

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

April 14, 2023

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

Kauai

Report to the Board of Land and Natural Resources the status of Revocable Permit Nos. 7407, 7444 and 7613 to Coco Palms Ventures LLC Wailua, Kawaihau, Kauai, Tax Map Keys: (4) 4-1-003:044 por., (4) 4-1-003:017 and (4) 4-1-005:017.

BACKGROUND:

The Board of Land and Natural Resources (“Board”) at its meeting on October 28, 2022, under agenda item D-1, approved, as amended, the annual renewal of Revocable Permits (“RPs”) for the County of Kauai except for the Coco Palms RP numbers . S-7407, S-7444 and S-7613 (“Coco Palms RPs”). As to the Coco Palms RPs, the Board approved the renewal of those RPs for a year but directed Kaua’i Land Division Office (“KDLO”) staff to report back to the Board in March 2023 with a status report and recommendation on whether to continue or discontinue the permit, or other recommendation. The Board indicated that the status report should contain at least an update on the County’s decision on the permittee’s building permit, and recommendation on any further tenancy or the permittee, if any, or plan for the property if left unencumbered. The Board also instructed KDLO staff to inquire with the County of any outstanding violations for delinquent property taxes on any of these RPs.

Also at the October 28, 2022, Board meeting, Gary Hoosier, a working member of the non-profit organization I OLA WAILUANUI (“IOW”) speaking on their behalf, expressed an interest in leasing the properties under the current Coco Palms RPs. There was mention of the non-profit maintaining the lands with the hope of one day acquiring the hotel’s private property and building a cultural and educational center. On November 25, 2022, IOW filed a complaint for declaratory and injunctive relief and summons against the Board and Coco Palms Ventures LLC in the First Circuit Court. See attached Exhibit D.

Brief history of the Coco Palms Area:

Originally built in the 1940s, the hotel was known as Coco Palm Lodge. On January 25, 1953, under the management of Island Holidays, Ltd., the property was renamed Coco Palms Resort. The hotel itself was built on private property including the parcel designated as TMK: (4) 4-1-003:007 (Parcel 7) and other private parcels in the vicinity (“Private Properties”).

In 1969, Amfac purchased Island Holidays, Ltd. and the Private Properties.

In 1985, Amfac sold the Private Properties to Wailua Associates, who managed the hotel until Hurricane Iniki struck on September 11, 1992, severely damaging the hotel and rendering it uninhabitable.

In 2006, the Private Properties were sold to Coco Palms Ventures LLC (“CPV”). After years of planning, building permits, etc., with the economic downturn, CPV struggled to find new investors to rebuild the hotel and eventually gave up on the project.

In July 2014, PR II Coco Palms LLC took over ownership of the Private Properties.

In May 2016, Coco Palms Hui LLC took over ownership of the Private Properties. In March 2019, Stillwater Equity Partners took over management of Coco Palms Hui LLC. In July 2021, Coco Palms Hui LLC was foreclosed on and the property was then sold to Stillwater Equity Partners.

In December 2022, RP 21 Coco Palms, LLC (RP21CP) became the current owner of the Private Properties.<sup>1</sup>

AREA:

As shown on the attached maps labeled Exhibit A, B and C.

RP S-7407: TMK: (4) 4-1-003:044 por.: 460 square feet, more or less (“Parcel A”).

RP S-7444: TMK: (4) 4-1-003:017: 0.855 acre, more or less (“Parcel B”).

RP S-7613: TMK: (4) 4-1-005:017: 5,224 square feet, more or less (“Parcel C”).

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<sup>1</sup> According to Parker Enloe, Reef Capital Partners is the parent company of both Reef Private Equity (formerly Stillwater Equity Partners) and Reef Private Credit (formally Reef PCG). Reef Private Equity is a subsidiary of Reef Capital Partners that does private financing and handles the development of their projects. Reef-Private Credit LLC is owned by Reef Capital Partners, and they were the loan servicer, on behalf of five investors to Coco Palms Hui LLC. Coco Palms Hui LLC was going to default on their loan and was given an extension by Reef-PCG LLC, but as part of those terms, Stillwater Equity Partners became a springing manager for of Coco Palms Hui LLC and for the private properties when certain terms were not met. When Coco Palms Hui LLC was foreclosed on, Reef PCG was the only bidder on behalf of the five investors and became the interim owners of the private properties. Stillwater Equity Partners was rebounded to Reef Private Equity. RP21 Coco Palms, LLC was formed after the foreclosure for the five investors to hold their interest in the property. Reef-PCG LLC is also the manager of RP21 Coco Palms, LLC.

The entire resort property is shown on attached maps, labeled Exhibit G.

Parcel A (RP S-7407)

Parcel A provides access to a parking lot on the Private Properties. Additionally, a portion of Parcel A was set aside to the Department of Transportation, Highways Division, by Governor's executive order. The last time a disposition for Parcel A went in front of the Board, it was determined that the parcel was unsuitable for a long-term disposition because it could interfere with DOT's future plans. This RP is currently being rented at a rate of \$13.79 per month, paid by Reef-PCG LLC . As of March 29, 2023, the rent is current and property taxes have been paid.

Parcel B (RP S-7444)

Parcel B is primarily used as the entrance to the Private Properties and as a parking area for the hotel. Recently, Parcel B was used by DOT to stage materials for its current road work in the area. Additionally, it was noted in a prior approved Board action on October 28, 2016, under agenda item D-1 (attached as Exhibit H), that a RP will allow the land to be utilized while staff plans for the future disposition of the parcel, including evaluation of the potential for the sale of a lease at auction. It should also be noted that Parcel B is encumbered by access easement in favor of CPV, which will need to be assigned to RP21CP as the new owner of the Private Properties with Board consent (to be addressed at a separate meeting).

This RP is currently being rented at a rate of \$394.65 per month, paid by Reef-PCG LLC. As of March 29, 2023, the rent is current and property taxes have been paid.

Parcel C (RP S-7613)

The unusual shape and small size of Parcel C may make it difficult to utilize as a standalone parcel. At its meeting on September 13, 1968, under Agenda Item F-1-e, the Board authorized the issuance of a revocable permit to Island Holidays, Ltd., for non-exclusive easement for building and landscaping purposes. Island Holidays, Ltd. completed construction of a restaurant (Sea Shell Restaurant) on its adjoining private property (Lot 13-A) and, in addition to grading and landscaping, constructed sidewalks and five circular 'hardstands' for outdoor tables on Parcel C. On the basis of objections voiced by the County's Department of Planning & Economic Development, the lease application was held in abeyance. Pending further disposition of the matter, it was recommended that the subject area be placed under a RP to Island Holidays, Ltd. Revocable Permit No. S-4250 was issued to Island Holidays, Ltd., effective July 1, 1966.

At its meeting on August 22, 1980, under agenda Item F-34, the Board approved and authorized the direct sale of a perpetual, non-exclusive easement over Parcel C to Island Holidays, Ltd., doing business as Coco Palms Resort Hotel, for landscaping and patio purposes. By letter dated June 16, 1983, Mr. David Ueno, Resident Manager for Coco Palms Resort Hotel, informed the Department it was unable purchase the easement due to recessive economic conditions and setbacks caused by Hurricane Iwa.

Hurricane Iniki then hit in 1992. Iniki was a Category 4 hurricane and its eye passed directly over Kauai. Because of the massive devastation across the whole island, the insurance companies went bankrupt and, as a result, the Coco Palms Resort was never repaired. Even after the Kauai economy recovered, the Coco Palms Resort was simply sold and resold as its condition deteriorated.

DLNR staff now recommend cancelling the current RP and offering a term easement to the current owner of the Private Properties, RP21CP, in order to resolve any encroachments and allow for a long-term disposition on a parcel that has little to no use to the State.

This RP is currently being rented at a rate of \$299.17 per month, paid by Reef-PCG LLC. As of March 29, 2023, the rent is current and property taxes have been paid.

#### DISCUSSION:

The Coco Palms Hotel was severely damaged on September 11, 1992, by Hurricane Iniki. Because of disputes over repairs and permitting, the hotel has been closed since the hurricane. Although the current owners of the Coco Palms Hotel private properties is RP21CP, the current managing firm of the Coco Palms Hotel private properties, Reef Capital Partners, as well as past manager, Stillwater Equity Group, have continued to pay rent, provide liability insurance and maintain their State leased lands even though they have not been using the leased areas. The hotel properties (both private and State owned) have at times been a hotspot for homeless camps.

Since the Board meeting of October 28, 2022, the RP lands have been well maintained and cleared of any homeless camps (see attached pictures labeled Exhibit I). The current owners of Parcel 7, RP21CP recently installed a dust barrier along the boundaries of Parcel 7 in hopes of starting the demolition process for the hotel. The KDLO staff have been informed, according to the new property owners and the County, that the property owners currently have all permits in place to commence work on the Private Properties. See attached list of permits provided by one of the Reef Capital Partners' representatives, Parker Enloe, labelled as Exhibit E.

In March 2022, the KDLO received a check from Old Republic Title Company on behalf of the new owners of the Private Properties. In April 2022, Archie McDonnell of Reef Capital Partners informed the KDLO that they were in escrow for the hotel and Hillary Burton would be the point of contact as one of the new owners of the Private Properties. Then, in an email from Parker Enloe on January 12, 2023, Mr. Enloe stated that Reef Capital Group was going to take an active role in bringing the development of the Private Properties to fruition instead of just selling the property. Apparently, the sale to Hillary Burton and her associates fell out of escrow. The KDLO was then told that the new owner would be RP21CP.

As to the new owner, RP21CP, the KDLO has not received an application for issuance of RPs, a request for new RPs under its name, or assignment of the other leases to RP21CP

yet. The KDLO District Agent (DA) reached out to Mr. McDonnel, the point of contact for Reef Capital Group (previously Stillwater Equity Partners) and Mr. McDonnel disclosed that the new owner of the hotel is RP21CP, and that Chad DeCoursey is its point of contact. It was not until late December 2022 that Mr. DeCoursey was ever mentioned or included in any correspondence with KDLO.

On January 20, 2023, the KDLO DA emailed Messrs. McDonnel and DeCoursey the necessary applications to request the RPs and assignments of leases along with instructions. The DA spoke with Mr. DeCoursey on March 3, 2023, regarding the status of RP21CP's applications for the new RPs and lease assignments and was advised that RP21CP would be completing them some time in the next few weeks. It was not until March 22, 2023, that KDLO had received any completed applications.

