

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

April 25, 2025

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

PSF No.: 24MD-103
Maui

Grant of Term, Non-Exclusive Easement, Immediate Right-of-Entry and Revocable Permit to Association of Apartment Owners of Paki Maui for Seawall, Stairs, and Metal Railing; Grant of 60-Day Right-of-Entry to Association of Apartment Owners of Paki Maui for Removal of Unauthorized Stairs, Wailuku, Maui, Tax Map Key: (2) 4-4-001: seaward of 050 and 051.

APPLICANT:

Association of Apartment Owners of Paki Maui, a domestic nonprofit corporation.

LEGAL REFERENCE:

Sections 171-53 and 55, Hawaii Revised Statutes (HRS), as amended. Section 13-222-19, Hawaii Administrative Rules (HAR), as amended.

LOCATION:

Portion of State land located in Wailuku, Maui, identified as TMK: (2) 4-4-001: seaward of 050 and 051, as shown on **Exhibits A-1 through A-3**.

AREA:

1,951 square feet, approximately, to be reviewed and approved by the Department of Accounting and General Services, Survey Division.

ZONING:

State Land Use District:	Conservation
Maui County Zoning District:	A-2 (for abutting private property)

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: No

CURRENT USE STATUS:

Unencumbered with encroachments.

TERM, NON-EXCLUSIVE EASEMENT:

CHARACTER OF USE:

Right, privilege and authority to use, maintain, and repair existing concrete rubble masonry (CRM) seawall, concrete steps, and metal railing and to replace concrete steps and metal railing over, under, and across State-owned land.

COMMENCEMENT DATE:

To be determined by the Chairperson

CONSIDERATION:

One-time payment to be determined by independent appraisal establishing fair market value, subject to review and approval by the Chairperson.

TERM:

Twenty-five (25) years.

The Land Division has reduced the term for which shoreline easements are granted from 55 to 25 years in response to sea level rise projections disclosed in the Hawaii Sea Level Rise Vulnerability and Adaptation Report adopted by the State Climate Change Mitigation and Adaptation Commission and pursuant to the recommendation of the Office of Conservation and Coastal Lands. Landward migration of the shoreline is currently occurring as a direct result of sea level rise. This will progressively expose immobile shoreline structures to an evolving combination of destructive effects from erosion, chronic flooding, and wave inundation. The intention of the term reduction is two-fold: (1) to reduce the potential for accidents and liabilities resulting from dysfunctional shoreline structures by more frequently reviewing and managing shoreline structures and (2) to facilitate a general process of managed retreat from the shoreline.

MONTHLY RENTAL FOR RIGHT-OF-ENTRY AND REVOCABLE PERMIT:

Monthly rental amount of \$1,519.00 for right-of-entry and revocable permit has been calculated by staff and has been reviewed and approved by the Chairperson. **(Exhibit B)**

REMOVAL BOND I:

Applicant shall be required to post a removal bond in an amount determined by Land Division in consultation with Engineering Division, subject to approval by the Chairperson.

REMOVAL BOND II:

Applicants shall be required to post a removal bond covering the last 10-year period of the 25-year term easement in an amount to be determined before the expiration of the 15th year of the 25-year term easement by Land Division in consultation with Engineering Division, subject to approval by the Chairperson.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rules ("HAR") §§11-200.1-15 and -16 and the Exemption List for the Department of Land and Natural Resources, reviewed and concurred on by the Environmental Council on November 10, 2020, the subject request is exempt from the preparation of an Environmental Assessment pursuant to General Exemption Type 1, which applies to "[o]perations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving minor expansion or minor change of use beyond that previously existing." Specifically, the subject request is exempt under Part 1, Item 39, which exempts the "[c]reation or termination of easement, covenants, or other rights in structures or land." The subject request is a de minimis action that is expected to have minimal or no significant effect on the environment and should be declared exempt from the preparation of an environmental assessment.

