

**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 20-21 Regarding an Alleged Unauthorized Residence and Use of a Single Family Residence as a Transient Rental Located in the Conservation District

LANDOWNER: Ms. Sheri Parish-Hamilton

LOCATION: 84-5607 Ke Ala O Keawe Road, Honaunau Beach Lots, South Kona, Hawai'i

TAX MAP KEY: (3) 8-4-013:016

PARCEL SIZE: 0.200-acres

SUBZONE: Limited

DESCRIPTION OF AREA:

The subject parcel is located at 84-5607 Ke Ala O Keawe Road in the Honaunau Beach Lots of South Kona on the Western side of the island of Hawai'i and is further identified as Tax Map Key (TMK) (3) 8-4-013:016. The parcel is located within the Limited Subzone of the State Land Use Conservation District (**see Exhibit 1**). The property is in close proximity to the Pu'uho'oua O Hōnaunau National Historical Park and Two-Step Beach in Honaunau Bay off the City of Refuge Road (**see Exhibit 2**). The Honaunau area is of great historical and cultural significance due to important historical residential and ceremonial sites nearby which includes the Park as well as being once known as a farming and fishing village. Fishing practices continue today with a boat ramp located off Honaunau Beach Road as well as other ocean recreational activities such as snorkeling.

In more recent years, the Honaunau Beach Lots have become a small quiet beach community in a rural coastal area of South Kona. A single-family residence (SFR) is located to the North of Ms. Parish-Hamilton's parcel directly across Honaunau Beach Road. Parcels owned by Kamehameha Schools border Ms. Parish-Hamilton's property to the East, South, and West. The parcel owned by Kamehameha Schools with TMK: (3) 8-4-013:018 is the site of its Honaunau Preschool.

ALLEGED UNAUTHORIZED LAND USES

Background/History:

On March 28th, 2005, Ms. Parish-Hamilton wrote to the Department of Land and Natural Resources (DLNR) and OCCL requesting review of an attached "Site Plan" for the purposes of rebuilding and reconstructing an existing structure with 3,057 sq. ft of improvements (see **Exhibit 3**). Ms. Parish-Hamilton stated in her letter that the proposed new structure would be substantially similar to the parcel's existing structure, occupy a similar building footprint, and would conform to current building codes and setbacks. She noted that the existing home was approximately 36 ft. by 36 ft. with a 20 ft. by 20 ft. garage. Existing structure was built in the setback area on southside. There is an existing cesspool; and utilities water and electricity. There is an existing 20 ft. by 30 ft. concrete deck. Vegetation includes several tall coconut trees (about 8) that we trim to upkeep (coconuts); banyan tree; hibiscus; pikake; and plumeria and mock orange plants. Ms. Parish-Hamilton also attached a photo of the existing structure on the parcel to her letter (see **page 2 & 3 of Exhibit 3**).

OCCL staff responded to Ms. Parish-Hamilton's request with Correspondence Letter HA-05-198 on April 26th, 2005 (see **Exhibit 4**). In this correspondence letter, OCCL staff noted that the subject property was in the Limited Subzone and that Ms. Parish-Hamilton's proposed rebuilding and reconstruction activities could not be authorized since the structure and proposed SFR was not in a floodplain or coastal high hazard area pursuant to Hawai'i Administrative Rules (HAR) §13-5-23 L-6 SINGLE FAMILY RESIDENCE *a single family residence in a floodplain or coastal high hazard area that conforms to applicable county regulations regarding the National Flood Insurance Program and Single Family Residence residential standards as outlined in this chapter*. OCCL staff provided Ms. Parish-Hamilton with the possibility of obtaining approval to construct a SFR pursuant to HAR §13-5-31 (f) regarding use of the land as kuleana.

On November 7th, 2005, Ms. Parish-Hamilton again wrote OCCL a letter reiterating her intentions to rebuild and reconstruct the structure on the subject property (see **Exhibit 5**). She attached a copy of the 1938 Deed showing that the property belonged to her family (see **Pages 3 to 6 of Exhibit 5**).

OCCL staff responded to this letter on December 6th, 2005 with Correspondence Letter HA 06-101 (see **Exhibit 6**). This letter restated that Ms. Parish-Hamilton needed to provide evidence that the property was a kuleana parcel and that the property had retained its original metes and bounds and had historically and customarily been utilized as a SFR pursuant to HAR §13-5-22, P-3 Kuleana Land Uses, HAR §13-5-37 Nonconforming uses, and HAR §13-5-31 Permit Applications (f) the burden of proving that a parcel of land is a kuleana rests with the applicant. OCCL staff further instructed Ms. Parish-Hamilton that should she be able to submit evidence as outlined in HAR §13-5-31 (f), then she may file a Conservation District Use Application (CDUA) to apply for her proposed use. OCCL staff also presented her with the option of petitioning the State Land Use Commission to remove the parcel out of the Conservation District and have it placed in another State Land Use District.

Ms. Parish-Hamilton responded to HA 06-101 on February 23rd, 2006, with a letter explaining that the parcel was a kuleana parcel that had retained its original metes and bounds and had historically been utilized as a SFR (see **Exhibit 7**). She attached a letter from DLNR – Land

Division addressed to Jason Muranaka (her stated cousin, dated August 1st, 1997) regarding Land Commission Award #9769B and Royal Patent No. 3735 as evidence that the subject property was a kuleana parcel that had retained its original metes and bounds and had historically been utilized as a SFR (see pages 5 to 7 of Exhibit 7).

OCCL staff followed Ms. Parish-Hamilton's letter with Correspondence Letter HA 06-191 on March 9th, 2006 which stated that her proposed land use was an identified land use in the Conservation District pursuant to HAR §13-5-22, P-3 Kuleana Land Uses, (D-1) and could be applied for (see Exhibit 8). The letter also stated that authorization for Ms. Parish-Hamilton's proposed land use would be at the discretion of the Board of Land and Natural Resources and therefore would require filing for a Board Permit. A copy of a CDUA as well as HAR §13-5 was attached to HA 06-191.

Present:

On October 15th, 2019, the County of Hawai'i's Department of Planning contacted OCCL regarding Ms. Parish-Hamilton's application to register her property and its associated SFR with a Short-Term Vacation Rental and Nonconforming Use Certificate. The Department of Planning was concerned that the parcel was in the Conservation District and was concerned over the lack of evidence that the SFR was built with a Conservation District Use Permit (CDUP). OCCL staff began investigating the matter and could not find any records within OCCL for permitting any land uses on the subject property. OCCL staff were able to obtain a Field Book report from the County of Hawai'i dated 11/14/76 for Ms. Parish-Hamilton's property that shows the parcel had a structure on it that was approximately 369 sq. ft (see page 4 of Exhibit 9). Additionally, it appeared to OCCL staff that Ms. Parish-Hamilton carried out her proposed rebuild and reconstruction of the parcel's structure without authorization or approval based on satellite imagery reviewed on Google Earth. The rebuild and reconstruction occurred sometime between January of 2007 and January of 2010 subsequent to the numerous correspondences between her and OCCL (see Exhibit 10). OCCL relayed this information to the Department of Planning as well as confirmation that Ms. Parish-Hamilton's property was in the Conservation District.

On October 17th, 2019, the Department of Planning issued Ms. Parish-Hamilton a letter noting that her alleged transient rental was prohibited in the Conservation District and that the Department of Planning was returning her application (see Exhibit 11). Ms. Parish-Hamilton's Short-Term Vacation Rental and Nonconforming Use Application were then forwarded to OCCL.

After having reviewed Ms. Parish-Hamilton's Short-Term Vacation Rental and Nonconforming Use Application, OCCL noted that Ms. Parish-Hamilton provided copies of her Transient Accommodation Tax (TAT) Certificate of Registration (12/30/2017) and her General Excise Tax (GET) License (11/30/2017) with documentation that she paid her GET in 2018 (see pages 7 to 13 of Exhibit 12). In her application, Ms. Parish-Hamilton claims that the current structure on her property is 846 sq. ft (see page 21 of Exhibit 12). Additionally, OCCL staff found her property on Google Maps named as "Hale Maka I'o" as a place of "Lodging" using the property's street address (see Exhibit 13). Further research revealed the website

2stepbeachhouse.com for the residence “Hale Maka I’o” (see **Exhibit 14**). The website indicated that the rate per night was \$275 from March 1st to November 1st and \$350 per night from November 1st to February 29th with a 3-night minimum and discounts over plus a General Excise Tax/Transient Accommodation Tax/Clean Fee of \$125 as well as a refundable \$200 Security Damage Deposit (see **page 4 of Exhibit 14**). The website 2stepbeachhouse.com shows that Sheri P. Parish Hamilton is the contact person for “Hale Maka I’o”. Based on Ms. Parish-Hamilton’s alleged Short-Term Vacation Rental and Nonconforming Use Application and the website 2stepbeachhouse.com, OCCL issued Ms. Parish-Hamilton a Notice Of Alleged Violation & Order letter for the alleged unauthorized land use and “major alterations” to the existing structure as well as the use of the property and alleged unauthorized SFR as a transient rental in the Conservation District on October 25th, 2019 (see **Exhibit 15**).

On November 4th, 2019, the DLNR received a letter from Ms. Parish-Hamilton after she had her Short-Term Vacation Rental and Nonconforming Use Application materials returned to her from the County of Hawai’i (see **Exhibit 16**). In this letter, Ms. Parish-Hamilton acknowledges that she has been using the property and associated SFR for transient rental purposes and that this use is prohibited by HAR §13-5. She also indicates in her letter that she has been operating the transient rental since 2017. In this letter, Ms. Parish-Hamilton requests that DLNR and the Board of Land and Natural Resources approve her unauthorized and prohibited uses on the property through the “grandfathering” of her transient rental.

Staff notes that the 2stepbeachhouse.com website has been removed in accordance with the Notice Of Alleged Violation & Order; however, the “Hale Maka I’o” listing on Google Maps still shows the property as a place of lodging with a phone number at the time of writing this submittal.

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.

Pursuant to HAR §13-5-7 NONCONFORMING USES AND STRUCTURES (a) *this chapter shall not prohibit the continuance, or repair and maintenance, of nonconforming land uses and structures as defined in this chapter.*

- (b) *Any land identified as a kuleana may be put to those uses which were historically, customarily, and actually found on the particular lot including, if applicable, a single family residence.*
- (c) *The repair of structures shall be subject to development standards set forth in this chapter, and other requirements as applicable, including but not limited to a county building permit, shoreline setback, and shoreline certification.*

- (d) If a nonconforming structure is damaged or destroyed by any means (including voluntary demolition) to an extent of more than fifty per cent of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this chapter, except as provided under section 13-5-22 (P-8).*
- (e) Repairs or maintenance of a nonconforming structure shall not exceed the size, height, or density of the structure which existed on October 1, 1964 or at the time of its inclusion into the conservation district.*
- (f) The burden of proof to establish that the land use or structure is legally nonconforming shall be on the applicant.*

Pursuant to Exhibit #4 SINGLE FAMILY RESIDENTIAL STANDARDS of HAR §13-5 states that the minimum setback for lots under one acre are 15 feet for the front, sides, and back, and for lots up to 14,000 sq. ft, the maximum developable area is 25 per cent of total lot area.

Pursuant to HAR §13-5-6 PENALTY (a) *any person, firm, government agency, or corporation violating any of the provisions of this chapter or permits issued pursuant thereto shall be punished as provided in chapter 183 C, HRS, and (d) no land use(s) shall be conducted in the conservation district unless a permit is first obtained from the department or board.*

Major Alteration is defined in §13-5-2 (2) as *work done to an existing structure, facility, or use that results in more than fifty per cent increase in the size of the structure, facility, or use.*

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.*

The 1976 Field Book Report describes the pre-existing structure as approximately 369 sq. ft. Based on measurements and estimations obtained from Google Earth, the unauthorized single-family residence that is currently on the property is approximately 2,408 sq. ft. The setbacks for a parcel that is 0.200-acres (8,712 sq. ft) are 15 ft on all sides which are not the setbacks currently on the property (**see page 21 of Exhibit 12**). As indicated in Ms. Parish-Hamilton's Short-Term Vacation Rental Registration/Nonconforming Use Certificate application, the south setback is 8 ft. In addition to the construction of the unauthorized single-family residence in the Conservation District, the property and dwelling appear to have been used by Ms. Parish-Hamilton for transient rental and commercial purposes based on her Short-Term Vacation Rental Registration/Nonconforming Use Certificate application and the 2stepbeachhouse.com website. These actions are in direct violation of HAR §13-5.

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 (see **Exhibit 17**). After written or verbal notification from the department, willful violation of this chapter or any rule adopted in accordance with this chapter may incur an 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 construction of a SFR and its use 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* provides an enforcement framework for unauthorized land uses conducted in the Conservation District that are 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, §13-5-12, the objective of the Limited Subzone is to limit uses where natural conditions suggest constraints on human activities. There was no opportunity for the necessary environmental or historical review for the proposed use in these sensitive environments. Additionally, the use of the property and associated unauthorized SFR for transient rental purposes intensifies human activities as well as the uses and stresses. Transient rentals are not consistent with neither the intentions of Hawai'i's residential neighborhoods nor the character of traditional Hawaiian fishing villages or rural residential areas such as Honaunau and 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 Limited Subzone and are therefore strictly prohibited in these areas.

FINDINGS

The unauthorized construction of a single-family residence as well as the use of the subject property and single-family residence for transient rental and commercial purposes are in violation of Chapter 183C, HRS and Title 13-5, HAR. Based upon our investigation, OCCL finds that:

1. The location of the unauthorized land uses and transient rental, Tax Map Key: (3) 8-4-013:016, is in the State Land Use Conservation District *Limited* Subzone;
2. The unauthorized single-family residence that was constructed on the property does not conform to the design standards set forth in HAR §13-5;

3. The unauthorized single-family residence has been used as a transient rental.

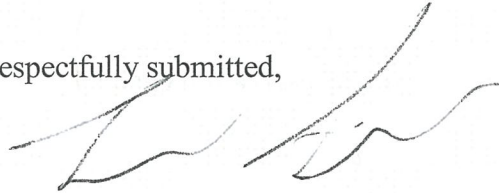
AS SUCH, STAFF RECOMMENDS AS FOLLOWS:

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

1. That the landowner is fined \$15,000.00 in one instance for violating the provisions of HRS §183C-7 and HAR §13-5 for the unauthorized construction of a single-family residence without prior approval in the Conservation District;
2. That the landowner is fined \$15,000.00 in one instance for violating the provisions of HRS §183C-7, HAR §13-5, and Exhibit #4 SINGLE FAMILY RESIDENTIAL STANDARDS for building an unauthorized single-family residence that does not conform to the setback standards set forth in these chapters;
3. That the landowner is fined \$15,000.00 in one instance for violating the provisions of HRS §183C-7 and HAR §13-5-42 for the use of the subject property and unauthorized single-family residence as a transient rental which is a non-identified and prohibited land use within the Conservation District;
4. That the landowner is fined an additional \$2,000 for administrative costs associated with the subject violations;
5. That the landowner shall pay all designated fines and administrative costs (\$47,000.00) within one hundred eighty (180) days from the date of the Board's action;
6. That the landowner ceases all transient rental activities on the subject property;
7. That the landowner removes all advertisements associated with the subject property and single-family residence from any websites that promote transient rental accommodations;
8. That the landowner signs 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;
9. That the landowner provides DLNR and OCCL with all applicable documentation that would demonstrate that the above actions have satisfactorily been performed;
10. That the landowner files a complete after-the-fact Cдуа with DLNR and OCCL in accordance with HAR §13-5 and all requested attachments within ninety (90) days from the date of the Board's action;
11. That the landowner shall be subject to additional fines in the event that DLNR and OCCL do not receive a complete after-the-fact Cдуа from the landowner within one hundred eighty (180) days from the date of the Board's action;

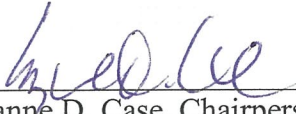
12. That in the event of failure of the landowner to comply with any order herein, the landowner shall be fined an additional \$15,000 per day until the order is complied with; and
13. That in the event of failure of the landowner to comply with any order herein, this matter shall be turned over to the Attorney General for disposition, including all administrative costs;
14. That in the event that the DLNR and OCCL find that the landowner has continued to conduct unauthorized land uses in the Conservation District or use the subject property and associated single-family residence for transient rental, rental, or commercial purposes, the permit will be revoked, and the landowner will be required to remove the single-family residence;
15. The above noted conditions of Enforcement file HA 20-21 shall be recorded with the deed instrument pursuant to HAR, §13-5-6(e).

Respectfully submitted,



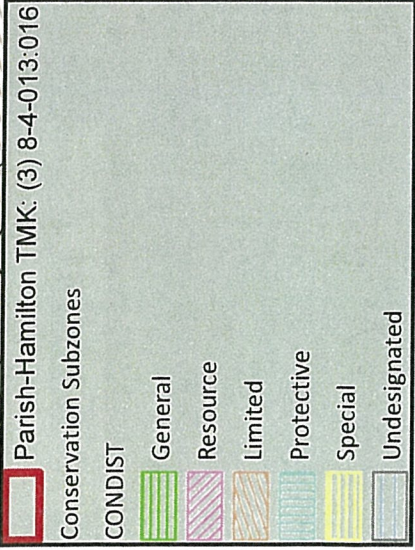
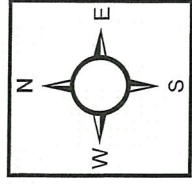
Trevor Fitzpatrick, Staff Planner
Office of Conservation and Coastal Lands

Approved for submittal:



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

TMK: (3) 8-4-013:016 Parish-Hamilton Parcel



Honaunau

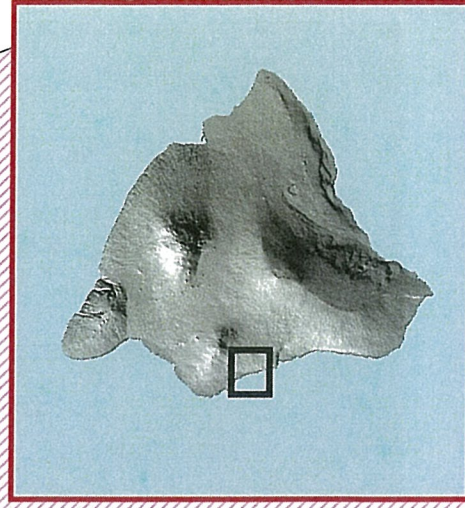
384013016

Keoneele Cove

Hale o Keawe Heiau

'Ale'ale'a Heiau

Exhibit 1



Google Maps 84-5607 Keala O Keawe Rd



Exhibit 2

17A-05-198

March 28, 2005

To: Dept. & Board of Land & Natural Resources
Attn: Chairperson

From: Sheri Puamanu Parish-Hamilton
P.O. Box 5004
Kailua-Kona, Hawaii 96745

RE: Honaunau Beach Lot -MAKAIO
TMK#-3/8-4-013-016

Dear DLNR Chairperson:

Attached, please find "Site Plan" for your review.

