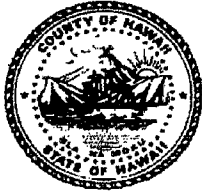
# Exhibit 6

Page 1 of 29

<b>RECEIPT</b>		DATE <u>10/11/2019</u>	<b>No. 059817</b>
RECEIVED FROM <u>KE'EI BEACH LLC 03-19</u>		<b>\$500.00</b>	
<u>2370 GILT EDGE CIR, PARK CITY, UT 84060</u>		DOLLARS	
<input type="radio"/> FOR RENT <input checked="" type="radio"/> Short Term Vacation Rental, TMK 8-3-006:009			
ACCOUNT		<input type="radio"/> CASH	# <u>99</u>
PAYMENT	<u>500.00</u>	<input checked="" type="radio"/> CHECK	FROM _____ TO _____
BAL. DUE		<input type="radio"/> MONEY ORDER	
		<input type="radio"/> CREDIT CARD	BY <u>AKK</u>

KE'EI BEACH, LLC 03-19 2370 GILT EDGE CIR PARK CITY, UT 84060	DATE <u>9/1/19</u>	99
PAY TO THE ORDER OF <u>Director of Finance</u>	<u>\$500.00</u>	<u>00/100</u>
<u>Five hundred &amp; 00/100</u>	DOLLARS	
<b>CHASE</b>		
JP Morgan Chase Bank, N.A. www.chase.com		
MEMO: STIR # 3-8-3-006-001-0000-000 <u>Agamie Wilson</u>		





## County of Hawai'i Planning Department

· planning@hawaiicounty.gov

East Hawai'i Office · 101 Pauahi Street, Suite 3 · Hilo, Hawai'i 96720  
Phone (808) 961-8288 · Fax (808) 961-8742

West Hawai'i Office · 74-5044 Ane Keohokalole Hwy · Kailua-Kona, Hawai'i 96740  
Phone (808) 323-4770 · Fax (808) 327-3563

FOR OFFICE USE ONLY  
Receipt Number: \_\_\_\_\_  
Reviewed By: \_\_\_\_\_  
STVR #: \_\_\_\_\_  
NUC # (If Applicable): \_\_\_\_\_

PLANNING DEPARTMENT  
COUNTY OF HAWAII  
2019 OCT -7 AM 10:42

### SHORT-TERM VACATION RENTAL (STVR) REGISTRATION AND/OR NONCONFORMING USE (NUC) APPLICATION

This is a form for a: ☐ STVR Registration only - \$500 fee  
☒ STVR Registration + Nonconforming Use Certificate - \$500 fee

APPLICANT (Please Print): Ke'ei Beach, LLC

APPLICANT'S INTEREST, IF NOT THE OWNER: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_

SIGNER (Please Print): Hugh Wilson

TITLE: Member

MAILING ADDRESS: PO Box 2844

CITY: Park City

STATE: UT

ZIP CODE: 84060

PHONE NO.: ( ) 435-901-7071

EMAIL: Hhsuperwilson@gmail.com

Please provide information for all owners of the STVR property. A Landowner Addendum is attached, if needed.

LANDOWNER (Please Print): Ke'ei Beach, LLC

SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_

SIGNER (Please Print): Hugh Wilson

TITLE: Member

MAILING ADDRESS: PO Box 2844

CITY: Park City

STATE: UT

ZIP CODE: 84060

PHONE NO.: ( ) 435-901-1848

EMAIL: Hhsuperwilson@gmail.com

REACHABLE PERSON (Please Print): Colette Tavares

MAILING ADDRESS: PO Box 483

CITY: Holualoa

/HI ZIP CODE: 96725

PHONE NO.: Business (808) 938-0363

Home/Mobile ( ) \_\_\_\_\_

EMAIL: colettetavares808@gmail.com

STVR STREET ADDRESS: 83-677 Ke'ei Beach Road

CITY: Captain Cook

/HI ZIP CODE: 96704

#### FOR OFFICE USE ONLY:

TAX MAP KEY: (3) 8-3-006:009.0000

ZONING: Open

SLU: C

If Ag, Date of Subdivision: \_\_\_\_\_

LUPAG: ope

The submittal of an incomplete application will delay official acceptance by the Department. Furthermore, additions during the course of the review process will be deemed invalid. Lack of required information will render the application incomplete. Hawai'i County is an Equal Opportunity Provider and Employer.

**Exhibit 6**

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## STVR Registration

To whom should we send original correspondence? (Select one): ☐ Owner ☒ **Applicant** ☐ Reachable Person

### Instructions:

- STVR Registration only: Please submit Items 1-10
- STVR Registration + Nonconforming Use Certificate: Please submit Items 1-13.
- Pursuant to Planning Department Rules of Practice and Procedure Rule 23, the Director may request additional information to facilitate processing your application request.

1. **Completed STVR Registration Form.**
2. **Landowner Authorization, if applicable.** Any entity applying for an STVR Registration shall submit written authorization from the owner(s) to act on their behalf.
3. **\$500 Non-refundable filing and processing fee.** Payments by check may be made payable to: Director of Finance.
4. **Final Approvals from Building Division.** Please provide documentation establishing that all permits from the County of Hawai'i Department of Public Works-Building Division for all necessary building, electrical, and plumbing permits were granted final approval. Please visit the Hawai'i County Real Property Tax website ( ) and "Search Records" to retrieve and print out a copy of the real property tax records for your property, showing all applicable building, electrical, and plumbing permits. Include a copy of this print-out with your application. Additional forms of proof to potentially established there was a final building permit includes the following:
  - a. Certificate of Occupancy
  - b. Federal Housing Administrations or Veterans Affairs loans
  - c. Condominium Property Regime Declaration recorded with the Bureau of Conveyance.
  - d. Notes from the inspector on the day of final inspection. (Would have been given to the home owner or contractor at time of inspection. Rare but may be available)

Incomplete permits will require page 5 of the Registration form to be completed with the County of Hawai'i Department of Public Works-Building Division.

5. **Current tax licenses.** Please submit copies of your current State of Hawai'i General Excise Tax / Transient Accommodations Tax licenses for your STVR. You may substitute a printout from the official State of Hawaii Department of Taxation website listing your licensed name and the respective GE and TA account numbers.
6. **County of Hawai'i Real Property Tax Clearance Certificate** obtained from the Real Property Tax Division. This is the preferred documentation.

*Sent Email* → As an alternative to the Tax Clearance Certificate, the Planning Department will accept a printout of the official Real Property Tax Office web page indicating that taxes have been fully paid to June 30, 2019 if your application is physically received at the Planning Department before August 20, 2019, when the next tax payment is due. Since taxes are done on a fiscal year basis, the Tax Period for taxes paid to June 30, 2019 is noted as Tax Period "2018-2" which is for the period of January 1, 2019 to June 30, 2019. While in the website, click on the year 2018, and a drop down window will show that taxes have been paid for "2018-2" which is the period from Jan. 1, 2019 to June 30, 2019. NOTE: If your application is received on or after August 20, 2019, you will probably have to get the Tax Clearance Certificate instead of using this website print-out option, because the website information is not updated for perhaps a month or more after tax payments are received and checks have cleared. Please be aware that due to their staff workload during the week of the August 20 tax payment deadline, their response to requests for Tax Clearance Certificates may be very slow.

## Exhibit 6

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### STVR Registration

- Site Plan.** Drawn to scale, on 11" x 17" white copy paper (NOTE: this is **double** the size of typical letter-size paper), identifying:
  - a) All property boundaries, dimensions, setbacks, and easements;
  - b) Location of existing and proposed structures, driveway access, swimming pools, ancillary structures, eaves, and overhangs shall be clearly identified and labeled; for condominium sites, identify the location of your apartment and its parking spaces.
  - c) Designated parking spaces for the STVR in compliance with Hawai'i County Code (HCC), Sections 25-4-50 through 25-4-54; each parking space must be at least 18' long and 8.5' wide, entirely within the boundary of the STVR property, and must be accessible without another parked car having to be moved out of the way; and
  - d) Reference points such as roadways, shoreline, etc; and
  - e) Table indicating total square footages of each of the structures on the property.
- Floor Plan.** Drawn to scale, also on 11" x 17" white copy paper, identifying the location and use of all rooms in the STVR with dimensions of all spaces.
- Notarized Affidavit of Compliance.** Please complete and sign a copy of the attached Short-Term Vacation Rental Affidavit of Compliance. Submit notarized affidavit(s) with this application.
- Pre-existing STVRs:** Please provide proof of your use of the property as an STVR prior to April 1, 2019. Proof may include tax documents for the relevant time period if those documents specifically identify the STVR property and if they identify payment of Transient Accommodation Tax (only payable for short-term rentals) or other reliable evidence such as third-party receipts or ledger statements, transaction reports, etc. which specifically identify the STVR property.
- List of affected property owners/lessees.** A list of the names, mailing addresses, and tax map key numbers of all owners and lessees of record of all lots of which any portion is within three hundred (300) feet of any point along the perimeter boundary of the STVR property. Please visit the Hawai'i County Real Property Tax website (<http://www.hawaii-county.gov/real-property-tax>) and use the "New Web Access Portal" to retrieve and print out the surrounding property owners list.
- Copy of First Notification Letter to Affected Property Owners/Lessees.** Please review the attached Notification Requirements for Nonconforming Use Certificate Applicants, and follow the instructions provided.
- Proof of service.** Applicants shall provide proof of service or of good faith efforts to serve notice of the application to affected property owners and lessees of record. Proof may consist of certified mail receipts, affidavits, declarations, or the like.

## Exhibit 6

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**SHORT-TERM VACATION RENTAL (STVR) REGISTRATION  
LANDOWNER ADDENDUM**

**LANDOWNER:** \_\_\_\_\_

SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

SIGNER (Please Print): \_\_\_\_\_ TITLE: \_\_\_\_\_

MAILING ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_

PHONE NO.: (\_\_\_\_) \_\_\_\_\_ EMAIL: \_\_\_\_\_

**LANDOWNER:** \_\_\_\_\_

SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

SIGNER (Please Print): \_\_\_\_\_ TITLE: \_\_\_\_\_

MAILING ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_

PHONE NO.: (\_\_\_\_) \_\_\_\_\_ EMAIL: \_\_\_\_\_

**LANDOWNER:** \_\_\_\_\_

SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

SIGNER (Please Print): \_\_\_\_\_ TITLE: \_\_\_\_\_

MAILING ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_

PHONE NO.: (\_\_\_\_) \_\_\_\_\_ EMAIL: \_\_\_\_\_

**LANDOWNER:** \_\_\_\_\_

SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

SIGNER (Please Print): \_\_\_\_\_ TITLE: \_\_\_\_\_

MAILING ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_

PHONE NO.: (\_\_\_\_) \_\_\_\_\_ EMAIL: \_\_\_\_\_

**LANDOWNER:** \_\_\_\_\_

SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

SIGNER (Please Print): \_\_\_\_\_ TITLE: \_\_\_\_\_

MAILING ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_

PHONE NO.: (\_\_\_\_) \_\_\_\_\_ EMAIL: \_\_\_\_\_

**Exhibit 6**

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**--- THIS PAGE FOR OFFICE USE ONLY ---**

**SHORT-TERM VACATION RENTAL (STVR) REGISTRATION  
DEPARTMENT OF PUBLIC WORKS, BUILDING DIVISION APPROVAL**

LANDOWNER(S): \_\_\_\_\_

STVR ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_/HI ZIP CODE: \_\_\_\_\_

STVR TAX MAP KEY: (3) \_\_\_\_\_

**TO BE COMPLETED BY BUILDING DIVISION STAFF**

Building Permit Number(s) and Final Approval Date(s)	General Description of Permit	Permit Status	Completed By:	Date:
Electrical Permit Number(s) and Final Approval Date(s):	General Description of Permit	Permit Status	Completed By:	Date:
Plumbing Permit Number(s) and Final Approval Date(s):	General Description of Permit	Permit Status	Completed By:	Date:

**Exhibit 6**



9/2/2019

qPublic.net - Hawai'i County, HI



## Parcel Information

Parcel Number 830060090000  
 Location Address 83-677 KEEI BEACH ROAD  
 Project Name Keel 1st & 2nd  
 Property Class CONSERVATION  
 Neighborhood Code 8334-6  
 Legal Information 0.563 AC DES RP 5102 LCAW 7202:1 KEEI 1  
 Land Area (acres) 0.5630  
 Land Area (approximate sq ft) 24,524

## Owner Information

Owner Names  
 WILSON,JAMES MILES HUGH Fee Owner, Tenants in Common  
 KE'EI BEACH LLC Fee Owner  
 RICHARDS,HUBERT F EST Fee Owner  
 RICHARDS,ELIZABETH A Fee Owner

Mailing Address  
 WILSON,JAMES MILES HUGH  
 PO BOX 2844  
 PARK CITY UT 84060 2844

## Assessment Information

Year	Property Class	Market Land Value	Dedicated Use Value	Assessed Land Value	Market Building Value	Assessed Building Value	Total Market Value	Total Assessed Value	Total Exemption Value	Total Taxable Value
2019	CONSERVATION	\$171,700	\$0	\$171,700	\$280,800	\$280,800	\$452,500	\$452,500	\$0	\$452,500

## Land Information

Property Class	Square Footage	Acreage	Agricultural Use Indicator
CONSERVATION	24,524	0.563	

## Residential Improvement Information

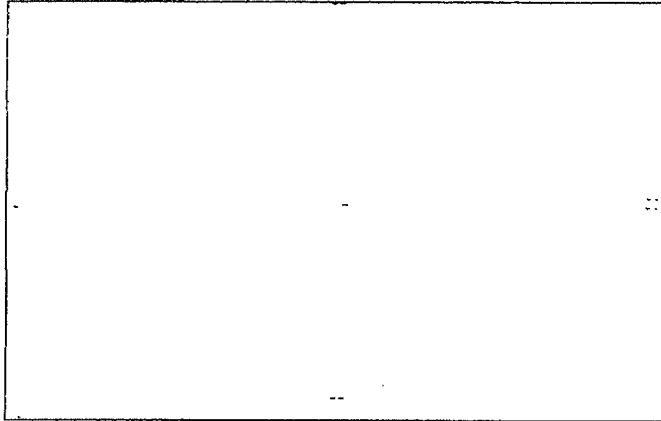
Building Number	1	Bedrooms	2
Year Built	1996	Framing	Masonry
Eff Year Built	1996	Exterior Wall	CONCRETE
Square Feet	1,232	Roof Material	COMPOSITION
Total Room Count	4	Heating/AC	NONE
Full Baths	2	Fireplace	0
Half Baths	0	Grade	5

## Sketches

# Exhibit 6

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Room Type	Area
△ Main Area	1332



## Building 1

## Permit Information

Date	Permit Number	Reason	Permit Amount
11/8/1996	955921		\$175,000
10/30/1996	965933		\$10,000

## Bldg Division Permit and Inspections Information

Permit Date	Permit Type	Permit Number	Permit Reason	Permit Description	Estimated Cost	Inspection Date	Inspection Status	Permit Status
10/31/1996	Building		New		\$10,000	12/11/1996	COMPLETED	
11/9/1995	Plumbing		New		\$5,000	7/30/1996	COMPLETED	
11/9/1995	Electrical		New		\$3,500	7/29/1996	COMPLETED	
11/9/1995	Building		New		\$175,000	7/30/1996	COMPLETED	
8/24/1989	Electrical		Alteration		\$450	4/19/1990	COMPLETED	

As a courtesy to the public, we provide building permit data as supplied by the Department of Public Works. As such, no warranties, expressed or implied, are provided for the data herein, its use or its interpretation, and accuracy.

## Sales Information

Sale Date	Sale Amount	Instrument #	Instrument Type	Instrument Description	Date Recorded	Land Court Document Number	Cert # Book/Page	Conveyance Tax	Document Type
06/30/2017	\$1,000	64090899	FEE CONVEYANCE	Warranty Deed	07/19/2017			1.5	Warranty Deed
06/28/2017	\$0	64090898	FEE CONVEYANCE	Warranty Deed	07/19/2017			0	Warranty Deed
04/09/2014	\$0	52201078	FEE CONVEYANCE	Warranty Deed	04/17/2014			0	Warranty Deed
02/03/1993	\$0	9300023918	FEE CONVEYANCE	Personal Representative's Deed	02/12/1993			0.00	Personal Representative's Deed
02/03/1993	\$200,000	9300023917	FEE CONVEYANCE	Warranty Deed	02/12/1993			225.00	Warranty Deed
12/04/1992	\$0	9200205712			12/17/1992			0.00	

## Current Tax Bill Information

Tax Period	Description	Original Due Date	Taxes Assessment	Tax Credits	Net Tax	Penalty	Interest	Other	Amount Due
2019-2	Real Property Tax	02/20/2020	\$0.00	\$0.00	\$2,613.19	\$0.00	\$0.00	\$0.00	\$2,613.19
	Tax Bill with Interest computed through 08/31/2019		\$0.00	\$0.00	\$2,613.19	\$0.00	\$0.00	\$0.00	\$2,613.19

Pay online at  
Other Payment Options

# Exhibit 6

## Historical Tax Information

Year	Tax	Payments and Credits	Penalty	Interest	Other	Amount Due
	\$5,226.38	(\$2,613.19)	\$0.00	\$0.00	\$0.00	\$2,613.19
	\$5,079.70	(\$5,079.70)	\$0.00	\$0.00	\$0.00	\$0.00
	\$4,996.54	(\$4,996.54)	(\$249.83)	(\$82.44)	\$0.00	\$0.00
	\$4,746.88	(\$4,746.88)	\$0.00	\$0.00	\$0.00	\$0.00
	\$4,272.74	(\$4,272.74)	(\$213.64)	(\$6.41)	\$0.00	\$0.00
	\$4,228.25	(\$4,228.25)	\$0.00	\$0.00	\$0.00	\$0.00
	\$4,118.67	(\$4,118.67)	\$0.00	\$0.00	\$0.00	\$0.00
	\$3,698.68	(\$3,698.68)	\$0.00	\$0.00	\$0.00	\$0.00
	\$3,847.42	(\$3,847.42)	\$0.00	\$0.00	\$0.00	\$0.00
	\$3,969.56	(\$3,969.56)	(\$198.48)	(\$32.85)	\$0.00	\$0.00
	\$3,550.82	(\$3,550.82)	\$0.00	\$0.00	\$0.00	\$0.00
	\$3,683.35	(\$3,683.35)	\$0.00	\$0.00	\$0.00	\$0.00
	\$2,575.26	(\$2,575.26)	\$0.00	\$0.00	(\$20.00)	\$0.00
	\$2,444.45	(\$2,444.45)	\$0.00	\$0.00	\$0.00	\$0.00
	\$2,720.57	(\$2,720.57)	\$0.00	\$0.00	\$0.00	\$0.00
	\$2,638.82	(\$2,638.82)	\$0.00	\$0.00	\$0.00	\$0.00
	\$2,549.18	(\$2,549.18)	\$0.00	\$0.00	\$0.00	\$0.00
	\$2,478.26	(\$2,478.26)	\$0.00	\$0.00	\$0.00	\$0.00
	\$2,311.40	(\$2,311.40)	\$0.00	\$0.00	\$0.00	\$0.00
	\$2,292.70	(\$2,292.70)	\$0.00	\$0.00	\$0.00	\$0.00

## Recent Sales in Ar a

From:

To:

No data available for the following modules: Condominium/Apartment Unit Information, Agricultural Assessment Information, Commercial Improvement Information, Other Building and Yard Improvements.

# Exhibit 6

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#5

DAVID Y. IGE  
GOVERNOR

DOUGLAS S. CHIN  
LT. GOVERNOR



STATE OF HAWAII  
DEPARTMENT OF TAXATION

LINDA CHU TAKAYAMA  
DIRECTOR OF TAXATION

DAMIEN A. ELEFANTE  
DEPUTY DIRECTOR

KE'EI BEACH, LLC  
PO BOX 2844  
PARK CITY UT 84060-2844



Date: May 10, 2018  
Letter ID: L0903963136  
Customer ID: T-004-918-5792

Re: License Letter

Dear Taxpayer:

This letter contains your Transient Accommodations Tax Certificate of Registration for Hawaii Tax ID Number: TA-004-918-5792-01. Please display this certificate of registration conspicuously at KE'EI BEACH, LLC's place of business.

If you require further information, please contact us at the address and phone number listed below. Reference the letter ID found at the top of the page on any correspondence or phone calls to expedite the process.

Sincerely,

Department of Taxation  
Taxpayer Services Branch  
PO Box 259  
Honolulu, HI 96809-0259  
Phone: (808) 587-4242  
Neighbor Islands/Continental U.S.  
Toll Free: 1 (800) 222-3229

**Exhibit 6**

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BUSINESS START DATE: 02/01/2017

STATE OF HAWAII  
DEPARTMENT OF TAXATION

L0903963136  
FORM TA-4A  
(REV. 2016)

This Certificate is permanent evidence of your registration under the provisions of Hawaii's Transient Accommodations Tax Law, Chapter 237D, HRS, and must be conspicuously displayed at each place of business where the transient accommodations is located or a notice may be posted in each room, apartment, suite or the like, informing the reader of the location, where this certificate may be inspected and examined. A copy of your registration application and any amendments thereto should be attached to this Certificate.

**TRANSIENT ACCOMMODATIONS TAX CERTIFICATE OF  
REGISTRATION**

THIS CERTIFICATE OF REGISTRATION IS NOT TRANSFERABLE

HAWAII TAX ID NUMBER: TA-004-918-5792-01

KE'EI BEACH, LLC  
DBA KUPUNA AINA  
83-677 KE'EI BEACH RD  
CAPTAIN COOK HI 96704



DAVID Y. IGE  
GOVERNOR

DOUGLAS S. CHIN  
LT. GOVERNOR



STATE OF HAWAII  
DEPARTMENT OF TAXATION

LINDA CHU TAKAYAMA  
DIRECTOR OF TAXATION

DAMIEN A. ELEFANTE  
DEPUTY DIRECTOR

KE'EI BEACH, LLC  
PO BOX 2844  
PARK CITY UT 84060-2844



Date: May 10, 2018  
Letter ID: L1247191552  
Customer ID: T-004-918-5792

Re: License Letter

Dear Taxpayer:

This letter contains your General Excise Tax License for Hawaii Tax ID Number: GE-004-918-5792-01. Please display this license conspicuously at KE'EI BEACH, LLC's place of business.

If you require further information, please contact us at the address and phone number listed below. Reference the letter ID found at the top of the page on any correspondence or phone calls to expedite the process.

Sincerely,

Department of Taxation  
Taxpayer Services Branch  
PO Box 259  
Honolulu, HI 96809-0259  
Phone: (808) 587-4242  
Neighbor Islands/Continental U.S.  
Toll Free: 1 (800) 222-3229

**Exhibit 6**

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BUSINESS START DATE: 01/01/2017

STATE OF HAWAII  
DEPARTMENT OF TAXATION

L1247191552  
FORM G-44A  
(REV. 2016)

LICENSE ISSUED FOR THE PRIVILEGE OF ENGAGING IN BUSINESS AND OTHER ACTIVITIES UPON THE CONDITION THAT THE LICENSEE SHALL PAY THE TAXES ACCRUING TO THE STATE OF HAWAII UNDER THE PROVISIONS OF CHAPTER 237, HRS, AS AMENDED. LICENSEE'S ACTIVITIES ARE LISTED ON THE APPLICATION ON FILE WITH THE DIRECTOR OF TAXATION.

**GENERAL EXCISE TAX LICENSE**

THIS LICENSE IS NOT TRANSFERABLE.  
TO BE DISPLAYED CONSPICUOUSLY AT THE  
PLACE OF BUSINESS FOR WHICH ISSUED.