During the March 3, 2023, phone call with Mr. DeCoursey, the KDLO DA advised him that staff was preparing this report to the Board and requested any helpful information or updates on the project that could be included. When the DA inquired as to if/when he would be addressing the lawsuit filed by IOW against the BLNR, Mr. DeCoursey stated that his attorney advised him that they should not get involved since his new limited liability company, RP21CP, was not named in the lawsuit. According to the Office of the County of Kaua'i Attorney's office, Mr. DeCoursey is in-house counsel for one of the Reef entities that is a member of RP21CP.

Not until being told that the RPs were in peril of being cancelled and being asked repeatedly for information regarding the current owners of the hotel and the status of the assignment to the new owners did Mr. McDonnel or Mr. DeCoursey respond or provide any of the requested documents.

The KDLO DA spoke on the phone with Mr. McDonnel on March 3, 2023, and again on March 6, 2023. The KDLO DA asked Mr. McDonnel what would happen if the Board cancelled the Coco Palms RPs. Mr. McDonnel said that if the Board were to cancel the RPs, the developer would sue the State since the cancellation of the Coco Palms RPs may affect the developer's permits and the developer would suffer monetarily. Mr. McDonnel then informed the KDLO DA that he will no longer be the point of contact for the Private Properties, RPs and lease assignments, and communications should now be directed to Mr. DeCoursey and Patrick Manning.

As noted above, at the October 14, 2022, Board meeting, IOW expressed an interest in leasing the properties under the current RPs. There was mention of the non-profit maintaining the lands with the hope of one day acquiring the Parcel 7 and building a cultural and educational center on it. According to the RP21CP, it reached out to IOW regarding the possible sale of the Parcel 7 to IOW but was told by IOW that it did not have the necessary funds. Prior to February 2023, IOW had not submitted an application to the DLNR for use of the State lands nor did IOW reach out to the KDLO to inquire about them.

IOW filed a lawsuit against the Board and CPV after the Board approved the re-issuance of the subject RPs for the year 2023. IOW's Complaint for Declaratory and Injunctive Relief is attached as Exhibit [D]. IOW has asserted that the Board violated Chapter 343, HRS, by: exempting the issuance of the subject RPs from Chapter 343 processes; not conducting Chapter 343 analyses regarding environmental impacts; and not considering the issuance of the subject RPs as part of the entire Coco Palms redevelopment (thus the issuance of the subject RPs required a Chapter 343 analysis for the entire redevelopment). Additionally, IOW asserts that the Board violated its constitutional fiduciary and trust duties by re-issuing the subject RPs for the year 2023 to the entity CPV. The Board, through the assigned deputy attorney general, is defending against this action and denied IOW's claims in its filed Answer to the Complaint. On February 21, 2023, an entry of default was entered against CPV for failure to plead or otherwise defend as required by law. No person or other entity has joined the lawsuit to defend CPV. On March 17, 2023, IOW filed a Motion for Summary Judgment against the Board and a hearing on that motion is currently scheduled for May 23, 2023. The State's opposition is not due until May 15, 2023.

On February 28, 2023, Teresa Tico, an attorney for IOW but not listed as counsel on the pending lawsuit, sent a letter of request to the DLNR to obtain the three subject Coco Palms RPs as well as General Lease 4878 ("GL4878"). See attached Exhibit F. According to the letter,

[IOW's] stewardship of these public trust parcels would enable restoration of these lands as a public place of cultural enrichment, historic preservation, land conservation and spiritual nourishment; an educational and interpretive gathering place; a center of Hawaiian cultural stewardship on Kaua'i; a core place for learning in Hawai'i. Our broader vision for these lands includes developing a cultural and educational center, a venue for hula and musical performance, parks, small-scale, organic agricultural production, restoration of the loko i'a (fishponds) on site, and gardens of native medicinal plants".

GL4878 does not expire until August 17, 2048 and cannot be arbitrarily cancelled. IOW's plan assumes the use of GL4878, but the Board cannot terminate nor compel the assignment of GL4878. The current character of use for GL4878 is "solely for landscaping and maintenance of premises for aesthetic, park and recreation." IOW's "broader vision" and proposed use does not align with the parcel's current designated use. KDLO staff feels that the RPs on their own are not suited for IOW's suggested use due to size and location. Therefore, the IOW's proposed project is not feasible with just the Coco Palms RP areas only.

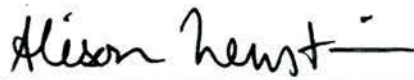
It should also be noted that there are several other State leases as well as easements attached to the Private Properties and cancelling these RPs would possibly create some hardship for the current hotel owners, but the hotel itself is being constructed on the

Private Properties. In fact, the KDLO DA contacted the Office of the County of Kaua'i's attorney and specifically asked if the County-issued permits would be affected if the DLNR were to cancel the Coco Palms RPs and her response was "No, the resort parcel entitlements are not affected if DLNR cancels the RP/leases". She went on to say that the developer will have to answer the access question regarding RP S-7444, which includes the parcel at the corner of Kuamoo and Highway, i.e., how will access be gained to the driveway on Parcel 7, because this lease is in litigation over the RPs. Aside from Coco Palms RPs and GL4878, there are five (5) other State leases and easements tied to the private hotel property as noted on the attached maps labelled Exhibit G:

- GL4645, a term non-exclusive easement for access and utility purposes that expires on May 15, 2045;
- GL4244, a term non-exclusive easement for sewer purposes that expires on May 12, 2034;
- Land Office Deed (LOD) 28180, a perpetual easement for drainage ditch, pedestrian walkways, lagoon and culvert purposes;
- LOD27442, a perpetual easement for sewer purposes; and
- LOD12850, a perpetual easement for road purposes.

The KDLO staff believes that a continuation of the RPs under the terms and conditions previously approved at the Board's meeting of October 28, 2022, under Item D-1, is in the best interests of the State and is the most prudent course of action at this time. Staff will present a request for issuance of new RPs to RP21CP once its applications are received and processed. It is recommended that the lands under current RP S-7407 and RP S-7613 continue under new RPs to RP21CP until the dispositions are possibly converted to long-term easements. The land under RP S-7444 should continue under a new RP to RP21CP until KDLO staff is able to sell a long-term lease at public auction for this parcel since there has been interest from other parties, besides IOW and RP21CP.

Respectfully Submitted,



Alison Neustein  
District Land Agent

APPROVED FOR SUBMITTAL:



Dawn N. S. Chang, Chairperson

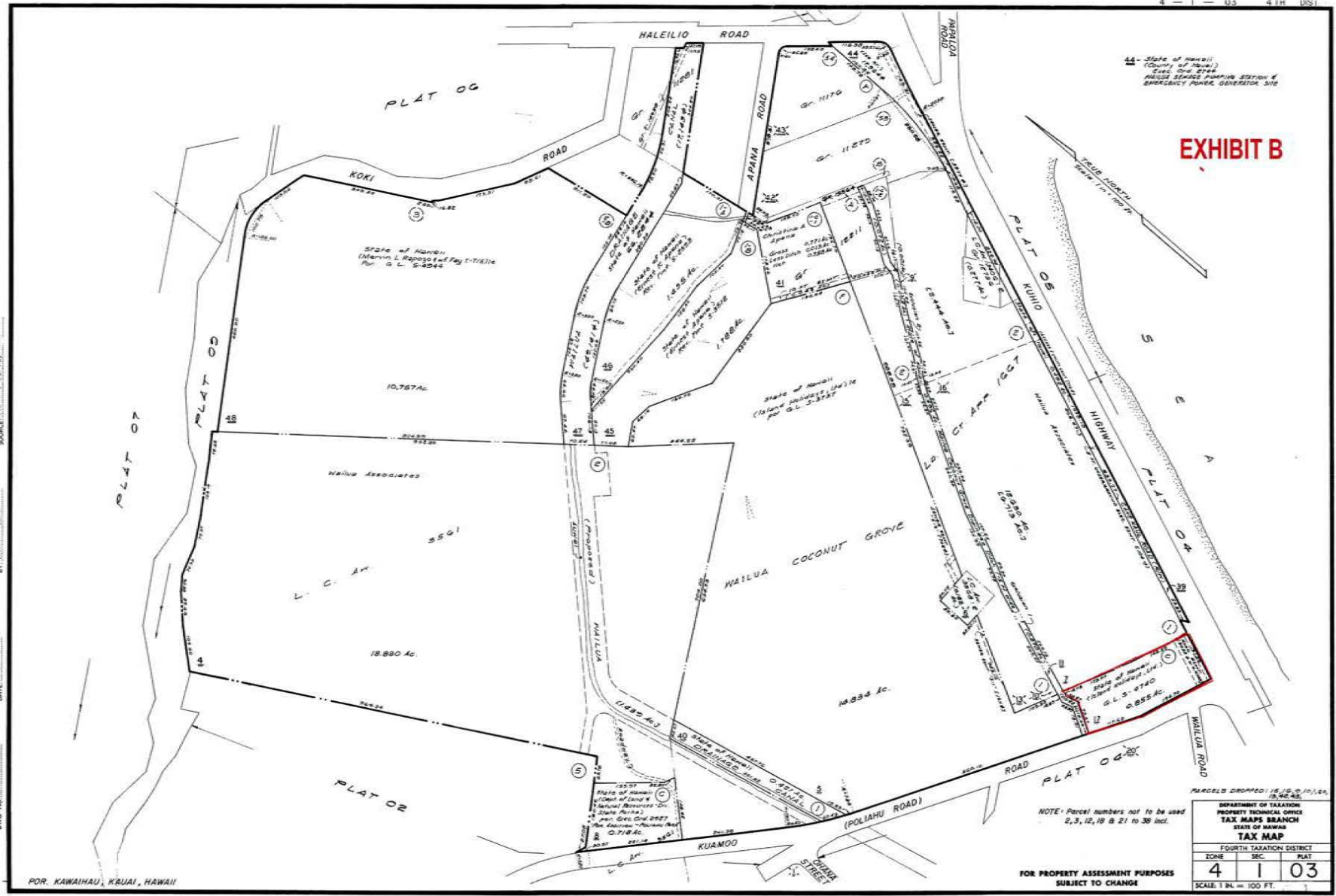
RT





44 - State of Hawaii  
(County of Maui)  
Case No. 87-14  
HAWAII STATE HIGHWAY SYSTEM &  
BANKRUPT POWER GENERATOR SITE

# EXHIBIT B



Original Record No. 1988  
 DATE 12/20/1988  
 BY: JAMES E. HEDGECOCK  
 SOURCE: TITLES & RECORDS DIV.