1296 # This land has been with my Family, Hoohuli Ohana, and I would like to build
Approximately 36 ft. long by 36 ft. wide house with an additional second story
Using existing footprint of house/garage. There is no grading needed. Parking
Area and other related facilities already existing.

The statement of objectives of the proposed project is to replace and reconstruct structure identified in exempt classes where new structure will be substantially similar and located approximately at the same site area with considerations to use the current Building Codes & setbacks.

400 #
600 #
PROPERTY REVIEW:

1) The existing use is residential house approximately 36 ft. by 36 ft. with 20 ft. by 20 ft. garage. Existing structure was built in the setback area on southside. There is an existing cesspool; and utilities water and electricity. There Is an existing 20 ft. by 30 ft. concrete deck. Vegetation includes several tall coconut Trees (about 8) that we trim to upkeep (coconuts); banyan tree; hibiscus; pikake; and Plumeria and mock orange plants.

2) Small fishing village with single family homes; with preschool next door; near City of Refuge.

3) There will be no effect to surrounding areas from this project as it will enhance The beauty of the small fishing village lifestyle of old traditional Hawaiiana.

4) There will be a minimal impact during the construction to replace and reconstruct Structure project by noise during construction that will be during the hours of 8am to 4pm. Excluding Sundays.

5) There are no alternatives to proposed project.

6) There are no irreversible and or irretrievable commitment of resources.

RECEIVED
FID OF CONSERVATION
AND NATURAL LANDS
2005 MAR 31 A 9:38
DEPT. OF LAND & NATURAL RESOURCES
STATE OF HAWAII

Exhibit 3

Page 1 of 9

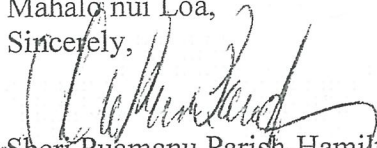
- 7) Coastal Ecosystems-Encourage coastal ecosystems to remain a living environment.
- 8) Economic Uses: Single family dwelling.
- 9) Coastal Hazards – None

REQUESTS:

1. Shoreline Survey – We request to waive the need to prepare a certified shoreling Survey and shall address and submit to the Planning Director in writing. The Lot has been surveyed by McIntosh Consulting(attached). The shoreline is located a property lot away or .30 acres from existing rockwalls that front this Property and is a substantial distance from the shoreline.
2. Site Plan – Attached for review showing existing and proposed structures, Uses. The land is flat with rockwalls surrounding the whole property on four Sides.
3. Setbacks – We understand that the current setbacks as this is corner lot- 15 ft. from front and back and 8 ft. from the sides. The existing house Is in the south setback.
4. SMA – We have a Special Management Area Use Permit Assessment Application –County of Hawaii-Planning Dept. and will continue to submit Unless this can be waived.

Please review and should you have any questions, please call #329-0914
Or Cell #987-2161. Thank You very much for your time and review and look forward to your response.

Mahalo nui Loa,
Sincerely,


Sheri Puamanu Parish-Hamilton



Unre: HA 06-191



Exhibit 3

Page 3 of 9

Correspondence HA-05-198

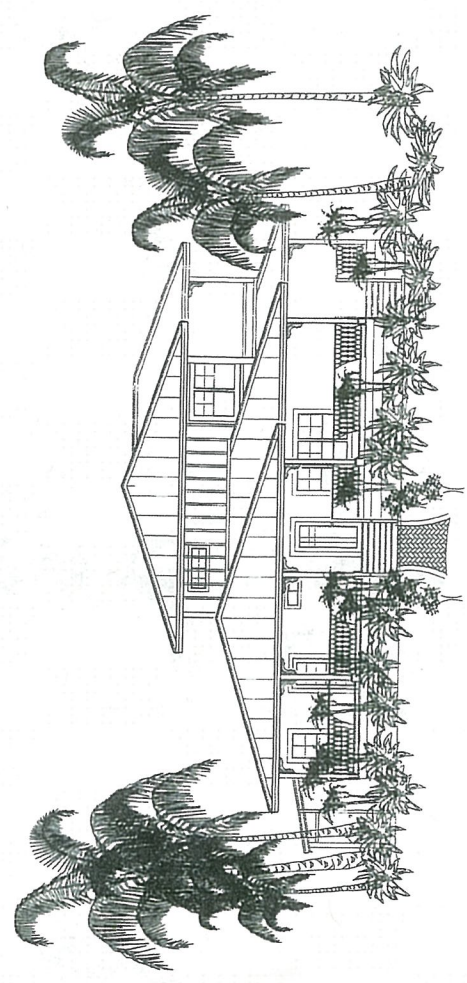
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HAMILTON RESIDENCE



PROJECT INFORMATION
OWNER: MIKE & SHERRIE HAMILTON
AT: 11K (3) B-4-13-16
MCNANAU BEACH LOTS
SOUTH KOHA, HAWAII
PROPOSED: 3 BDRM, 2 1/2 BATH
W/ LANAI, LAUNDRY
DESIGNING: RICHARD R. MCNEILS
PLANNING: P.E.B. 2/02
DATE: 12/15/1998
SHEET: 10001
3/14/2000 (REV)
3/14/2000 (REV)
DATE: 3/02/00

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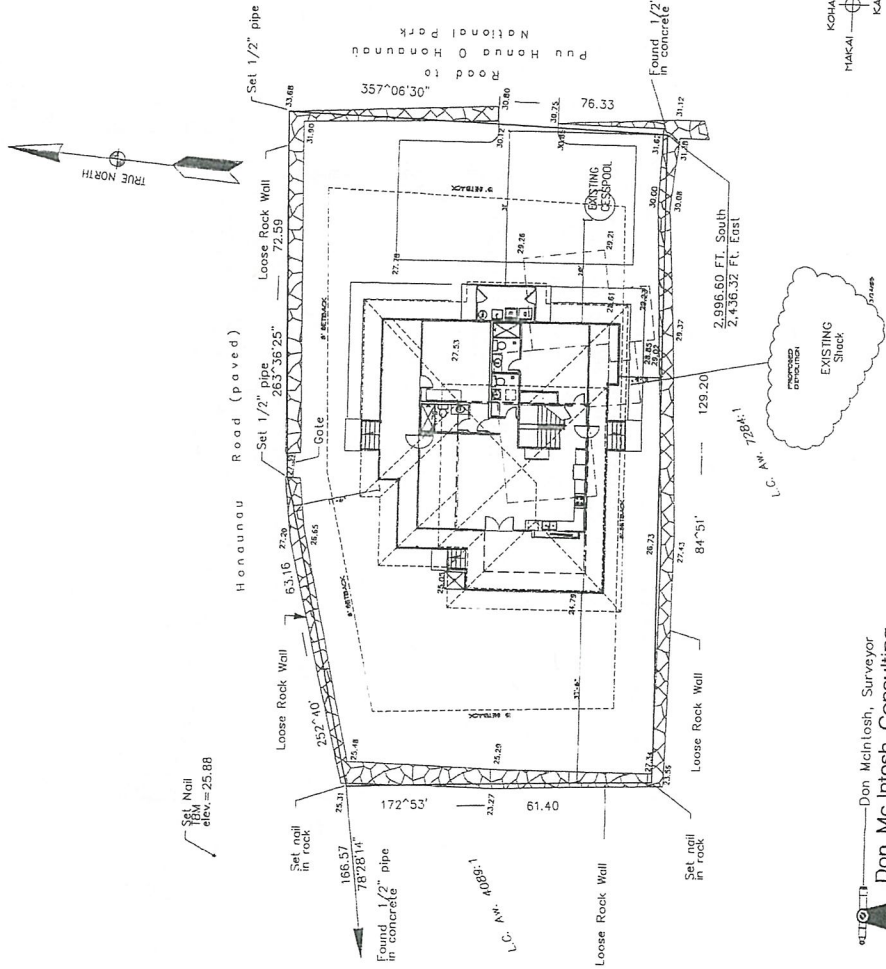
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HAMILTON RESIDENCE
3/02

HAMILTON RESIDENCE

MAIN LEVEL	INTERIOR	ACCR.
MAIN LIVING	1471 SF	880 SF
LANAIS, LAUNDRY		
UPPER LEVEL		
MAIN LIVING	530 SF	
LANAIS		
TOTAL	2001 SF	1540 SF

GENERAL NOTES
THE OWNER IS RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION PROVIDED IN THE PERMITS AND THE RECORDS OF THE COUNTY OF HAWAII.
THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION PROVIDED IN THE PERMITS AND THE RECORDS OF THE COUNTY OF HAWAII.
THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION PROVIDED IN THE PERMITS AND THE RECORDS OF THE COUNTY OF HAWAII.
THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION PROVIDED IN THE PERMITS AND THE RECORDS OF THE COUNTY OF HAWAII.

Map Showing Existing Conditions Upon
 TMK: (3) 8-4-13:16
 R.P. 3735, L.C. Aw. 9769-B
 HONAUNAU BEACH LOTS, SOUTH KONA
 ISLAND OF HAWAII, HAWAII



- NOTES:
1. No boundary encroachments were found Bishop Estate Map shows wall surrounding the parcel.
 2. No violations of County zoning setback codes were found, slack to be removed.
 3. The elevations shown are Mean Sea Level (MSL) elevations.
 4. The features shown herein, were located by an actual survey on the ground done on 7/26/03.
 5. See attached letter pertaining to setbacks and encroachments.

The undersigned hereby certifies to the best of his professional knowledge, information and belief, that this map and the data on which it is based correctly shows the boundary lines and other improvements upon the property.

Donald C. McIntosh, L.P.L.S.

Job#344403 FB38:47
 Drawing: 84012016.c42
 Date: 8/07/03
 Revised: 8/30/03

LOT SIZE 344403
 ROAD SURFACE

MAKAI
 KAU
 KOHALA

Don McIntosh, Surveyor
 Don Mc Intosh Consulting
 P.O. Box 58, Kailua-Kona, Hawaii 96745-0058
 (808) 326-7472

Coordinates are referenced to "Lae O Kona"

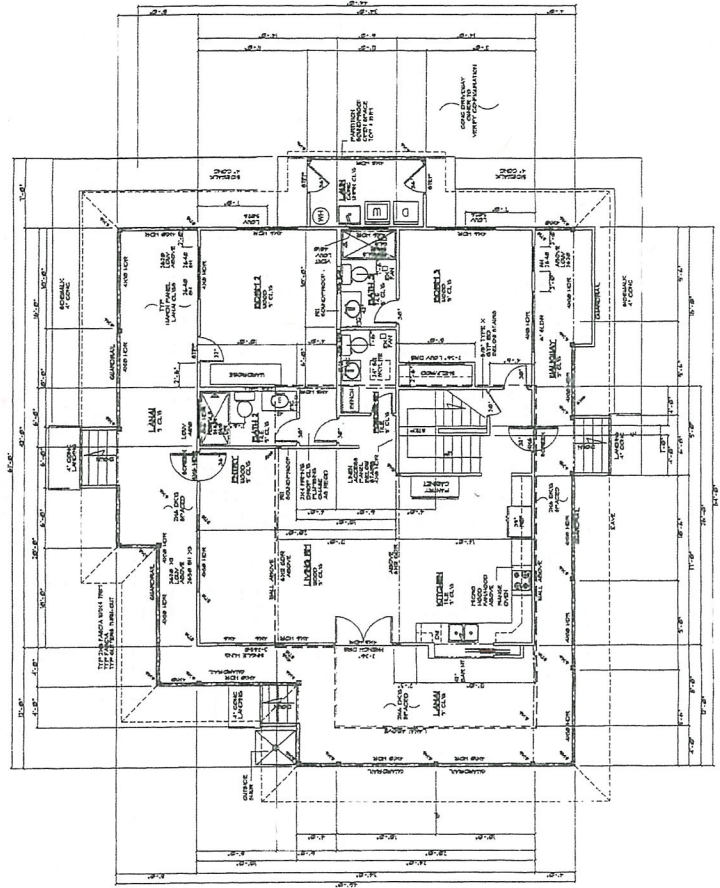
REVISIONS
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HAMILTON ARCHITECTURE



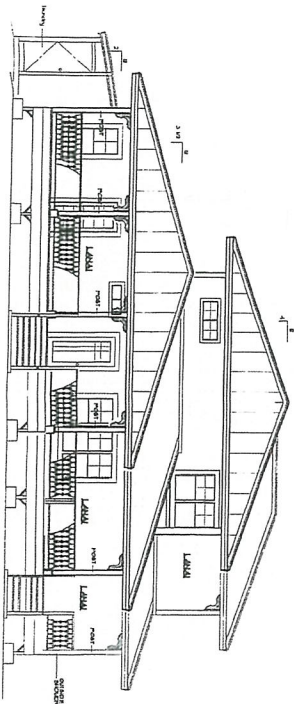
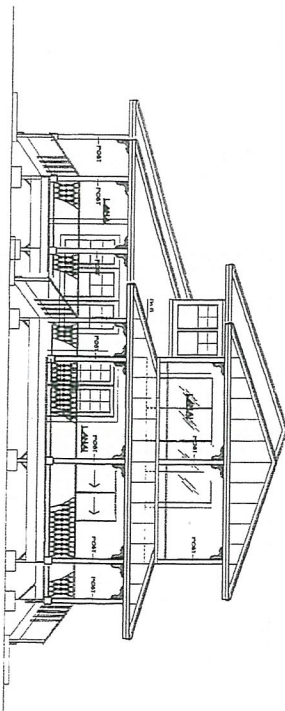
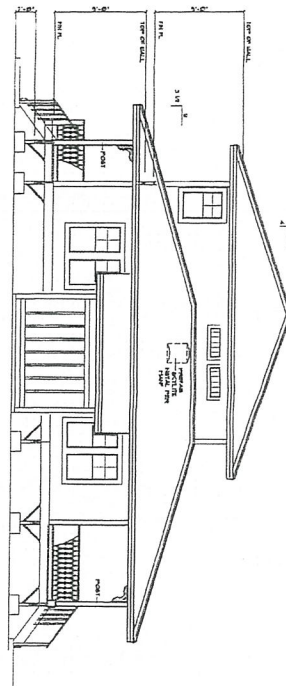
RIGHTOR RETNOLDS
 ARCHITECT
 1000 WEST 10TH STREET
 SUITE 100
 CHICAGO, ILL. 60605
 PHONE (773) 327-1111
 FAX (773) 327-1112
 DATE 3/05

4 OF 4

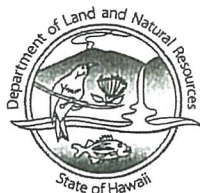


FLOOR PLAN MAIN LEVEL SCALE 1/8"=1'-0"





LINDA LINGLE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
OFFICE OF CONSERVATION AND COASTAL LANDS

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

PETER T. YOUNG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

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

Ref:OCCL:DH

Correspondence: HA-05-198

APR 26 2005

Sheri Paumanu Parish-Hamilton
P.O. Box 5004
Kailua-Kona, Hawaii 96745

Dear Ms. Hamilton,

SUBJECT: Request to Reconstruct Single Family Residence (SFR), Honaunau Beach
Lots, Island of Hawaii, Subject Parcel TMK: (3) 8-4-013:016

This is to inform you the Department of Land and Natural Resources (DLNR, Office of Conservation and Coastal Lands (OCCL) has reviewed your construction drawings and letter, dated March 28, 2005, to reconstruct an existing Single Family Residence (SFR) located Honaunau Beach Lots, Island of Hawaii, Subject Parcel TMK: (3) 8-4-013:016.

Departmental records indicate that the subject parcel is located in the State Land Use (SLU) Conservation District, Limited Subzone. Departmental records do not indicate a Conservation District Use Application (CDUA) is on file for the existing structure.

Departmental records indicate that the subject parcel is located in the State Land Use (SLU) Conservation District, Limited Subzone.

The OCCL notes that a SFR is an identified land use in the Limited subzone, pursuant to Section 13-5-23, L-6, SINGLE FAMILY RESIDENCE, "a single family residence in a floodplain or coastal high hazard area that conforms to applicable county regulations regarding the National Flood Insurance Program and Single Family Residence residential standards as outlines in this chapter." However, the OCCL notes it does not appear that the subject parcel is located in a floodplain and/or coastal high hazard area. If the land is not located in a floodplain and/or coastal high hazard area, the OCCL cannot process an application for a SFR. The OCCL notes you may wish to contact the County of Hawaii or the National Flood Insurance Program to confirm the information.

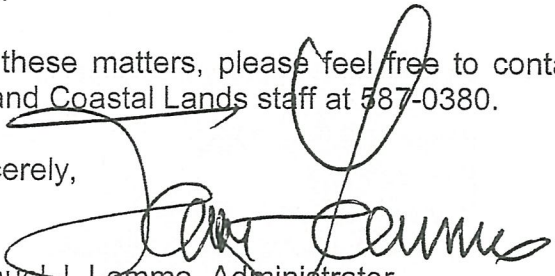
If the land is not located within a floodplain or coastal high hazard area, the only other condition under which you could obtain approval to construct a SFR is if the subject parcel in question is a Kuleana. Please refer to Section 13-5-31(f) of the attached Hawaii Administrative Rules for information about Kuleana parcels.

Exhibit 4
Page 1 of 2

The OCCL requests further information regarding the structure on the subject parcel, such as: 1) the age of the structure; 2) old photographs of the structure; and 3) any other relevant information that you may have.

Should you have any questions on any of these matters, please feel free to contact Dawn Hegger of our Office of Conservation and Coastal Lands staff at 587-0380.