HAWAII TAX ID NUMBER: GE-004-918-5792-01

KE'EI BEACH, LLC  
DBA KUPUNA 'AINA  
83-677 KE'EI BEACH RD  
CAPTAIN COOK HI 96704





#6

Hary Kim  
Vice



Deanna S. Sako  
Finance Director

Steven A. Hunt  
Deputy Director

## County of Hawai'i

### DEPARTMENT OF FINANCE - REAL PROPERTY TAX

Appraisal Center: 101 Puhimani Street, Suite 300 • Honolulu, HI 96813 • Tel: (808) 967-1234 • Fax: (808) 961-8415

Appraiser: (808) 961-8415 • Collector: (808) 961-8415 • Collector: (808) 961-8415

Web: www.hawaii.gov/finance • 7555 Hui Avenue, Kalaheo, HI 96851 • Tel: (808) 961-8415 • Fax: (808) 961-8415

Appraiser: (808) 961-8415 • Collector: (808) 961-8415

Web: www.hawaii.gov/finance

### REAL PROPERTY TAX CLEARANCE

Date: September 13, 2019

TMK(s): (3) 8-3-006-009-0000

This is to certify that the real property taxes due to the County of Hawai'i on the parcel(s) listed above have been paid for the tax year **2019** up to and including December 31, 2019.

The County's real property taxes are levied on July 1<sup>st</sup> each year. The taxes become a lien on the property assessed as of the levy date.

This clearance was requested on behalf of James Miles Hugh Wilson & Keei Beach LLC & Elizabeth/Hubert Richards for the County Planning Department and is issued for this/these parcel(s) only.

REAL PROPERTY TAX DIVISION

**Paid up to and including December 31, 2019**

Tax Clearance for Planning Department, rev. 10/19

**Exhibit 6**

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*Hawai'i County is an Equal Opportunity Provider and Employer*

**COUNTY OF HAWAI'I  
PLANNING DEPARTMENT**

**SHORT-TERM VACATION RENTAL (STVR) AFFIDAVIT OF COMPLIANCE**

This is to acknowledge that I, Hugh Wilson as Member- Manager of Ke'ei Beach, LLC,

landowner / authorized applicant of the existing/proposed STVR property located at:  
83-677 Ke'ei Beach Road, Captain Cook, HI 96704,

Tax Map Key (3) 3-8-3-006-009-0000-000, CERTIFY, SWEAR, AND AFFIRM THAT:

- The final approvals for building, electrical, and plumbing permits from the County of Hawai'i Department of Public Works-Building Division accurately reflect the structure as it currently exists without unpermitted modifications or changes of use.
- To the best of my knowledge, there are no public, private, or financial covenants and or conditions prohibiting the use of this property as a vacation rental.
- I acknowledge that once my application is accepted, the Director may request a site inspection to verify that the STVR is located within a legal dwelling and complies with the HCC, Chapter 25, any rule adopted thereunder, or any permit or variance issued pursuant thereto.
- I will comply with all applicable County, State, and Federal laws, rules, regulations, and requirements, and will continue to operate within those laws, which shall also include, but is not limited to, the STVR Standards outlined in this Affidavit.
- I acknowledge that any misrepresentation made by me or by my agent in applying for this STVR Registration may render the Registration invalid.
- I acknowledge that any discussion that I have had or may have with Planning Department staff about conditions of approval are preliminary only, and are not final, nor are they the specific conditions required to gain approval of the application, unless the conditions are part of the Director's final written determination.
- (Nonconforming Use Certificate Applicants) The list of names, mailing addresses, and tax map keys of all owners and lessees of record of all lots of which any portion is within three hundred (300) feet of any point along the perimeter boundary of the STVR property, is, to the best of my knowledge, a complete and accurate "record of all said owners and lessees."

**SHORT-TERM VACATION RENTAL STANDARDS**

**Maximum Number of Guests.** The maximum number of guests temporarily residing within an STVR at any one time shall be consistent with the definition of "Family" under Hawai'i County Code (HCC) Chapter 25.

**Owner/Reachable Person Responsibilities.** The Owner or Reachable Person shall:

- (1) Reside in the County of Hawai'i;
- (2) Be reachable by guests, neighbors, and County agencies on a twenty-four (24) hour, seven (7) days-per-week basis;

*Short-Term Vacation Rental Affidavit of Compliance*

- (3) Be able to respond via telephone to a request from a guest, neighbor or County agency within one (1) hour of receiving that request and by physically present at the STVR within three (3) hours of receiving a call from a guest, neighbor or County agency, when that guest, neighbor, or County agency requests the presence of the reachable person;
- (4) Ensure that activities taking place within the STVR conform to the character of the existing neighborhood in which the rental is located;
- (5) Notify the Department within five (5) days of a change in the owner or reachable person's contact information; and
- (6) Notify the Department within thirty (30) days, should the STVR permanently cease operations for any reason.

**Advertising.** All print and internet advertising of STVRs, including listings with a rental service or real estate firm, shall include the STVR Registration Number. The Nonconforming Use Certificate Number shall also be included, if one has been issued.

**Guest Parking.** All guest parking for STVRs shall be off-street and shall meet the requirements set forth in HCC Sections 25-4-50 through 25-4-54 and applicable parking standards in HCC Chapter 25. If there is any doubt as to the requirements for off-street parking for an STVR, the Director shall determine the required number of parking spaces.

**Signage.** Any commercial signage that advertises an STVR shall comply with the requirements of HCC Section 22-2.6 and HCC Chapter 3.

**Display Requirements.** All STVRs shall display the following documents in compliance with the provisions below:

- (1) The STVR Registration Certificate, and the Reachable Person's name and phone number, shall be displayed on the back of the front door of all sleeping quarters.
- (2) **Good Neighbor Policy.** At a minimum, the following shall be prominently displayed within the dwelling unit and recited in the rental agreement signed by the tenant:
  - (a) Quiet hours shall be from 9:00 p.m. to 8:00 a.m., during which time the noise from the STVR shall not unreasonably disturb adjacent neighbors.
  - (b) Sound that is audible beyond the property boundaries during non-quiet hours shall not be more excessive than would be otherwise associated with a residential area.
  - (c) Guest vehicles shall be parked in the designated parking area.
  - (d) The STVR shall not be used for commercial purposes.
- (3) Current Nonconforming Use Certificates shall be displayed in a conspicuous place on the STVR's premises that is readily visible to an inspector. In the event that a single address is associated with numerous Nonconforming Use Certificates, a listing of all units at that address holding current certificates may be displayed in a conspicuous, readily visible common area instead.

*Short-Term Vacation Rental Affidavit of Compliance*

STVR TMK: (3) 3-8-3-006-009-0000-000

  
Landowner Signature / Authorized Applicant

Hugh Wilson  
Printed Name of Landowner/Authorized Applicant

9/24/19  
Date

\_\_\_\_\_  
Landowner Signature / Authorized Applicant

\_\_\_\_\_  
Printed Name of Landowner/Authorized Applicant

\_\_\_\_\_  
Date

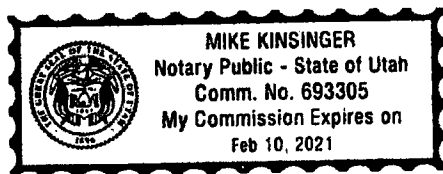
**Exhibit 6**

**Page 15 of 29**

Short-Term Vacation Rental Affidavit of Compliance

STATE OF ~~HAWAII~~ <sup>Utah</sup> )  
 ) SS.  
COUNTY OF ~~HAWAII~~ <sup>Summit</sup> )

On this 24<sup>th</sup> day of September, 2019, before me personally appeared Hugh Wilson to me known to be the person(s) described in and who executed the foregoing instrument, and acknowledged that he/she executed the same as his/her free act and deed.



A handwritten signature in dark ink, appearing to read "Mike Kinsinger", written over a horizontal line.

Notary Public, State of ~~Hawaii~~ <sup>Utah</sup>  
\_\_\_\_ Judicial Circuit

My Commission Expires: 2/10/2021

NOTARY CERTIFICATION

Doc. Date: _____	No. of Pages: _____
Notary Name: _____	_____
Doc. Description: _____	Circuit: _____
_____	_____
_____	_____
Notary Signature _____	Date _____



## Transient Accommodations (TA-1)

Welcome, HUGH WILSON

Settings

Log Off

Home Transient Accommodations (TA-1)

Department of Taxation About Hawaii Tax Online Frequently Asked Questions Video Tutorials Contact Us

Account	Account Alerts	I Want To
KE'EI BEACH, LLC **...7548  Transient Accommodations (TA-1) Monthly TA-004-918-5792-01  Balance: (\$6,505.82)	File Form for Aug-31-2019 File Form for Jul-31-2019 File Form for Jun-30-2019 File Form for May-31-2019 There are 6 more alerts	Manage Payments and Returns  Submit a Refund Tracer Request

Recent Periods Submissions Correspondence Names and Addresses Locations

Recent Periods					View Periods
Aug-31-2019	Monthly	(\$481.52)	Not Filed	File Return	
Jul-31-2019	Monthly	(\$1,071.67)	Not Filed	File Return	
Jun-30-2019	Monthly	(\$935.42)	Not Filed	File Return	
May-31-2019	Monthly	(\$468.03)	Not Filed	File Return	
Apr-30-2019	Monthly	(\$798.79)	Not Filed	File Return	
Mar-31-2019	Monthly	(\$882.72)	Not Filed	File Return	
Feb-28-2019	Monthly	(\$812.20)	Not Filed	File Return	
Jan-31-2019	Monthly	(\$1,055.47)	Not Filed	File Return	
Dec-31-2018	Monthly	\$0.00	No Longer Required	File Return	
Nov-30-2018	Monthly	\$0.00	No Longer Required	File Return	
Oct-31-2018	Monthly	\$0.00	No Longer Required	File Return	
Sep-30-2018	Monthly	\$0.00	No Longer Required	File Return	

## Don't see your return or payment?

- Payment history can be viewed by clicking on the **Submissions** tab and then clicking **View Submissions**. Once the return is processed, the payment will be reported in the Credit column.
- For returns filed through the old website, (dotax.ehawaii.gov) please expect a 2-3 business day delay before the filing can be viewed on Hawaii Tax Online.
- For paper returns, it may take as long as 16 weeks before the filing can be viewed on Hawaii Tax Online.

Warning: This session will timeout after 15 minutes of inactivity.