NOTE: Parcel numbers not to be used  
2, 3, 12, 18 & 21 to 38 incl.

PARCELS DROPPED: 18, 19, 20, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38

DEPARTMENT OF TAXATION		
PROPERTY TECHNICAL OFFICE		
TAX MAPS BRANCH		
STATE OF HAWAII		
TAX MAP		
FOURTH TAXATION DISTRICT		
ZONE	SEC.	PLAT
4	1	03
SCALE: 1 IN. = 100 FT.		

FOR PROPERTY ASSESSMENT PURPOSES  
SUBJECT TO CHANGE

POR. KAWAIHAU, KAUAI, HAWAII

107-1100  
MAR 8 1939  
MAY 18 1939  
JUN 1 1940

DEC 1 1941  
MAY 25 1942  
JUN 3 1942

MAY 25 1942  
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5 PORTION OF WAILUA HOUSE LOTS, KAWAIHAU, KAUAI.

EXHIBIT C

SUBJECT TO CHANGE

TAXATION MAPS BUREAU		
TERRITORY OF HAWAII		
TAX MAP		
FOURTH	DIVISION	
ZONE	SEC.	PLAT
4	1	05
CONTAINING PARCELS		
PAPALOA		
SCALE: 11 in. = 50 ft.		

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& NATURAL RESOURCES  
STATE OF HAWAII

Attorneys for Plaintiff I OLA WAILUANUI

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

I OLA WAILUANUI, an unincorporated association,	)	Civil No. _____
	)	(Environmental Court)
Plaintiff,	)	
	)	COMPLAINT FOR DECLARATORY
vs.	)	AND INJUNCTIVE RELIEF;
	)	SUMMONS
BOARD OF LAND AND NATURAL RESOURCES, State of Hawai'i; COCO PALMS VENTURE, LLC, a foreign limited liability company; and DOES 1-27,	)	
	)	
Defendants.	)	

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Plaintiff I OLA WAILUANUI, an unincorporated association (Plaintiff), respectfully submits this cause of action against Defendants BOARD OF LAND AND NATURAL RESOURCES, State of Hawai'i (Board); COCO PALMS VENTURE, LLC, a foreign limited

liability company; and DOES 1-27 (collectively, “Defendants”) to comply with the procedures mandated under Hawai‘i Revised Statutes (HRS), chapters 343 and the Board’s constitutional public trust duties and duties to protect and preserve the exercise of Kānaka Maoli traditional and customary rights.

This action arises from the Board’s October 28, 2022 decision to renew Revocable Permit (RP) 7407 to Defendant COCO PALMS VENTURE, LLC for 0.01 acres of public trust land located at Kapa‘a, Kaua‘i on Tax Map Key (TMK): (4) 4-1-003:004-0001, RP7444 for 0.855 acres of public trust land located at TMK (4) 4-1-003:017-0000, and RP74613 for 0.12 acres of public trust land located at TMK (4) 4-1-005:017-0000, in Wailuanuiaho‘āno, Wailua, Kaua‘i (collectively “Coco Palms RPs”).

I. JURISDICTION AND VENUE.

1. This lawsuit is based on violations of HRS, chapter 343, which governs environmental assessments. This Court has jurisdiction over the claims for relief in this action pursuant to HRS §§ 343-7, 603-21.5, 603-21.9, and 632-1; articles I, § 5, XI, §§ 1 and 9, and article XII §7 of the Hawai‘i State Constitution.

2. Venue properly lies in the Circuit Court of the First Circuit pursuant to HRS §§ 604A-2, 603-36(5), and 632-1 because claims for relief arose in this circuit and Defendant’s actions take place in this circuit and invoke the jurisdiction of the environmental court.

II. PARTIES

3. Plaintiff I OLA WAILUANUI, an unincorporated association, is based on Kaua‘i and composed of a working group of community leaders from Kaua‘i. Plaintiff is assembled to protect, restore, and raise awareness of the Wailuanuiaho‘āno – the great and sacred Wailua - via a community driven process for generations to come.

4. Plaintiff includes Kānaka Maoli traditional and customary practitioners whose practices include gathering, subsistence, and restoring food systems in the historic area of Wailuanuiaho‘āno, including on and near lands subject to the Coco Palms RPs.

5. Plaintiff includes those who are concerned about improper development and use of lands within and affected by the Coco Palms RPs, and their impacts on environment, traffic, nearshore areas, archaeological and cultural resources, recreational and cultural resources, sea level inundation, public facilities, and other impacts to the surrounding area.

6. Plaintiff engages in public education and awareness raising concerning restoration and protection for Wailuanuiaho‘āno and public processes regarding the same.

7. Defendant COCO PALMS VENTURE, LLC, a foreign limited liability company permittee), is the named recipient of the Board's Revocable Permit (RP) 7407, RP7444, and RP7613 for three parcels of state public trust land located at Wailuanuiaho'āno, Kapa'a, Kaua'i on Tax Map Keys (TMK): (4) 4-1-003:004-0001, (4) 4-1-003:017-0000, and (4) 4-1-005:017-0000 (collectively "Coco Palms RPs"). Permittee does not hold a valid registration with the State of Hawai'i Department of Commerce and Consumer Affairs. Permittee is not validly registered in Delaware. Upon information and belief, Permittee is no longer a valid entity.

8. Defendant BOARD OF LAND AND NATURAL RESOURCES (Board) is an agency of the State of Hawai'i and the decision making head of the Department of Land and Natural Resources (DLNR), which manages public lands of the State pursuant to HRS chapter 171. The Board's main office is located in Honolulu.

9. Additional Defendants Does 1-27 ("Doe Defendants") are persons or entities who may be liable to Plaintiffs or may have an interest in the matter or issues pending, whose identities and capacities are presently unknown to Plaintiffs. Plaintiffs have reviewed the permits, records, state and federal statutes, and other documents, but are unable to ascertain whether or not all parties liable to Plaintiffs are named therein. Plaintiffs will identify such Doe 1-27 Defendants when their names and capacities are ascertained, Plaintiffs are informed and believe and thereon allege that some of these Doe Defendants and at all times relevant herein, were, in some manner presently unknown to Plaintiffs engaged in and/or responsible for the intentional and/or negligent acts, breaches and/or omissions alleged herein, and/or were in some manner responsible for the damages to Plaintiffs and the public, as alleged herein.

### III. BACKGROUND FACTS

10. The Coco Palms RPs are public trust (ceded) lands under the 1959 Admissions Act intended to benefit native Hawaiians.

11. Wailuanuiaho'āno, including the Coco Palms RPs, includes ancient heiau, was the birthing place for royalty, the site of astronomical tracking of the rising heavens, a gathering place and social headquarters in ancient Hawai'i.

12. Two ancient loko i 'a (fishponds) Loko Pu'uone (or Loko Hakuone) – inland fishponds Weuweu and Kaiwi'iki (or Kawai'iki) – are still present on the Wailuanuiaho'āno properties, including on and near the Coco Palms RPs.

13. Wailuanuiaho'āno, including areas on or near the Coco Palms RPs, is the home of

multiple sacred religious sites and birthing stones used by Ali'i in traditional times. Multiple heiau starting from the mouth of the Wailua river all the way to the summit of Wai'ale'ale, lie in Wailuanuiaho'āno.

14. Portions of the Coco Palms Hotel areas are on and near Mahunapu'uone burial grounds, where dozens of iwi kūpuna have been unearthed during previous construction.

15. Wailuanuiaho'āno, including areas on or near the Coco Palms RPs, is coastal wetland habitat for native and endangered waterbirds and other species.

16. Wailuanuiaho'āno, including areas on or near the Coco Palms RPs, is the site of Kaula's oldest coconut grove and historic auwai.

17. Fee-simple parcels nearby and adjacent to lands subject to the Coco Palms RPs, located at TMK (4) 4-1-003:004, 4-1-003:005, 4-1-003:011; 4-1-003:017; 4-1-005:014; 4-1-005:017 (Coco Palms hotel parcels), are currently subject to plans hotel redevelopment and associated parking lot, driveways, and amenities.

18. The Coco Palms Hotel parcels and the Coco Palms RPs concern sensitive areas, prone to flooding and other natural hazards, and are areas well known for parking and traffic congestion.

19. RP7613, for 0.12 acres of public trust land located at TMK (4) 4-1-005:017-0000, is adjacent to the location of the Coco Palms hotel's former restaurant. It fronts a popular surfing break and has been intermittently subject to the Board's annual renewal process for over ten years.

20. RP7407, for 0.01 acres of public trust land located at TMK (4) 4-1-003:004-0001, is part of and/ or adjacent to the Coco Palms hotel parcels, and has been intermittently subject to the Board's annual renewal processes for over ten years.

21. RP7444, for 0.855 acres of public trust land located at TMK (4) 4-1-003:017-0000, is adjacent to a well-trafficked junction with Kuhio Highway, is associated with the Coco Palms Hotel parcels, and has been intermittently subject to the Board's annual renewal processes for over ten years.

22. Defendant Board's renewal of the Coco Palms RPs uses state lands which is subject to environmental review requirements under HRS § 343-5.

23. At its October 28, 2022 meeting in Honolulu, the Board engaged in discussion on the Coco Palms RPs, during which Board staff represented: (1) the Coco Palms RPs are ancillary to nearby private parcels upon which the Coco Palms hotel existed; (2) current owners of those nearby private parcels are seeking permits for hotel development from the County of Kaua'i and those

decisions would be made in January 2023; and, (3) information establishing the named permittee of the proposed Coco Palms RPs as a current owner and/ or registered business entity in Hawai'i had not been submitted to DLNR.

24. The DLNR staff submittal for the October 28, 2022 regular meeting included a determination of exemption from HRS chapter 343 environmental document preparation for all renewals of annual revocable permits, including the Coco Palms RPs.

25. The "Exemption Notification" for the October 28, 2022 approved revocable permits cited General Exemption Type 1, "Operations, repairs, or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing."