Sincerely,



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

cc: Hawaii Land District Agent
County of Hawaii Planning Department

Exhibit 4

Page 2 of 2

November 7, 2005

RECEIVED
OFFICE OF INFORMATION
23

2005 NOV -8 A 8: 41

To: Dept. of Land & Natural Resources
Land Division
Planning Branch/OCCL
P.O. Box 621
Honolulu, Hawaii 96809
Attn: Sam Lemmo/Dawn Hegger

From: Sheri P. Hamilton
P.O. Box 5004
Kailua-Kona, Hawaii 96745

RE: Property Description: Honaunau Beach
TMK#3-8-4-13-16

Dear DLNR:

We had applied earlier this year to demolish the existing structure and propose to rebuild 36 ft. long by 36 ft. wide house with an additional second story using existing footprint of house/garage. There is no grading needed. Parking area and cesspool already existing. The statement of objectives of the proposed project is to replace or reconstruct structures identified exempt classes where new structure will be substantially similar and located approximately at the same site.

The property has been owned by my ohana since 1938 through Pua Hoohuli Kupa on my Mothers side of the family. They were fisherman and has been used for kuleana purposes Gathering fish through uses of canoe fishing in the Honaunau/Milolii south kona areas. My grandfather, on my mothers side, was a canoe builder and fisherman too. The Deed Is attached and also confirmed with the Real Property Tax Office that my ohana, Pua Hoohuli Kupa had owned said property since February 25, 1938. The existing structure- Their home was built in 1944 and confirmed at the Real Property Tax Office, with confirmation also for another small building permit in February 1974 for addition of Electricity added. The property was given to Elizabeth Hoohuli, my ohana and on September 23, 1950 she married and added her new married name of Muranaka. I have Since gotten the property and want to continue the fishing kuleana for the property with The proposed Hawaiiana house(blueprints) that we want to replace with the existing structure(picture) that we had sent to you with the prior application earlier this year.

Please note the following:

The existing use is residential house approximately 36 ft. X 36 ft. with 20 ft. by 20 ft. garage. There is an existing cesspool; water; and electricity. There is an existing 20 ft. by 30 ft. concrete deck. Vegetation includes several tall coconut(8); a large Banyan Tree; hibiscus; bougainvillea; pikake; plumeria and other palms

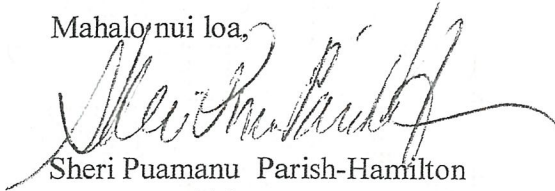
Exhibit 5

Page 1 of 6

on the property. This is a small fishing village with single family homes; with preschool(Kamehameha School) next door; near the City of Refuge Park. There will be no effect surrounding areas from this project as it will enhance the beauty of the small fishing village lifestyle. There will be minimal impact during the construction to replace and reconstruct structure project by noise during construction that will be during the hours of 8am to 4pm Monday through Friday scheduling. There are no alternatives to proposed project. There are no irreversible and or Irretrievable commitment of resources. We encourage coastal ecosystems to Remain a living environment. And the property proposal for a single family Dwelling. There is no need for a Shoreline Survey as the shoreline is located A property lot(Kamehameha Schools-playground) away or .30 acres from existing Rockwalls that front this property and is a substantial distance from the shoreline. The land is flat with drystack rockwalls surrounding the whole property on four sides.

Attached, please review the copy of the original DEED for the property for confirmation Of my family, ohana, Hoohuli. You may also confirm Information of the building with the Real Property Tax Office in Kona. I could not take or make copies of their records. Should you need any other information, please do not hesitate to write or call my cell number, #987-2161, as we would like to continue to take house plans to the Building Dept. and the Planning Dept.

Mahalo nui loa,



Sheri Puamanu Parish-Hamilton

P.O. Box 5004

Kailua-Kona, Hawaii 96745

Ph/Fax - #808-329-0914 or Cell #-987-2161

Exhibit 5

Page 2 of 6

98134

DEED

PUA HOOHULI KUPA (W)

to

ELIZABETH HOOHULI (W)

INDEXED
TERRITORY OF HAWAII
OFFICE OF
BUREAU OF CONVEYANCES
Received for record this 25th
day of February, A. D. 1938
at 2:47 o'clock P. M. and
recorded in Liber 1425
on Pages 449 - 450
AND COMPARED

Matthew Keen
Registrar of Conveyances

By _____ Deputy Registrar
Recording Fee \$3.00 Paid,

Exhibit 5

Page 3 of 6

THIS INDENTURE, made this 24th day of February, A.D. 1938, by and between PUA HOCHULI KUPA (W), wife of KELEKOLIO KUPA, of Honaunau, Kona, Hawaii, Territory of Hawaii, hereinafter called the "GRANTOR", of the first part, and ELIZABETH HOCHULI (W), an unmarried woman, grand-daughter of the said Grantor, of Nanakuli, Oahu, Territory of Hawaii, hereinafter called the "GRANTEE", of the second part:

W I T N E S S E T H

That the GRANTOR, for and in consideration of the sum of ONE (1.00) DOLLAR, receipt whereof, is hereby acknowledged, and love, do hereby give, grant, bargain, sell, convey and confirm unto the said GRANTEE, her heirs, and assigns forever, all of that certain piece or parcel of land situated at Honaunau, Kona, Hawaii, Territory of Hawaii, more particularly described as follows:

Helu 9769B ia Makio: Aina Ma Honaunau, Kona, Hawaii;

Ka pahale o Makio ma Honaunau, Kona Hema, Hawaii, e hoomaka ana ma ke kihi Hikina a e holo ana

Ak.	13	15'	Kom	1.17	Kh	ma	ke	aina	Konohiki
Hema	69		Kom	2.00	Kh	ma	ke	aina	Alanui Konohiki
Hema	15		Hik	0.88	Kh	ma	ke	aina	ma ke aina o Kopa
Ak.	77		Hik	1.98	Kh	ma	ke	aina	o Kaholowaa a

hiki i kahi i hoomaka'i,

He 2/10 Eka;

being all of the land conveyed to the said GRANTOR by deed of PEE MAKALIO, dated June 7, 1928, and recorded in the

Exhibit 5

Page 4 of 6

Office of the Registrar of Conveyances of the Territory
of Hawaii, in book 946, pages 173 - 174.

TO HAVE AND TO HOLD the same, together with all
rights, improvements and appurtenances thereunto belonging
or in any wise appertaining or held and enjoyed therewith,
unto the said Grantee, her heirs and assigns forever;

AND for the consideration aforesaid, KELEKOLIO KUPA,
husband of said GRANTOR, do hereby remise, release and
quitclaim unto the said GRANTEE, her heirs and assigns
forever, all of his right of curtesy or otherwise in and
to the above described land.

IN WITNESS WHEREOF, the said PUA HOOHULI KUPA
and KELEKOLIO KUPA, have hereunto subscribed their names
on the day and year first above written.

Pua Hoochuli Kupa
Kelekolio Kupa

Territory of Hawaii)
City and County of : ss.
Honolulu)

On this 24th day of February, A.D. 1938, before
me personally appeared PUA HOOHULI KUPA (W), and KELEKOLIO
KUPA, her husband, to me known to be the persons described
in and who executed the foregoing instrument and severally
acknowledged that they executed the same as their free act
and deed.

Hannah L. Matthews
Notary Public, First Judicial
Circuit, Territory of Hawaii.

Exhibit 5

Page 5 of 6

rights, improvements and appurtenances thereunto belonging or in any wise appertaining or held and enjoyed therewith, unto the said Grantee, her heirs and assigns forever;

AND for the consideration aforesaid, KELEKOLIO KUPA, husband of said GRANTOR, do hereby remise, release and quitclaim unto the said GRANTEE, her heirs and assigns forever, all of his right of curtesy or otherwise in and to the above described land.

IN WITNESS WHEREOF, the said PUA HOOHULI KUPA and KELEKOLIO KUPA, have hereunto subscribed their names on the day and year first above written.

Pua Hoohuli Kupa
Kelekolio Kupa

Territory of Hawaii)
City and County of : ss.
Honolulu)

On this 24th day of February, A.D. 1938, before me personally appeared PUA HOOHULI KUPA (W), and KELEKOLIO KUPA, her husband, to me known to be the persons described in and who executed the foregoing instrument and severally acknowledged that they executed the same as their free act and deed.

Maunah L Matthews
Notary Public, First Judicial
Circuit, Territory of Hawaii.



Exhibit 5

Page 6 of 6

Entered of Record this 25th day of February 1938 at 2:47 o'clock P.M. and compared. Mark N. Huckestein, Registrar of Conveyances.

By [Redacted] Clerk

LINDA LINGLE
GOVERNOR OF HAWAII



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

PETER T. YOUNG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
DEPUTY DIRECTOR - LAND

DEAN NAKANO
ACTING DEPUTY DIRECTOR - WATER

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

REF.:OCCL:TM

Correspondence: HA 06-101

Sheri P. Hamilton
P.O. Box 5004
Kailua-Kona, Hawaii 96745

DEC - 6 2005

SUBJECT: Conservation District Use Inquiry Regarding Single Family Residential Land Use for TMK
(3) 8-4-013:016, Located at Honaunau, Island of Hawaii

The Office of Conservation and Coastal Lands (OCCL) is in receipt of your correspondence dated November 7, 2005 in regards to rebuilding a Single Family Residence (SFR). The OCCL notes the subject area appears to lie within the Limited subzone of the Conservation District. In addition, we also note that the size of the subject parcel appears to be 8,712 square feet.

Pursuant to Chapter 13-5, Hawaii Administrative Rules, a SFR may not be a use that you could apply for because the subject parcel does not appear to lie within a floodplain or coastal high hazard area. In addition, the lot does not meet the Conservation District SFR standards of a minimum lot size of 10,000 square feet. You must provide evidence that the property is a kuleana parcel that has retained its original metes and bounds and has historically and customarily been utilized as a SFR. This is pursuant to HAR §13-5-22, P-3 Kuleana Land Use and HAR §13-5-37 Nonconforming uses. In addition, pursuant to §13-5-31, HAR Permit Applications (f) The burden of proving that a parcel of land is a kuleana rests with the applicant.

Should you be able to submit evidence as outlined in §13-5-31(f), HAR, that the subject parcel is a kuleana parcel that previously had a residence, then you may file a Conservation District Use Application (CDUA) to apply for the proposed use. Your CDUA would be presented to the Board of Land and Natural Resources (BLNR) for their consideration. Another option you may have is to petition the Land Use Commission to remove the subject parcel out of the Conservation District and into another State Land Use District.

You will find Chapter 13-5, Hawaii Administrative Rules and the Conservation District Use Application (CDUA) on our website at www.hawaii.gov/dlnr/occl. Should you have any questions please contact Tiger Mills of our Office of Conservation and Coastal Lands at 587-0382.

Aloha,

A handwritten signature in black ink, appearing to read "Samuel J. Lemmo".

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

c: Chairperson
HDLO
County of Hawaii, Department of Planning

Exhibit 6

Page 1 of 1

lfr-06-191

Sheri Puamau Parish-Hamilton

February 23, 2006

RE: Conservation District Use Inquiry Regarding Single Family Residential and Use for TMK (3) 8-4-013-:016, Located at Honaunau, Island of Hawaii

Dear DLNR:

In response to your December 6, 2005 letter stating that pursuant to Chapter 13-5, Hawaii Administrative Rules, a SFR may not be a use that You could apply for because the subject parcel does not appear to lie within a floodplain or coastal high hazard area. In addition, the lot does not meet the Conservation District SFR standards of a minimum lot size of 10,000 square feet. We are hereby providing evidence that the property is a kuleana parcel that has retained it's original metes and bounds and has historically and customarily been utilized as a SFR. First, by the State of Hawaii-DLNR Land Division Letter to Jason Muranaka(cousin through The Hooihuli Ohana) on August 1, 1997 translating the Land Commission Award No. 9769B to Makaio stating that under date of November 3, 1853, The Land Commissioners awarded Makaio his 'HOUSELOT". Further Stating that on May 7, 1857, under the Royal Patent No. 3735, the Hawaiian Government relinquished their interest in and to the Property, Excepting and reserving the mineral and metallic mines. The Bureau of Conveyances from the Registrar all are recorded. Both the Land Commission Award #9769B and the Royal Patent No. 3735 are attached For your review retaining it's original metes and bounds and has Historically and customarily been utilized as a SFR. The property has a history of fishing with an old canoe and all kinds of fishing hooks; lines; and old boat anchors still on the property. My grandfather was a canoe builder carving numerous boats for fishing opelu and other fish. I also have his old canoe bailer carved from milo wood.

Further proof is the real property tax office has proof of payments of property taxes for land and building since the early 1900's and is currently paid up to date regarding the above property description by TMK#. Also, Included is a picture of the single family residence on the property with the Front side for storage of fishing equipment.

Thank you very much for your attention to this letter .

Sincerely,



RECEIVED
OFFICE OF CONSERVATION
AND COASTAL LANDS
2006 FEB 27 A 8:17
DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

Exhibit 7

Page 1 of 16

- (D-1) Basic data collection, research, education, and resource evaluation that involves a land use causing ground disturbance (e.g. exploratory wells).

P-2 FISHPONDS

- (A-1) Repair, strengthening, reinforcement or maintenance of a fishpond under an approved conservation district use permit and approved management plan.
- (D-1) Restoration or repair of a fishpond under an approved management plan; where restoration is the act or process of returning the property to a state of utility through repair or alteration which makes possible an efficient contemporary use, such as aquaculture.

P-3 KULEANA LAND USES

- (D-1) Agriculture and a single family residence, if applicable, when such land use was historically, customarily and actually found on the property. Agriculture means the planting, cultivating, and harvesting of horticultural crops, floricultural crops, or forest products, and subsistence livestock.

*S.F.R.
+ fishing
properties*

P-4 LANDSCAPING, REMOVAL OF NOXIOUS PLANTS

- (A-1) Removal of noxious plants for maintenance purposes without the use of power tools that does not result in significant ground disturbance (e.g. weeding). Noxious plants are defined in chapter 152 HRS, and chapter 4-68, subtitle 6.
- (C-1) Landscaping, defined as alteration (including clearing) of plant cover. Such alteration shall be limited to plant materials that are endemic or indigenous and similar in character and appearance to existing vegetation in the surrounding area. Natural vegetative plant cover, where disturbed, shall be restored or replaced with endemic or indigenous planting. The introduction of alien plant species is prohibited in the protective subzone.

Unr; HA 06-191



Exhibit 7

Page 3 of 16

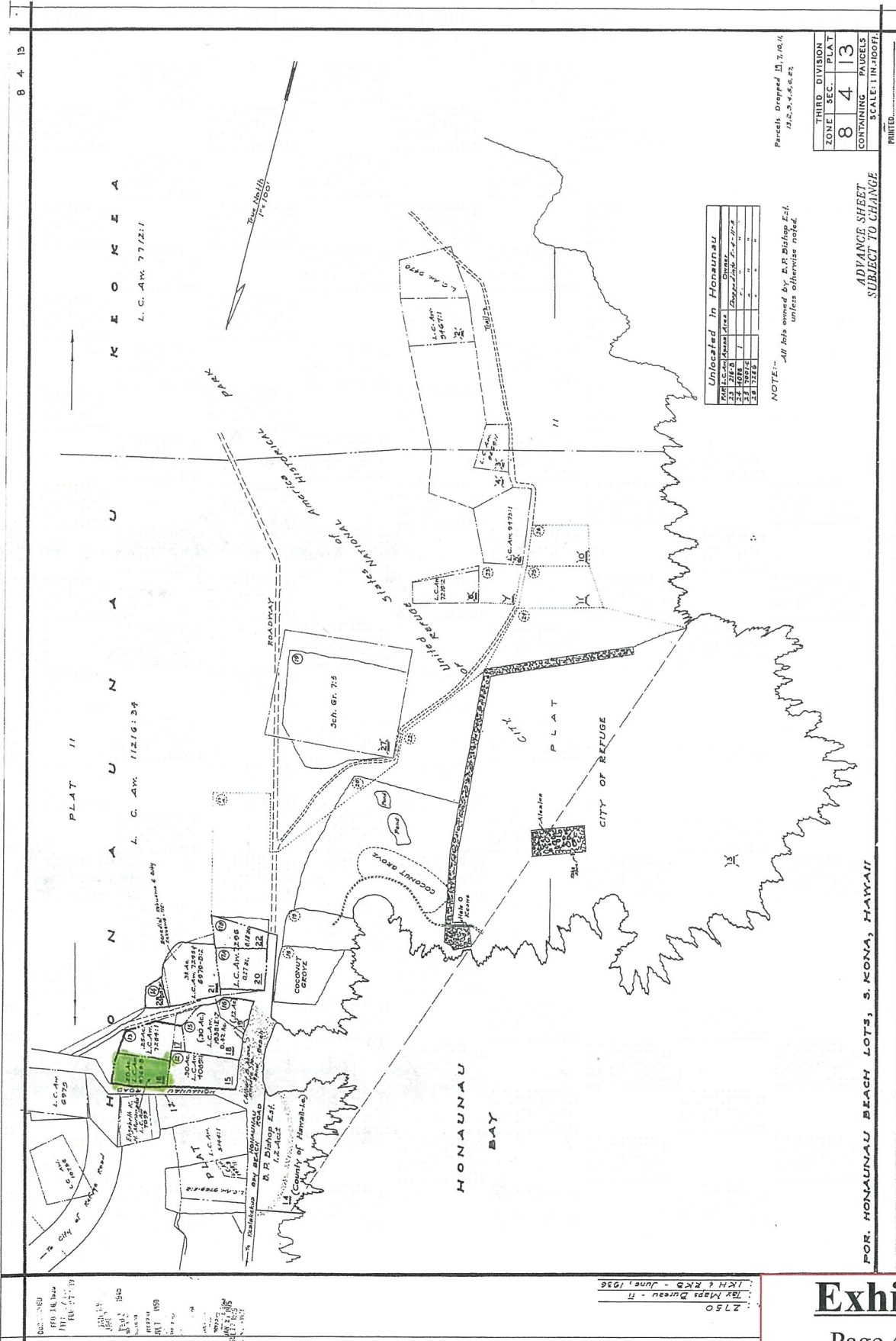


Exhibit 7

Page 4 of 16



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

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

August 1, 1997

9549 (H)

Jason Muranaka
3205 31st Street
San Diego, CA., 92104

Dear Jason;

Subject: Translation and references, if any, to Land
Commission Award No. 9769B to Makaio, situate at
Honaunau, South Kona.