**Exhibit 6****Page 17 of 29**

# 11

830060360000 KAMEHAMEHA SCHOOLS	B P BISHOP ESTATE	895 KAUHIULA RD
830060200000 B P BISHOP ESTATE TTEES	KAMEHAMEHA SCHOOLS	PO BOX 3466
830060200000 CABANILA, IMELDA V		PO BOX 686
830060200000 KAMEHAMEHA SCHOOLS	B P BISHOP ESTATE	895 KAUHIULA RD
830060210000 B P BISHOP ESTATE TTEES	KAMEHAMEHA SCHOOLS	PO BOX 3466
830060210000 DECASA GABRIEL ETAL		PO BOX 434
830060210000 KAMEHAMEHA SCHOOLS	B P BISHOP ESTATE	895 KAUHIULA RD
830060220000 B P BISHOP ESTATE TTEES	KAMEHAMEHA SCHOOLS	PO BOX 3466
830060220000 PANGANIBAN, ANASTACIO S	C/O FELICIDAD ABAY-ABAY	PO BOX 270
830060220000 KAMEHAMEHA SCHOOLS	B P BISHOP ESTATE	895 KAUHIULA RD
830060230000 B P BISHOP ESTATE TTEES	KAMEHAMEHA SCHOOLS	PO BOX 3466
830060230000 HAWKINS, REGINALD M/KATHLEEN		PO BOX 1442
830060230000 KAMEHAMEHA SCHOOLS	B P BISHOP ESTATE	895 KAUHIULA RD
830060250000 B P BISHOP ESTATE TTEES	KAMEHAMEHA SCHOOLS	PO BOX 3466
830060250000 KAMEHAMEHA SCHOOLS	B P BISHOP ESTATE	895 KAUHIULA RD
830060270000 B P BISHOP ESTATE TTEES	KAMEHAMEHA SCHOOLS	PO BOX 3466
830060270000 KAMEHAMEHA SCHOOLS	B P BISHOP ESTATE	895 KAUHIULA RD
830060280000 B P BISHOP ESTATE TTEES	KAMEHAMEHA SCHOOLS	PO BOX 3466
830060280000 KAMEHAMEHA SCHOOLS	B P BISHOP ESTATE	895 KAUHIULA RD
830060290000 B P BISHOP ESTATE TTEES	KAMEHAMEHA SCHOOLS	PO BOX 3466
830060290000 KAMEHAMEHA SCHOOLS	B P BISHOP ESTATE	895 KAUHIULA RD
830060060000 TWIGG-SMITH, DESMOND J TR	C/O TWIGG-SMITH, DESMOND J/USEN L TRS	77-6261 MAMALAHOA HWY
830050200000 B P BISHOP ESTATE TTEES	KAMEHAMEHA SCHOOLS	PO BOX 3466
830050200000 SUNSET COFFEE MILLING CO IN		
830050200000 KAMEHAMEHA SCHOOLS	B P BISHOP ESTATE	895 KAUHIULA RD
830060180000 KOSEDA, CHARLES C K		PO BOX 48
830060010000 MAKENA KAILI ESTATE		
830060010000 KAY, REBECCA		PO BOX 584
830060010000 RICHARD, ANDREW KAWAIIHOA		PO BOX 2445
830060340000 B P BISHOP ESTATE TTEES	KAMEHAMEHA SCHOOLS	PO BOX 3466
830060340000 KAMEHAMEHA SCHOOLS	B P BISHOP ESTATE	895 KAUHIULA RD

830060190000 SCHOMER,KARINE		
830060190000 KAMEHAMEHA SCHOOLS	B P BISHOP ESTATE	895 KAUHIULA RD
830060040000 RUTMAN,SERGE		17100 COUGAR ROCK RD
830060040000 CHERWINSKI,HOLLY		
830060150000 PALEMANO PROPERTIES		PO BOX 489
830060160000 MITCHELL,JOHN V		PO BOX 1139
830060160000 MITCHELL,JAMES E TR		PO BOX 648
830060090000 WILSON,JAMES MILES HUGH		PO BOX 2844
830060090000 KE'EI BEACH LLC		
830060090000 RICHARDS,ELIZABETH A		
830060090000 RICHARDS, HUBERT F EST		
830060100000 STATE OF HAWAII		
830060020000 ESTATE OF BERNICE PAUAAHI BISHOP	ATTN: MARCY FLEMING, TRANSACTION MGR	567 S KING ST STE 200
830060020000 KAMEHAMEHA SCHOOLS	B P BISHOP ESTATE	895 KAUHIULA RD
840110060000 B P BISHOP ESTATE	KAMEHAMEHA SCHOOLS	PO BOX 3466
840110060000 KAMEHAMEHA SCHOOLS	B P BISHOP ESTATE	895 KAUHIULA RD
830060300000 B P BISHOP ESTATE TTEES	KAMEHAMEHA SCHOOLS	PO BOX 3466
830060300000 KAMEHAMEHA SCHOOLS	B P BISHOP ESTATE	895 KAUHIULA RD
830060310000 B P BISHOP ESTATE TTEES	KAMEHAMEHA SCHOOLS	PO BOX 3466
830060310000 ANDRADE NALEEN		60 N BERETANIA ST APT 1102
830060310000 KAMEHAMEHA SCHOOLS	B P BISHOP ESTATE	895 KAUHIULA RD
830060320000 B P BISHOP ESTATE TTEES	KAMEHAMEHA SCHOOLS	PO BOX 3466
830060320000 BISSON BEVERLY		835 KAINUI PL
830060320000 KAMEHAMEHA SCHOOLS	B P BISHOP ESTATE	895 KAUHIULA RD
830060330000 B P BISHOP ESTATE TTEES	KAMEHAMEHA SCHOOLS	PO BOX 3466
830060330000 PUOU,WILLIAM III/LAVAINA		PO BOX 504
830060330000 KAMEHAMEHA SCHOOLS	B P BISHOP ESTATE	895 KAUHIULA RD
830060350000 B P BISHOP ESTATE TTEES	KAMEHAMEHA SCHOOLS	PO BOX 3466
830060350000 KAMEHAMEHA SCHOOLS	B P BISHOP ESTATE	895 KAUHIULA RD
830060360000 B P BISHOP ESTATE TTEES	KAMEHAMEHA SCHOOLS	PO BOX 3466
830060360000 HALAPIAPI TUPOU		83-5535 OLD GOV'T RD

**Exhibit 6**

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830060080000 COUPE,C & J FAMILY LTD PARTNERSHIP		
830050010000 B P BISHOP ESTATE TTEES	ATTN: KAMEHAMEHA SCHOOLS	PO BOX 87
830050010000 BUNDRANT,CHARLES H		567 S KING STREET #200
830050010000 BUNDRANT,DIANE		17802 VISTA DEL MAR DR
830050010000 KAMEHAMEHA SCHOOLS	B P BISHOP ESTATE	895 KAUIHULA RD
830050150000 PU'U HUE RANCH LLC		PO BOX 57
830050160000 BUNDRANT,CHARLES H/DIANE L TR		17802 VISTA DEL MAR DR
830050170000 DUPUIS,FAMILY TRST		871 DOVER CIR
830050180000 CUCEK,JOAN CLAIRE TRST		155 JACKSON ST APT 2404
830050180000 TRIPLETT,FAMILY 1999 TRST		83-566 KEAWAIKI RD
830060130000 AU HOY,FANNY K C TR		73-1275 ONAONA DR
830060130000 COLLINS,GEORGIANNA P		
830060130000 MASAGATANI,ERNESTA H C		
830060130000 DAVID HAILI ESTATE		
830060130000 KALELE,JOANNA U TR		
830060130000 COLLINS,VIOLET L		
830060130000 STANT,GAYLORD M/SHEREE		2807 MANHATTAN BEACH BLVD
830060140000 MAKEANA KAILI ESTATE	ATTN: REBECCA KAY	PO BOX 584
830060050000 TWIGG-SMITH,DESMOND J TR		77-6261 MAMALAHOA HWY
830060170000 KUKUA,MARION N		74-5061 MAMALAHOA HWY APT A
830060170000 KUKUA,ROBERT L		
830060170000 AMOGUIS,BERNADETTE MOMILANI		PO BOX 1340
830060170000 AWA,JACQUELINE		
830060170000 KUKUA,CHERISE L		
830060170000 KUKUA,RVAN A		
830060170000 FUJIMOTO,MARJORIE		81-1030 KEOPUKA HEIGHTS RD
830060170000 FUJIMOTO,SHANE C K		
830060170000 YOUNG,LEN H		PO BOX 96
830060170000 YOUNG,NOLAN K		
830060170000 MANWARRING,TARA LEI A V	PO BOX 96	
830060190000 B P BISHOP ESTATE TTEES	KAMEHAMEHA SCHOOLS	PO BOX 3466

ParcelId	OwnerName	OwnerAddress1	OwnerAddress2
830060110000	KIHE, VERA LEHUANANI		PO BOX 1933
830060120000	KALAKEALOAH, MRS M	C/O KEALOHA, KALA M, ETAL	PO BOX 538
830060380000	GRACE, LUI PANUI	C/O ALICE M. PETERSON	PO BOX 571
830060390000	KAWAIHOA, BRUCE W		PO BOX 461
830060390000	WEASLER, AMY EILEEN		648 S GILPIN ST
840110050000	B P BISHOP ESTATE		PO BOX 3466
840110050000	BASQUE, JOHN		PO BOX 959
830060370000	LINCOLN, HEIRS OF JANE K H		
830060370000	KEAWE, HEIRS OF ROSE H		
830060370000	FLORES, HEIRS OF ANNIE H		
830060370000	KAUHINU, HEIRS OF LUCY K H		
830060370000	NIELSEN, BETTY N		
830060370000	KANOEAU, ESMINIA		
830060370000	AILA, PANSY K		
830060370000	MEISNER, MANON		
830040070000	B P BISHOP ESTATE		
830040070000	KAMEHAMEHA SCHOOLS		
830040090000	B P BISHOP ESTATE		
830040090000	KAMEHAMEHA SCHOOLS		
830040110000	B P BISHOP ESTATE TTEES		
830040110000	COUNTY OF HAWAII		
830040110000	KAMEHAMEHA SCHOOLS		
830040010000	B P BISHOP ESTATE		
830040010000	KAMEHAMEHA SCHOOLS		
830040020000	B P BISHOP ESTATE		
830040020000	KAMEHAMEHA SCHOOLS		
830040040000	B P BISHOP ESTATE TTEES		
830040040000	KAMEHAMEHA SCHOOLS		
830040050000	B P BISHOP ESTATE TTEES		
830040050000	KAMEHAMEHA SCHOOLS		
830060070000	KALAMA-PANUI, JOYCE N		

**Exhibit 6**

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HILO HI 96720 2164  
HONOLULU HI 96801 3466  
CAPTAIN COOK HI 96704 0686  
HILO HI 96720 2164  
HONOLULU HI 96801 3466  
KEALAKEKUA HI 96750 0434  
HILO HI 96720 2164  
HONOLULU HI 96801 3466  
CAPTAIN COOK HI 96704 0270  
HILO HI 96720 2164  
HONOLULU HI 96801 3466  
KEALAKEKUA HI 96750 0000  
HILO HI 96720 2164  
HONOLULU HI 96801 3466  
HILO HI 96720 2164  
HONOLULU HI 96801 3466  
HILO HI 96720 2164  
HONOLULU HI 96801 3466  
HILO HI 96720 2164  
HONOLULU HI 96801 3466  
HOUALOA HI 96725  
HONOLULU HI 96801 3466  
HILO HI 96720 2164  
KEALAKEKUA HI 96750 0048  
CAPTAIN COOK HI 96704 0584  
KEALAKEKUA HI 96750 2445  
HONOLULU HI 96801 3466  
HILO HI 96720 2164

**Exhibit 6**

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HILO HI 96720 2164  
BOULDER CREEK CA 95006 8824

CAPTAIN COOK HI 96704 0489  
CAPTAIN COOK HI 96704 0000  
KEALAKEKUA HI 96750 0000  
PARK CITY UT 84060 2844

HONOLULU HI 96813 3079  
HILO HI 96720 2164  
HONOLULU HI 96801 3466  
HILO HI 96720 2164  
HONOLULU HI 96801 3466  
HILO HI 96720 2164  
HONOLULU HI 96801 3466  
HONOLULU HI 96817 4756  
HILO HI 96720 2164  
HONOLULU HI 96801 3466  
KAILUA HI 96734 1979  
HILO HI 96720 2164  
HONOLULU HI 96801 3466  
HONAUHOU HI 96726 0000  
HILO HI 96720 2164  
HONOLULU HI 96801 3466  
HILO HI 96720 2164  
HONOLULU HI 96801 3466  
CAPTAIN COOK HI 96704 0000

**Exhibit 6**

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KEALAKEKUA HI 96750  
HONOLULU HI 96813  
EDMONDS WA 98026 5330

HILO HI 96720 2164  
HAWAII NATIONAL PARK HI 96718 0057  
EDMONDS WA 98026 5330  
BENICIA CA 94510 3651  
SAN FRANCISCO CA 94111 1942  
CAPTAIN COOK HI 96704 8252  
KAILUA KONA HI 96740 9180

GARDENA CA 90249 4533  
CAPTAIN COOK HI 96704  
HOLUALOA HI 96725 0000  
HOLUALOA HI 96725 8625

KEALAKEKUA HI 96750

KEALAKEKUA HI 96750 8124

HONAUNAU HI 96726 0096

HONAUNAU HI 96726  
HONOLULU HI 96801 3466

**Exhibit 6**

**Page 24 of 29**

#12

**NONCONFORMING USE CERTIFICATE (NUC) APPLICATION:  
FIRST NOTIFICATION TO SURROUNDING PROPERTY OWNERS/LESSEES**

---

Today's Date: September 5, 20 19

Dear Surrounding Property Owner,

In accordance with Hawai'i County regulations, we are sending this notification letter to you because your property is within three hundred (300) feet of a proposed Short-Term Vacation Rental (STVR). Under Planning Department regulations, an applicant who wishes to apply for a Nonconforming Use Certificate (NUC) to operate a STVR must notify property owners and lessees within three hundred (300) feet of any point along the perimeter boundary of the property upon which a NUC is sought.

