



**Item D-6 Annual Renewal of Revocable Permits for Oahu**

Revocable Permit No. 7566 to Hilton Hawaiian Village, LLC, Joint Venture, Tax Map Key:  
(1) 2-6-008:029

Board of Land and Natural Resources

August 25, 2023

9:15 AM

Room 132

---

The Administration of the Office of Hawaiian Affairs (OHA) will recommend to the Board of Trustees the following position and **COMMENTS** on Agenda Item D-6 (Annual Renewal of Revocable Permits for O'ahu), which considers Revocable Permit No. 7566 to Hilton Hawaiian Village, LLC, Joint Venture (HHV), Tax Map Key: (1) 2-6-008:029. **OHA insists that the State of Hawai'i maintains ownership over the lands at issue – that ownership is not ambiguous - and that the transfer of these lands to the State as part of the Public Land Trust was the result of their prior public status under the Territory of Hawai'i. Therefore, OHA respectfully asks that the Board of Land and Natural Resources (BLNR) increases its rent per staff recommendations to improve upon its effective use for the betterment of conditions of Native Hawaiians.**

The State of Hawai'i on the condition of its admission to the Union has an extra duty of care to the Native Hawaiian people,<sup>1</sup> which seeks to make right the historical injustices that have been inflicted upon and continue to subject Native Hawaiians to greater inequities and disparities<sup>2</sup> through maintained systems of structural racism.<sup>3</sup> In light of this vital circumstance, a twenty percent portion of the income and proceeds of the Public Land Trust was dedicated to the betterment of the conditions of Native Hawaiians.<sup>4</sup> OHA was established to manage this portion of the income and proceeds of the Public Land Trust and serves as the principal public agency in the State responsible for the performance, development, and coordination of programs and activities relating to Native Hawaiians with the mandate to ever-seek the betterment of conditions of Native Hawaiians.<sup>5</sup>

**The lands at issue here are State lands that were transferred to the authority of the State from its predecessor, the Territory of Hawai'i. The fact that these lands became a part of the State's Public Land Trust should indicate its prior public status.** The laws of the Territory of Hawai'i are mirrored by the laws of the State of Hawai'i<sup>6</sup> and both have provided that public

---

<sup>1</sup> Pub. L. 86-3, 73 Stat. 4; Hawai'i Admissions Act of 1959.

<sup>2</sup> Pub. L. 103-150 (1993), 107 Stat. 1510 "Apology Resolution."

<sup>3</sup> "If we are ever to have peace and annexation the first thing to do is to obliterate the past," stated by Samuel Mills Damon, Vice President of the Provisional Government and Executive Council for the Republic of Hawai'i, Council of State (Provisional Government of the Hawaiian Islands, 1895). 26 November 1895. Hawaii State Archives Series 424 Vol. 4.

<sup>4</sup> Pub. L. 86-3, 73 Stat. 4; Hawai'i Admissions Act of 1959.

<sup>5</sup> Haw. Rev. Stat. §10-3.

<sup>6</sup> Haw. Rev. Stat. §171-2.



**Item D-6 Annual Renewal of Revocable Permits for Oahu**

Revocable Permit No. 7566 to Hilton Hawaiian Village, LLC, Joint Venture, Tax Map Key:  
(1) 2-6-008:029

Board of Land and Natural Resources

---

lands are those lands previously classed as Government or Crown Lands belonging to the Hawaiian Kingdom – lands that were stolen from the Native Hawaiian people.

Furthermore, the lands at issue are submerged lands. The Admission Act of 1959, which established the State of Hawai'i made it quite clear that according to the Submerged Lands Act of 1953,<sup>7</sup> any public lands and other public property or lands acquired by the Territory shall be conveyed to the State.<sup>8</sup> **For these reasons, OHA respectfully asks the BLNR to kāko'o in carrying this paramount kuleana owed by the State to the Native Hawaiian people by steadfastly holding on to the 'āina that was meant to be held in trust for our better future together.**

OHA appreciates the opportunity to share its mana'o and 'ike on this matter of great importance and hopes that the most effective use of these lands can be achieved for the betterment of conditions of Native Hawaiians. Mahalo nui loa.