In response to your letter of July 10, 1997, I was able to
do a cursory search on the property in question and hereby
provide you with the following information.

Under date of November 3, 1853, the Land Commissioners
awarded Makaio his houselot at Honaunau, Kona, under Land
Commission Award No. 9769B. As translated the award cites:

" The houselot of Makaio at Honaunau, South Kona,
Hawaii Commencing at the East corner and running

" North 13 15' West 1.17 chains along the konohiki's
land

South 69 " 2.00 " " " road

" 15 East 0.88 " " " land of Kopa

North 77 " 1.98 " " " " "

Kaholowaa to the point of commencement. Being 2/10
acres."

On May 7, 1857, under Royal Patent No.3735, the Hawaiian
Government relinquished their interest in and to the property,
excepting and reserving the mineral and metallic mines.

Exhibit 7

Page 5 of 16

Since 1853, when this land became the private property of Makaio, the Office of the Registrar (now the Bureau of Conveyances) became the repository for the records of private ownership. The deeds transmitted by you for translation are all recorded in the Bureau of Conveyances.

The Deed of Pee Makaio to Pua Hoohuli, which was transmitted with your letter, is dated June 7, 1928 and was recorded at the Bureau of Conveyances in Book 946 at page 173. It is translated as follows:

" Know all men by this document that I Pee Makaio, single of the City and County of Honolulu, Territory of Hawaii witnesseth that for the twenty dollars paid in to my hand by Pua Hoohuli of Honaunau, South Kona, County of Hawaii, do hereby acknowledge the receipt of the said sum, and by the power of this document I do hereby give and convey unto the said Pua Hoohuli, all of that parcel of land situated at Honaunau, South Kona being fully described thus:

" No. 9769B to Makaio. Parcel at Honaunau, South Kona the houselot of Makaio at Honaunau, South Kona, Hawaii, commencing at the East corner and running

No. 13 15' West 1.17 chains along the konohiki's land
So. 69 " 2.00 " " " road
" 15 East 0.88 " " Kopa's land
No. 77 " 1.98 " " Kaholowaa's land to
the point of commencement. Being a 2/10 acre."

" This entire parcel of land above described is permanently conveyed unto Pua Hoohuli (w) her heirs and assigns in perpetuity. And I for myself do hereby declare by the authority of this document that the aforementioned parcel described is rightfully mine as the own child of Makaio, and that I am legally authorized to sell and convey this parcel herein.

" And I shall forever warrant and defend any and all challengers against this right of mine to convey and make known that Pua Hoohuli, her heirs and assigns have an estate to hold and keep in perpetuity.

" In witness of this covenant, I hereby affix my signature on this 7th day of June A.D. 1928."

The second document transmitted by you, being the Deed from Pua Hoohuli Kupa to Elizabeth Hoohuli, is in English with the properties boundaries given in Hawaiian. The boundaries are recited exactly the same as in the Land Commission Award, the Royal Patent, and in the prior deed to Pua Hoohuli.

Exhibit 7

Page 6 of 16

I hope this letter addresses your concern with the properties history. If there were no other conveyances of this land from Elizabeth who, if I remember correctly is still with us, then the title should clearly be in her name. However, if she has passed, then a Probate will be needed to legally distribute the interest(s) in and to the subject property, before it can be conveyed legally.

I apologize for the timeliness of this response and I do hope that you receive it prior to your visit to Hawaii. Also, am looking forward to your visit and hopefully our meeting in Honolulu.

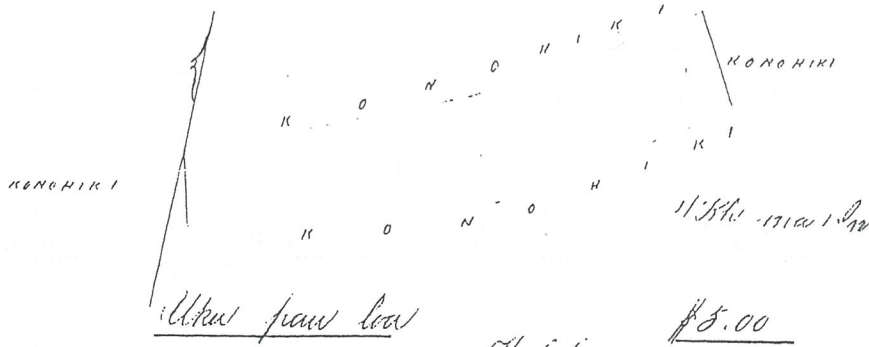
E. Mahoe Collins

E. MAHOE COLLINS,
ABTRACTOR

Exhibit 7

Page 7 of 16

HH 601



Honolulu November 5, 1833.

H. L. Lee
J. M. Robinson
J. K. Kaulahao
J. H. Smith

17 1/2 - Ulu 9769 B

Makao Konoiki Konoiki Konoiki

Ka Pahale o Makao ma Konoiki Konoiki Konoiki

E hoomaka ma ke hiki Kikina a e holo

Ulu 13.15' Kono 1.17 Kk ma ke aia Konoiki

Ulu 69° " 2.00 " " " Alani

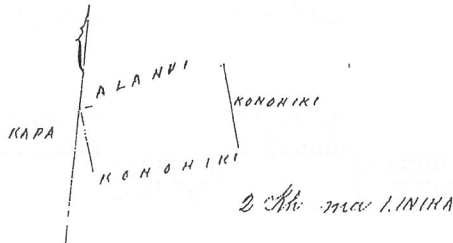
13° " 0.88 " " " aia o Kapa

Ulu 77° " 1.98 " " " " Kaholoua a hiki

i kahi i hoomakai Ulu 210 Eka.

Kono Konoiki Ap. 11, 1833.

J. Fuller
Lina Konoiki



Ulu' from low

H. L. Lee \$4.00

1810/27

PALAPALA SILA NOI.

A KE ALII, MAMULI O KA OLELO A KA POE HOONA KULEANA.

NO KA HEE, Ua hooalo na Iuna Hoona i na kumu kuleana aha i ka olelo, ha kuleana olelo ko

Maikai
ma ko *Maikai* iloko o kahi i oleloia malalo.

Maikai

Nolaila, ma kahi Palapala Sila Noi, ke hoike aku nei o Kamehameha IV. ke Alii nui a ke Akua
i kona lokoanika i hoonohe ni malama o ko Hawaii Poe Aina, i na haaka a pau, i heia la muna ilia,
a no kahi poe hoona ahi, na haawii aku oia ma ke Aha Aloha ia

Maikai

i kahi

vahi a pau loa na *Honolulu*

ma ka mokupuni o

Hawaii

penei na mokuna,

Pahala E hoomaka ma ke kahi kahi i kahi a kahi

Ah 1345 - No 117 Kk ma ka aina o kahi kahi

Ah 59 " 200 "

Ke Alama

" 15 " 0.088 "

ka Aina o kahi

Ah 77 " 198 "

Pahala

a kahi. Kahi i kahi i hoomaka a

No Eke

Exhibit 7

Page 9 of 16

Muloko o *Kia* apana *4/10*
a oi iki aku, e eni iki mai paha. Ua koe nae i ke aupuni ma eni nae maelele a ua nae maelele a paa.

No *Makalo*
ua aia la i haawia ma ke ANO ALODIO a no kona mau hooilua, a me kona waiwahi; ua pii oia
iki aia a ka Poe ALODIO e kau like ai ma ka aia aia i kea manawa i kea manawa.

A i mea e like ai, ua kau wai i ko'u lae, a me ka Sila Mui o ke Hawaii

Aina ma Honolulu i kea la

o

Mui

1897

Kamoharui

Bar. H. H. H. H.

Exhibit 7

Page 10 of 16

CERTIFIED COPY

OF

DEED

Pee Makaio

TO

Pua Hooihuli
(w)

RECORDED IN

Book 946 Pages 173 - 174

REGISTRY OF CONVEYANCES

FOR THE

TERRITORY OF HAWAII

AT

HONOLULU

Exhibit 7

Page 11 of 16

E ike auanei na kanaka a pau ke nana mai ma keia palapala kuai, o wau, o Pee Makaio, no Honolulu, Kulanakauhale a Kalana o Honolulu, Teritori o Hawaii, he kanaka male oleia; ke hoike nei penei, no ka loa pono ana mai o na Dala maikai he Iwakalua ~~ma ko'u lima i uku pono ia mai ia'u~~ e Pua Hoochuli (w), no Honaunau, Kona Hema, Kalana o Hawaii, ke hooapono nei no ka loa pono ana mai oia mau dala; a, ma ka mana o keia palapala kuai, ke hana nei, kuai a hoolilo loa no Pua Hoochuli i oleloia, i kela apana aina a pau loa e waiho maila ma Honaunau, Kona Hawaii, nona na heomoakaaka piha i ike ia penei:

Helu 9769B ia Makaio: Aina ma Honaunau, Kona Hawaii.

Ka pahale o Makio ma Honaunau, Kona Hema, Hawaii, e hoomaka ana ma ke kihi Hikina a e holo ana

Ak.	13° 15'	Kom	1.17	Kh	ma	ke	aina	Konohiki;
Hema	69°	"	2.00	"	"	"	Alanui	"
"	15°	Hik	0.88	"	"	"	ma	ke
Ak.	77°	"	1.98	"	"	"	aina	o

hiki i kahi i hoomaka'i,

He 2/10 Eka.

E paa a e lio loa keia apana aina holo-okoa i hoike ia aela maluna, no Pua Hoochuli (w)', a me kona mau hope a hooilina no ka manawa pau ole.

A no'u hoi, ke hoike nei au ma ka mana o keia palapala kuai, no'u pono i keia apana aina i olelo a hoike ia maluna a'e, ma ke ano o wau ka keiki pono i Makaio a he mana malalo o ke kanawai e kuai i keia aina e like me keia au e hana nei; a e kue mau aku no au i na poe a pau e keakea mai ana i loko o keia kuleana

au e kuai nei, a e ike ia aku no hoi no keia mua aku no Pua
Hoohuli, a me kona mau hooilina a mau hope a malama waiwai no
ka manawa pau ole.

I hoike no ka oiaio o keia, ke kau nei au i ko'u lima i
keia la 7th o Iune, M. H. 1928.

Pee Makaio

Territory of Hawaii,)
City and County of Honolulu,) ss.
District of Honolulu.)

On this 7th day of
June, 1928 before me personally appeared Pee Makaio, to me
known to be the person described in and who executed the fore-
going instrument and acknowledged to me that he executed the
same as his free act and deed.

(Notarial Seal)

Noa W. Aluli,

Notary Public, First Judicial
Circuit, Territory of Hawaii.

Entered of record this 7th day of June A.D. 1928 at 12:15 o'clock
P.M. and compared. Carl F. Wikander, Registrar of Conveyances.

BUREAU OF CONVEYANCES
FOR THE
TERRITORY OF HAWAII

Honolulu, Hawaii

February 23, 1938.

The foregoing is a true copy of record, recorded in the
Bureau of Conveyances of the Territory of Hawaii in Book 946
on Pages 173 - 174.

ATTEST:-

mn Luckestein
Registrar of Conveyances
for the
Territory of Hawaii. *B*

Exhibit 7

Page 13 of 16

98134

2.47

DEED

PUA HOOHULI KUPA (W)

to

ELIZABETH HOOHULI (W)

INDEXED
TERRITORY OF HAWAII
OFFICE OF
BUREAU OF CONVEYANCES
received for record this 25th
day of February, A. D. 1938
at 2:47 o'clock P. M. and
recorded in Liber 1425
on Pages 449 - 450
AND COMPARED

Matthew
Registrar of Conveyances

By Deputy Registrar
Recording Fee \$3.00 Paid,

Exhibit 7

Page 14 of 16

Top

LIBER 1425 PAGE 450

Office of the Registrar of Conveyances of the Territory
of Hawaii, in book 946, pages 173 - 174.

TO HAVE AND TO HOLD the same, together with all
rights, improvements and appurtenances thereunto belonging
or in any wise appertaining or held and enjoyed therewith,
unto the said Grantee, her heirs and assigns forever;

AND for the consideration aforesaid, KELEKOLIO KUPA,
husband of said GRANTOR, do hereby remise, release and
quitclaim unto the said GRANTEE, her heirs and assigns
forever, all of his right of curtesy or otherwise in and
to the above described land.

IN WITNESS WHEREOF, the said PUA HOOHULI KUPA
and KELEKOLIO KUPA, have hereunto subscribed their names
on the day and year first above written.

Pua Hoohuli Kupa
Kelekolio Kupa

Territory of Hawaii)
City and County of : ss.
Honolulu)

On this 24th day of February, A.D. 1938, before
me personally appeared PUA HOOHULI KUPA (W), and KELEKOLIO
KUPA, her husband, to me known to be the persons described
in and who executed the foregoing instrument and severally
acknowledged that they executed the same as their free act
and deed.

Hannah L. Mat...
Notary Public, First

Exhibit 7

Page 15 of 16

TO HAVE AND TO HOLD the same, together with all rights, improvements and appurtenances thereunto belonging or in any wise appertaining or held and enjoyed therewith, unto the said Grantee, her heirs and assigns forever;

AND for the consideration aforesaid, KELEKOLIO KUPA, husband of said GRANTOR, do hereby remise, release and quitclaim unto the said GRANTEE, her heirs and assigns forever, all of his right of curtesy or otherwise in and to the above described land.

IN WITNESS WHEREOF, the said PUA HOOHULI KUPA and KELEKOLIO KUPA, have hereunto subscribed their names on the day and year first above written.

Pua Hoochuli Kupa
Kelekolio Kupa

Territory of Hawaii)
City and County of : ss.
Honolulu)

On this 24th day of February, A.D. 1938, before me personally appeared PUA HOOHULI KUPA (W), and KELEKOLIO KUPA, her husband, to me known to be the persons described in and who executed the foregoing instrument and severally acknowledged that they executed the same as their free act and deed.

Hannah L. Matthews
Notary Public, First Judicial
Circuit, Territory of Hawaii.



Entered of Record this 25th day of February
o'clock P.M. and compared. Mark N. Huckestein, Regis

Exhibit 7

Page 16 of 16

LINDA LINGLE
GOVERNOR OF HAWAII



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

PETER T. YOUNG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
DEPUTY DIRECTOR - LAND

DEAN NAKANO
ACTING DEPUTY DIRECTOR - WATER

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

REF:OCCL:TM

Correspondence: HA 06-191

Sheri Puamanu Parish-Hamilton
Sheri P. Hamilton
P.O. Box 5004
Kailua-Kona, Hawaii 96745

MAR - 9 2006

Dear Ms. Parish-Hamilton,

SUBJECT: Kuleana Land Use Located at Honaunau, Island of Hawaii, TMK (3) 8-4-013:016

The Office of Conservation and Coastal Lands is in receipt of your correspondence dated February 23, 2006 regarding Single Family Residential land use at the subject parcel. Pursuant to Hawaii Administrative Rules, §13-5-22, P-3, KULEANA LAND USES, (D-1) the proposed land use is an identified land use that could be applied for. The proposed land use would be at the discretion of the Board of Land and Natural Resources (BLNR) and therefore would require a Board permit.

We have included a Conservation District Use Application and the Hawaii Administrative Rules for your perusal. Should you have any questions please contact Tiger Mills of our Office of Conservation and Coastal Lands at (808)587-0382.

Aloha,

A handwritten signature in black ink, reading "Samuel J. Lemmo".

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

c: Chairperson
HDLO
County of Hawaii, Department of Planning

Exhibit 8

Page 1 of 1

FIELD BOOK LAND SHEET

TERRITORY OF HAWAII

DESCRIPTION

FEE LCW 9769:B Honaunau Beach

DIVISION

ZONE SEC. PLAT. PARCEL

8 4 13 16

TITLE HISTORY

OWNER

MAILING ADDRESS

Kapa Hoochuli Pua D 2/24/38 R 2/25/38 bk 1425 pg 449 Con \$1 Area 0.20 ac.