DCCA VERIFICATION:

Place of business registration confirmed:	YES <u>x</u>	NO <u> </u>
Registered business name confirmed:	YES <u>x</u>	NO <u> </u>
Applicant in good standing confirmed:	YES <u>x</u>	NO <u> </u>

APPLICANT REQUIREMENTS: Applicant shall be required to:

1. Provide survey maps and descriptions according to State DAGS standards

- at Applicant's own cost;
2. Pay for an appraisal to determine one-time payment in consideration of the easement; and
3. Obtain the prior concurrence of the Legislature and approval of the Governor through a Concurrent Resolution pursuant to §171-53(c), HRS.

JUSTIFICATION FOR REVOCABLE PERMIT:

The land disposition presented to the Board in this matter is an orderly process that uses a series of permits structured to allow for immediate use and occupancy and proceed on a direct course to a to a long-term easement, subject to conditions that benefit the State. The land disposition requested in the present submittal is a three-stage process encompassing:

1. Issuance of a right-of-entry permit for a period of up to six months. This allows the Applicant to immediately legitimize occupancy of the public land in question, begin repair and maintenance of the shoreline protection structure without undue delay and without cost to the State, and begin preparations for the Applicant's obligations under future land dispositions.¹ The right-of-entry permit includes requirements for payment of monthly rent, provision to the Department of a removal bond or equivalent securitized funds, indemnification of the State, and provision of liability insurance by the Applicant. The purpose of the removal bond is to ensure that there are funds available to remove the encroachment from State land in the event that the Legislature or Governor does not approve the easement authorized by the Board.
2. Issuance of a revocable permit for no longer than one year. This allows Land Division time to complete the administrative processes that underlie the grant of easement including approval of the easement contract by the Department of the Attorney General, completion of the appraisal (at the Applicant's cost) to determine the lump-sum payment for value of the easement, and approval of the Legislature and Governor of the easement while the Applicant maintains the same obligations for rent payments, removal costs, indemnification, and provision of liability insurance.
3. Issuance of an easement. This final step cannot be executed without prior completion of the prerequisites stated above. Therefore, the interim disposition through revocable permit is necessary.

¹ The Applicant's obligations under a right-of-entry and revocable permit include obtaining a survey to confirm the size of the disposition area, obtaining a cost estimate for removing the shoreline protection structure which determines the amount of the removal bond, and procurement through Land Division of an appraisal to determine the lump-sum value of the easement.

The interim revocable permit step is limited in its duration and essential in its utility. While the revocable permit is in effect, the Applicant assumes the costs of maintaining the subject parcel of State land and the liability for any damages caused on or by the Applicant's use of the land during the often-lengthy process of consummating the easement.

REMARKS:

The Applicant is the association of apartment owners representing the owners of the various units within the Paki Maui resort condominium development located in Wailuku, Maui. The subject parcels contain a seawall and two sets of concrete stairs with metal railings that constitute encroachments onto State submerged lands. The Applicant is seeking an easement disposition to resolve the encroachments for the purpose of seeking a Conservation District Use Permit (CDUP) to repair and reconfigure the seawall.

The shoreline for the subject parcels was certified in 1974 and 1977. A 2016 shoreline application (file number MA-639) was processed and rejected pursuant to section 13-222-19, HAR, due to the presence of unresolved shoreline encroachments consisting of portions of the seawall, the stairs, and railings. The Applicant submitted another application for shoreline certification on September 24, 2020. Pursuant to section 13-222-19, HAR, this application was not accepted for processing due to the continued presence of known, unresolved shoreline encroachments.

The Applicant originally submitted a Request for State Lands application to the Maui District Land Office on July 6, 2021, seeking an easement disposition to resolve the encroaching seawall, concrete stairs, and metal railings. For reasons unknown to Staff, this 2021 request was not processed. A search by Maui District Land Office staff did not discover any records related to this 2021 request. There is currently no land disposition in place for the structures.