---

<sup>7</sup> Pub. L. 31, 67 Stat. 29, revised Pub. L. 88-233, 77 Stat. 472.

<sup>8</sup> Pub. L. 86-3, 73 Stat. 4; Hawai'i Admissions Act of 1959.



### Item D-6 Annual Renewal of Revocable Permits for Oahu

Revocable Permit No. 7883 to Roland and Darlynn Higgins, Tax Map Key: (1) 3-8-004:080, 056  
Board of Land and Natural Resources

August 25, 2023

9:15 AM

Room 132

---

The Administration of the Office of Hawaiian Affairs (OHA) will recommend to the Board of Trustees the following position and **COMMENTS** regarding the approval of Revocable Permit (RP) No. 7883 to Roland and Darlynn Higgins for the use of the subject property at Tax Map Key (TMK) (1) 3-8-004:080 and 056 for residential purposes. **OHA notes that the registered historical site of Makani‘olu Shelter houses Native Hawaiian iwi kūpuna and other sacred cultural resources that require a degree of urgency, when considering the need to ensure greater protections.**

The Board of Land and Natural Resources (BLNR) reviewed RP No. 7883 to Roland and Daralyn Higgins was reviewed at the regular meeting dated June 22, 2018. The affected TMK (1) 3-8-004:056 consists of a portion of slope immediately behind private residences on Makaniolu Place in Kuliouou.<sup>1</sup> The Land Division noted that two caves known as Makani‘olu Shelter and Kawekiu Shelter are in the area, with Makani‘olu Shelter listed on the Hawai‘i Register of Historic Places.<sup>2</sup>

Bishop Museum has noted that Makani‘olu shelter is a cave formed by erosion that contains a natural ledge that was converted into a terrace, as well as the presence of a burial site and many artifacts.<sup>3</sup>

The Board Meeting Minutes for June 22, 2018 indicate that the Permittees were aware that the State would like to buffer Makani‘olu Shelter and that the Board would need to consult with the Attorney General’s (AG) office to determine what would be in the best interest of the State.<sup>4</sup> The Board voted to freeze the rent for RP 7883 at \$332.74 per month until a long-term disposition can be decided.

As the principal public agency in the State responsible for the performance, development, and coordination of programs and activities relating to Native Hawaiians with the mandate to ever-seek the betterment of conditions of Native Hawaiians,<sup>5</sup> OHA has a longstanding interest in the mālama of wahi kapu (sacred Native Hawaiian sites) such as Makani‘olu Shelter, which represent a lasting physical vestige of Native Hawaiian connections between those *i ka wā ma mua* (of the time before) to those *i ka wā ma hope* (of the time after).

---

<sup>1</sup> Department of Land and Natural Resources Land Division, *Termination of Revocable Permit No. 5169 to Hazel Higgins; Issuance of Revocable Permit to Roland W. Higgins, Jr. and Daralynn S. Higgins for Residential Purposes, Kuliouou, Honolulu, Oahu, Tax Map Key: (1) 3-8-004:056*, June 22, 2018 p.4.

<sup>2</sup> *Id.*

<sup>3</sup> Bishop Museum, *Makaniolu Shelter Artifact Data*, available at <http://data.bishopmuseum.org/has2/index.php?b=d&ID=7355&r=s>, last accessed August 23, 2023.

<sup>4</sup> BLNR, *June 22, 2018 Regular Meeting Minutes Approved Submitted by the Board at Its Meeting Held on September 28, 2018*, p. 5.

<sup>5</sup> Haw. Rev. Stat. §10-3.



### Item D-6 Annual Renewal of Revocable Permits for Oahu

Revocable Permit No. 7883 to Roland and Darlynn Higgins, Tax Map Key: (1) 3-8-004:080, 056  
Board of Land and Natural Resources

---

OHA takes care to note that ‘ohana (family) is an inseparable facet of Native Hawaiian identity and ‘ohana comprise not only the kūpuna (grandparents), mākua (parents), and keiki, but also include the ‘aumākua and ‘unihipili.<sup>6</sup> Iwi are as sacred to Native Hawaiians as any other member of the ‘ohana and are a comforting reminder of Native Hawaiian relationships through time and space that root us to the ‘āina.<sup>7</sup> The desecration of iwi kūpuna regardless of if through willful actions or carelessness is an insult to the iwi and their ‘ohana;<sup>8</sup> a deplorable act which constitutes the erasure of Native Hawaiian identity and existence.