~~Elizabeth Hoochuli (1939)~~

Elizabeth Keaka Hoochuli Muranaka For 1965 name chgd mrrd Juichi Muranaka 9/23/50

2545 Pauoa Rd., Honolulu

1984	1985	1986	1987
11183	11183	11183	26136
833	833	833	833
12016	12014	12016	26969
12016	12014	12016	26969

Exhibit 9

Page 1 of 4

YEAR	1961	1963	1964	1965	1969	1970	1971-72	1972-73	1973-74
AREA	915	915	1830	2439	2744	3354	3659		
LAND	60	60	1830	2439	2744	3354	3659		
IMP.	975	975	1830	2439	2744	3354	3659		
TOT.	975	975	1830	2439	2744	3354	3659		
EX.									
NET									

FORM A. D. 17-0

DIVISION				PARCEL			
ZONE	SEC.	PLAT.	PARCEL	NO.	SYMBOL	U. F. V.	FRONT
8	4	13	16	1	Ac	436	
				2	Ac	436	
				3	Ac	436	
				4	Ac	436	
				5	Ac	436	
				6	Ac	436	
				7	Ac	436	
				8	Ac	436	
				9	Ac	436	
				10	Ac	436	
				11	Ac	436	
				12	Ac	436	
				13	Ac	436	
				14	Ac	436	
				15	Ac	436	
				16	Ac	436	
				17	Ac	436	

DIVISION				PARCEL			
ZONE	SEC.	PLAT.	PARCEL	NO.	SYMBOL	U. F. V.	FRONT
8	4	13	16	1	Ac	436	
				2	Ac	436	
				3	Ac	436	
				4	Ac	436	
				5	Ac	436	
				6	Ac	436	
				7	Ac	436	
				8	Ac	436	
				9	Ac	436	
				10	Ac	436	
				11	Ac	436	
				12	Ac	436	
				13	Ac	436	
				14	Ac	436	
				15	Ac	436	
				16	Ac	436	
				17	Ac	436	

Exhibit 9

Page 2 of 4

1960

915

60

975

975

—

PAULINE K. POE

I. DEPRECIATION					2. BLDG. PERMIT RECORD				3. ADD'L L. IMPVTS				CARD		OF		CARDS	
B. NO.	YR. CONSTR.	AGE	LIFE EXP.	% CD.	ADJ. %	PUR.	DATE	PER. NO.	AMOUNT	BP BY	PAVED AREAS	TERR/PATIOS	SQ. FT.	ZONE	SEC.	PLAT	PARCEL	
						REPAIR	2/21/74	730	100	OWNER	RET. WALL	<input type="checkbox"/> FENCES	____ SQ. FT.	4.	8	4	13	16
											LAWN-LDSC	<input type="checkbox"/> BARBEC.	____ CU. FT.	5.				
											WALK WAYS	<input type="checkbox"/> SWIM. POOL	____ SQ. FT.					
											SPRINKLERS	<input type="checkbox"/> SHAPE	____ AV. DEPTH.	6.	CODE 6 --			
											REMARKS			7.	USE			
															RES. <input type="checkbox"/> AGR. <input type="checkbox"/>			
															COM'L <input type="checkbox"/> INST. <input type="checkbox"/>			
															IND. <input type="checkbox"/>			

8. COMPUTATION OF IMPROVEMENT VALUE													
NO.	AREA	CF.	YR. 1977	CF.	YR. 1978	CF.	YR. 1979	CF.	YR. 1980	CF.	YR. 1981	CF.	YR. 1982
1			500 24.416		500		500		500		500		500
			1983 833		1984 833		1985 833		1986 833		1987 833		

Exhibit 9

Page 3 of 4

Exhibit 9

Page 3 of 4

CARD _____		OF _____		CARDS _____	
ZONE	SEC.	PLAT	PARCEL		
8	4	13	16		
SURVEY BY: <u>FD</u>					
DATE: <u>11/14/76</u>					
23. MILLWORK					
WINDOWS/D/H _____		DOORS-PANEL _____			

Exhibit 9

Page 4 of 4

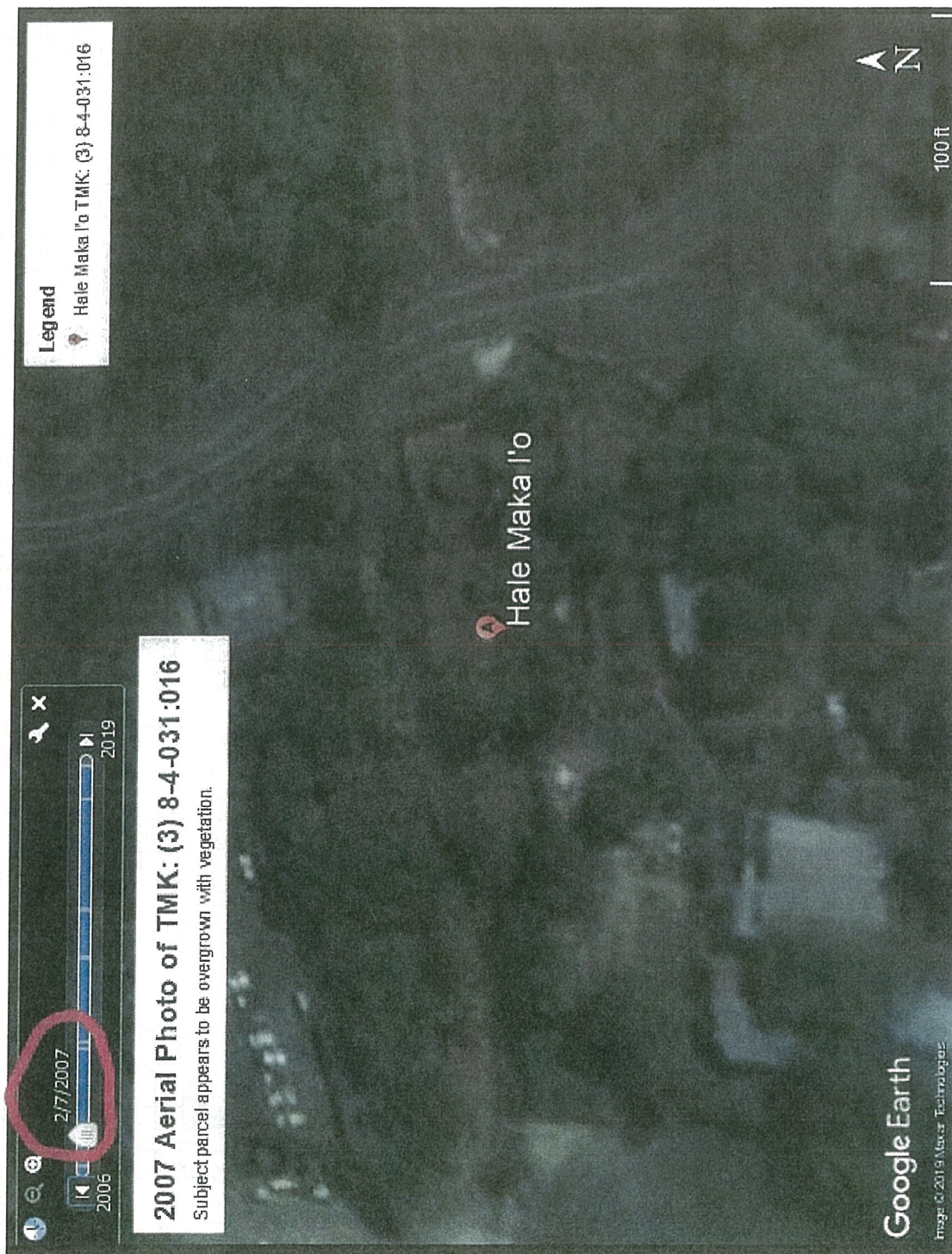


Exhibit 10

Page 1 of 2



Exhibit 10

Page 2 of 2

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 A 9 01

PLANNING DEPARTMENT

RECEIVED
OFFICE OF CONSERVATION
AND COASTAL LANDS
DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

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 17, 2019

Sheri (Parish) Hamilton
PO Box 5004
Kailua-Kona, HI 86745

Dear Ms. Hamilton,

**SUBJECT: RETURN OF SHORT-TERM VACATION RENTAL
REGISTRATION/NONCONFORMING USE CERTIFICATE APPLICATION**

Applicant: Sheri (Parish) Hamilton

Landowner: Sheri Parish-Hamilton

Proposal: Register a Short-Term Vacation Rental and Apply for a
Nonconforming Use Certificate

Tax Map Key: (3) 8-4-031:016

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 November of 2017.

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, after consulting with the DLNR-OCCL, there appears to be no previous permits or authorizations on file for the single-family residence on the subject property. For your information, we are providing a copy of this letter and information related to this STVR application to the DLNR-OCCL.

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

Exhibit 11

Page 1 of 2

Sheri (Parish) Hamilton
October 17, 2019
Page 2 of 2

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

Sincerely,



MICHAEL YEE
Planning Director

CRK:crk

\\Coh33\planning\public\Admin Permits Division\Letters\STVR Letters\10.15.19 - STVR & NUC Return - 84013016 - Hamilton.docx

Encl.: STVR Registration/Nonconforming Use Certificate Application Submittal Documents
Receipt # 052745

cc: C. Lato, Senior Account Clerk

Samuel J. Lemmo, Administrator
DLNR-OCCL

Exhibit 11

Page 2 of 2



County of Hawai'i Planning Department

www.hiplanningdept.com · 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 · Kaihua-Kona, Hawai'i 96740
Phone (808) 323-4770 · Fax (808) 327-3563

Drop Box

FOR OFFICE USE ONLY

Receipt Number: _____

Reviewed By: _____

STVR #: _____

NUC # (If Applicable) _____

PLANNING DEPARTMENT
COUNTY OF HAWAII
2019 SEP 27 PM 1:17

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): Sheri (Parish) Hamilton

APPLICANT'S INTEREST, IF NOT THE OWNER: _____

SIGNATURE: _____

DATE: 9-21-19

SIGNER (Please Print): _____

Sheri (Parish) Hamilton

TITLE: owner

MAILING ADDRESS: P.O. Box 5004

CITY: Kailua-Kona,

STATE: Hi.

ZIP CODE: 96745

PHONE NO.: (808) 329-0914

EMAIL: _____

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

LANDOWNER (Please Print): _____

Sheri (Parish) Hamilton

SIGNATURE: _____

DATE: _____

SIGNER (Please Print): _____

Sheri Parish Hamilton

TITLE: _____

MAILING ADDRESS: P.O. Box 5004

CITY: Kailua-Kona

STATE: Hi.

ZIP CODE: 96745

PHONE NO.: (808) 329-0914

EMAIL: _____

REACHABLE PERSON (Please Print): _____

MAILING ADDRESS: _____

CITY: _____

/HI ZIP CODE: _____

PHONE NO.: Business () _____

Home/Mobile () _____

EMAIL: _____

STVR STREET ADDRESS: _____

87-5304 City of Refuge Rd.

84-5007 Ke Ala O Koa

CITY: _____

Honolulu

/HI ZIP CODE: _____

96726

FOR OFFICE USE ONLY:

TAX MAP KEY: (3) _____

8-4-013-010-0000

ZONING: _____

SLU: _____

If Ag, Date of Subdivision: _____

LUPAG: _____

The submittal of an incomplete application will delay official acceptance by the Department. Furthermore, additional information may during the course of the review process and be deemed valid. Lack of required information will render the application incomplete.

Exhibit 12

Page 1 of 21

**COUNTY OF HAWAII
PLANNING DEPARTMENT**

SHORT-TERM VACATION RENTAL (STVR) AFFIDAVIT OF COMPLIANCE

This is to acknowledge that I, Sherolyn (Sheri) P. Hamilton,

landowner / authorized applicant of the existing/proposed STVR property located at:
84-5607 Keala O Keawe Rd.

Tax Map Key (3) 8-4-13-016, 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;

Exhibit 12

Page 2 of 21

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.

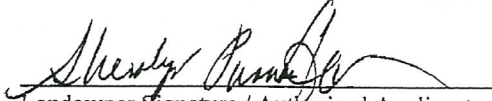
Signage. Any commercial signage that advertises an STVR shall comply with the requirements of HCC Section 22-2.6 and HCC Chapter 3.

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) 8-013-016-000


Landowner Signature / Authorized Applicant

Sherilyn Parnell
Printed Name of Landowner/Authorized Applicant

9/21/19
Date

Landowner Signature / Authorized Applicant

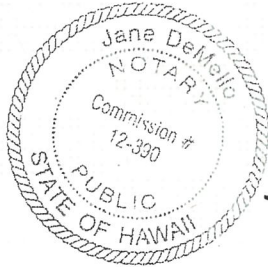
Printed Name of Landowner/Authorized Applicant

Date

Short-Term Vacation Rental Affidavit of Compliance

STATE OF HAWAII)
) SS.
COUNTY OF HAWAII)

On this 21 day of September, 2019, before me personally appeared Sherylyn Puamau Hamilton 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.

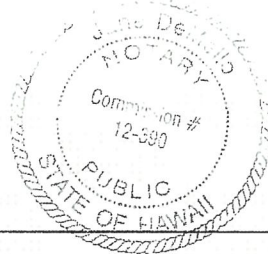


Jane Demello
Jane Demello
Notary Public, State of Hawai'i
Third Judicial Circuit

My Commission Expires: 12/09/2020

NOTARY CERTIFICATION

Doc. Date: 9/21/19 No. of Pages: 4
Notary Name: Jane Demello
Doc. Description: County of Hawaii Planning Dept Circuit: Third Circuit
Jane Demello 9/21/19
Notary Signature Date



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

Today's Date: 9/23/, 2019

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 9/25/, 2019 at the Department's KONA location.

(specify Hilo or Kona)

STVR INFORMATION

Applicant(s) Name: Sheri (Sherolyn) P. (Parish) Hamilton
Proposed STVR Street Address: 84-5607 Keala O Keawe Rd.
Honolulu
TMK: (3) 8-4-13-016
Number of bedrooms being rented: 2 Maximum number of guests permitted: 6
Number and location of off-street parking spaces: 2

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: planning@hawaiicounty.gov

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

FIRST NOTIFICATION LETTER

Exhibit 12

Page 6 of 21

BUSINESS START DATE: 12/30/2017

STATE OF HAWAII
DEPARTMENT OF TAXATION

L0966507520
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

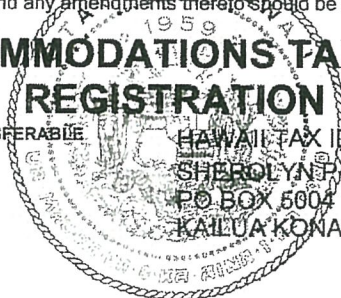
THIS CERTIFICATE OF REGISTRATION IS NOT TRANSFERABLE

HAWAII TAX ID NUMBER: TA-060-156-1088-01

SHEROLYN HAMILTON

PO BOX 5004

KAILUA KONA HI 96745-5004



BUSINESS START DATE: 11/30/2017

STATE OF HAWAII
DEPARTMENT OF TAXATION

L1147321344
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-060-156-1088-02

SHEROLYN HAMILTON

PO BOX 5004

KAILUA KONA HI 96745-5004

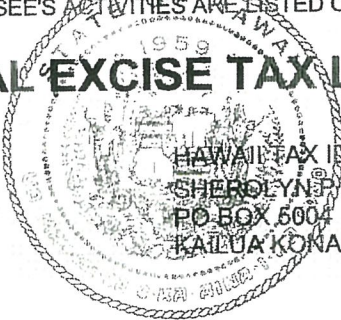


Exhibit 12

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Harry Kim
Mayor



Deanna S. Sako
Finance Director

Steven A. Hunt
Deputy Director

County of Hawai'i

DEPARTMENT OF FINANCE - REAL PROPERTY TAX

Aupuni Center, 101 Pauahi Street, Suite No. 4 • Hilo, Hawai'i 96720-4224 • Fax (808) 961-8415
Appraisers (808) 961-8354 • Clerical (808) 961-8201 • Collections (808) 961-8282
West Hawai'i Civic Center • 74-5044 Ane Keohokalole Hwy. • Bldg. D, 2nd Flr. • Kailua Kona, Hawai'i 96740
Fax (808) 327-3538 • Appraisers (808) 323-4881 • Clerical (808) 323-4880
Website: www.hawaiipropertytax.com

REAL PROPERTY TAX CLEARANCE

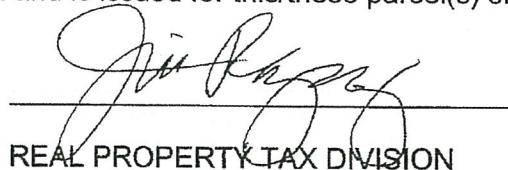
Date: August 20, 2019

TMK(s): (3) 8-4-013-016-0000

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 1st each year. The taxes become a lien on the property assessed as of the levy date.

This clearance was requested on behalf of Sheri Parish-Hamilton 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. 12/09)

Exhibit 12

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Hawai'i County is an Equal Opportunity Provider and Employer

---- 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) _____

* If Building, Electric or Plumbing records can not be found, other records may be substituted. These records may include Hawaiian Electric Light Company logs (available at Building Division) verifying conversion of power connection from temporary to residential or final approved building/electrical/plumbing permits issued on the building site subsequent to the original permit.

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 12

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COUNTY OF HAWAII
REAL PROPERTY TAX DIVISION
AUPUNI CENTER
101 PAUHAH STREET SUITE 4
HILLO, HI 96720-4224
TELEPHONE: (808) 961-8282
www.hawaiipropertytax.com

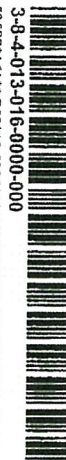
COUNTY OF HAWAII 2019-2020 REAL PROPERTY TAX BILL

FISCAL YEAR JULY 1, 2019 TO JUNE 30, 2020

KEEP THIS PORTION FOR YOUR RECORDS
IMPORTANT INFORMATION ON REVERSE SIDE

GENERAL PAYMENT INSTRUCTIONS:

1. MAKE CHECK PAYABLE TO:
DIRECTOR OF FINANCE
2. TO MAIL REMITTANCE:
ENCLOSE BOTTOM PORTION AND KEEP UPPER
SECTION FOR YOUR RECORDS.
3. TO PAY IN PERSON:
BRING ENTIRE NOTICE TO THE COUNTY OF HAWAII,
REAL PROPERTY TAX DIVISION.
4. THIS BILL IS FOR THE ENTIRE AMOUNT DUE ON THE
PROPERTY AND NOT PRORATED ACCORDING TO
OWNERSHIP.



3-8-4-013-016-0000-000
53587161**G50**0.5995**1/1*****AUTOS-DIGIT 96740
PARISH-HAMILTON, SHERI
PO BOX 5004
KAILUA KONA HI 96745-5004



ATTENTION

You may pay your real property tax bill online at:
<https://payments.hawaii.gov/propertytax/hawaii>
Credit/debit cards are not accepted at our
Hilo or Kona offices or over the phone.

TAXPAYER/KEY/PARCEL ID	PAYMENT DUE DATE	PRIOR YEAR(S)	CURRENT YEAR	TOTAL	AMOUNT DUE NOW
County of Hawaii 74-5044 Ane Keohokalole Hwy Kailua Kona HI 96740 BUSINESS ACTUAL TIME 8/20/2019 8/20/2019 13:52:42 REG WS20 WALKIN JR >>RECEIPT # 565178 8/20/2019 AUTO UPD1 1000 IAS Tax Payments BALANCE DUE 356.89 PARISH-HAMILTON, SHERI PO BOX 5004 KAILUA KONA HI 96745 RP NML 000 TMK: 3-8-4-013-016-0000-000 BILL: 0000000000 3 000004591105 101 Curr Tax					
TAX YR 2019 CYC 1				\$356.90	
CODE TAX				\$356.90	
Receipt total				\$356.90	
All receipts				\$356.90	
ELEC. DEPOSIT 1				\$356.90	
1878				\$356.90	
SHEROLYN PARISH HAMILTON					
MICHAEL HAMILTON					
P O BOX 5004					
KAILUA KONA HI 96745-5004					
Total remitted				\$356.90	
TOTAL					\$ 713.79

MAHALO! - HAVE A NICE DAY!

Exhibit 12

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

SHEROLYN P. HAMILTON
PO BOX 5004
KAILUA KONA HI 96745-5004



Date: September 29, 2018
Letter ID: L1815835136
Customer ID: T-060-156-1088

Dear Taxpayer:

The user identified below has been granted online access to your Transient Accommodations account TA-060-156-1088-01. The user will be able to access all tax information relating to this account that is available through Hawaii Tax Online and by phone.