**This is only a notification to you as a surrounding property owner and does not require a response.**

Under Planning Department guidelines, applicants must distribute this FIRST Notification Letter to surrounding property owners and lessees BEFORE a NUC Application is submitted to the Department. We will submit a NUC Application for the subject property to the Planning Department on September 27, 2019 at the Department's Kona \_\_\_\_\_ location.

(specify Hilo or Kona)

**STVR INFORMATION**

Applicant(s) Name: Ke'ei Beach, LLC

Proposed STVR Street Address: 83-677 Ke'ei Beach Road, Captain Cook, HI 96704

TMK: (3) 3-8-3-006-009-0000-000

Number of bedrooms being rented: 2 Maximum number of guests permitted: 4

Number and location of off-street parking spaces: 3 parking spaces located on-site

Should you wish to offer comments on this application, you may submit your written comments to the Planning Department's Hilo or Kona office, or by email. Please include the applicant's name in the subject line of your correspondence. Thank you!

All applications are public information once submitted and may be viewed at the Planning Department during regular business hours from 7:45am – 4:30pm.

**EAST HAWAI'I (HILO):**  
County of Hawai'i Planning Department  
101 Pauahi Street, Suite 3  
Hilo, Hawai'i, 96720  
Email:

**WEST HAWAI'I (KONA):**  
County of Hawai'i Planning Department  
74-5044 Ane Keohokālole Highway, Building E  
Kailua-Kona, Hawai'i 96740

**Exhibit 6**

**Page 25 of 29**

**FIRST NOTIFICATION LETTER**

#13

SHORT TERM VACATION RENTAL APPLICATION AFFIDAVIT OF MAILING FIRST NOTICE

This is to acknowledge that Hugh Wilson, as Member- Manager of Ke'ei Beach LLC, landowner/ authorized applicant of the existing STVR property located at 83-677 Ke'ei Beach Road, Captain Cook, HI (tax map key 3-8-3-006-009-0000-000), CERTIFY, SWEAR, AND AFFIRM THAT:

- On or before September 17, 2019, I mailed a copy of the enclosed NONCONFORMING USE CERTIFICATE (NUC) APPLICATION: FIRST NOTIFICATION TO SURROUNDING PROPERTY OWNERS/ LESSEES to the required surrounding landowners (a list of which is attached herein).

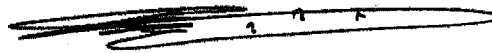
Sworn and Attested to on this 24 day of September 2019 by:



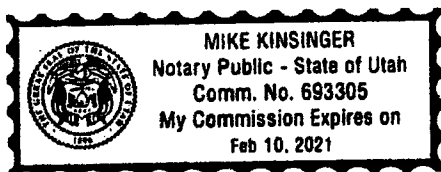
Hugh Wilson, as Member Manager of Ke'ei Beach, LLC

STATE OF UTAH:  
COUNTY OF SUMMIT:

On this 24<sup>th</sup> day of September 2019, before me personally appeared Hugh C Wilson, known to be the person described in and who executed the foregoing instrument, acknowledged that he executed the same as his free act and deed.



Notary Public, State of Utah



**Exhibit 6**

**Page 26 of 29**

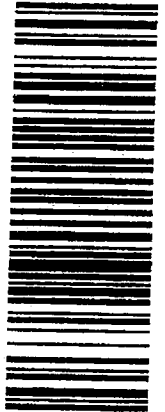
PLANNING DEPARTMENT  
COUNTY OF HAWAII

2019 OCT -7 AM 10:42

FROM:

Ke'i Beach, LLC  
PO Box 2844  
Park City, UT 84060

7013 2530 0000 1890 4569



CERTIFIED MAIL<sup>SM</sup>

TO:

County of Hawaii Planning D  
74-5044 Ave Keohokale Hwy, 3  
Kailua-Kona, HI 96740

Exhibit 6

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96740

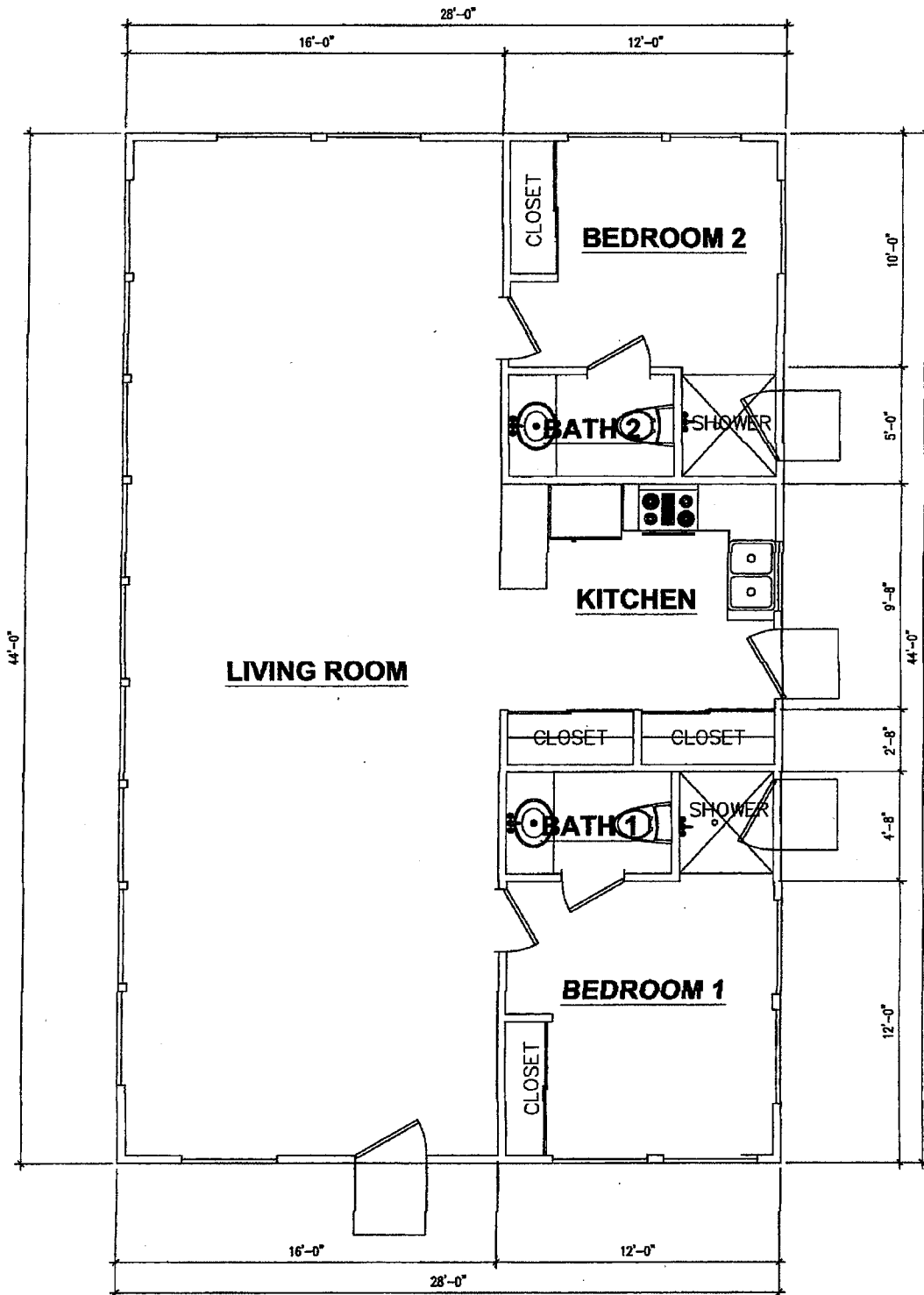


U.S. POSTAGE PAID  
FCM LG ENV  
PARK CITY, UT  
96060  
SEP 25, 19  
AMOUNT  
**\$5.40**  
R2305E123833-88





#8



**FLOOR PLAN**

1/4"=1'-0"

**Exhibit 6**

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# DCCA State of Hawaii

Downloaded on October 15, 2019.

The information provided below is not a certification of good standing and does not constitute any other certification by the State.

Website URL: <http://hbe.ehawaii.gov/documents>

## Business Information

MASTER NAME	KE'EI BEACH, LLC DBA KUPUNA AINA
BUSINESS TYPE	Foreign Limited Liability Company (LLC)
FILE NUMBER	168502 C6
STATUS	Active
PLACE INCORPORATED	Utah UNITED STATES
REGISTRATION DATE	Jan 25, 2017
MAILING ADDRESS	2370 GILT EDGE CIR PO BOX 2844 PARK CITY, Utah 84060 UNITED STATES
PARTNER TERMS	SHALL CONTINUE UNTIL DISSOLVED OR TERMINATED
MANAGED BY	MEMBER(S)
AGENT NAME	STEFANIE WILSON
AGENT ADDRESS	83-677 KE'EI BEACH RD CAPTAIN COOK, Hawaii 96704 UNITED STATES

## Annual Filings

FILING YEAR	DATE RECEIVED	STATUS
2019	Jan 13, 2019	Processed
2018	Feb 20, 2018	Processed

## Officers

NAME	OFFICE	DATE
WILSON, FREDERICK A	MEM	Jan 25, 2017
WILSON, FREDERICK A	MEM	Jan 25, 2017

## Trade Names

NAME	TYPE	CATEGORY	REGISTRATION DATE	STATUS
KUPUNA AINA	Trade Name	NO CATEGORY SELECTED	Jan 25, 2017	Active



State of Hawaii  
**Hawaii Tax Online**

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[Department of Taxation](#)   [About Hawaii Tax Online](#)   [Frequently Asked Questions](#)   [Video Tutorials](#)

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Use the fields to search for your Hawaii Tax license(s) and status(es).

Customer ID (new format)

Customer ID (W#)

Taxpayer Name

DBA Name

Search

### Search Tax Licenses

Filter

New Account ID	Name	Address	Old Account ID	Account Type	Business Start	Business End	Status
GE-004-918-5792-01	KE'EI BEACH, LLC	PO BOX 2844 PARK CITY UT 84060-2844		General Excise / Use	Jan-01-2017		Open
TA-004-918-5792-01	KE'EI BEACH, LLC	PO BOX 2844 PARK CITY UT 84060-2844		Transient Accommodations	Feb-01-2017		Open

2 Rows

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### Search Tax Licenses

Use the fields to search for your Hawaii Tax license(s) and status(es).