OHA wishes to echo the words of well-respected kupuna, Edward Lavaun Huihui Kanahale, a founding member of Hui Mālama I Nā Kūpuna o Hawai‘i Nei, who stated that “[a]ny subsequent manipulation of the bones or tampering with the burial environment is desecration and that desecration causes the loss of our [Kupuna’s] mana.”<sup>9</sup> The protection and care of iwi kūpuna is a priority for Native Hawaiians “because it is our physical and spiritual connection to ancestors past, kulāiwi, and ‘āina that are integral to our mauil ola or well-being.”<sup>10</sup>

Due to the presence of an iwi kūpuna at the subject property, it is imperative that Makani‘olu Shelter be protected with urgency in order to ensure the appropriate care of iwi kūpuna. **OHA respectfully asks the BLNR to consider the urgent need to ensure the most optimal protections are afforded to iwi kūpuna noting that the chosen resting place in cases such as this were intentional and of considerable importance to the kupuna and are therefore of considerable importance to the betterment of conditions of Native Hawaiians.**

OHA appreciates this opportunity to share its mana‘o and ‘ike on this matter of significance. Mahalo nui loa.

---

<sup>6</sup> Mary Kawena Pukui, E. W. Haertig, M.D., and Catherine A. Lee, *Nānā I Ke Kumu (Look To The Source)*, Volume I (Honolulu: The Queen Lili‘uokalani Children’s Center, Lili‘uokalani Trust, 1972), 168.

<sup>7</sup> Office of Hawaiian Affairs Research Division, *Connection Between Iwi Kūpuna and Well-being of Native Hawaiian ‘Ohana*, p. 2, September 2021, available at <https://www.oha.org/wp-content/uploads/Connection-Between-Iwi-Kupuna-and-Well-being-of-Native-Hawaiian-Ohana-2021.pdf>.

<sup>8</sup> *Id.*, at p. 4.

<sup>9</sup> Edward L. H. Kanahale, “Hawaiian Burial Beliefs,” 1989.

<sup>10</sup> Office of Hawaiian Affairs Research Division, *Connection Between Iwi Kūpuna and Well-being of Native Hawaiian ‘Ohana*, p. 5, September 2021, available at <https://www.oha.org/wp-content/uploads/Connection-Between-Iwi-Kupuna-and-Well-being-of-Native-Hawaiian-Ohana-2021.pdf>.

# Land Board Meeting for 8/25/23

Item D-6 RALSTON (RP 7915)

Video submitted:

1.	<a href="#">230427 86 chairs 25 tables</a>
2.	<a href="#">230505 85 chairs 30 tables</a>
3.	<a href="#">230508 86 chairs 35 tables</a>
4.	<a href="#">230511 SUP kayak rental on the beach &amp; illegal in lagoon</a>
5.	<a href="#">230512 SUP kayak rental on the beach</a>
6.	<a href="#">230525 84 chairs 34 tables</a>
7.	<a href="#">230601 83 lounges 35 tables</a>
8.	<a href="#">230604 83 chairs 32 tables</a>
9.	<a href="#">230612 86 chairs 37 tables</a>
10.	<a href="#">230623 83 chairs 35 tables</a>
11.	<a href="#">230626 82 chairs 34 tables</a>

August 25, 2023

**Tyler Ralston's STRONG OPPOSITION to the renewal of revocable permit 7915, for Resorttrust Hawaii, LLC, (Item D - 6 on the August 25, 2023 BLNR agenda).**

Dear Chair Chang and Members of the Board,

Please do not renew revocable permit 7915 for Resorttrust Hawaii until the term that currently allows them to preset **70 chaise lounges and tables for the exclusive use of hotel guests** on the lot, is removed from the permit.