Logon Name: SHEROLYN HAMILTON
Taxpayer Name: SHEROLYN P. HAMILTON

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 correspondences 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 12

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SHERI P HAMILTON
PO BOX 5004
KAILUA-KONA HI 96745

10/16/18

57

Pay to the
Order of

Hawaii State Tax Collector \$ 2190!
Two hundred nineteen and 01/100

Bank of Hawaii
KONA BRANCH
KAILUA-KONA, HAWAII 96740

191642240

[Signature]

Security
Features
are
listed
on
back

Cut carefully along this line to detach.

Your check authorizes us to make a one-time electronic fund transfer from your account.

STATE OF HAWAII — DEPARTMENT OF TAXATION

Do not photocopy this voucher. Do not send multiple checks with this voucher.



Bill Payment

Name: SHEROLYN P. HAMILTON

Id Type: Media Number (01)

Id: [REDACTED]

Voucher Date: Oct-04-2018

Letter Id: L1632088576

Make check payable to: Hawaii State Tax Collector
Mail To: PO Box 259 Honolulu, HI 96809-0259

Amount Due: 219.01



Exhibit 12

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Detail of Accounts

Taxes currently reported on the Statement of Taxpayer include Corporate Income, Franchise, General Excise and County Surcharge, Public Service Company, Rental Motor Vehicle, Tour Vehicle, and Car-Sharing Vehicle, Seller's Collection, Transient Accommodation, Use, and Withholding. If you owe another type of tax or related penalties, the other liabilities remain due and payable to the State of Hawaii.

SHEROLYN P. HAMILTON

SSN:XXX-XX-XXXX

GE-060-156-1088-01 - General Excise/Use

	Period Ending	Tax	Penalty	Interest	Other	Credits	Balance	Interest Through
[1] [2]	03/31/18	84.32	21.10	3.93	0.00	(84.32)	\$25.03	10/20/18
[1] [2]	06/30/18	1,127.78	169.17	24.81	0.00	(1,127.78)	\$193.98	10/20/18
		1,212.10	190.27	28.74	0.00	(1,212.10)	\$219.01	

1 - New Debt - Must be paid immediately in order to avoid additional penalties and interest and collection actions being taken against you. In accordance with section 231-39, Hawaii Revised Statutes, if you filed your return on or before the prescribed due date and the amount shown as tax on the return is not completely paid within 60 days of the prescribed filing date, a 20% late pay penalty will be assessed on unpaid tax.

2 - Late File Penalty - The return was filed after the prescribed due date. Under section 231-39, Hawaii Revised Statutes, a 5% late file penalty has been assessed on unpaid tax, with an additional 5% for each additional month the return was filed late for a maximum of 25%.

Exhibit 12

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STATE OF HAWAII - DEPARTMENT OF TAXATION
HAWAII TAXPAYER BILL OF RIGHTS

MESSAGE FROM THE DIRECTOR -

This publication explains some of your most important rights as a taxpayer. Hawaii taxpayers have many rights. Some are based on laws, and others are based on our commitment to administer Hawaii's tax laws in a fair and equitable manner. The Hawaii Taxpayer Bill of Rights compiles these rights for your easy reference.

Taxpayer rights are at the heart of good tax administration — a pledge that the tax laws will be administered with fairness, uniformity, courtesy, and common sense. In our commitment to this pledge, we invite your suggestions for improving the services provided by the Department of Taxation.

HAWAII TAXPAYER BILL OF RIGHTS

I. Protection of Taxpayer Rights - Taxpayers are entitled to be informed about their rights and responsibilities and to be assured that their rights will be protected throughout their contact with the Department of Taxation.

II. Tax Information - Taxpayers have a right to tax information written in plain language. Taxpayers have a right to examine their own tax records, audit files, and collection files. Taxpayers have a right to request copies of their own tax returns and return information, if available, subject to copying fees. Taxpayers have a right to obtain explanations regarding billings and assessments.

III. Professional and Courteous Service - Taxpayers have a right to prompt, courteous, and accurate responses to all questions and requests for tax assistance.

Taxpayers have a right to be assured that no civil service employee of the Department of Taxation will be paid, promoted, or in any way rewarded based on the amount of assessments made or taxes collected.

Taxpayers have a right to be free from harassment and inappropriate contact by Department of Taxation personnel in matters relating to the collection of delinquent taxes and during the course of audits.

IV. Privacy and Confidentiality - Taxpayers have a right to be assured that their dealings with the Department of Taxation will be kept confidential. Taxpayers have a right to be assured that their tax returns and tax return information will not be disclosed, except as provided by law.

V. Time Limitations - Taxpayers are entitled to seek a refund if they have overpaid their taxes. A claim for refund must be filed within the applicable statute of limitations. The Department of Taxation may assess a taxpayer additional taxes if the assessment is made within the applicable statute of limitations. There is no time limit on the assessment of taxes in the case of a false or fraudulent return or failure to file a return.

Taxpayers may extend the period of limitations for the assessment or refund of taxes by signing a written agreement with the Department of Taxation. If the Department of Taxation is notified by the Internal Revenue Service or a taxpayer of any changes, corrections, or adjustments to the taxpayer's Federal tax return, the statute of limitations is automatically extended.

VI. Audits and Assessments - Taxpayers have a right to a Proposed Notice of Assessment except in the case of a jeopardy assessment. A Proposed Notice of Assessment is mailed to the taxpayer's last known address and (1) explains the basis for the assessment of taxes, penalties, and interest; (2) informs taxpayers of their right to request clarification or to object to the tax assessment within thirty days from the date the Proposed Notice of Assessment was mailed; and (3) informs taxpayers that the proposed tax assessment will become final after the expiration of thirty days from the mailing of the Proposed Notice of Assessment.

Taxpayers have a right to a Final Notice of Assessment, issued after the expiration of thirty days from the mailing of the Proposed Notice of Assessment, that provides the basis for the tax assessment, and informs the taxpayer of the procedures for appealing the assessment.

Taxpayers have a right to request a meeting with the auditor or collector, their supervisor, or senior management to discuss a Proposed or Final Notice of Assessment if they do not agree with the tax assessment.

Taxpayers have a right to request that the Department of Taxation consider a closing agreement to reduce a Proposed or Final Notice of Assessment. Closing agreements are final.

VII. Tax Appeals/Payment Under Protest - Taxpayers have a right to information regarding procedures for appealing a tax assessment.

Tax Appeals. Taxpayers have a right to appeal an assessment to our Administrative Appeals Office, to the board of review, or to the tax appeal court. In order to appeal to the Administrative Appeals Office, an appeal application must be filed within 20 days from the mailing date of the Proposed Notice of Assessment or within 30 days from the mailing date of the Final Notice of Assessment. The assessment does not need to be paid in order to appeal to the Administrative Appeals Office. An appeal to the board of review or to the tax appeal court must be filed within 30 days from the date the Final Notice of Assessment was mailed. If the appeal is filed directly with the tax appeal court, a court-stamped copy of the notice of appeal must also be served on the Director of Taxation within 30 days from the date the Final Notice of Assessment was mailed by delivery to:

Civil Legal Complaints/Legal Process
Director of Taxation - Department of Taxation
830 Punchbowl Street, Room 221
Honolulu, HI 96813-5094

If the appeal is filed with the board of review, the decision of the board may be appealed to the tax appeal court within 30 days after the filing of the board of review decision. A court-stamped copy of the notice of appeal must also be served on the Director of Taxation at the above address within 30 days after the filing of the board of review decision.

If the appeal is filed with the tax appeal court, the decision of the tax appeal court may be appealed within 30 days to the Intermediate Appellate Court.

The first appeal to either the board of review or to the tax appeal court may be made without payment of the tax assessed. However, the assessed tax must be paid together with interest when the taxpayer appeals the decision by the board or the tax appeal court or the decision by the board in favor of the Department of Taxation is not appealed. In addition, a taxpayer who prevails before the board of review does not have to pay the assessed tax prior to an appeal by the Department of Taxation to the tax appeal court. Similarly, a taxpayer who prevails before the board of review and the tax appeal court does not have to pay the assessed tax prior to an appeal by the Department of Taxation to the Intermediate Appellate Court.

The tax appeal court may allow an individual taxpayer to appeal an income tax assessment without prior payment of the tax where the total tax liability does not exceed \$50,000 and the taxpayer shows that the payment of the tax would cause irreparable harm.

Payment Under Protest. In lieu of filing an appeal, or if an appeal is not filed with the board of review, with the tax appeal court, or with the Administrative Appeals Office within 30 days from the date the Final Notice of Assessment was mailed, the taxpayer may pay the disputed tax assessment under written protest and seek to recover the taxes by filing an action in tax appeal court within 30 days from the date of payment.

VIII. Representation - Taxpayers have a right to represent themselves or have another person accompany or represent them (with proper written authorization) when dealing with the Department of Taxation on any tax matter, including audits, collections, and appeals.

IX. Taxpayer Advocate - Taxpayers have a right to seek the assistance of our Taxpayer Advocate to resolve any tax-related problem after all other means for resolving the problem have been exhausted, or if they feel that their rights as a taxpayer have been abridged, except in the case of a criminal tax investigation.

X. Installment Agreements, Waivers, and Compromises
Installment Agreements. Taxpayers have a right to request that the Department of Taxation consider an installment payment agreement to allow taxpayers to pay their delinquent taxes over time. The Department of Taxation will evaluate a request for an installment payment agreement based on the financial condition of the taxpayer. Taxpayers will be notified before collection action is taken on any outstanding tax liability if the installment payment agreement is in good standing. Interest will continue to accrue on the outstanding tax and penalty until paid in full. The Department may offset any outstanding tax liability with any credits due to the taxpayer from other taxes.

Waiver of Penalties and Interest. Taxpayers have a right to request that the Department of Taxation waive penalties and interest added to any tax if the taxpayer can show that failure to file a return or pay a tax on time was due to reasonable cause, i.e., not due to the taxpayer's own carelessness, neglect, or willful disregard of the law, but due to circumstances beyond the taxpayer's control.

Compromise Offers. Taxpayers have a right to request that the Department of Taxation consider a compromise offer to reduce any tax claim arising under the tax laws administered by the Department based on doubt as to liability or collectibility, subject to the Governor's approval. The tax liability excluding penalties and interest is \$50,000 or less, the Director may approve the offer in compromise without the Governor's approval after the offer in compromise has been posted on the Department's website for 5 calendar days.

Any offer in compromise submitted to the Department of Taxation must be accompanied by 20% of the amount of the offer in cases of a lump-sum offer in compromise, or the first proposed payment in the case of a periodic payment offer in compromise. Individual taxpayers who meet the low-income certification guidelines published by the Internal Revenue Service for the period in which the offer in compromise has been submitted will not be required to submit a payment with an offer in compromise submission. In cases where an offer in compromise is rejected, the payment amount will be applied to the tax liability of the taxpayer that was first assessed.

XI. Collections - Taxpayers have a right to be informed in writing to the taxpayer's last known address of possible collection actions that may be taken on delinquent taxes, including referral to a collection agency.

Taxpayers have a right to be notified of any cost recovery fee associated with any collection action.

Taxpayers have a right to have collection actions put on hold in the case of hardship or while discussing their situation with the collector, supervisor, or senior management, understanding that interest continues to accrue.

Taxpayers have a right to a prompt release of a lien upon payment of a tax delinquency and all filing fees.

Taxpayers have a right to have an incorrect lien corrected or released and to have a letter of clarification sent to a credit reporting company.

Taxpayers have a right to have all other collection actions exhausted before a seizure of a taxpayer's assets takes place, unless the Department of Taxation determines that the interests of the State are in jeopardy.

Taxpayers have a right to have the following property exempt from levy: wearing apparel, school books; fuel; provisions; furniture; personal effects; books and tools of a trade, business, or profession; unemployment benefits; an undelivered mail.

Exhibit 12

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Parcel Information

Parcel Number 840130160000
Location Address 84-5607 KE ALA O KEAWE ROAD
Project Name Honaunau Beach Lots
Property Class CONSERVATION
Neighborhood Code 8334-6
Legal Information 8,712 SF RP 3735 LCAW 9769-B
Land Area (acres) 0.2000
Land Area (approximate sq ft) 8,712

[View Map](#)

[Plat \(TMK\) Maps](#)

Owner Information

Owner Names
 PARISH-HAMILTON, SHERI Fee Owner

Mailing Address
 PARISH-HAMILTON, SHERI
 PO BOX 5004
 KAILUA KONA HI 96745

Assessment Information

[Show Historical Assessments](#)

Year	Property Class	Market Land Value	Assessed Land Value	Assessed Building Value	Total Taxable Value
2019	CONSERVATION	\$61,000	\$61,000	\$800	\$61,800

Land Information

Property Class	Square Footage	Acreage	Agricultural Use Indicator
CONSERVATION	8,712	0.2	

Bldg Division Permit and Inspections Information

Permit Date	Permit Type	Permit Number	Permit Reason	Permit Description	Estimated Cost
6/15/2007	Electrical	E2007-1065K	Addition; Electric Only	REWIRE EXISTING DWELLING	\$3,000

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	Date Recorded	Book/Page	Conveyance Tax
05/28/2003	\$80,000	06/09/2003		80
03/26/2001	\$0	04/12/2001		0.00
11/11/1992	\$0	02/05/1993		0.00
07/29/1987	\$0	01/19/1988	21543/410	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	\$356.89	\$0.00	\$0.00	\$0.00	\$356.89
	Tax Bill with Interest computed through 09/30/2019		\$0.00	\$0.00	\$356.89	\$0.00	\$0.00	\$0.00	\$356.89

Pay online at <http://payments.ehawaii.gov/propertytax/hawaii>
[Other Payment Options Click Here](#)

Historical Tax Information

Year	Tax	Payments and Credits	Amount Due
2019	\$713.79	(\$356.90)	\$356.89
2018	\$713.79	(\$713.79)	\$0.00
2017	\$713.79	(\$713.79)	\$0.00
2016	\$670.53	(\$670.53)	\$0.00
2015	\$670.53	(\$670.53)	\$0.00

2014	\$670.53	(\$670.53)	\$0.00
2013	\$670.53	(\$670.53)	\$0.00
2012	\$608.73	(\$608.73)	\$0.00
2011	\$608.73	(\$608.73)	\$0.00
2010	\$608.73	(\$608.73)	\$0.00
2009	\$528.39	(\$528.39)	\$0.00
2008	\$528.39	(\$528.39)	\$0.00
2007	\$528.39	(\$528.39)	\$0.00
2006	\$528.39	(\$528.39)	\$0.00
2005	\$608.73	(\$608.73)	\$0.00
2004	\$608.73	(\$608.73)	\$0.00
2003	\$608.73	(\$608.73)	\$0.00
2002	\$608.73	(\$608.73)	\$0.00
2001	\$616.80	(\$616.80)	\$0.00
2000	\$52.51	(\$52.51)	\$0.00

Recent Sales in Area

From: Sep 26, 2016 To: Sep 26, 2019

1500 Feet

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



Exhibit 12

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STVR Registration

SHORT-TERM VACATION RENTAL (STVR) REGISTRATION
LANDOWNER ADDENDUM

LANDOWNER: Rosabel K. Kailakau

SIGNATURE: _____ DATE: 9/23/19

SIGNER (Please Print): _____ TITLE: _____

MAILING ADDRESS: 319 Alakaka Lane

CITY: Honolulu STATE: Hawaii ZIP CODE: 96813

PHONE NO.: () _____ EMAIL: _____

LANDOWNER: Albert B. Akana Est.

SIGNATURE: _____ DATE: 9/23/19

SIGNER (Please Print): _____ TITLE: _____

MAILING ADDRESS: P.O. Box 3466

CITY: Honolulu STATE: Hawaii ZIP CODE: 96801-3466

PHONE NO.: () _____ EMAIL: _____

LANDOWNER: Zadoc Kekuewa

SIGNATURE: _____ DATE: 9/23/19

SIGNER (Please Print): _____ TITLE: _____

MAILING ADDRESS: P.O. Box 55

CITY: Honolulu STATE: Hawaii ZIP CODE: 96726

PHONE NO.: () _____ EMAIL: _____

LANDOWNER: Emely + Randolph Wilson

SIGNATURE: _____ DATE: 9/23/19

SIGNER (Please Print): _____ TITLE: _____

MAILING ADDRESS: P.O. Box 690

CITY: Honolulu STATE: Hawaii ZIP CODE: 96726

PHONE NO.: () _____ EMAIL: _____

LANDOWNER: Kenneth L. Mattee

SIGNATURE: _____ DATE: 9/23/19

SIGNER (Please Print): _____ TITLE: _____

MAILING ADDRESS: P.O. Box 61

CITY: Davenport, STATE: CA. ZIP CODE: 95017

PHONE NO.: () _____ EMAIL: _____

Exhibit 12

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STVR Registration

SHORT-TERM VACATION RENTAL (STVR) REGISTRATION
LANDOWNER ADDENDUM

LANDOWNER: Sherry E. Berliner
SIGNATURE: _____ DATE: 9/23/19
SIGNER (Please Print): _____ TITLE: _____
MAILING ADDRESS: P.O. Box 623
CITY: Kealahou STATE: Hawaii ZIP CODE: 96750
PHONE NO.: () _____ EMAIL: _____

LANDOWNER: B.P. Bishop Est.
SIGNATURE: _____ DATE: 9/23/19
SIGNER (Please Print): _____ TITLE: _____
MAILING ADDRESS: P.O. Box 3466
CITY: Honolulu STATE: Hawaii ZIP CODE: 96801-3466
PHONE NO.: () _____ EMAIL: _____

