

May 26, 2022

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VIA EMAIL suzanne.case@hawaii.gov

Suzanne D. Case
Chairperson
Board of Land and Natural Resources
P.O. Box 621
Honolulu, Hawaii 96809

Re: Lessee's Request for Consent to Mortgage with Estoppel Certificate and Pledge and Security Agreement, General Lease No. S-5844, WHR LLC, Lessee

Dear Ms. Case:

This law firm represents WHR LLC ("Lessee") in connection with the Grand Naniloa Resort, a DoubleTree by Hilton located at 93 Banyan Drive, Hilo, Hawaii 96720 ("Hotel") and the above referenced request (the "Request"). This letter is further to Mr. Ed Bushor's zoom meeting with Russell Y. Tsuji and Kevin Moore yesterday.

On May 27, 2022, Mr. Tsuji submitted written recommendations to the Board of Land and Natural Resources ("BLNR") that the BLNR (a) deny the request for Consent to Mortgage, and (b) deny the request for the Estoppel Certificate and Pledge and Security Agreement. You approved the submittal of Mr. Tsuji's recommendations to the BLNR.

In response to the remarks set forth in Mr. Tsuji's recommendations supporting denial of the request for Consent to Mortgage, please note the following:

1. \$62 million is a very reasonable loan amount given the impact of the Covid-19 pandemic and the current state of affairs of Lessee and the Hotel. Moreover, the loan amount is not too much for the Hotel property based on the current and projected post-pandemic revenues at the Hotel. At its current operating level, the Hotel should generate over \$6 million in net revenues per year, which more than supports the loan as determined by the current market and the lender's due diligence. In approving the loan, the lender has estimated that the \$62 million loan amount is adequately supported by the Hotel security and revenues and is well within the current market for loan to value ratios for hotel properties in Hawaii. If the Hotel property was privately-owned, as compared to owned by the State/DLNR, this loan would be approved in the free lending market without hesitation as being reasonable.

2. WHR LLC will use 100% of the loan proceeds to pay off the existing Wells Fargo loan and to clear up the current foreclosure proceedings that was triggered solely by Covid-19

Suzanne D. Case
Chairperson, BLNR
May 26, 2022
Page 2

pandemic. The need for the loan and the amount of the loan are based solely on the Covid19 pandemic and not the misfeasance or malfeasance of WHR, LLC. The pandemic is the only reason that WHR LLC has had to refinance the property as currently proposed and for the increased costs of servicing that debt.

3. No funds from the loan will flow to WHR LLC or its investors; and all proceeds will be paid to the existing lender and costs of the new lender relating to expenses related to the procurement and closing of the new loan.

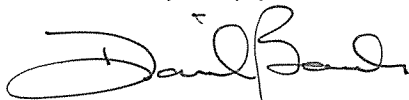
4. There is no reasonable alternative available to WHR LLC to enable it to retain the Hotel property, other than securing this loan. If DLNR does not consent to the Mortgage, WHR LLC will not be able to pay off Wells Fargo and clear up the foreclosure proceedings in an expeditious manner. Moreover, if the Chair does not consent to the Mortgage, WHR LLC could be forced to declare bankruptcy. Bankruptcy proceedings could potentially result in millions of dollars in losses in terms of the value of the Hotel property, as well as the loss of significant lease rent payments to DLNR/BLNR.

In response to the remarks set forth in Mr. Tsuji's recommendations supporting the denial of the request for the Pledge and Security Agreement ("Pledge"), and as a condition to the Chair's consent to the request for the Pledge, WHR LLC will require the lender to agree to remove any reference to the Pledge in the Consent to Mortgage consistent with legal requirements of DLNR.

On behalf of WHR LLC, and in order for WHR LLC to close the proposed loan in a timely manner, we respectfully request the following: (a) that you withdraw your approval of the submittal of Mr. Tsuji's recommendations to the BLNR; (b) that Mr. Tsuji revise his recommendations and instead support the Consent to Mortgage as modified above; and (b) that the Chair/BLNR consent to the Mortgage and the Pledge as soon as reasonably practicable in accordance with Section 20.a of the Lease (General Lease S-5844).¹

Thank you in advance for your prompt consideration of this matter.

Very truly yours,



David F. E. Banks

for

CADES SCHUTTE

A Limited Liability Law Partnership

cc: Mr. Ed Bushor (via email)
Mr. Tsuji Russell (via email)
Mr. Kevin Moore (via email)

¹ Section 20.a of the Lease (General Lease S-5844) requires that the BLNR not unreasonably withhold such consent.