Lot 41 was designated long ago as a beach to be for public use in perpetuity. Hawaii's people are not able to use the majority of the biggest, best and most useable portion of the level, grassed-over beach lot because Resorttrust has preset furniture for the use of their guests, who are not even present to use the furniture most of the time.

By not allowing Resorttrust to preset furniture on this public beach, BLNR would also be bringing the issue of presetting beach chairs, in alignment with all other public beaches on which presetting beach chairs is now illegal.

In addition, it is important to know that Resorttrust has been violating the terms of its RP in numerous ways for many years. For example, every day of this year they have preset more than 80 chaise lounge beach chairs on the grassed-over beach lot when their permit only allows for a maximum of 70. Please see attached sampling of videos so that you can count the number for yourselves. Below is also a still photo showing a portion of the 80 chairs on the public grassed-over beach lot on May 12, 2023. The property line is approximately 15' mauka of the beach chairs you see in the photo and videos of the grassed-over beach. It is notable and of concern that the DLNR land agent has again failed year to date, in citing Resorttrust even though the violation happens every day.

Continued on next page.



A portion of the 80+ beach chair loungers Resorttrust presets every day, on the grassed-over public beach .

Resorttrust has also been engaging in illegal SUP and Kayak rentals on the public beach without a permit, via its contractor. Through the hotel concierge desk, hotel guests can book a SUP or Kayak rental with the contractor stationed out on the beach. The contractor also solicits business with signs, paddles, kayaks and SUPs on the public beach, all without a permit. Resorttrust and its contractor conduct this business on the public beach, and then assists guests in launching their SUP or Kayak, into the swimming-only area of the lagoon fronting the hotel, as designated by H.A.R. §13-256-89 (b) (2). Vessels of any sort including SUPs and Kayaks are not allowed in this designated swimming-only area. Please see attached videos showing this illegal activity. There are multiple illegalities and RP violations tied with this activity that the hotel via its contractor engages in on a daily basis. The DLNR land agent has also failed to cite Resorttrust and the contractor even though the violation happens every day.



The property line is mauka of this photo. The SUP/ Kayak rental contractor, his rental sign on the bush against the coconut tree, the paddles on the bush, and the SUPs in the photos are all on public property designated as public beach. This is where the business is done for the rentals.



For many years, Resorttrust had a fence erected almost entirely on the state beach Lot 41 that would block the view of the beach area in front of the hotel from the public walking down the beach from the West. The fence created a more private space in front of the hotel, further misleading the public in conveying that this land is not for the public. Resorttrust failed to obtain a permit for the fence as it was illegally erected on Lot 41, the public beach parcel. Although Resorttrust was informed of this, they chose to leave the illegal fence in place. The DLNR land agent also failed to do anything about this illegal fence. This year, a City Department of Planning and Permitting inspector cited Resorttrust with a formal violation for the illegal fence (see attached formal notice of violation). Only then did Resorttrust remove the fence, cutting off the posts, and leaving visible unsightly plastic bases in the ground on the public land.



Illegal fence on public land. C&C DPP issued a formal violation to Resorttrust.

Resorttrusts's commercial and private use of Lot 41 in any way, whether it is presetting beach lounge chairs and tables for their guests, or facilitating illegal SUP and Kayak rentals, is inappropriate and will continue to be vigorously opposed for as many

decades as necessary until this public beach is appropriately protected and taken care of for the public and Hawai'i's people.

To be clear, I support a permit that allows Resorttrust to maintain the grassed-over beach lot so it looks nice for their guests, however I strongly oppose any inclusion of permit terms that allow for presetting beach chair loungers, tables, and other furniture, or conducting commercial / business activity of any sort.

**Please do not renew the permit as it is currently drafted allowing the Resorttrust to preset beach chairs and any other furniture on public beach.**

Sincerely,

A handwritten signature in black ink that reads "Tyler Ralston". The signature is written in a cursive, flowing style.