Customer ID (new format)

Customer ID (V#)

Taxpayer Name

DBA Name

### Search Tax Licenses

New Account ID	Name	Address	Old Account ID	Account Type	Business Start	Business End	Status
GE-004-918-5792-01	KE'EI BEACH, LLC KUPUNA 'AINA	83-677 KE'EI BEACH RD CAPTAIN COOK HI 96704		General Excise / Use	Jan-01-2017		Open
TA-004-918-5792-01	KE'EI BEACH, LLC KUPUNA 'AINA	83-677 KE'EI BEACH RD CAPTAIN COOK HI 96704		Transient Accommodations	Feb-01-2017		Open

2 Rows

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Colette Tavares



## Colette Tavares

Realtor at Reba-Mae Silva Realty LLC

Kailua Kona, Hawaii · 29 connections

[Join to Connect](#)

Reba-Mae Silva Realty LLC

## Experience

### Realtor

Reba-Mae Silva Realty LLC

Apr 2006 – Present · 13 years 8 months

Kailua-Kona, HI

## Education



Leeward Community College

Associate's Degree

1984 – 1988

**Exhibit 7**

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Colette Tavares

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- ✓ Contact Colette Tavares directly

[Join to view full profile](#)

## People also viewed



**Craig Tanaka**

Director of Security at Makena Golf & Beach Club

**KATHLEEN MORGADO**

Real Estate Broker at K REALTY, LLC

**Wilbert Castro**

Realtor Associate



**Mihana Souza**

Realtor Associate at Locations LLC

**Mary Souza**

Real Estate Agent at Savio Realty Ltd



**Marylu Surratt**

Real Estate Agent at Elite Pacific Properties



**Lida Morgado**

Office Manager at Real Geeks LLC



**joseph teixeira-tavares**

Commercial Real Estate Professional

**Kathleen Morgado**

Principal Broker, Owner



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Colette Tavares

**Colette Tavares**

Real Estate Sales Associate at KW Kauai  
Hawaiian Islands

**Colette Tavares**

Real Estate Agent at Reba-Mae Silva Realty, LLC  
Hawaiian Islands

**Colette Tavares**

Realtor  
Hawaiian Islands

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**CONSERVATION DISTRICT VIOLATION PENALTIES SCHEDULE  
GUIDELINES AND ASSESSMENT OF DAMAGES TO PUBLIC LAND OR  
NATURAL RESOURCES**

**September 2009**

*Relating to penalties for violations within the Conservation District*

*Act 217*

**Exhibit 8**

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## **1 INTRODUCTION**

Hawaii Revised Statutes (HRS) §183C-7 was amended on July 7, 2008 to increase the maximum penalty for a Conservation District violation to up to \$15,000 per violation, in addition to administrative costs, costs associated with land or habitat restoration, and damages to public land or natural resources, or any combination thereof.

This document, *Conservation District Violation Penalties Schedule Guidelines and Assessment of Damages to Public Land and Natural Resources* is intended to provide the Office of Conservation and Coastal Lands (OCCL) with a framework to systematically carry out its enforcement powers, in the determination and adjudication of civil and administrative penalties. These guidelines are to be used for internal staff guidance, and should be periodically reviewed to determine their effectiveness, and whether refinements are needed. These guidelines are consistent with HAR §13-1, Subchapter 7, Civil Resource Violation System (CRVS).

## **2 CONSERVATION DISTRICT VIOLATION PENALTIES SCHEDULE GUIDELINES**

The charging and collecting of penalties is an enforcement tool that may be used to ensure future compliance by the responsible party and others similarly situated. The penalty amount(s) shall be enough to ensure immediate compliance with HAR §13-5 and HRS §183C, and cessation of illegal activities. Penalties will be assessed for each action committed by an individual(s) that conducts an unauthorized land use and that impairs or destroys natural resources protected under Chapter §183C, HRS.

The Staff will treat each case individually when assigning conservation district penalties using the following framework, and additional considerations and factors for upward or downward adjustments. The staff of the OCCL (Staff) will use these penalty schedule guidelines to issue violation notices and to make recommendations to the Board of Land

and Natural Resources (Board), Chairperson of the Board of Land and Natural Resources (Chairperson), or Presiding Officer, whom may ultimately adjudicate the Conservation District penalties. These guidelines presume that all cases in which a violation has occurred, the Chairperson, Board, or Presiding Officer may also assess administrative costs, damages to public land or natural resources, and costs associated with land or habitat restoration.

## **2.1 PENALTY CALCULATION**

The penalty range for these actions will be substantially determined based on the type of permit that would have been required if the individual(s) had applied to the Department of Land and Natural Resources (Department) or Board for pre-authorization to conduct the identified use, under Hawaii Administrative Rules (HAR) §13-5-22, 23, 24, 25. Assessing the penalties according to the Conservation District permit type accounts for the level of review or scrutiny the unauthorized use would have received by the Department or Board in order to avoid damage to the natural resource. This graduated permit review framework corresponds to the level of actual or potential “harm to the resource”<sup>1</sup> caused by the violation.

Once the baseline for the penalty range has been established according the required permit, the penalty may be adjusted appropriately upward or downward according to the “harm to resource” caused or potentially caused by the violator’s action and additional considerations and factors (See 2.1.4),<sup>2</sup> within the assigned penalty range. Where Staff was unable to associate the unauthorized use with a typical land use identified in HAR §13-5, Staff may try to associate the action with the most similar identified land use in HAR §13-5, or according to the “harm to the resource” caused by the violation. Table 1

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<sup>1</sup> “Harm to resource” is an actual or potential impact, whether direct or indirect, short or long term, impact on a natural, cultural or social resource, which is expected to occur as a result of unauthorized acts of construction, shoreline alteration, or landscape alteration (See Appendix B: Definitions) *Adapted from Florida Department of Environmental Protection 2000 Administrative Fines and Damage Liability, Ch. 62B-54.*

<sup>2</sup> Penalty amounts may be adjusted up or down, based on additional considerations, such as the actual extent of the direct damages, significance of any offsite indirect impacts, environmental record of the violator, responsiveness of violator, etc. (See 2.1.4 Additional Considerations and Factors).

was created to demonstrate the penalty ranges for the type of required permit and “harm to resource” (See 2.1.1 or Appendix A).

The first two of the following sections explain the identified and non-identified land use framework. The next four sections: Tree Removal, Additional Considerations and Factors, Continuing Violations and Permit Non-Compliance, and In-Kind Penalties, provide guidance for the upward or downward adjustment of penalties based on the initial framework discussed in Section 2.1.1, Identified land use penalties.

### **2.1.1 Identified Land Use Penalties**

The violation penalty range associated with each required permit will be assessed in accordance with the following harm to resource indices in this graduated framework.

**Table 1. Penalty Guideline Framework**

<b>Harm to resource or potential for harm to resource</b>	<b>Identified land use permit beginning with the letter</b>	<b>Penalty Range</b>
Major	D (Board)	\$10,000-\$15,000
Moderate	C (Departmental)	\$2,000-\$10,000
Minor	B (Site Plan)	\$1,000-\$2,000
Very Minor	(B) (Site Plan)	Up to \$1,000

#### **Major Harm to the Resource/ Board Permit (D)**

Violations identified with the required permit prefix (D) may incur a penalty in the range of \$10,000 - \$15,000 as a Board permit would have been required to minimize the possibility of causing “major harm to the resource.” Examples of “major harm(s) to the resource” may include actions that cause substantial adverse impact to existing natural resources within the surrounding area, community, ecosystem or region, or damage to the existing physical and environmental aspects of the land, such as natural beauty and open space characteristics. Such actions may include, but are not limited to, unauthorized single-family residences or unauthorized structures, grading or alteration of topographic features, aquaculture, major marine construction or dredging, unauthorized shoreline structures, major projects of any kind, mining and extraction, etc.



### **Moderate Harm to the Resource/Departmental Permit (C)**

Violations identified with the required permit prefix (C) may incur a penalty in the range of \$2,000-\$10,000, as a Departmental permit would have been required, due to the possibility of causing “moderate harm to the resource.” Examples of “moderate harm(s) to the resource” may be adverse impacts that degrade water resources, degrade native ecosystems and habitats, and/or alter the structure or function of a terrestrial, littoral or marine ecosystem. Such actions may include, but are not limited to, unauthorized landscaping causing ground disturbance, unauthorized alteration, renovation or demolition of existing structures or facilities, such as buildings and shoreline structures, maintenance dredging, agriculture, and animal husbandry, etc.

### **Minor Harm to the Resource/Site Plan Approval (B) Permit**

Violations identified with the required permit prefix (B) may incur penalties as a site plan approval would have been required to assure that “minor harm(s) to the resource” are minimized. “Minor harm(s) to the resource” may incur a penalty of \$1,000-\$2,000 and could be actions causing limited to short-term direct impacts including, but not limited to, small-scaled construction, construction of accessory structures, installation of temporary or minor shoreline activities or similar uses.

### **Very Minor Harm to the Resource/(B) Permit**

In instances in which a permit with the B prefix should have been sought but are considered to have only caused “very minor harm(s) to resource” a penalty of up to \$1,000 may be incurred. These “very minor harm(s) to the resource” could be actions in which the impact on the water resource or terrestrial, littoral or marine ecosystem was temporary or insignificant, and was not of a substantial nature either individually or cumulatively.

#### **2.1.2 Non- Identified Land Use Penalties**

Violations in which an unauthorized use is not identified in HAR §13-5-22, 23, 24, 25, Staff may try to associate the action with the most similar identified land use in HAR

§13-5 or according to the “harm to the resource” caused by the violation. Refer to the above section, *Identified Land Use Penalties*, for the most similar required permit prefix. To categorize the violation as a “harm to resource” when no similar use is identified in HAR §13-5, Staff will refer to Table 1 and the definitions of the four violation types of “harm to resource” (See Appendix B: Definitions).

### **2.1.3 Tree Removal**

Violation penalties for the removal of any federal or state listed threatened, endangered, or commercially valuable tree may incur a fine of up to \$15,000 per tree. Removal of any native tree may incur a fine of up to \$1,000 per tree. The removal of any invasive tree shall be considered as removal/clearing of vegetation.

The Board, Department, or Presiding Officer also has the option of considering the removal of more than one tree as a single violation, similar to the removal/clearing of vegetation.<sup>3</sup> If violation is considered as one violation, a fine amount of up to \$15,000 may be incurred, utilizing the guidelines for Major, Moderate, Minor, and Very Minor outlined in this schedule. However, the removal of any federally or state listed threatened or endangered tree shall be considered on a one violation per tree basis, with a maximum penalty of up to \$15,000 per tree.

### **2.1.4 Vegetation Removal/Vegetation Clearing**

Past Staff recommendations and Board decisions have treated some cases of tree or removal as one citation of vegetation clearing/vegetation removal, this practice may be continued in violations resulting in minor or very minor harm to the resource. In accordance with the identified land uses within HAR §13-5 the assessment of vegetation removal has been based on a single citation of removal/clearing determined by the square footage of vegetation removed (See Table 3 Vegetation Removal). However, the

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<sup>3</sup> While Staff and Board decisions in MA-01-09, OA-05-40 and HA-06-08 have treated the removal of non-native, invasive, or noxious trees as one citation of “clearing” with mandatory remediation plans.

Department may see fit to assess the removal/clearing of threatened, endangered, or commercially valuable plants similar to the modified tree removal framework and may be penalized on an individual plant basis of up to \$15,000 per plant.

**Table 3. Vegetation Removal**

Action	Comparable Harm to Resource	Penalty Range
Removal of more than 10,000 sq. ft.	Major	\$10,000-\$15,000
Removal of Vegetation or of 2,000-10,000 sq. ft of vegetation	Moderate	\$2,000-\$10,000
Removal of less than 2,000 sq. ft. vegetation	Minor	\$1,000-\$2,000
Clearing of Invasive or noxious vegetation	Very Minor	Up to \$1,000 <sup>4</sup>

Note: The clearing of threatened, endangered or commercially valuable plants will be addressed on a case-by-case basis, but depending on the importance of the species may incur a penalty of up to \$15,000 per plant. According to Table 2, the clearing of vegetation may incur a penalty of up to \$1/ sq.ft., as clearing 10,000 sq.ft. Staff could assess a penalty of \$10,000.

### **2.1.5 Additional Considerations and Factors**

After Staff applies the Conservation District violation graduated penalty framework to identify the violation penalty range (1, 2, and 3 found above), the Staff may incorporate several considerations into the final assessed conservation district penalty including but not limited to, those factors identified in HAR §13-1-70 Administrative Sanctions Schedule; Factors to be Considered.