26. At its October 28, 2022 meeting, the Board did not prepare, or require to be prepared, environmental review disclosure documents for proposed uses of state lands under the Coco Palms RPs and voted to approve issuance of the Coco Palms RPs to Defendant COCO PALMS VENTURES, LLC.

27. Plaintiff timely files their complaint seeking judicial review of the Board's failure to conduct required analyses, decision to exempt the Coco Palms RPs from required environmental review document preparation, and dereliction of constitutional duties.

#### IV. CLAIMS FOR RELIEF.

##### COUNT ONE – VIOLATION OF CHAPTER 343, HRS – FAILURE TO PROPERLY ANALYZE WHETHER ACTION MERITED EXEMPTION

28. Plaintiff realleges and incorporates herein by reference each and every allegation contained in preceding paragraphs of this Complaint.

29. Defendants' proposal to dispose of state lands under the Coco Palms RPs constituted an "action" subject to HRS chapter 343.

30. Defendants were required to undertake an analysis to determine whether the action merits exemption under environmental review rules or whether significant cumulative impacts or particularly sensitive environment would make the exemption inapplicable.

31. Defendants did not undertake the required analysis of the proposed action in approving the Coco Palms RPs.

32. Defendants violated HRS chapter 343 environmental review procedures and the Board's exemption of the Coco Palms RPs is invalid.

33. Plaintiffs are harmed by Defendants' violations and request declaratory and injunctive relief for those harms.

COUNT TWO- VIOLATION OF CHAPTER 343, HRS – IMPROPER ASSESSMENT OF ENVIRONMENTAL IMPACTS AND ENVIRONMENT OF THE ACTION

34. Plaintiff realleges and incorporates herein by reference each and every allegation contained in preceding paragraphs of this Complaint.

35. Defendants' proposal to dispose of state lands under the Coco Palms RPs constituted an "action" subject to HRS chapter 343.

36. Defendants were required to undertake an analysis to determine whether the action merits exemption under environmental review rules or whether significant cumulative impacts or particularly sensitive environment would make the exemption inapplicable.

37. The action - approving the Coco Palms RPs - has significant cumulative impacts and will take place in a particularly sensitive environment, rendering an exemption determination unlawful.

38. The Coco Palms RPs constitutes an action that is not exempt from environmental review disclosure document preparation requirements.

39. Defendants exempted the Coco Palms RPs from environmental document preparation, and thus violated HRS chapter 343 environmental review procedures.

40. The Board's exemption of the Coco Palms RPs is invalid and the Coco Palms RPs were issued on improper procedure.

41. Plaintiffs are harmed by Defendants' violations and request declaratory and injunctive relief for those harms.

COUNT THREE - VIOLATION OF CHAPTER 343, FAILURE TO PREPARE ENVIRONMENTAL DISCLOSURE DOCUMENTS

42. Plaintiff realleges and incorporates herein by reference each and every allegation contained in preceding paragraphs of this Complaint.

43. Defendants' proposal to dispose of state lands under the Coco Palms RPs constituted an "action" subject to HRS chapter 343.

44. The action has significant cumulative impacts and will take place in a particularly sensitive environment, rendering an exemption determination unlawful.

45. Approval of the Coco Palms RPs constitutes an action that is not exempt from environmental review disclosure document preparation requirements.



46. Defendants did not prepare, or cause to be prepared, environmental impact review disclosure documents prior to approving the Coco Palms RPs.

47. Defendants violated HRS chapter 343 environmental review procedures by failing to prepare or cause to be prepared environmental impact review disclosure documents prior to approving the Coco Palms RPs.

48. Plaintiffs are harmed by Defendants' violations and request declaratory and injunctive relief for those harms.

COUNT FOUR- VIOLATION OF CHAPTER 343, HRS – SCOPE OF ACTION  
IMPROPERLY DEFINED (SEGMENTATION)

49. Plaintiff realleges and incorporates herein by reference each and every allegation contained in preceding paragraphs of this Complaint.

50. Defendants' proposal to dispose of state lands under the Coco Palms RPs constituted an "action" subject to HRS chapter 343.

51. Defendants represented the Coco Palms RPs are separate from the private parcels upon which the Coco Palms hotel existed and for which current owners are seeking permits County of Kaua'i for future hotel development, with those County decisions to be made in January 2023.

52. The Coco Palms RPs are part of and would be used for purposes connected to or ancillary to the hotel commercial development on the private Coco Palms hotel parcels.

53. The Coco Palms RPs have been annually renewed for over ten years each prior to the Board's October 28, 2022 further annual renewal.

54. Upon approving the Coco Palms RPs on October 28, 2022, Board made no findings that uses of the parcels beyond one year would cease.

55. The Board's October 28, 2022 one year approval of the Coco Palms RPs is necessary to, represent a commitment to, and/ or are phases or increments of a larger program involving the private Coco Palms hotel parcels and extending beyond one year.

56. Defendants did not undertake the proper analysis of the environmental impacts of the proposed action prior to approving the Coco Palms RPs, which would include the larger program of which it is part.

57. Defendants did not conduct an appropriate review of the environmental impacts of the larger program of which the Coco Palms RPs are a part.

58. Defendants violated HRS chapter 343 environmental review procedures by failing to prepare or cause to be prepared environmental impact review disclosure documents prior to approving the Coco Palms RPs.

59. Plaintiffs are harmed by Defendants' violations and request declaratory and injunctive relief for those harms.

#### COUNT FIVE- VIOLATION OF CONSTITUTIONAL DUTIES

60. Plaintiff realleges and incorporates herein by reference each and every allegation contained in preceding paragraphs of this Complaint.

61. The environment, shoreline, coastal resources, wildlife, air, historic properties, and waters of Kaua'i are amongst those resources held in public trust by the State and its political subdivisions for the benefit of the people of Hawai'i and Native Hawaiians in particular.

62. The Board has a constitutional duty to protect and preserve public trust resources pursuant to article XI, §§ 1, 7, and 9 of the Hawai'i Constitution.

63. The Board has a fiduciary duty to public trust resources, including in its disposition of the Coco Palms RPs.

64. The Board has a constitutional duty to preserve and protect the exercise of Kānaka Maoli traditional and customary rights pursuant to article XII §7 of the Hawai'i Constitution.

65. The Board's renewal of the proposed Coco Palms RPs on October 28, 2022 was not informed by proper environmental review, impacts on the exercise of Kānaka Maoli traditional and customary rights, or whether the permittee is a valid business entity.

66. The Board has failed to consider, protect and advance the public's rights in a healthful and clean environment at every stage of the planning and decision-making process; to make required findings of the exercise of Kānaka Maoli traditional and customary rights affected by the proposed action, including feasible protections for the exercise of those rights; and to comply with its fiduciary duties by issuing the Coco Palms RPs to Defendant COCO PALMS VENTURES, LLC and exempting them from appropriate levels of environmental review.

67. Plaintiff is harmed by the Board's failure to fulfill its constitutional duties. Plaintiffs seek injunctive relief and declaratory orders against the Board's violation of its constitutional obligations.

#### COUNT SIX - INJUNCTION

68. Plaintiff realleges and incorporates herein by reference each and every allegation contained in preceding paragraphs of this Complaint.

69. Defendants are engaging in unlawful conduct.

70. Plaintiffs' right to clean and healthful environment, right to conduct native Hawaiian traditional and customary practices, and the right to due process have and will be violated by

Defendants' conduct.

71. By failing to comply with HRS chapter 343 and the Hawai'i Constitution, Defendants threaten imminent harm to the environment and communities of Kaua'i.

72. There is no adequate remedy at law for violations of Plaintiff's constitutional rights.

73. Public policy strongly supports the protection of Plaintiffs' constitutional rights and the protection of the environment.

74. Plaintiff seeks a preliminary injunction and a permanent injunction, enjoining Defendants and their agents and employees, and all persons acting under, in concert with, or for them from any conduct in furtherance on the basis of the Coco Palms RPs until such time as Chapter 343, HRS has been adequately and properly complied with.

WHEREFORE, Plaintiffs respectfully request that the Court:

1. Enter a declaratory judgment that:
  - a. Defendants violated HRS chapter 343 by exempting issuance of the Coco Palms RPs without conducting appropriate analyses of environmental impacts;
  - b. Defendants violated HRS chapter 343 by exempting issuance of the Coco Palms RPs where this action may have significant cumulative impacts or is within a particularly sensitive environment;
  - c. Defendants violated HRS chapter 343 by failing to prepare any environmental review documents prior to issuing the Coco Palms RPs;
  - d. Defendants violated HRS chapter 343 by failing to consider all phases and increments of the larger program of which the Coco Palms RPs are a part;
  - e. Defendant Board violated constitutional obligations by exempting the Coco Palms RPs from environmental review document preparation requirements;
  - f. the HRS chapter 343 exemption for the Coco Palms RPs is void;
2. For preliminary and permanent injunctive relief enjoining Defendants, and their employees, agents, servants, and representatives, and any other persons acting in concert with it, under its authority, or with its approval, from taking further action on the basis of the Coco Palms RPs until defendants fully comply with HRS chapter 343 and article XI, §§1, 7, and 9 of the Hawai'i Constitution.
4. For the Court to retain continuing jurisdiction to review defendants' compliance with all judgments and orders entered herein.

6. For such additional judicial determinations and orders as may be necessary to effectuate the foregoing.
7. For the costs of suit herein, including reasonable attorneys' fees; and
8. For such other and further relief as the Court may deem just and proper to effectuate a complete resolution of the legal disputes between plaintiffs and defendant.