Tyler Ralston

Attachments:

- DPP issued notice of violation for the illegal fence
- Flashdrive containing
  - Nine (9) video samples showing well over 70 preset beach chair loungers + tables
  - Two (2) video samples showing illegal commercial rental activity on the beach



# Notice of Violation

Violation No.: **2023/NOV-06-051 (EX)**

Date: **June 13, 2023**

Owner(s)

B P BISHOP TRUST ESTATE,  
 (COMMERCIAL REAL ESTATE DIVISION)  
 C/O BOBBIE LAU  
 567 S KING ST SUITE 200  
 HONOLULU, HI 96813

B.P. Bishop Trust Estate  
 P.O. Box 3466  
 Honolulu, Hawaii 96801

Contractor(s)

Tenant/Violator

Architect/Plan Maker

**Violator**  
 The Kahala Hotel  
 c/o Paracorp Incorporated  
 5000 Kahala Avenue  
 Honolulu, Hawaii 96816

**Violator**  
 The Kahala Hotel & Resort  
 c/o Paracorp Incorporated  
 5000 Kahala Avenue  
 Honolulu, Hawaii 96816

Lessee

Agent

Engineer

RESORTTRUST HAWAII, LLC  
 C/O KAHALA HOTEL & RESORT  
 5000 KAHALA AVENUE  
 HONOLULU, HAWAII 96816

Paracorp Incorporated  
 c/o Honolulu Information Service, INC.  
 900 Fort Street Mall Suite 1680  
 Honolulu, Hawaii 96813

RESORTTRUST HAWAII LLC  
 1001 Bishop Street Suite 2100  
 Honolulu, Hawaii 96813

Honolulu Information Service, Inc.  
 c/o Jo Kamae Byrne  
 P O BOX 2390  
 Honolulu, Hawaii 96804-2390

RESORTTRUST HAWAII LLC  
 c/o Paracorp Incorporated  
 900 Fort Street Mall Suite 1680  
 Honolulu, Hawaii 96813

TMK: **3-5-023:039**      **5000 KAHALA AVE Honolulu / Wai'alea Kahala 96816**

**Specific Address of Violation: 5000 Kahala Avenue**

I have inspected the above-described premises and have found the following violations of City and County of Honolulu's laws and regulations governing same:

Codes and/or Ordinance(s) and Section(s)	Violation(s)
ROH 2021, as amended, Chapter 18 Section 18-3.1	<p><b>PERMITS REQUIRED</b></p> <p>The white vinyl fence located at the right rear of the above-referenced property near the shoreline approximately 64" inches in height and approximately 10' feet in length has been erected without first obtaining a building permit.</p> <p><b>REMEDIAL ACTION NECESSARY</b></p> <p>A building permit is required to for the white vinyl fence.</p> <p>Please obtain a building permit from the City &amp; County of Honolulu, Department of Planning &amp; Permitting.</p>
ROH 2021, as amended, Chapter 18 Section 18-6.2 (d)	<p><b>TRIPLE FEE PENALTY</b></p> <p>A Triple fee penalty shall be assessed for starting work without the required building permit.</p>



# Notice of Violation

Codes and/or Ordinance(s)  
and Section(s)

Violation(s)

**ROH 2021, as amended, Chapter 23  
Section 23-1.5(b)**

**SHORELINE SETBACKS**

**The white vinyl fence constructed in the shore line setback area  
without a variance.**

**REMEDIAL ACTION NECESSARY**

**Please corrected the violation within the time specified below.**

**NOTE: If you obtain a variance, you are required to apply for a  
building permit to correct the above-mention violation.**

You are hereby ordered to obtain permit(s) and/or correct violation by July 13, 2023.  
Restore the area immediately and complete all work within 30 days from the date of this notice.  
Please call the undersigned after the corrections have been made.

You are reminded that if no action is taken within the specified time:

1. A Notice of Order will be issued by the Department of Planning and Permitting imposing CIVIL FINES for the specified violations; and/or
2. This matter may be referred to the Prosecuting Attorney and/or Corporation Counsel for appropriate action.

Special Instructions:

Inspector

Alfonso Caro

Phone: 768-8157

for the Director Department of Planning and Permitting