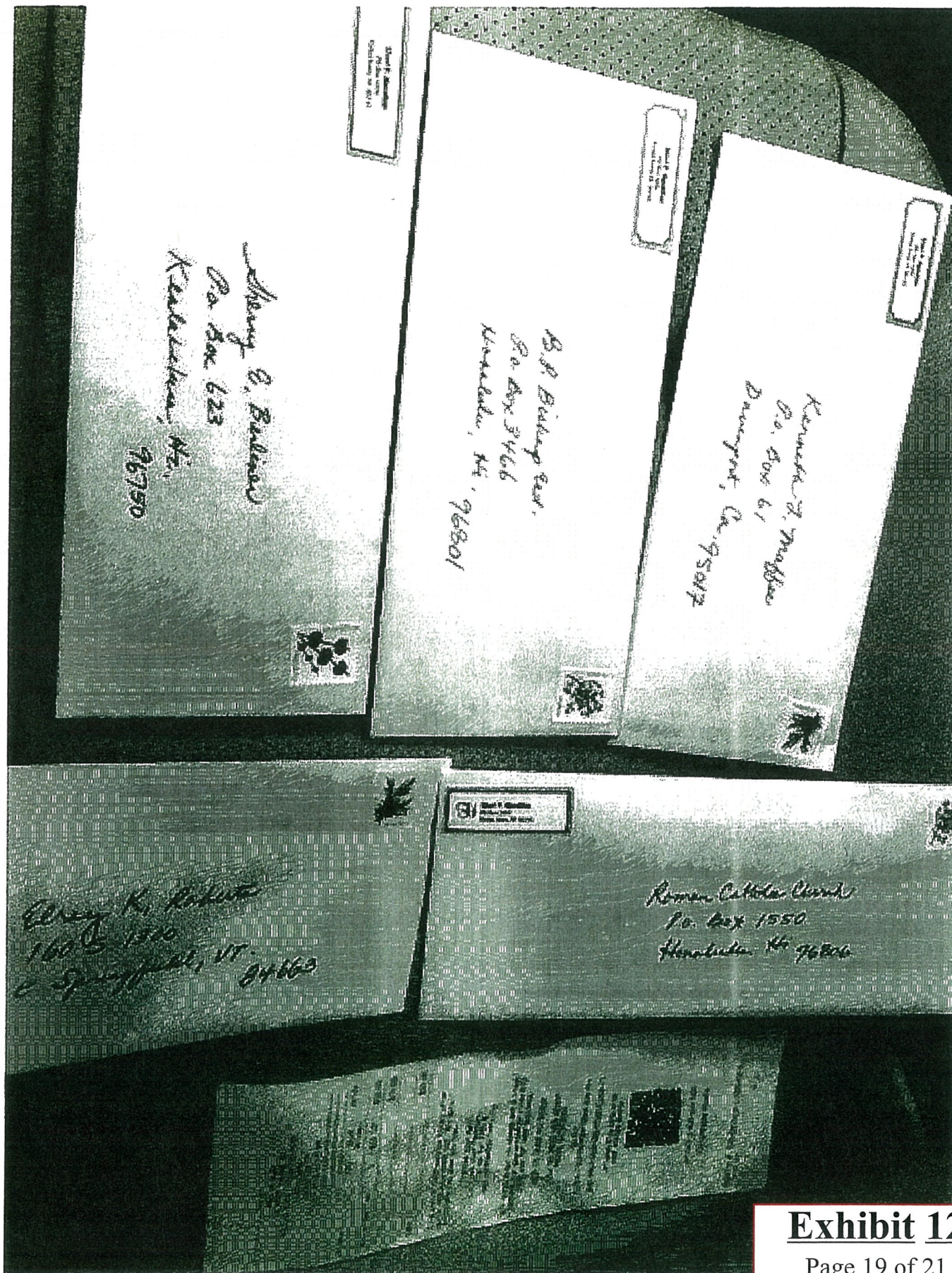
LANDOWNER: Roman Catholic Church
SIGNATURE: _____ DATE: 9/23/19
SIGNER (Please Print): _____ TITLE: _____
MAILING ADDRESS: P.O. Box 1550
CITY: Honolulu STATE: Hawaii ZIP CODE: 96806
PHONE NO.: () _____ EMAIL: _____

LANDOWNER: Roy K. Roberts Etal
SIGNATURE: _____ DATE: 9/23/19
SIGNER (Please Print): _____ TITLE: _____
MAILING ADDRESS: 1605 1300 E
CITY: E. Springville STATE: UT ZIP CODE: 84663
PHONE NO.: () _____ EMAIL: _____

LANDOWNER: _____
SIGNATURE: _____ DATE: _____
SIGNER (Please Print): _____ TITLE: _____
MAILING ADDRESS: _____
CITY: _____ STATE: _____ ZIP CODE: _____
PHONE NO.: () _____ EMAIL: _____

Exhibit 12

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Henry G. Bullock
P.O. Box 623
Ketchikan, HI.
96750

B.J. Bishop Esq.
P.O. Box 3466
Honolulu, HI. 96801

Kenneth D. Hughes
P.O. Box 61
Dunsmuir, Ca. 95917

Gregory K. Roberts
160 S. 1510
Springfield, VT.
05460

Roman Catholic Church
P.O. Box 1550
Honolulu, HI 96806

Exhibit 12

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Arnelly + Randolph Wilson
P.O. Box 690
Hannover, NH 96726

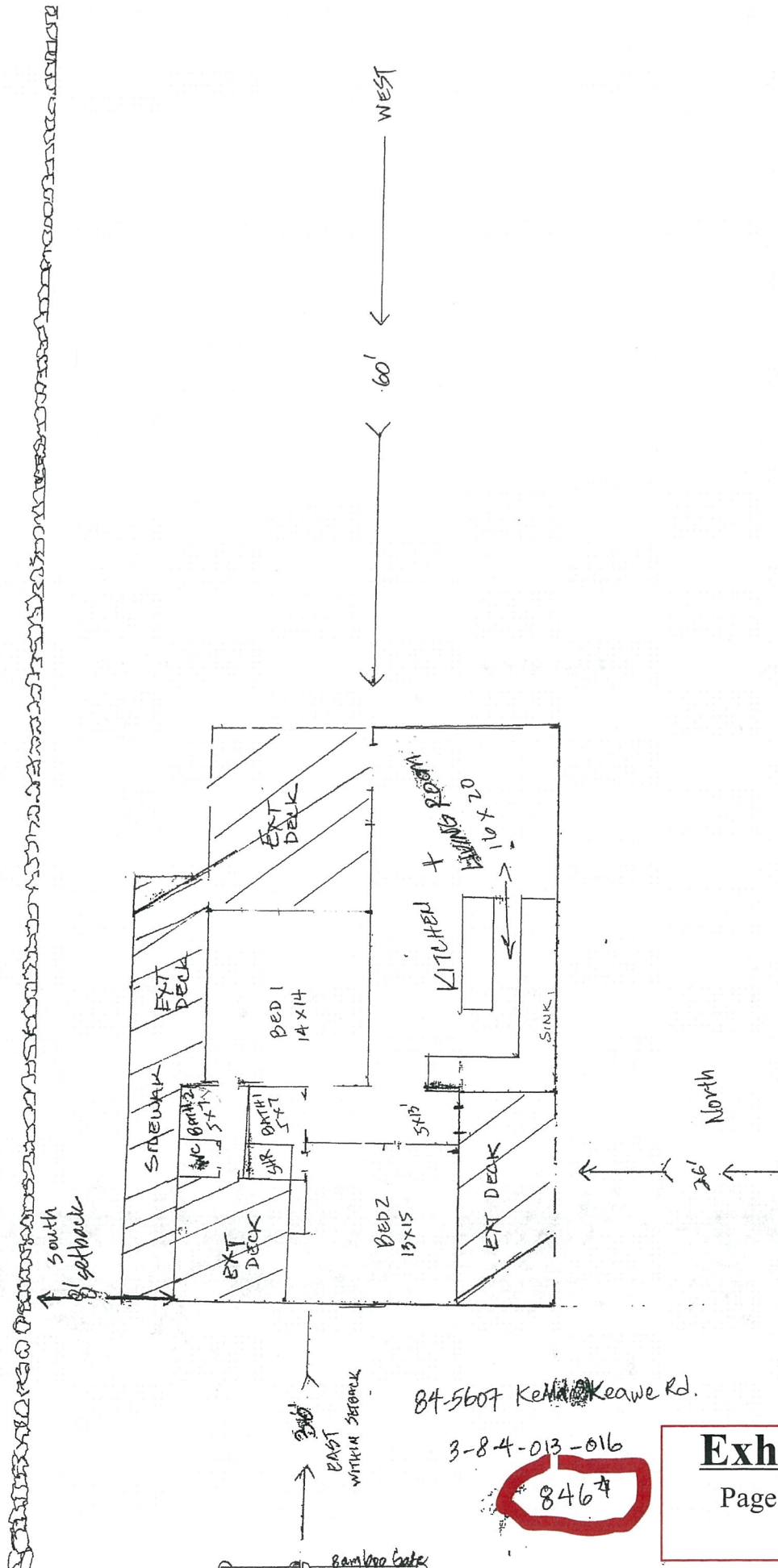
Robert & Arlene
P.O. Box 3446
Hannover, NH 96801-3446

James K. Ketchum
P.O. Box 55
Hannover, NH 96726

Ronald K. Ketchum
Dorothy K. Ketchum
319 N. Main Street
Hannover, NH 96726

Exhibit 12

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84-5607 Keawe Rd.

3-8-4-013-016

846

Exhibit 12

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Hale Maka I'o



Imagery ©2019 Google, Imagery ©2019 Maxar Technologies, Map data ©2019 100 ft



Hale Maka I'o

5.0 ★ ★ ★ ★ ★ (2)



Lodging



Exhibit 13

Page 1 of 3

[Directions](#)[Save](#)[Nearby](#)[Send to your](#)[Share](#)

-  84-5607 Keala O Keawe Rd, Captain Cook, HI 96704
-  C3FQ+6W Honaunau-Napoopoo, South Kona, HI
-  2stepbeachhouse.com
-  (808) 329-0914

Photos



Review summary



5.0



2 reviews

All reviews



LAURIE ANN MALINA

Local Guide · 171 reviews



★★★★★ 2 years ago

Beautiful perfect scenery and serene location



Like



Share

Exhibit 13

Page 2 of 3

10/17/2019

Hale Maka I'o - Google Maps



Michelle Johnson

Local Guide · 41 reviews



★★★★★ a year ago

Great experience!



Like



Share

People also search for



Affordable Hawaii...

4.7 ★★★★★ (3)

Bed & breakfast



South Kona Hidea...

5.0 ★★★★★ (4)

Bed & breakfast



Şimşek

4.5 ★★★★★

Lodging

Exhibit 13

Page 3 of 3

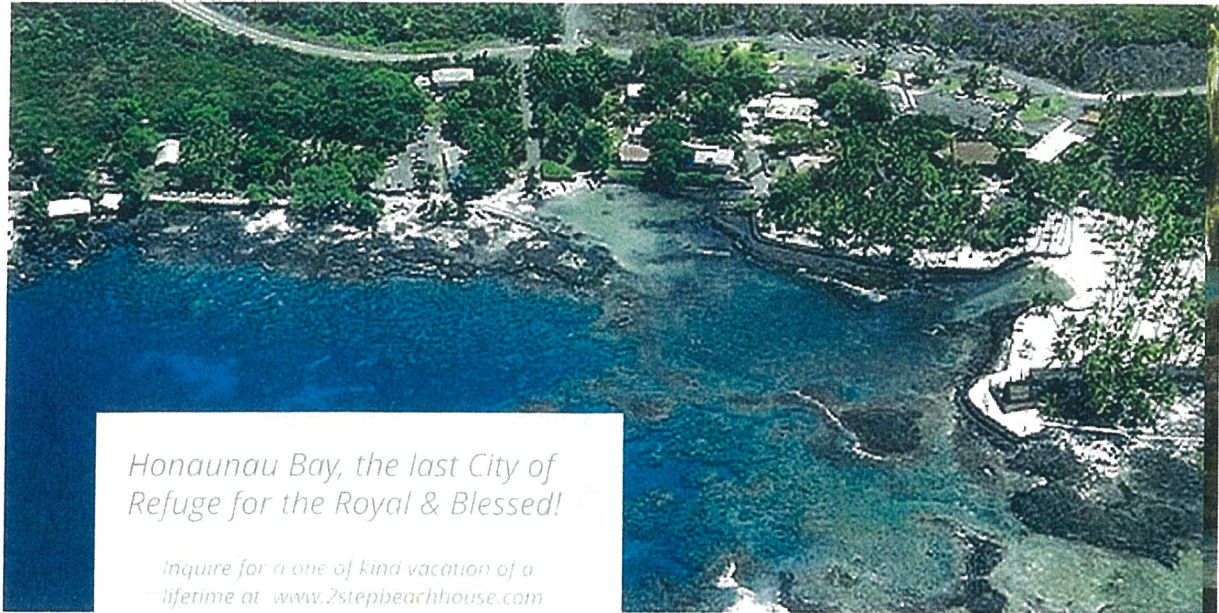
Hale Maka I'O BEACH HOUSE

HOME

HISTORY & OHANA

NEAR BY ATTRACTIONS

CONTACT



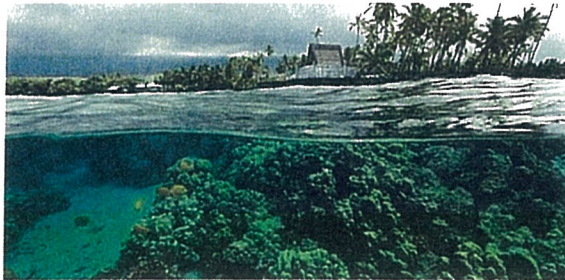
*Honaunau Bay, the last City of
Refuge for the Royal & Blessed!*

*Inquire for a one of kind vacation of a
lifetime at www.2stepbeachhouse.com*

History

Puuhonua O Honaunau

National Historic Park & famous 2 Step Snorkeling & Diving Bay at Honaunau, South Kona on the Big Island, Hawaii. This is real Hawaii captured in time with 100 foot coconut trees ; and majestic turquoise blue waters where the dolphins swim and play!



Beach House

Hale Maka I'O or the Eyes of God

Literally steps to the water, this comfortable beach house invites you to rest and enjoy in a picturesque setting amidst a garden full of scented flowers of plumeria; red ginger; bogainvillea; scented jasmine-pikake; and edible delights of strawberry papayas; bananas; & coconut trees that line the property.



Show More

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Exhibit 14

Page 1 of 4

Hale Maka I'O BEACH HOUSE

History & Ohana

Puuhonua O Honaunau or the City of Refuge includes over 400 years of history for those that needed to be saved from violations of kapu or sacred laws; the unwanted and defeated; and those that wanted to be forgiven. A 965 foot long masonry wall was built and if one made it within, they would be saved, thus the City of Refuge.

Due to the brackish springs that were in this protected bay, it was ideal for the **Alii, the royalty**, to establish important residential and ceremonial sites called the **Royal Grounds**.

My great grandmother and grandfather were given lands to "caretake" and **Malama the Aina, care for the land**, perpetuating the history of fishing, building canoes, harvesting the sea through hukilau, making cordage, bales from milo, and more.

Today, we can still enjoy the history through alot of open Festivals held at the National Park with many sharing their **Manao, enlightening heritage and gifts from within** through song, dance, weaving, hukilau, ipu making, flower leis, and authentic dance and traditions handed down throughout history. Hiking trails and authentic artifacts surround the area. Come & explore & be part of Hawaiian history a heritage legacy.



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Page 2 of 4

Hale Maka I'O BEACH HOUSE

ATTRACTIONS NEAR BY

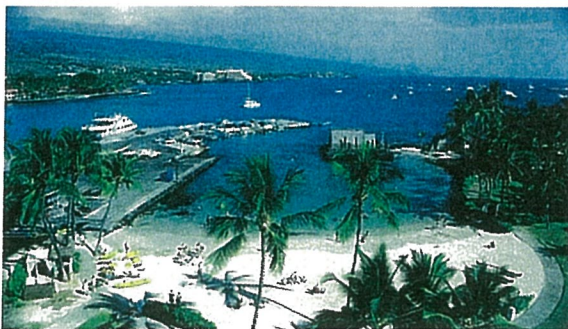
The Big Island, Hawaii in the Hawaiian chain is the largest island and is larger than all other islands put together! In South Kona, there is the historic Puuhonua O Honaunau National Park, the famous Painted Church called St. Benedicts Catholic Church, several Kona Coffee farms, Hawaiian Macadamia Farms, Scented Plumeria farms, Honey(Bee) Farms to renown Kealahakua Bay, where Capt. Cook discovered our islands. In North Kona, our first Christian church built in 1820, Mokuakaua Church and the Alii's Royalty playground, Hulihee Palace.



Big Island, Hawaii, from our volcano national park, to pristine white sand beaches on our west coastlines, this island has so much to offer and enjoy! View & taste your way throughout the Big Island from Kona Coffee to dining on the ocean!



Outdoor Activities range from snorkeling, scuba diving, hiking, kayaking, as you park your car and know you have arrived at your final destination... Honaunau Bay.



Great Eats & Treats
There are several restaurants within a few minutes from the South Kona Fruit Stand, Coffee Shack, Keei Cafe, Teshima Restaurant, Manago Hotel Restaurant, or enjoy more in town from Kona Inn Restaurant, Quinns, Kona Brewpub & more.

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Exhibit 14

Page 3 of 4

Hale Maka I'O BEACH HOUSE

Contact

HALE MAKI I'O

Beach House -

2 Bedrooms/2 Baths

Guests -Up to 4 Adults/2 Child

\$275/night -March1 to Nov.1

\$350/night-Nov. 1-Feb. 29

**3 Night Minimum/Discounts
over**

Plus GET/TA Tax/Clean Fee\$125

Refundable \$200 Security

Damage Deposit

**Property Management Co.-
Real Estate Consultants of
Kona**

Sheri P.Parish Hamilton, RS

Phone: #808-329-0914

Cell: #808-987-2161

**Email:Hawaiianstylevacations
@yahoo.com**

www.2stepbeachhouse.com

SERVICE WITH ALOHA!



Contact: Sheri Hamilton

Email: Hawaiianstylevacations@yahoo.com *

Inquire Dates Available *

Name, Email, Phone#, Message

Maka I'O Beach House
Best In Honaunau Hawaii



Google

500 m

Report a map error

Exhibit 14

Page 4 of 4

DAVID Y. IGE
GOVERNOR OF HAWAII



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

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

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
DEPUTY DIRECTOR - WATER

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

REF: OCCL: TF

ENF: HA 20-21

NOTICE OF ALLEGED VIOLATION & ORDER

OCT 25 2019

CERTIFIED MAIL/RETURN RECEIPT
7019 0700 0001 4006 6904

Ms. Sheri Parish-Hamilton
PO Box 5004
Kailua-Kona, HI 96745

SUBJECT: Alleged Prohibited Use in the Conservation District Located at 84-5607 Ke Ala O
Keawe Road, Honaunau Beach Lots, South Kona, Hawai'i
Tax Map Key (TMK): (3) 8-4-013:016

Dear Ms. Parish-Hamilton:

It has come to our attention that you have recently attempted to register the subject property and accompanying single-family residence (SFR) as a Short-Term Vacation Rental and Nonconforming Use with the County of Hawai'i. Based on the application that you attempted to file with the County of Hawai'i, it appears that you have been using the subject property and SFR as a transient rental.