DATED: Honolulu, Hawai'i

November 25, 2022

/s/ Bianca K. Isaki  
LAW OFFICE OF BIANCA ISAKI  
BIANCA ISAKI

/s/ Ryan D. Hurley  
LAW OFFICE OF RYAN D. HURLEY  
RYAN D. HURLEY

DATED: Makawao, Maui, Hawai'i

November 25, 2022

/s/ Christina Lizzi  
LAW OFFICE OF CHRISTINA LIZZI  
CHRISTINA LIZZI  
Co-Counsel for Plaintiff I OLA WAILUANUI

<b>STATE OF HAWAII</b> <b>CIRCUIT COURT OF THE</b> <b>FIRST CIRCUIT</b>	<b>SUMMONS</b> <b>TO ANSWER CIVIL COMPLAINT</b>	<b>CASE NUMBER</b>
---	--	--------------------

<b>PLAINTIFF</b> I OLA WAILUANUI, an unincorporated association,	<b>VS.</b>	<b>DEFENDANT(S)</b> BOARD OF LAND AND NATURAL RESOURCES, State of Hawaii; COCO PALMS VENTURE, LLC, a foreign limited liability company; and DOES 1-27,
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**PLAINTIFF'S NAME & ADDRESS, TEL. NO.**  
 I OLA WAILUANUI, c/o Law Office of Bianca Isaki, 1720 Huna St. 401B, Honolulu, HI 96817, (808) 927-5606; LAW OFFICE OF CHRISTINA LIZZI, LLLC, P.O. Box 1595, Makawao, HI 96768, 808.633.3966; LAW OFFICE OF RYAN D. HURLEY, PO Box 19205, Honolulu, HI 96817 808.738.7610

**TO THE ABOVE-NAMED DEFENDANT(S)**

You are hereby summoned and required to file with the court and serve upon Bianca Isaki, Law Office of Bianca Isaki; Christina Lizzi, Law Office of Christina Lizzi; Ryan Hurley, Law Office of Ryan Hurley.

---

plaintiff's attorney, whose address is stated above, an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the date of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.


**THIS SUMMONS SHALL NOT BE PERSONALLY DELIVERED BETWEEN 10:00 P.M. AND 6:00 A.M. ON PREMISES NOT OPEN TO THE GENERAL PUBLIC, UNLESS A JUDGE OF THE ABOVE-ENTITLED COURT PERMITS, IN WRITING ON THIS SUMMONS, PERSONAL DELIVERY DURING THOSE HOURS.**

**A FAILURE TO OBEY THIS SUMMONS MAY RESULT IN AN ENTRY OF DEFAULT AND DEFAULT JUDGMENT AGAINST THE DISOBEYING PERSON OR PARTY.**

The original document is filed in the Judiciary's electronic case management system which is accessible via eCourt Kokua at: <http://www.courts.state.hi.us>

**Effective Date of 28-Oct-2019**  
**Signed by: /s/ Patsy Nakamoto**  
**Clerk, 1st Circuit, State of Hawaii**



 In accordance with the Americans with Disabilities Act, and other applicable state and federal laws, if you require a reasonable accommodation for a disability, please contact the ADA Coordinator at the Circuit Court Administration Office on OAHU- Phone No. 808-539-4400, TTY 808-539-4853, FAX 539-4402, at least ten (10) working days prior to your hearing or appointment date.

# EXHIBIT E

COCO PALMS PERMIT STATUS as of March 1, 2023 TMK (4) 4-1-003:007				
BUILDING NUMBER/NAME	PERMIT NO.	PERMIT STATUS	VALUATION	COMMENTS
1-Shell Hotel Bldg 1. 3-story building renovation.	16-1946	AP	\$ 9,400,000	Building permit issued 6/27/2022. Written request for permit extension valid until 6/27/2023.
2-Ali'i Kai I Hotel Bldg. 3-story building renovation.	16-1948	AP	\$ 7,990,000	Building permit issued 12/27/2022.
3-Ali'i Kai II Hotel Bldg. 3-story building renovation.	16-1949	AP	\$ 7,800,000	Building permit issued 12/27/2022.
4-Lagoon Bldg. 2-story building renovation.	17-0566	AP	\$ 4,100,000	Building permit issued 12/27/2022. Written request for permit extension valid until 6/27/2023.
5-King Cottages				
5-A	16-1888	AP	\$ 343,250	Building permit issued 6/27/2022. Written request for permit extension valid until 6/27/2023.
5-B	16-1889	AP	\$ 343,250	Building permit issued 6/27/2022. Written request for permit extension valid until 6/27/2023.
5-C	16-1890	AP	\$ 343,250	Building permit issued 6/27/2022. Written request for permit extension valid until 6/27/2023.
5-D	16-1891	AP	\$ 343,250	Building permit issued 6/27/2022. Written request for permit extension valid until 6/27/2023.
5-E	16-1898	AP	\$ 343,250	Building permit issued 6/27/2022. Written request for permit extension valid until 6/27/2023.
6-Queen Cottages				
6-A	16-1892	AP	\$ 280,000	Building permit issued 6/27/2022. Written request for permit extension valid until 6/27/2023.
6-B	16-1893	AP	\$ 280,000	Building permit issued 6/27/2022. Written request for permit extension valid until 6/27/2023.
6-C	16-1894	AP	\$ 280,000	Building permit issued 6/27/2022. Written request for permit extension valid until 6/27/2023.
6-D	16-1895	AP	\$ 280,000	Building permit issued 6/27/2022. Written request for permit extension valid until 6/27/2023.
7-Prince Cottages				
7-A	16-1896	AP	\$ 410,000	Building permit issued 6/27/2022. Written request for permit extension valid until 6/27/2023.
7-B	16-1897	AP	\$ 410,000	Building permit issued 6/27/2022. Written request for permit extension valid until 6/27/2023.
8-King Lagoon Bldg-21 Suites. 3-story building renovation.	17-1915	AP	\$ 7,500,000	Building permit issued 6/27/2022. Written request for permit extension valid until 6/27/2023.
9-Spa Bldg (Shell Only). Renovation/repair of existing 4-story building 15,160 sq.ft.	17-1912	AP	\$ 2,500,000	Building permit issued 6/27/2022. Written request for permit extension valid until 6/27/2023.
10-Lobby Offices. 2-story building renovation.	17-0567	AP	\$ 2,700,000	Building permit issued 2/28/2023.
11-Retail Bldg. Repair to shell of 2-story building only.	17-1913	AP	\$ 1,600,000	Building permit issued 12/27/2022.
12-Queen's Hall. Repair to shell of 1-story building only.	17-1914	AP	\$ 1,800,000	Building permit issued 12/27/2022.
13-House in the Palms. Repair to shell of 1-story building only.	17-1909	AP	\$ 490,000	Building permit issued 6/27/2022. Written request for permit extension valid until 6/27/2023.
14-Palms Lanai-Bar. Repair to shell of 1-story building only.	17-1910	AP	\$ 175,000	Building permit issued 6/27/2022. Written request for permit extension valid until 6/27/2023.
15-16 Warehouse-Engineering. Repair to shell of 1-story building only.	17-1908	AP	\$ 1,000,000	Building permit issued 6/27/2022. Written request for permit extension valid until 6/27/2023.
17-Sea Shell Restaurant. Repair to shell of 1-story building only.	17-1916	AP	\$ 770,000	Building permit issued 12/27/2022.
20-Comfort Station. 1-story building.	17-1911	AP	\$ 80,000	Building permit issued 6/27/2022. Written request for permit extension valid until 6/27/2023.


## EXHIBIT F

**Teresa Tico, Attorney  
P.O. Box 220  
Hanalei, HI 96714  
(808) 639-9080**

February 28, 2023

VIA EMAIL and USPS

Russell Y. Tsuji, Land Division Administrator  
Ian C. Hirokawa, Deputy administrator  
Department of Land and Natural Resources  
1151 Punchbowl Street, Room 220  
Honolulu, Hawai'i 96813



Re: Letter of request from I OLA WAILUANUI, a nonprofit corporation, to obtain revocable permits and/or long-term leases for public lands situated at Wailua, Kawaihau, Kaua'i, Tax Map Key No. (4) 4-1-003:044-0001 (RP7407), (4) 4-1-003:017 (RP-7444), (4) 4-1-005:017 (RP-7613), and (4) 4-1-003:005 (GL4878).

Dear Administrator Russell Y. Tsuji,

I am an authorized representative of I OLA WAILUANUI, a Hawai'i registered nonprofit corporation based on Kaua'i (IOW). The IOW board is requesting the assignment to our organization of revocable permits (RPs) and/or long-term leases (GLs) for public lands situated at Wailua, Kawaihau, Kaua'i. These lands are located at and currently administered under the following: (4) 4-1-003:044-0001 (RP7407), (4) 4-1-003:017 (RP-7444), (4) 4-1-005:017 (RP-7613), and (4) 4-1-003:005 (GL4878). Our present letter of interest is separate from our legal efforts to protect these lands in Civil No. 1CCV-22-0001495, which is currently pending before Judge Lisa Cataldo of the First Circuit.

*About I Ola Wailuanui*

IOW is a charitable nonprofit corporation, based on Kaua'i and whose officers include community leaders from Kaua'i. IOW's mission is to protect, restore, and raise awareness of the Wailuanuiaho'āno – the great and sacred Wailua - via a community driven process for generations to come. IOW engages in service provision to the wider community, including through public education, events, and concerning restoration and protection for Wailuanuiaho'āno – the lands of which the requested RPs and GL are a part.

Our stewardship of these public trust parcels would enable restoration of these lands as a public place of cultural enrichment, historic preservation, land conservation and spiritual nourishment; an educational and interpretive gathering place; a center of Hawaiian cultural stewardship on Kaua'i; a core place for learning in Hawai'i. Our broader vision for these lands includes developing a cultural and educational center, a venue for hula and musical performance, parks, small-scale, organic agricultural production, restoration of the loko i'a (fishponds) on site, and gardens of native medicinal plants. IOW is already familiar with the lands and many of those who have strong connections to them.

Mr. Tsuji  
2/28/2023  
Page 2

IOW is in good standing with the State Department of Commerce and Consumer Affairs and is applying for certification as a tax exempt organization under 501(c)(3) of the Internal Revenue Code. IOW is able and willing to maintain the physical properties as well as insurance requirements for the properties.

*Interest in obtaining permits and/or leases for the lands.*

IOW understands the RPs will expire on or about October 28, 2023 and the next rental re-opening for GL4878 is set for August 17, 2023. Currently, all the RPs and GL4878 are held by Coco Palms Ventures, LLC, which has not been validly registered to transact business in Hawai'i since at least 2017.

County property taxes are due and owing on parcels subject to these RPs and GL4878. After providing Coco Palms Ventures, LLC sixty days notice, the Board of Land and Natural Resources (Board) is required to terminate the permits and lease. HRS §171-27. Given these parameters, Coco Palms Ventures' current status as permit- and lease-holder is not an insurmountable barrier to IOW's interests.

Nor would removing Coco Palms Ventures from its status as leaseholder necessarily result in the time and expense of a public auction. The Board is authorized to engage in direct negotiations with charitable organizations. HRS §171-43.1. IOW thus requests your consideration and your assistance in planning for our ability to obtain RP7407, RP7444, RP7613, and GL4878 as soon as practicable.