### **2.1.6 Continuing Violations and Permit Non-Compliance**

Each day during which a party continues to work or otherwise continues to violate conservation district laws, and after the Department has informed the violator of the offense by verbal or written notification, the party may be penalized up to \$15,000 per day (penalties for every day illegal actions continue) by the Department for each separate offense.

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<sup>4</sup> Provided the harm to the resource and offsite damage were minimal.

Violation of existing approved Conservation District Use Permit (CDUP) conditions will be assessed on a case-by-case basis. Existing permit violations, in which deadlines are not met, may be individually assessed by the Staff as to prior violator conduct, knowledge, and compliance. Violation of permit conditions involving initiation and/or completion of project construction, notification of start and completion dates, failure to file legal documents, etc., may be considered very minor within the existing framework, although it should be noted that such actions may result in permit revocation. Failure to perform proper cultural, archeological, or environmental impact studies or failure to implement proper best management practices as identified in the standard permit conditions may be assessed more severely by Staff, as a moderate or major harm to the resource, due to the potential of greater adverse impacts to natural resources from the violator's failure to comply with the permit conditions, may have occurred.

#### **2.1.7 In-Kind Penalties**

Once the penalty amount has been established through the framework above, the Department may determine that the full payment or some portion of the penalty may be paid as an in-kind penalty project.<sup>5</sup> This would not serve as a way to avoid payment but as a way to reduce the cash amount owed while allowing the Department to consistently enforce its rules. The in-kind penalty project is not designed to credit the violator for restoration or remediation efforts that may be already required, but to offset a portion of the cash penalty assessed. The in-kind penalty should be enough to ensure future compliance with HAR §13-5 and HRS §183C, by the violator and to deter other potential violators from non-compliance.

In-kind penalties will only be considered if (1) the responsible party is a government entity, such as a federal agency, state agency, county agency, city agency, university, or school board, or if (2) the responsible party is a private party proposing an environmental

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<sup>5</sup> In-Kind Penalty framework has been adapted from Florida Department of Environmental Protection. 2007. Program Directive 923, Settlement guidelines for civil and administrative penalties.

restoration, enhancement, information, or education project. In-kind penalties are limited to the following specific options:

- a. **Material and/or labor support for environmental enhancement or restoration projects.** The Department will give preference to in-kind projects benefiting proposed government-sponsored environmental projects. For shoreline violations, this may include state beach nourishment projects and dune restoration projects.
- b. **Environmental Information and Environmental Education projects.** Any information or education project proposed must demonstrate how the information or education project will directly enhance the Department's, and preferably the OCCL's, mission to protect and conserve Hawaii's Conservation District Lands.
- c. **Capital or Facility improvements.** Any capital or facility improvement project proposed must demonstrate how the improvement will directly enhance the Department's and/or public's use, access, or ecological value of the conservation property.
- d. **Property.** A responsible party may propose to donate land to the department as an in-kind penalty. Donations will be handled by the Department's Legacy Lands program or similar program.

### 2.1.8 Penalty Adjudication

Violation penalties may be adjudicated similarly to the harm to resource indices in the penalty guideline framework.

Comparable Harm to Resource	Identified Land Use Permit	Penalty Adjudication and Penalty Range
Major	\$10,000-\$15,000	Board
Moderate	\$2,000-\$10,000	Board
Minor	\$1,000-\$2,000	Chairperson or Presiding Officer
Very Minor	up to \$1,000	Chairperson or Presiding Officer

#### Major and Moderate Harm to the Resource

The Board may adjudicate penalties to violations categorized as causing or potentially causing major or moderate harm(s) to the resource. The Board may also adjudicate cases in which repeat violations, repeat violators, or egregious behavior were involved, or moderate to significant actual harm to the resource occurred. The Board may also adjudicate the payment of part or all, of the penalty as part of an In-kind penalty.

#### Minor and Very Minor Harm to the Resource

The Board may delegate to the Chairperson or a Presiding Officer the power to render a final decision in minor and very minor conservation district violations in order to provide expeditious processing and cost effective resolution. The Chairperson or appointed Presiding Officer may adjudicate penalties to minor and very minor violations characterized by inadvertent or unintentional violations and those violations which caused minor or very minor harm to the resource.

### **3 ASSESSMENT OF DAMAGES TO PUBLIC LAND OR NATURAL RESOURCES**

Penalties to recoup damages to public lands or natural resources for the purposes of enforcement and remediation may be assessed in addition to Conservation District violation penalties assessed by the aforementioned guidelines. The assessed total value of the initial and interim natural resource(s) damaged or lost (compensatory damages) and the cost of restoration or replacement of the damaged natural resource(s) (primary restoration cost) along with any other appropriate factors, including those named in HAR §13-1-70, may be adjudicated by the Board. The total value may be estimated on a per annum basis, and then may be used to calculate the net present value of the initial and interim loss of natural resource benefits, until the ecosystem structure, function, and/or services are restored.

The cost of a full-scale damage assessment by the Department would be an administrative cost, which could be recouped by the Board from the landowner or offender pursuant §HRS 183C-7. In some cases, the damage to public lands or natural resources may occur on more than one ecosystem or habitat type, (e.g., sandy beaches, seagrass beds, and coral reefs). In such instances, damages for all impacted systems will be handled cumulatively.

Since all the ecosystem services provided by the ecosystem in question cannot be quantified (e.g., the aesthetic value), the values obtained are lower bound estimates, and may be applied to systems similar to the referenced ecosystem using the benefit transfer method. These valuations, to account for the loss of ecosystem services and the cost to restore them, may be applied to Hawaiian ecosystems on public lands: such as Koa and Ohia forests, coral reefs, seagrass beds, wetlands, dune and beach ecosystems, and other important Hawaiian ecosystems.

While each case is unique and individual in nature, the Department may not be able to conduct detailed damage assessments in each case, and may refer to past precedent,

economic ecosystem valuations, and other published environmental valuations to estimate and assess damages on smaller scales (for valuations and publication examples see Appendix C: References and Appendix D: Damages Examples). Using the benefit transfer method to apply past precedents and published valuations in some situations would allow the Department to focus its administrative duties and time on remediation and restoration efforts. However, as ecological valuation and research continue, more comprehensive estimates may be produced and utilized.

The Board may allow restoration activities and damage penalties to be conducted and/or applied to a site different from the location of the damaged area where similar physical, biological and /or cultural functions exist. These assessed damages are independent of other, city, county, state and federal regulatory decisions and adjudications. Thus, the monetary remedies provided in HRS §183C-7 are cumulative and in addition to any other remedies allowed by law.

### **3.1 PRIMARY RESTORATION DAMAGES**

The cost of land or habitat restoration or replacement, the cost of site monitoring, and site management may be assessed and charged as primary restoration damages. Restoration efforts will aim to return the damaged ecosystem to a similar ecological structure and function that existed prior to the violation. In cases in which the damaged ecosystem was predominately composed of non-native species, restoration efforts must re-vegetate Conservation District land and public lands with non-invasive species, preferably native and endemic species when possible. The use of native and endemic species may thus result in the restoration of ecological structure and function critical for the survival of endemic Hawaiian species.

Returning the damaged and or severely degraded site to a condition similar to or better than its previous ecological structure and function (e.g., a terrestrial system such as a Koa (*Acacia koa*) forest) would include: (1) calculating the level of ecosystem services to be restored from carbon sequestration, climate regulation, nutrient cycling, air and water purification, erosion control, plant and/or wildlife habitat, and any other services which



may be valued; (2) purchase, production and out-planting of Koa seedlings; and (3) monitoring, maintenance, and management for the time period of mature growth of ~40-60 years, to achieve mature canopy structure, native under-story, and an acceptable level of lost ecosystem structure, function and/or services restored.

### **3.2 COMPENSATORY DAMAGE CALCULATION**

Compensatory damages to public lands or natural resources may be assessed and charged to the violator to compensate for ecosystem damage and lost initial and interim ecosystem services to the public. All Divisions of the Department may coordinate their resources and efforts along with existing ecosystem valuations and publications (See Appendix C and D for examples) to derive the estimated total value of the natural resource damaged until the ecosystem structure, function, and services are estimated to be recovered.

The total value of the natural resource that is lost or damaged may include the initial and interim values of the ecosystem services provided by the natural resource or habitat, and the social-economic value of the degraded site, until the ecosystem structure, function, and/or services are restored. Assessing the damages to the resource could include: estimating the loss of ecosystem services of carbon sequestration, climate regulation, nutrient cycling, plant and/or wildlife habitat, biodiversity, air and water purification, erosion control, coastal protection, the loss of benefits to tourism, fisheries, society, cultural inspiration and practices, and any other services which may be valued.

These natural resource damages may be assessed using economic valuation techniques to estimate the total value(s) of the natural resource(s) damaged on a per area basis, including: total ecosystem service value, total annual benefits, the market value of the natural resource, or any other factor deemed appropriate. The total value of the present and interim natural resource damage may be estimated by calculating the net present value of these lost benefits, values and services. The net present value may be calculated using a discount rate to scale the present and future costs to the public, of the interim losses of ecosystem services over the restoration time. The restoration time may be

estimated as the number of years for the damaged natural resource or ecosystem to reach maturity and/or the ecosystem structure and function to be restored similar to the pre-violation state. The discount of future losses and accrued benefits may be used in the valuation of mitigation efforts performed by the violator. For example the restoration conducted immediately after damage occurred may be calculated to have a higher present benefit worth than the benefit of restoration activities undertaken a year or two later.

In other instances, a habitat equivalency analysis (HEA) or a resource equivalency analysis (REA) may be used to scale equivalent habitat or wildlife losses for estimating both ecosystem damage penalties and restoration efforts.

### 3.3 ADJUDICATION OF DAMAGES

The adjudication of primary restoration damages and compensatory damages will be adjudicated by the Board due to the complexity of the assessment process and to assure proper checks and balances, including adequate public notice and a public hearing.

In addition to the damages and penalty violations assessed, the Department is allowed to recoup all administrative costs associated with the alleged violation pursuant to HRS §183C-7(b). All penalties assessed will be in compliance with HRS §183C-7(c) and will not prohibit any person from exercising native Hawaiian gathering rights or traditional cultural practices.

## APPENDIX A: GUIDELINE FRAMEWORK TABLES

**Table 1. Penalty Guideline Framework**

<u>Harm to resource or potential for harm to resource</u>	<u>Identified land use permit beginning with the letter</u>	<u>Penalty Range</u>
Major	D (Board)	\$10,000-\$15,000
Moderate	C (Departmental)	\$2,000-\$10,000
Minor	B (Site Plan)	\$1,000-\$2,000
Very Minor	(B) (Site Plan)	Up to \$1,000

**Table 2. Vegetation Removal**

<b>Action</b>	<b>Comparable Harm to Resource</b>	<b>Penalty Range</b>
Removal of more than 10,000 sq. ft.	Major	\$10,000-\$15,000
Removal of Vegetation or of 2,000-10,000 sq. ft of vegetation	Moderate	\$2,000-\$10,000
Removal of less than 2,000 sq. ft. vegetation	Minor	\$1,000-\$2,000
Clearing of Invasive or noxious vegetation	Very Minor	Up to \$1,000 <sup>6</sup>

Note: According to Table 2, the clearing of vegetation may incur a penalty of up to \$1/ sq.ft., as clearing 10,000 sq.ft. Staff could assess a penalty of \$10,000. The clearing of threatened, endangered or commercially valuable plants, will be addressed on a case-by-case basis, but depending on the importance of the species may incur a penalty of up to \$15,000 per plant.