The Office of Conservation and Coastal Lands (OCCL) notes that the subject property is located within the Limited Subzone of the State Land Use Conservation District. Within OCCL, we have no records for permitting any land uses on the subject property. According to a Field Book report dated 11/14/76 obtained from the County of Hawai'i, the subject property had a structure on it that was approximately 369 sq. ft. On March 28th, 2005, you wrote to the Department of Land and Natural Resources (DLNR) and OCCL requesting our review of the attached "Site Plan" for the purposes of rebuilding and reconstructing the existing structure with 3,057 sq. ft of improvements. You also stated that the new structure will be substantially similar to the existing structure's building footprint and would conform to current building codes and setbacks. You offered the following "Property Review" in your letter:

- 1) The existing use is residential house approximately 36 ft. by 36 ft. with 20 ft. by 20 ft. garage. Existing structure was built in the setback area on southside. There is an existing cesspool; and utilities water and electricity. There is an existing 20 ft. by 30 ft. concrete deck. Vegetation includes several tall coconut trees (about 8) that we trim to upkeep (coconuts); banyan tree; hibiscus; pikake; and plumeria and mock orange plants.
- 2) Small fishing village with single family homes; with preschool next door; near City of Refuge.

Exhibit 15

Page 1 of 5

- 3) There will be no effect to surrounding areas from this project as it will enhance the beauty of the small fishing village lifestyle of old traditional Hawaiiana.
- 4) There will be a minimal impact during construction to replace and reconstruct structure project by noise during construction that will be during the hours of 8am to 4pm. Excluding Sundays.
- 5) There are no alternatives to proposed project.
- 6) There are no irreversible and or irretrievable commitment of resources.
- 7) Coastal Ecosystems-Encourage coastal ecosystems to remain a living environment.
- 8) Economic Uses: Single family dwelling.
- 9) Coastal Hazards – None

You also attached a photo of the existing structure on the parcel to your letter as well. OCCL responded to your request with Correspondence Letter HA-05-198. In this letter, OCCL staff noted that the subject property was in the Limited Subzone and that your proposal was not authorized since the structure and proposed SFR was not in a floodplain or coastal high hazard area. OCCL staff did provide you with the option of obtaining approval to construct a SFR pursuant to Hawai'i Administrative Rules (HAR) §13-5-31 (f) and the nonconforming use of Kuleana lands.

On November 7th, 2005, you again wrote OCCL a letter regarding and reiterating your intentions to rebuild and reconstruct the structure on the subject property. You also attached a copy of the 1938 Deed showing that the subject property belonged to your family. OCCL responded to this letter on December 6th, 2005 with Correspondence Letter HA 06-101 restating that you needed to provide evidence that the subject property is a kuleana parcel that the subject property has retained its original metes and bounds and has historically and customarily been utilized as a SFR pursuant to HAR §13-5-22, P-3 Kuleana Land Uses, HAR §13-5-37 Nonconforming uses, and HAR §13-5-31 Permit Applications (f) the burden of proving that a parcel of land is a kuleana rests with the applicant. OCCL staff further instructed you that should you be able to submit evidence as outlined in HAR §13-5-31 (f), then you may file a Conservation District Use Application (CDUA) to apply for your proposed use. OCCL staff also presented you with the option of petitioning the State Land Use Commission to remove the subject parcel out of the Conservation District and placed in another State Land Use District in this Correspondence Letter.

You responded to HA 06-101 on February 23rd, 2006, with a letter explaining that the subject parcel was a kuleana parcel that has retained its original metes and bounds and has historically been utilized as a SFR. You attached a letter from DLNR – Land Division to Jason Muranaka (your cousin) regarding the Land Commission Award #9769B and Royal Patent No. 3735 as evidence that the subject property was a kuleana parcel that has retained its original metes and bounds and has historically been utilized as a SFR. OCCL staff sent you Correspondence Letter HA 06-191 on March 9th, 2006 which stated that your proposed land use was an identified land use in the Conservation District pursuant to HAR §13-5-22, P-3 Kuleana Land Uses, (D-1) that could be applied for. The letter also states that authorization for the proposed land use would be at the discretion of the Board of Land and Natural Resources and therefore would require filing for a Board Permit. A copy of the CDUA and HAR was attached.

After reviewing OCCL's files, it appears that OCCL did not receive any applications for your proposed land uses. Furthermore, it appears that you carried out the proposed rebuild and reconstruction for a SFR without authorization or approval based on satellite imagery reviewed on Google Earth sometime between January of 2007 and January of 2010. It also appears that the current SFR underwent "major alterations" meaning "...work done to an existing structure, facility, or use that results in more than fifty per cent increase in the size of the structure, facility, or use..." pursuant to HAR §13-5-2 Definitions. Grading and grubbing may have also been conducted on the subject parcel based on the same satellite images. In addition to the alleged unauthorized rebuild and reconstruction of the SFR, it appears that you have been using the SFR as a transient rental according to the application you attempted to file with the County of Hawai'i. Pursuant to Hawai'i Administrative Rules (HAR) §13-5-2, a "Transient rental" is defined 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, service, or labor of employees, and pursuant to HAR §13-5-42 (5), transient rentals are prohibited within the Conservation District.

NOTICE IS HEREBY GIVEN that you may be in violation of Hawai'i Administrative Rules (HAR) Title 13, Chapter 5, entitled Conservation District. HAR §13-5 contains the rules and regulations as well as the identified land uses within the State Land Use Conservation District, and was enacted pursuant to Hawai'i Revised Statutes (HRS), Chapter 183C.

The Department of Land and Natural Resources (DLNR) has determined that:

1. The location of the alleged transient rental and unauthorized land use is at 84-5607 Ke Ala O Keawa Road upon TMK: (3) 8-4-013:016 which is located in the Limited Subzone of the Conservation District;
2. According to OCCL records, there are no permits for any of the structures or land uses that have occurred on the subject property;
3. Based on satellite imagery obtained from Google Earth, "major alterations" occurred on the subject property and to the existing structure;
4. Google Maps has identified the residence as a place of lodging named "Hale Maka I'o" with the website 2stepbeachhouse.com and is located at 84-5607 Ke Ala O Keawa Road;
5. Website 2stepbeachhouse.com for the residence "Hale Maka I'o" indicate that the rate per night is \$275 from March 1st to November 1st and \$350 per night from November 1st to February 29th with a 3-night minimum and discounts over plus a General Excise Tax/Transient Accommodation Tax/Clean Fee of \$125 as well as a refundable \$200 Security Damage Deposit;
6. Website 2stepbeachhouse.com indicates that Sheri P. Parish Hamilton is the contact person for "Hale Maka I'o" and is the registered owner of the subject property according to County of Hawai'i TMK records;
7. Documents that you used in attempting to register the subject property and single-family residence with the County of Hawai'i for a Short-Term Vacation Rental/Nonconforming Use Certificate show that you have been using the subject property and structure as a transient rental since at least 2017; and

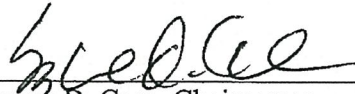
8. The alleged unauthorized modifications of the existing structure and the commercial use within the Conservation District was not authorized by the Board of Land and Natural Resources pursuant to HRS §183C or HAR §13-5; AND
9. The alleged unauthorized modifications of the existing structure and use of the subject property and single-family residence as a transient rental is in direct violation of HAR §13-5.

We recommend that you cease any further unauthorized land uses and transient rental activities on the subject parcel immediately. Pursuant to Hawai'i Revised Statutes (HRS), §183C-7 and HAR §13-5-6, the Board of Land and Natural Resources may subject you to fines of up to \$15,000.00 per violation in addition to administrative costs for a prohibited use in the Conservation District. If you continue transient rental activities on the subject parcel after written or verbal notification from the Department, willful violation may incur an additional fine of up to \$15,000.00 per day per violation for each day in which the violation persists.

The OCCL intends to schedule this matter before the Board of Land and Natural Resources (BLNR) for final disposition. You will be notified of the time and place for this Board meeting in the future.

Should you have any questions regarding this matter, contact Trevor Fitzpatrick of our Office of Conservation and Coastal Lands at (808) 587-0373.

Sincerely,



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

CC: *Hawai'i Land Division Office*
DOCARE – Hawai'i
County of Hawai'i, Department of Planning

Exhibit 15

Page 4 of 5

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Domestic Mail Only

For delivery information, visit our website at www.usps.com®.

OFFICIAL USE

Certified Mail Fee

\$

Extra Services & Fees (check box, add fee as appropriate)

- ☐ Return Receipt (hardcopy) \$
☐ Return Receipt (electronic) \$
☐ Certified Mail Restricted Delivery \$
☐ Adult Signature Required \$
☐ Adult Signature Restricted Delivery \$

Postmark

OCT 25 2019

Postage

\$

Total Postage

\$

Sent To

Ms. Sheri Parish-Hamilton

Street and Apt.

P.O. Box 5004

City, State, ZIP

Kailua-Kona, HI. 96745

PS Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Ms. Sheri Parish-Hamilton
P.O. Box 5004
Kailua-Kona, HI. 96745

ENF.: HA 20-21



9590 9402 4622 8323 8066 84

2. Article Number (Transfer from service label)

7019 0700 0001 4006 6904

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Address

B. Received by (Printed Name)

Sheri Parish-Hamilton

C. Date of Delivery

11/2/19

D. Is delivery address different from item 1? ☒ Yes

If YES, enter delivery address below: ☐ No

3. Service Type

- ☐ Adult Signature
☐ Adult Signature Restricted Delivery
☒ Certified Mail®
☐ Certified Mail Restricted Delivery
☐ Collect on Delivery
☐ Collect on Delivery Restricted Delivery

- ☐ Priority Mail Express®
☐ Registered Mail™
☐ Registered Mail Restricted Delivery
☒ Return Receipt for Merchandise
☐ Signature Confirmation™
☐ Signature Confirmation Restricted Delivery

Domestic Return Receipt

Exhibit 15

Page 5 of 5

State of Hawaii -DLNR Main Office
1151 Punchbowl St.
Honolulu, Hi. 96813

RE: HAR 13-5-42

Property: 84-5607 Ke Ala O Keawe Rd., Honaunau, Hi. 96726

TMK#3-8-4-031-016

Dear Sirs:

We tried to apply for the Short Term Vacation Rental Registration/Nonconforming Use Certificate Application through the County of Hawaii – Dept. of Planning. Attached, they have Returned due to the fact that property is located in the State Land Use Conservation District. I would like to apply for an application to have the property approved to continue to do short Term vacation rentals and an Approval from the DLNR Board. County sent copies of our Application too. The property is a single family residence, and kuleana with history of both fishing(grandfather Made canoes and fished)great grandmother grew native Hawaiian plants. With historical significance, My ohana has been there for over four generations. Besides being a SFR, sharing to others for the Same experiences of history and education in fishing, agriculture, building canoes with hand tools only, Arts and crafts and more. My grandfather was the main caretaker of the Puuhonua O Honaunau park before it was a national park, where I can show you the original house foundation still there. Per review of HAR 13:5-42(5)“ The single family residence shall not be used for rental or any other commercial Purposes, unless approved by the Board. Transient Rentals are prohibited, with the exception of Wilderness camp approved by the Board. “ My property is located between the National Park- Puuhonua O Honaunau (south side) and Kamehameha Schools-Preschool playground right in front of the (West) historic rock wall. These are both commercial properties within a 100 ft. of our property. Numerous tourists(100-1000 daily) Surround both sides of the house daily, either in cars, walking, or parking. It is Located centrally to all of this and I ask to approve our SFR for vacation rental in promotion of Hawaiian history; native Hawaiian plantings; fishing; Hawaiian Art, long distance canoe races and education. It is open for Both Kamaaina and Malahini. We are close to the ocean, but not near the high tide mark, as Kamehameha Schools- Preschool fronts the ocean and beach.

RECEIVED

2019 NOV -4 AM 10: 24

DEPT. OF LAND
& NATURAL RESOURCES
STATE OF HAWAII

DEPT. OF LAND
& NATURAL RESOURCES
STATE OF HAWAII

2019 NOV -7 P 12: 56

RECEIVED
OFFICE OF CONSERVATION
AND COASTAL LANDS

Exhibit 16

Page 1 of 2

As noted in the application documents sent to you from the County of Hawaii-Dept. of Planning, noting operating since November 2017 with both GET/TAT taxes paid to the State Of Hawaii. We continue to ask for an approval from the DLNR Board to continue or "grandfathering this land use" to share The Aloha when we are not using the property there, with others to experience Hawaiian Culture & Puuhonua O Honaunau.

Understanding the purpose of the Chapter – to regulate land use in the conservation district For the purpose of conserving, protecting, and preserving 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. I agree to the fullest on this "Purpose" And continue to promote the cultural and historical significance of this special property.

Thank you and much Mahalo for your consideration and time. Look forward to hearing From you in hopes to move forward.

Aloha pumehana,

A handwritten signature in black ink, appearing to read 'Sheri P. Hamilton', with a long, sweeping horizontal line extending to the right.

Sheri P.(Parish) Hamilton

P.O. Box 5004

Kailua-Kona, Hi. 96745

**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 17

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APPENDIX D: DAMAGES EXAMPLES

APPENDIX E: PENALTY CALCULATION WORKSHEET

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”¹ 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),² 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

¹ “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.*

² 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

Harm to resource or potential for harm to resource	Identified land use permit beginning with the letter	Penalty Range
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.³ 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

³ 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 ⁴

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.

⁴ 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.⁵ 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

⁵ 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.

Categorizable Harm to Resource, Identified Land Use Permit, Penalty Adjudicator, 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

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 ⁶

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.

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.⁷
- (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,

⁷ Ecosystem Valuations 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.⁸

(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

⁸ 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
- 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
- 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

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

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/m² 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/m²), of the coral reefs in Kihei to be \$28.09 million (\$65/m²) and the coral reefs on the Kona coast to be \$17.68 million (\$19/m²).

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 m² of coral reef damage. This calculation

was similar to the estimated cost of remediation efforts \$390,000 to clean 5,000 yd³ of beach sand. However between 30,000-50,000 yd³ 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 10m²). 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)

(#m² 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/yd² of damage to seagrass beds for the first yd² damaged and \$75/yd² per each additional yd² 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 yd³ 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?

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

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

6. Does the Violator have a Financial Hardship?

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

8. Other.

Description:

Total Adjustment: up/down

Multi-day penalties

Number of days to multiply penalty:

Reasoning:

Total multi-day:

Exhibit 18

HONAUWU BEACH RD

1241F

ZONE X

ZONE D

BASEMAP: FIRM BASEMAP



Flood Hazard Assessment Report

www.hawaiiinfip.org

Property Information

COUNTY: HAWAII
TMK NO: (3) 8-4-013:016
WATERSHED: KII LAE
PARCEL ADDRESS: ADDRESS NOT DETERMINED
CAPTAIN COOK, HI 96704

Notes:

Flood Hazard Information

FIRM INDEX DATE: SEPTEMBER 29, 2017
LETTER OF MAP CHANGE(S): NONE
FEMA FIRM PANEL: 1551661241F
PANEL EFFECTIVE DATE: SEPTEMBER 29, 2017

THIS PROPERTY IS WITHIN A TSUNAMI EVACUATION ZONE: YES
FOR MORE INFO, VISIT: <http://www.scd.hawaii.gov/>

THIS PROPERTY IS WITHIN A DAM EVACUATION ZONE: NO
FOR MORE INFO, VISIT: <http://dlnreng.hawaii.gov/dam/>



0 20 40 ft

Disclaimer: The Hawaii Department of Land and Natural Resources (DLNR) assumes no responsibility arising from the use, accuracy, completeness, and timeliness of any information contained in this report. Viewers/Users are responsible for verifying the accuracy of the information and agree to indemnify the DLNR, its officers, and employees from any liability which may arise from its use of its data or information.

If this map has been identified as 'PRELIMINARY', please note that it is being provided for informational purposes and is not to be used for flood insurance rating. Contact your county floodplain manager for flood zone determinations to be used for compliance with local floodplain management regulations.

FLOOD HAZARD ASSESSMENT TOOL LAYER LEGEND (Note: legend does not correspond with NFHL)

SPECIAL FLOOD HAZARD AREAS (SFHAs) SUBJECT TO INUNDATION BY THE 1% ANNUAL CHANCE FLOOD - The 1% annual chance flood (100-year), also known as the base flood, is the flood that has a 1% chance of being equaled or exceeded in any given year. SFHAs include Zone A, AE, AH, AO, V, and VE. The Base Flood Elevation (BFE) is the water surface elevation of the 1% annual chance flood. Mandatory flood insurance purchase applies in these zones:

	Zone A: No BFE determined.
	Zone AE: BFE determined.
	Zone AH: Flood depths of 1 to 3 feet (usually areas of ponding); BFE determined.
	Zone AO: Flood depths of 1 to 3 feet (usually sheet flow on sloping terrain); average depths determined.
	Zone V: Coastal flood zone with velocity hazard (wave action); no BFE determined.
	Zone VE: Coastal flood zone with velocity hazard (wave action); BFE determined.
	Zone AEF: Floodway areas in Zone AE. The floodway is the channel of stream plus any adjacent floodplain areas that must be kept free of encroachment so that the 1% annual chance flood can be carried without increasing the BFE.

NON-SPECIAL FLOOD HAZARD AREA - An area in a low-to-moderate risk flood zone. No mandatory flood insurance purchase requirements apply, but coverage is available in participating communities.

	Zone XS (X shaded): Areas of 0.2% annual chance flood; areas of 1% annual chance flood with average depths of less than 1 foot or with drainage areas less than 1 square mile; and areas protected by levees from 1% annual chance flood.
	Zone X: Areas determined to be outside the 0.2% annual chance floodplain.

OTHER FLOOD AREAS

	Zone D: Unstudied areas where flood hazards are undetermined, but flooding is possible. No mandatory flood insurance purchase applies, but coverage is available in participating communities.
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