Please contact me with any questions at (808) 639-9080 or email [haenagirl@gmail.com](mailto:haenagirl@gmail.com). Thank you for your time and consideration.

Your truly,

*Teresa Tico*

Teresa Tico  
Attorney for I Ola Wailuanui

cc: Karen Ono  
Puali'I Rossi-Fukino  
Mason Chock  
Makana Reilly  
Gary Hooser  
Derek Kawakami



# EXHIBIT G

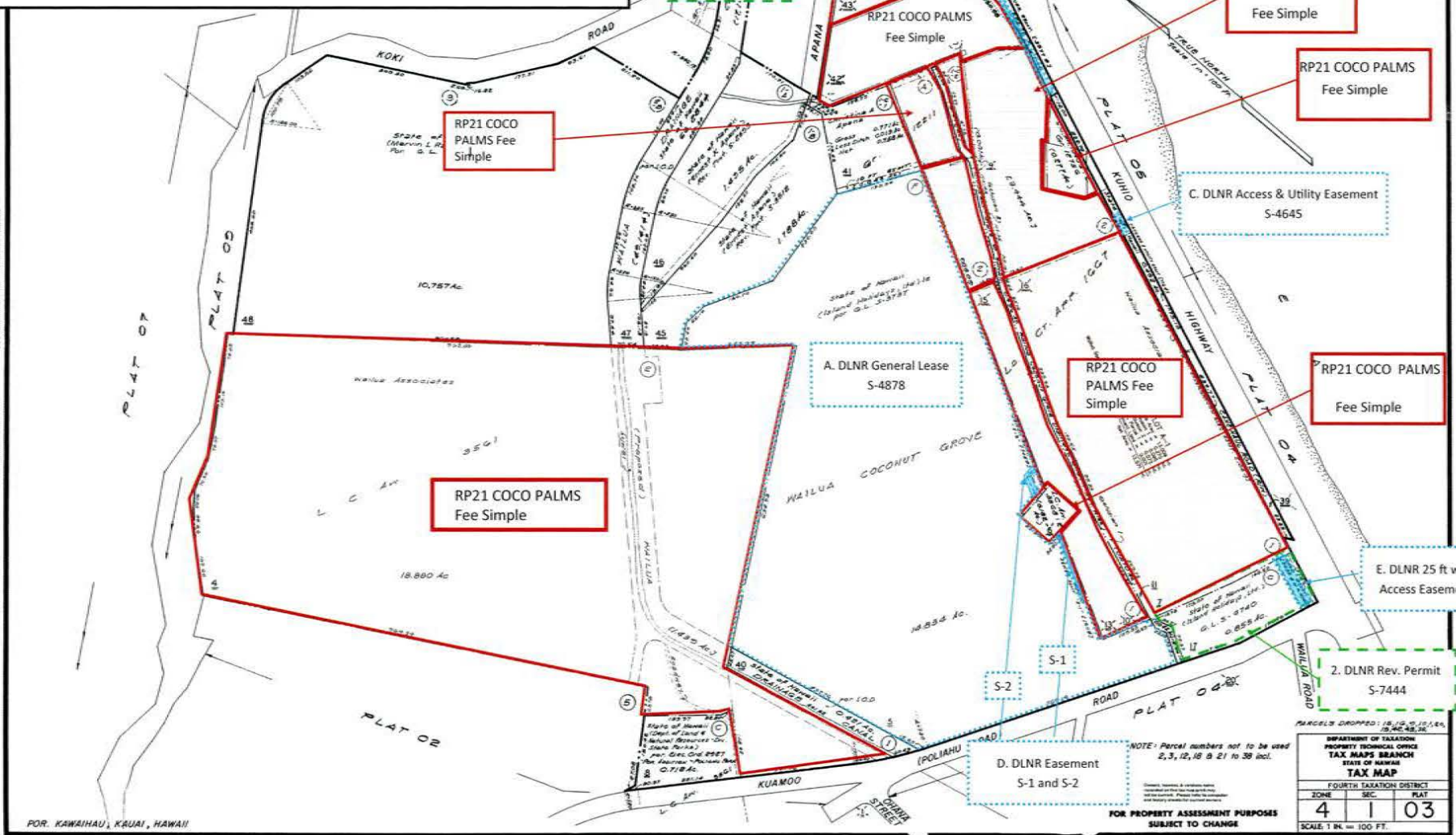
## Map of Coco Palms Fee, Lease, Easements and Revocable License Areas

Page 1 of 2

Fee areas shown outlined in **solid red lines**

DLNR Lease and Easement areas are shown in **blue dotted lines**

DLNR Revocable Permit areas are shown in **dashed green lines**



SOURCE: TERRIT. E. BURNEY, 2/11  
 REVISION: 10/11  
 BY: JACQUELINE L. HARRIS  
 DATE: 10/11/11  
 DWS: 10/11/11

POR. KAWAIIHAU, KAUAI, HAWAII

MARCELS DROPPED: 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100

NOTE: Parcel numbers not to be used 2, 3, 12, 18 & 21 to 38 incl.

FOR PROPERTY ASSESSMENT PURPOSES  
SUBJECT TO CHANGE

DEPARTMENT OF TAXATION PROPERTY TECHNICAL OFFICE TAX MAPS BRANCH STATE OF HAWAII		
TAX MAP		
FOURTH TAXATION DISTRICT		
ZONE	SEC.	PLAT
4	1	03
SCALE: 1 IN. = 100 FT.		

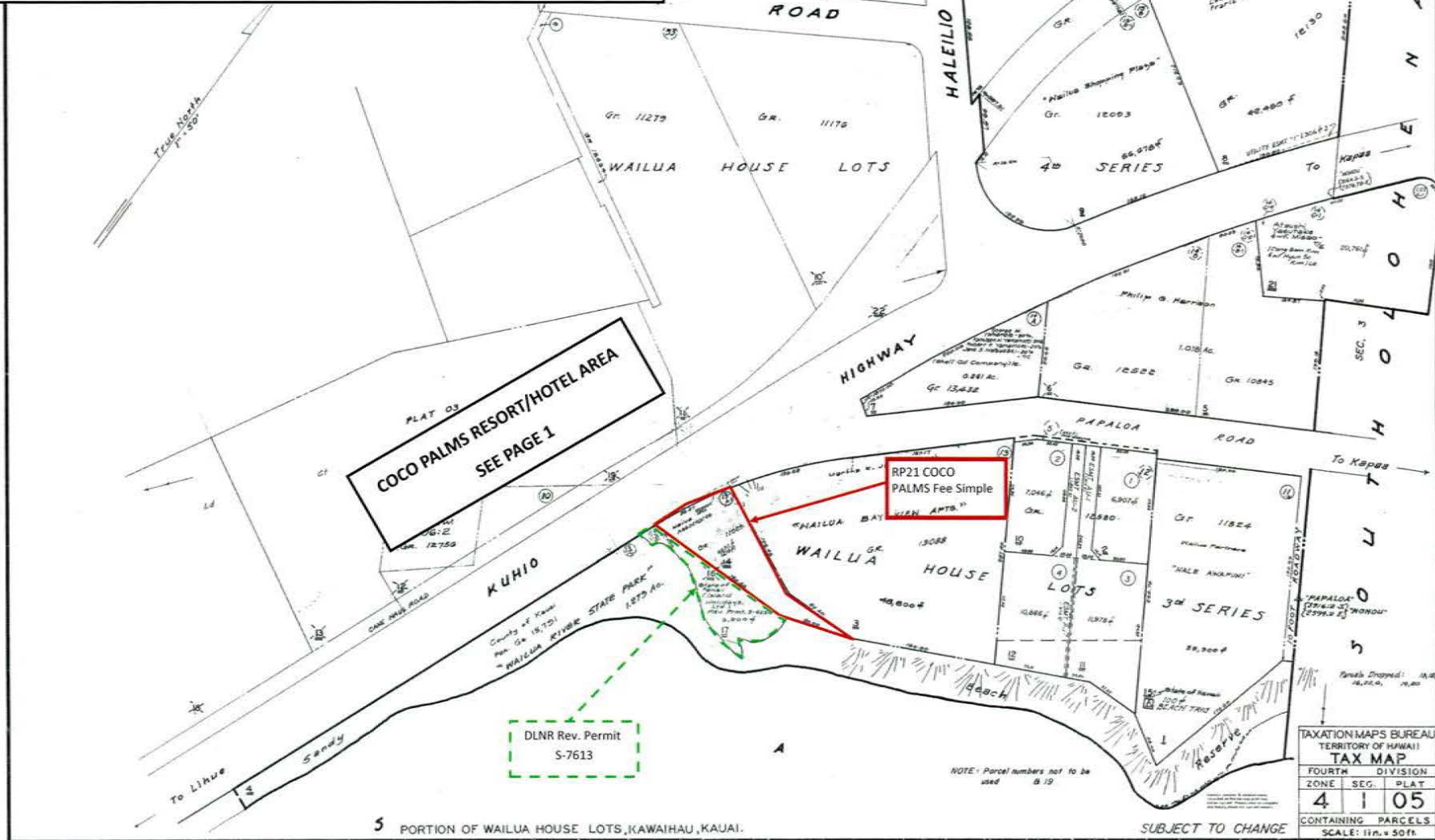
# EXHIBIT G

## Map of Coco Palms Fee, Lease, Easements and Revocable License Areas

Page 2 of 2

Fee areas shown outlined in **solid red lines**

DLNR Revocable License areas in **dashed green lines**



5 PORTION OF WAILUA HOUSE LOTS, KAWAIHAU, KAUAI.

SUBJECT TO CHANGE

PRINTED

**REVISED**

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

October 28, 2016

**EXHIBIT H**

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

16KD-139

Kauai

Cancellation of Revocable Permits Nos. S-7407, S-7444 and S-7613 to Coco Palms Ventures LLC; Issuance of Revocable Permits to Coco Palms Hui LLC, Wailua, Kawaihau, Kauai, Tax Map Keys: (4) 4-1-003:044 por., (4) 4-1-003:017 and (4) 4-1-005:017.

APPLICANT:

Coco Palms Hui LLC, a Foreign Limited Liability Company.