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## APPENDIX B: DEFINITIONS

### **Definitions:**

- (1) “Baseline” means the original level of services provided by the damaged resource.
- (2) “Benefit Transfer Method” estimates economic values by transferring existing benefit estimates from studies already completed for another location or issue.<sup>7</sup>
- (3) “Board” means the Board of Land and Natural Resources.
- (4) “Board Permit” means a permit approved by the Board of Land and Natural Resources.
- (5) “Chairperson” means the chairperson of the board of land and natural resources
- (6) “Civil Resource Violations System” or “CRVS” means a system of administrative law proceedings as authorized under chapter 199D, HRS, and further prescribed in Subchapter 7, 13-1, HAR, for the purpose of processing civil resource violations.
- (7) “Compensatory Damages” means damages for compensation for the interim loss of ecosystem services to the public prior to full recovery.
- (8) “Contested Case” means a proceeding in which the legal rights, duties, or privileges of specific parties are required by law to be determined after an opportunity for an agency hearing.
- (9) “Department” means the Department of Land and Natural Resources.
- (10) “Departmental Permit” means a permit approved by the Chairperson.
- (11) “Discounting” means an economic procedure that weights past and future benefits or costs such that they are comparable with present benefits and costs.
- (12) “Ecosystem Services” means natural resources and ecosystem processes, which may be valued according to their benefits to humankind.

*For example: carbon sequestration, climate regulation, nutrient cycling, plant and/or wildlife habitat, biodiversity, air and water purification, erosion control, coastal protection, the loss of benefits to tourism,*

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<sup>7</sup> Ecosystem Valuations [http://www.ecosystemvaluation.org/benefit\\_transfer.htm](http://www.ecosystemvaluation.org/benefit_transfer.htm)

*recreation, scientific discovery, fisheries, society, cultural inspiration and practices, and any other services which may be valued.*

(13) “Grossly negligent” violation means conscious and voluntary acts or omissions characterized by the failure to perform a manifest duty in reckless disregard of the consequences.<sup>8</sup>

(14) “Harm to resource” means an actual or potential impact, whether direct or indirect, short or long term, acting on a natural, cultural or social resource, which is expected to occur as a result of unauthorized acts of construction, shoreline alteration, or landscape alteration as is defined as follows:

(a) “Major Harm to resource” means a significant adverse impact(s), which can cause substantial adverse impact to existing natural resources within the surrounding area, community or region, or damage the existing physical and environmental aspects of the land, such as natural beauty and open space characteristics

(b) “Moderate Harm to Resource” means an adverse impact(s), which can degrade water resources, degrade native ecosystems and habitats, and/or reduce the structure or function of a terrestrial, littoral or marine system (but not to the extent of those previously defined as those in (a)).

(c) “Minor Harm to Resource” means limited to short-term direct impacts from small scaled construction or shoreline or vegetation alteration activities.

(d) “Very Minor Harm to Resource” means an action in which the impact on the water resource or terrestrial, littoral or marine ecosystem was insignificant, and was not of a substantial nature either individually or cumulatively.

*For example, “major harm to the resource(s)” would be associated with a major land use violation that would have likely required a Board Permit, such as building a house, while a “minor harm to the resource(s)” may be*

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<sup>8</sup> Definition adapted from Florida Department of Environmental Protection. 2000 Administrative Fines and Damage Liability, Ch. 62B-54.

*associated with minor land uses requiring an administrative Site Plan Approval, for building a small accessory structure.*

- (15) "Knowing" violation means an act or omission done with awareness of the nature of the conduct.
- (16) "Net Present Value" means the total present value (PV) of a time series of cash flows.
- (17) "OCCL Administrator" means the Administrator of the Office of Conservation and Coastal Lands.
- (18) "Party" means each person or agency named or admitted as a party.
- (19) "Person" means an appropriate individuals, partnership, corporation, association, or public or private organization of any character other than agencies.
- (20) "Presiding Officer" means the person conducting the hearing, which shall be the chairperson, or the chairperson's designated representative.
- (21) "Primary Restoration Damages" means the costs to restore the damaged site to its prior baseline state.
- (22) "Site Plan" means a plan drawn to scale, showing the actual dimensions and shape of the property, the size and locations on the property of existing and proposed structures and open areas including vegetation and landscaping.
- (23) "Willful violation" means an act or omission which is voluntary, intentional and with the specific intent to do something the law forbids, or fail to do something the law requires to be done.

## APPENDIX C: REFERENCES

Cesar, H., van Beukering, P., Pintz, S., Dierking J. 2002. Economic valuation of the coral reefs of Hawaii. NOAA Final Report NA 160A1449.

Conservation International. 2008. Economic Values of Coral Reefs, Mangroves, and Seagrasses: A global Compilation. Center for Applied Biodiversity Science, Conservation International, Arlington VA, USA.

Costanza, R. and Farley J. 2007. Ecological economics of coastal disasters: Introduction to the special issue. Ecological Economics 63 p. 249-253.

Costanza, R., d'Arge, R., de Groot, R., Farber, S., Grasso, M., Hannon, B., Limburg, K., Naeem, S., O'Neill, R.V., Paruelo, J., Raskin, R.G., Sutton, P., van den Belt, M. 1997. The Value of the World's Ecosystem Services and Natural Capital. Nature 387 p. 253-260.

Florida Department of Environmental Protection. Damage Costs in Seagrass Habitats. [http://www.dep.state.fl.us/coastal/habitats/seagrass/awareness/damage\\_costs.htm](http://www.dep.state.fl.us/coastal/habitats/seagrass/awareness/damage_costs.htm)

Florida Department of Environmental Protection. 2000 Administrative Fines and Damage Liability, Ch. 62B-54. <http://www.dep.state.fl.us/legal/Rules/beach/62b-54.doc>

Florida Department of Environmental Protection. 2007. Program Directive 923, Settlement guidelines for civil and administrative penalties. [www.dep.state.fl.us/admin/depdirs/pdf/923.pdf](http://www.dep.state.fl.us/admin/depdirs/pdf/923.pdf)

Florida Department of Environmental Protection. 2000. Rules and procedures for application for coastal construction permits. Ch. 62B-41. <http://www.dep.state.fl.us/beaches/publications/pdf/62b-41.pdf>

NOAA Coastal Services Center. Habitat Equivalency Analysis.

[www.csc.noaa.gov/coastal/economics/habitatequ.htm](http://www.csc.noaa.gov/coastal/economics/habitatequ.htm)

Maine Land-Use Regulation Commission. 2007. 2008 Workshop Draft Comprehensive Land Use Plan; for areas within the jurisdiction.

[http://www.maine.gov/doc/lurc/reference/cluprev/CLUP\\_PWDraft\\_pg5.shtml](http://www.maine.gov/doc/lurc/reference/cluprev/CLUP_PWDraft_pg5.shtml)



## **APPENDIX D: DAMAGES EXAMPLES**

### **Examples of Damage Assessments and Possible Remediation Efforts**

The following are only brief past estimates used in Hawaii and other states; they are by no means comprehensive or limiting. These are intended to be examples for possible assessments and remediation efforts not as templates. As previously stated each case will be handled individually to account for unique ecological, economic and cultural impacts. The following are organized by habitat type.

#### **Coral**

##### Florida Department of Environmental Protection (Civil Damages):

The DEP can impose fines of up to \$1,000/m<sup>2</sup> of reef damaged and is dependent on the absence of extenuating circumstances such as weather conditions, disregard of safe boating practices, navigational error, whether the vessel operator was under the influence of drugs or alcohol etc.

##### Cesar et al 2002 (Ecosystem Service Valuation)

Cesar et al. used a Simple Coral Reef Ecological Economic Model (SCREEM) to assess Hawaiian coral reefs based on the annual benefits of the coral reefs to recreation/tourism, property amenities, biodiversity, fisheries and education. The annual benefits and total economic value could then be expressed on a 'per area' basis. This study found the total annual benefits of the coral reefs of Hanauma Bay to be \$37.57 million (\$2,568/m<sup>2</sup>), of the coral reefs in Kihei to be \$28.09 million (\$65/m<sup>2</sup>) and the coral reefs on the Kona coast to be \$17.68 million (\$19/m<sup>2</sup>).

##### Pilaa enforcement (KA-02-10) (Primary Restoration Cost)

Damage to Coral reef ecosystems was assessed for restoration activities according to Florida guidelines, as \$5,830,000 for 5,380 m<sup>2</sup> of coral reef damage. This calculation

was similar to the estimated cost of remediation efforts \$390,000 to clean 5,000 yd<sup>3</sup> of beach sand. However between 30,000-50,000 yd<sup>3</sup> was estimated to be impacted, totaling \$2,300,000-\$3,900,000. While cleaning the sediment from the reef was estimated to cost approximately \$845,000 (for the 13 acres, or \$65,000 for 10m<sup>2</sup>). This totaled between \$3,100,000 and \$4,700,000, and did not include coral colony re-establishment. An additional \$630,000 was estimated for the 10-year monitoring period, (however studies by Cesar et al. 2003 estimated a 25 year period for recovery of ecological impacts).

*Thus damage to corals may be calculated as follows:*

# Number of square meters of coral damaged  
X Multiplied by \$1,000 (or estimated value of coral on per/area basis)  
(#m<sup>2</sup> x \$1000)

Plus the estimated net present value of ecosystem services lost until recovery. (This may be more if damage to an area such as Hanauma Bay with increased recreational economic revenue.)

- +Plus cost of Remediation
- +Plus Cost of cleaning sediment from reef
- +Plus Cost of cleaning sediment/mud from beach sand
- +Plus Cost of coral reestablishment
- +Plus Cost of Monitoring
- +Plus Cost of Management

#### **Seagrass beds (Compensatory Damage)**

The Florida DEP fines offenders \$100/yd<sup>2</sup> of damage to seagrass beds for the first yd<sup>2</sup> damaged and \$75/yd<sup>2</sup> per each additional yd<sup>2</sup> damaged.

- \$100 for the first yard damaged
- +\$75 per each additional yard
- or net present total value of ecosystem services lost until recovery
- +vegetation planting
- +monitoring

### **Sand Beaches (ex. Of Primary Restoration Costs)**

Minimum penalty cost of restoration and potential negative ecological, social and environmental impacts should be included in the assessment of damaged, degraded or lost sandy beaches. As one of Hawaii's greatest natural resources the following should be included in the minimum penalty assessment, however, as ecological valuation and research continue, more comprehensive estimates may be produced. In KA-02-10 Pilaa, \$390,000 fine was estimated to clean 5,000 yd<sup>3</sup> of beach.

- +Cost of lost revenue due to altered Beach resources (compensatory)
- +primary restoration costs
- +Plus cost of cleaning of sediment/mud from beach area (if necessary)
- +Plus cost of beach nourishment (sand replacement)
- +Plus cost of native dune vegetation

(In some circumstances the loss of beach resources may be assessed in conjunction with other ecological impacts listed above, such as coral reefs and sea grass beds.)

## APPENDIX E: PENALTY CALCULATION WORKSHEET

Violator's Name(s): \_\_\_\_\_

TMK: \_\_\_\_\_

OCCL Staff Member: \_\_\_\_\_

Date: \_\_\_\_\_

### Part 1- Penalties

	Violation Type	Permit Prefix (D,C, B)	Harm to Resource (actual & potential)	Tree or Vegetation Status	Penalty Range	Adjustments (Mark Adj. Choice #1-8)	Multi-day (# days)	Total
1								
2								
3								
4								
5								
6								
7								
8								
9								
10								

Penalty Total: \_\_\_\_\_

**Penalty Adjustments and Descriptions (please attach additional adjustments and descriptions, including but not limited to those listed in §13-1-70)**

1. Actual environmental damage extent (onsite)

Description: \_\_\_\_\_  
\_\_\_\_\_

2. Actual environmental damage extent (offsite)

Description: \_\_\_\_\_  
\_\_\_\_\_

3. Does the violator's have a history of violations?

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4. Was the violation repetitious or of a long duration?

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5. Was the violator Responsive and exhibit a level of cooperation of with the Department and/or Staff?

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6. Does the Violator have a Financial Hardship?

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7. Did the violator receive Economic or commercial gain through non-compliance?

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8. Other.

Description: \_\_\_\_\_

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Total Adjustment: up/down \_\_\_\_\_

Multi-day penalties

Number of days to multiply penalty: \_\_\_\_\_

Reasoning: \_\_\_\_\_

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Total multi-day: \_\_\_\_\_