LEGAL REFERENCE:

Sections 171-13 and -95, Hawaii Revised Statutes, as amended.

LOCATIONS:

Portion of Government lands of Wailua situated at Kawaihau, Kauai, Hawaii, identified by Tax Map Keys: (4) 4-1-003:044 por., (4) 4-1-003:017 and (4) 4-1-005:017, as shown on the attached maps labeled Exhibit A, B and C.

AREA:

TMK: (4) 4-1-003:044 por. 460 square feet, more or less (Parcel A).  
TMK: (4) 4-1-003:017 0.855 acres, more or less (Parcel B).  
TMK: (4) 4-1-005:017 5,224 square feet, more or less (Parcel C).

ZONING:

State Land Use District: Urban  
County of Kauai CZO: R-10

*as amended*

APPROVED BY THE BOARD OF  
LAND AND NATURAL RESOURCES  
AT ITS MEETING HELD ON

October 28, 2016

TRUST LAND STATUS:

Three Revocable Permits:

Section 5(b) lands of the Hawaii Admission Act

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

CURRENT USE STATUS:

Parcel A (RP S-7407) - driveway access is currently blocked off to traffic for existing parking lot.

Parcel B (RP S-7444) - currently being used by the demolition company for parking of employees.

Parcel C (RP S-7613) - currently vacant; restaurant is scheduled for renovation.

CHARACTER OF USE AND CURRENT RENT:

Parcel A - Encumbered by Revocable Permit No. S-7407, Coco Palms Ventures LLC, Permittee, for use and maintain driveway for vehicular access purposes. Rent under RP S-7407 is currently \$13.00 per month.

Parcel B - Encumbered by Revocable Permit No. S-7444, Coco Palms Ventures LLC, Permittee, for parking and landscaping purposes. Additionally encumbered by Land Office Deed No. 12850, which is a perpetual access easement in favor of Coco Palms Ventures LLC. Rent under RP S-7444 is currently \$372.00 per month.

Parcel C - Encumbered by Revocable Permit No. S-7613, Coco Palms Ventures LLC, Permittee, for restaurant, landscaping and related purposes. Rent under RP S-7613 is currently \$282.00 per month.

COMMENCEMENT DATE:

The first day of the month to be determined by the Chairperson.

MONTHLY RENTAL:

As an interim measure, staff recommends the initial rent be carried over from the previous revocable permits with adjustments as follows:

<u>Parcel</u>	<u>Rent under prior Permit</u>	<u>Rent under new Permit</u>
Parcel A	\$13.00 per month	\$40.00 per month
Parcel B	\$372.00 per month	\$422.20 per month
Parcel C	\$282.00 per month	\$320.00 per month

The adjustment to the Parcel A rent reflects an increase to the minimum rent for new dispositions under the Board's minimum rent policy. The adjustments to the Parcel B and Parcel C rents reflect a 13.5% increase over the prior rents established by in-house appraisal in 2008, using the average consumer price index increase approach the Board recently approved in the annual renewals of revocable permits for the various islands.

Additionally, the Applicant will be required to pay for an independent appraisal to determine the fair market rent to charge for the parcels, subject to review and approval by the Chairperson. Rent will be adjusted retroactively to the date of permit issuance to account for any difference between the interim rent and the appraised rent, provided that the rent shall not be lower than \$40.00 per month per parcel.

COLLATERAL SECURITY DEPOSIT:

Twice the monthly rental.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rule Section 11-200-8 and the Exemption List for the Department of Land and Natural Resources concurred by the Environmental Council and dated June 5, 2015, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1. See Exemption Declaration attached as Exhibit D.

DCCA VERIFICATION:

Place of business registration confirmed:	YES
Registered business name confirmed:	YES
Applicant in good standing confirmed:	YES

APPLICANT REQUIREMENTS:

Applicant shall be required to:

Pay for an appraisal to determine fair market rent to be determined by independent appraiser, subject to review and approval by the Chairperson.

JUSTIFICATION FOR REVOCABLE PERMITS:

Parcel A (RP No. S-7407)

Parcel A will be used on short-term basis only for duration of the hotel renovation. Parcel A provides access to a parking lot on Applicant's private property. Additionally, the Department of Transportation, Highways Division, has expressed interest in

acquiring an executive order over Parcel A and other State lands in the area for the widening of Kuhio Highway. Accordingly, Parcel A is unsuitable for a long-term disposition that could interfere with DOT's plans.

Parcel B (RP No. S-7444)

Parcel B will similarly be used on a short-term basis as a parking area for construction workers working on the hotel renovation. Additionally, a revocable permit will allow the land to be utilized while staff plans for the future disposition of parcel, including evaluation of the potential for the sale of a lease at auction. As noted above, Parcel B is also encumbered by an access easement in favor of Coco Palms Ventures LLC, which will need to be assigned to Applicant with Board consent (to be addressed at a separate meeting).

Parcel C (RP No. S-7613)

The unusual shape and small size of Parcel C may make it difficult to utilize as a stand-alone parcel. Nevertheless, staff will explore the possibility of selling a long-term lease of the parcel at public auction.

REMARKS:

Brief history of Coco Palms:

Originally built in the 1940s, the hotel was known as Coco Palm Lodge. On January 25, 1953, under the management of Island Holidays, Ltd., the property was renamed Coco Palms Resort.

In 1969, Amfac purchased Island Holidays, Ltd. and the Coco Palms property.

In 1985, Amfac sold the property to Wailua Associates, who managed the hotel until Hurricane Iniki struck on September 11, 1992.

In 2006, the property was sold to Coco Palms Ventures LLC (CPV). After years of planning, building permits, etc., with the economic downturn, CPV struggled to find new investors for this project but eventually gave up on the project.

Prudential Insurance PR II LLC took over ownership of the property.

In May 2016, Coco Palms Hui LLC became the new owners of the property.

Parcel A (RP No. S-7407)

Previous revocable permits issued for the same purpose under previous owners:  
RP S-4253 – Island Holidays, Ltd.

RP S-5958 – Island Holidays, Inc.  
RP S-6233 – Wailua Associates  
RP S-7407 – Coco Palms Ventures LLC

Parcel B (RP No. S-7444)

Previous General Lease for the same purpose under previous owners:  
GL S-4740 – Island Holidays, Ltd.  
GL S-4740 – Wailua Associates (consent to assignment)  
GL S-4740 – Coco Palms Ventures LLC (expired 2006, RP issued)

Parcel C (RP No. S-7613)

Previous Revocable Permits issued for the same purpose under previous owners:  
RP S-6234 – Wailua Associates

Applicant has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

The proposed use has continued since 1968 and will continue. Such use has resulted in no known significant impacts, whether immediate or cumulative, to the natural, environmental and/or cultural resources in the area. As such, staff believes that the proposed use would involve negligible or no expansion or change in use of the subject area beyond that previously existing.

RECOMMENDATION: That the Board:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Authorize the issuance of a revocable permit to Coco Palms Hui LLC covering Parcel A for use and maintenance of a driveway for vehicular access purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
  - a. The standard terms and conditions of the most current revocable permit form, as may be amended from time to time;
  - b. Review and approval by the Department of the Attorney General; and
  - c. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

3. Authorize the issuance of following revocable permit to Coco Palms Hui LLC covering Parcel B for parking and landscaping purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
  - a. The standard terms and conditions of the most current revocable permit form, as may be amended from time to time;
  - b. Review and approval by the Department of the Attorney General; and
  - c. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
  
4. Authorize the issuance of following revocable permit to Coco Palms Hui LLC covering Parcel C for restaurant, landscaping and related purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
  - a. The standard terms and conditions of the most current revocable permit form, as may be amended from time to time;
  - b. Review and approval by the Department of the Attorney General; and
  - c. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,

  
\_\_\_\_\_  
Marvin Mikasa  
District Land Agent

APPROVED FOR SUBMITTAL:

  
\_\_\_\_\_  
Suzanne D. Gase, Chairperson

Land Board Meeting: October 28, 2016;  
D-1: Approved as amended.

Approved as amended. See attached page.

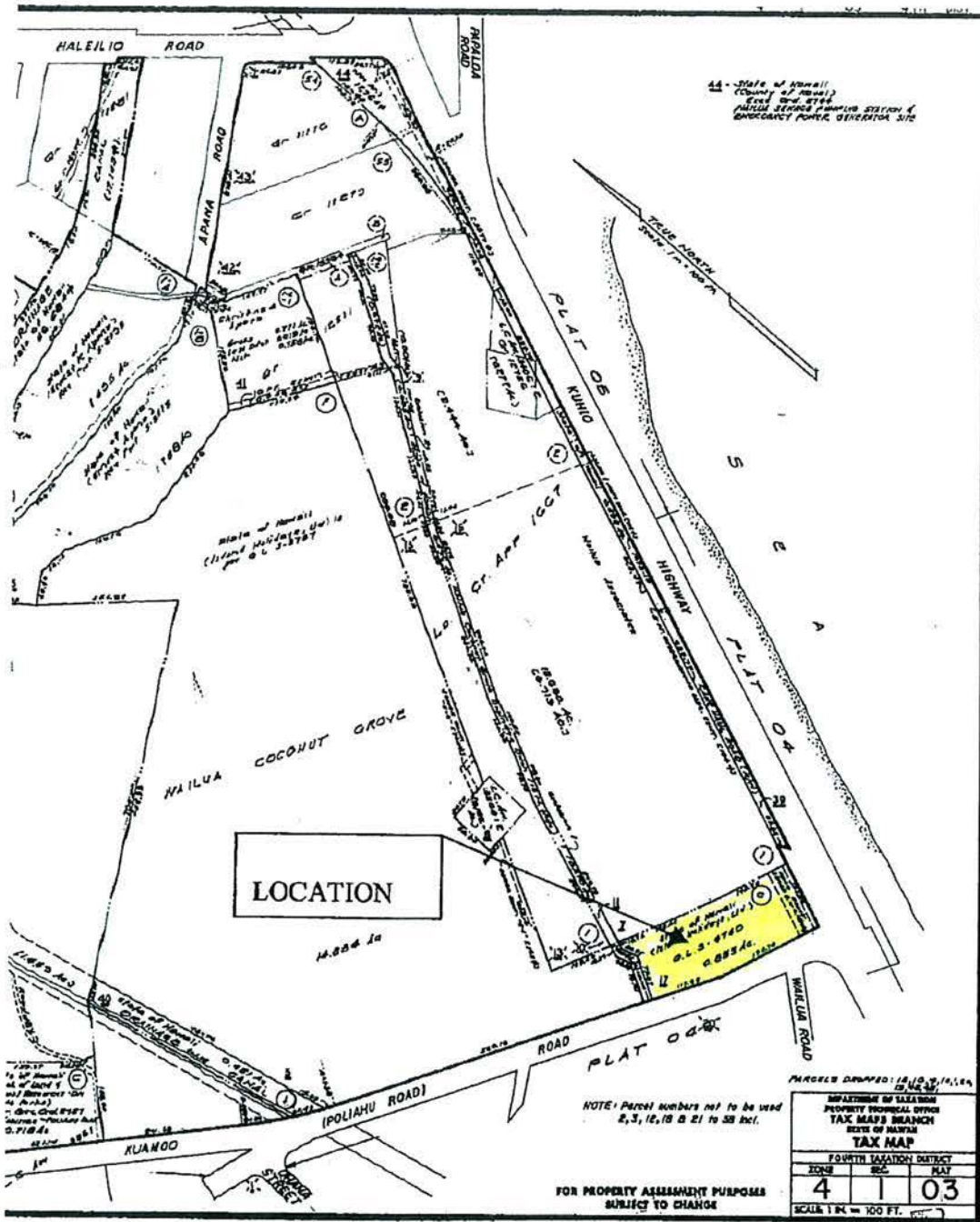


Land Board Meeting: October 28, 2016; D-1: Approved as amended.

**Approved as amended.** *The Board amended the Recommendation section by inserting a new recommendation number 5 as noted below:*

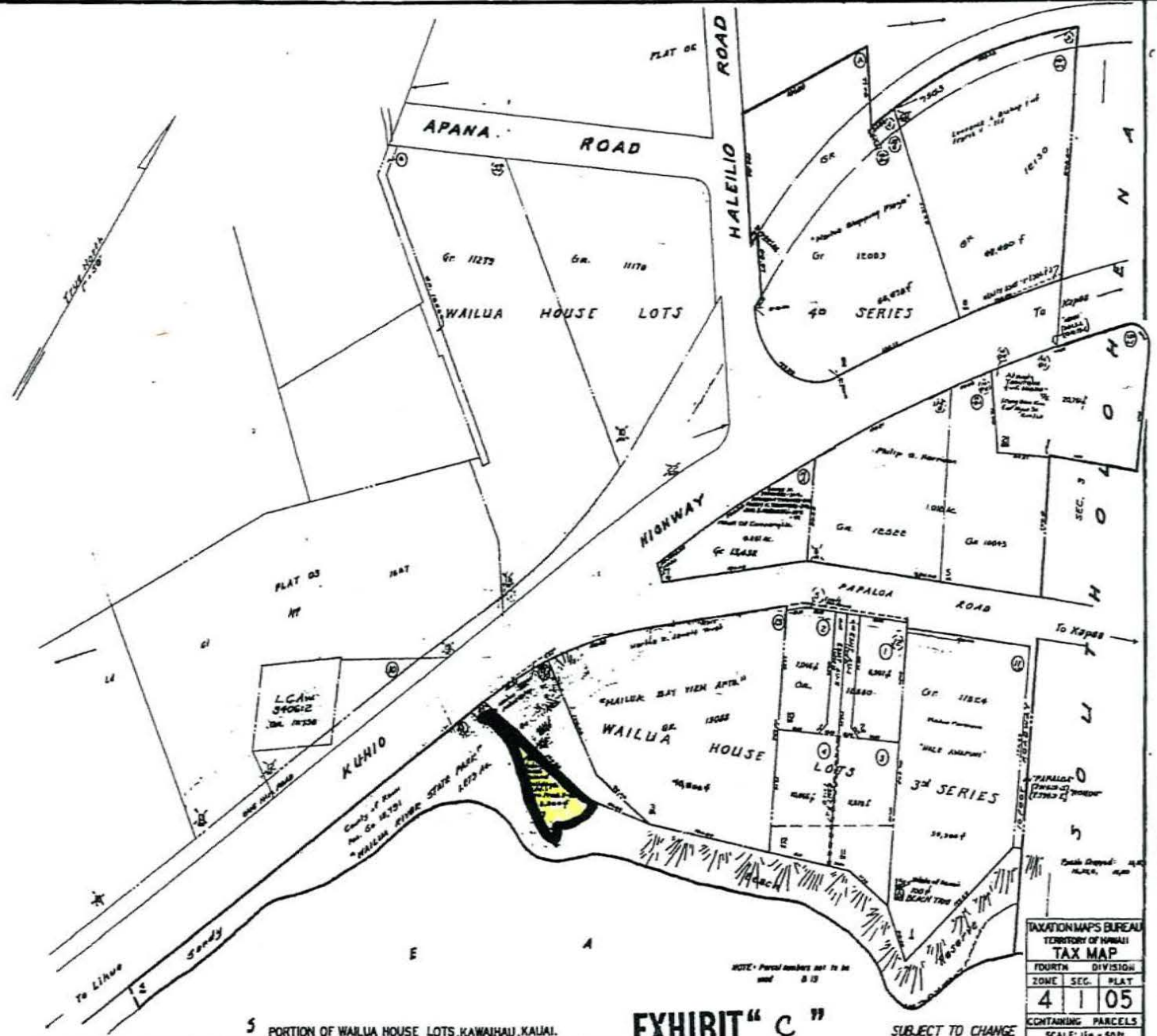
*5. Termination of Revocable Permits Nos. S-7407, S-7444 and S-7613 upon the issuance of the respective replacement revocable permits.*





**EXHIBIT B**

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PRELIM APP'D.  
 Department of the  
 Attorney General

5 PORTION OF WAILUA HOUSE LOTS, KAWAIHAU, KAUAI.

EXHIBIT " C "

SUBJECT TO CHANGE

TAXATION MAPS BUREAU		
TERRITORY OF HAWAII		
TAX MAP		
FOURTH	DIVISION	
ZONE	SEC.	PLAT
4	1	05
CONTAINING PARCELS		
SCALE: 1 in. = 50 ft.		
NOTED:		



## EXEMPTION NOTIFICATION

Regarding the preparation of an environmental assessment under the authority of Chapter 343, HRS and Chapter 11-200, HAR

Project Title: Cancellation of Revocable Permits No. S-7407, S-7444 and S-7613 to Coco Palms Ventures LLC; Issuance of Revocable Permits to Coco Palms Hui LLC, Wailua, Kawaihau, Kauai, Tax Map Keys: (4) 4-1-003:044, (4) 4-1-003:017 and (4) 4-1-005:por. 017.

Project Number: PSF No. 16KD-139

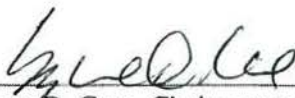
Project Description: Cancellation and issuance of new revocable permits to Coco Palms Hui LLC

Chap. 343 Trigger(s): Use of State Land

Exemption Class No.: In accordance with the Exemption List for the Department of Land and Natural Resources, approved by the Environmental Council on June 5, 2015, the subject request of an Environmental assessment pursuant to Exemption Class 1, "Operations, repairs, or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing."

The renewal of existing revocable permits on State lands involves the continuation of existing uses on the lands. No change in use is authorized by the renewal.

Recommendation: It is anticipated that this request will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.

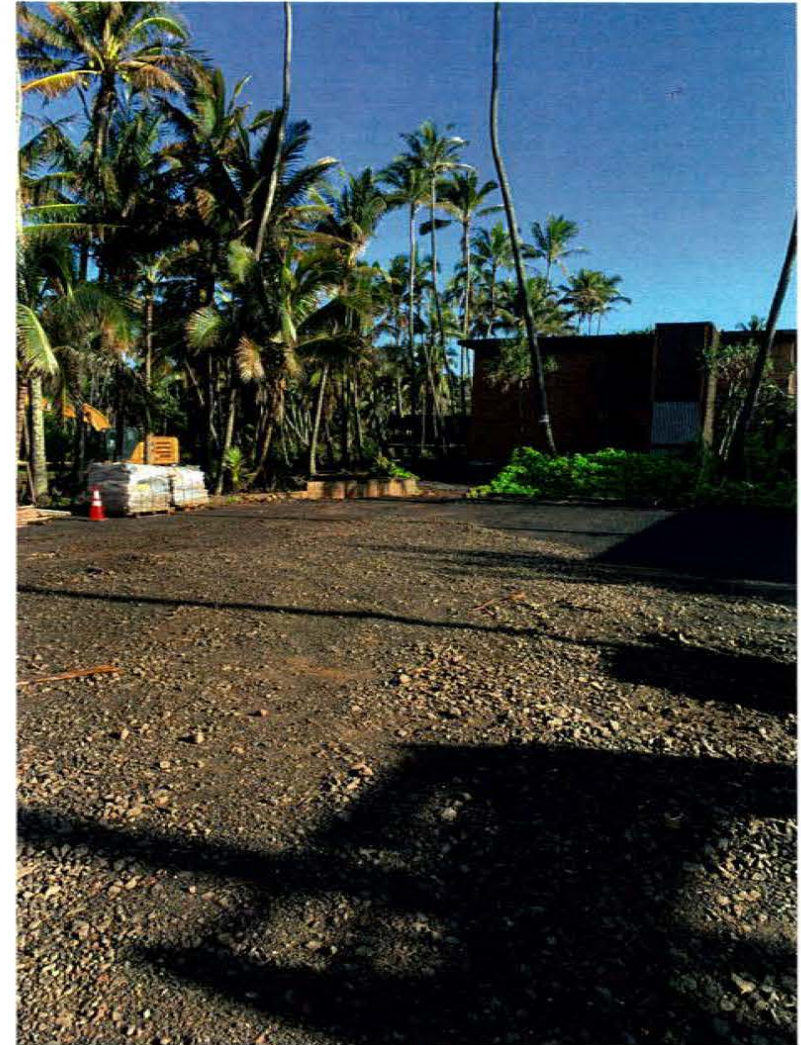
  
\_\_\_\_\_  
Suzanne D. Case, Chairperson

10/13/16  
\_\_\_\_\_  
Date

**EXHIBIT D**



Parcel A (RP S-7407)



Parcel B (RP S-7444)



Parcel C (RP S-7613)