The Applicant submitted a second Request for State Lands (Direct Negotiation) form to Land Division on July 26, 2024, to again request an easement disposition for the seawall, concrete stairs, and metal railing that encroach from the Paki Maui property onto State submerged land identified as TMK: (2) 4-4-001: seaward of 050 and 051. The 2024 request is the basis for the present submittal.

The encroaching seawall and north steps have been in place since approximately 1974 when the subject parcels were developed and the shoreline was initially certified. The seawall and north steps were originally constructed mauka of the certified shoreline and wholly within the private property. (**Exhibit D**) The south steps are not depicted on the 1974 or 1977 certified shoreline maps but are

depicted abutting the makai face of the seawall, makai of the previously certified shoreline, on the shoreline survey map submitted with the rejected 2016 shoreline certification application. (**Exhibit E**) It is unclear when the south steps were constructed makai of the seawall and it appears that they were constructed without State or County authorization. A search of Maui County Department of Planning permits issued for the subject parcels revealed that permits and approvals related to repair of the existing seawall were issued in 2015 and 2016. However, these permits and approvals do not mention the addition of new stairs. OCCL confirmed that it did not issue either a Site Plan Approval or CDUP for the south stairs.

On April 23, 2019, OCCL issued a letter to the Applicant supporting an easement disposition for a portion of the seawall and the two stair structures. At the time, OCCL's analysis determined that "only the seaward-most extent of the subject structures encroach onto the shoreline." (See **Exhibit C** pages 17 and 18) However, in the five years since, the seawall has become more undermined and has fallen into greater disrepair so that the entire seawall now constitutes an encroachment onto State submerged land.

In 2023, the coastal engineering firm, Sea Engineering, Inc., conducted an assessment of the seawall and stair structures. Sea Engineering's assessment found that both sets of stairs are closed to use; the north end of the wall is undermined up to a depth of three feet and the north stairs have collapsed; diagonal and horizontal cracks and sagging in the wall indicate separation due to undermining; the base and footing of the wall are undermined at a depth of one to two feet and portions of the base have broken off; mortar and grout have been repeatedly repaired, some portions are missing, and some portions show abrasion from wave action; and sinkholes are present in two locations mauka of the wall due to undermining and leaching of soil and sand below the base of the undermined wall. (**Exhibit F**)²

OCCL was consulted for purposes of the present submittal and did not find it necessary to issue an updated analysis. Since the seawall and north stairs were constructed within the private property boundaries pursuant to a valid permit, OCCL found that the seawall and north stairs are nonconforming. Because the south stairs were not constructed pursuant to permit, OCCL found that the south stairs are unauthorized and must be removed. The Applicant does intend to remove the south stairs as part of its seawall repair and is prepared to resubmit a Conservation District Use Application (CDUA) to OCCL to obtain a CDUP for repair of the seawall and removal of the south stairs. OCCL has determined that shoreline certification and disposition of the seawall by easement are necessary precursors to acceptance of the Applicant's CDUA. (**Exhibit C**) Therefore, the proposed easement area will cover the encroaching portions of the seawall and

² Please note: Exhibit F represents a portion of the Sea Engineering report. Pages not relevant to the present submittal were omitted due to file size concerns.

north stairs, both of which have been determined by OCCL to be non-conforming, and will not include the south stairs, which shall be removed by the Applicant.

In the event the easement is approved and the encroachments are allowed to remain, the Applicant plans to repair the seawall, remove the existing stairs on the north end of the seawall, and install a new set of stairs in the central portion of the seawall. Additionally, the Applicant plans to remove a chain-link fence that is currently mounted on top of the seawall and extends perpendicularly beyond the seawall toward the ocean. The Applicant has submitted a Conservation District Use Application (CDUA) to the Office of Conservation and Coastal Lands (OCCL) for these repair and replacement activities. OCCL determined that an easement disposition is required before a CDUA can be accepted for processing. (**Exhibit C**)

The proposed repair and replacement work is not expected to increase the footprint of the existing structures and the present request is not intended to authorize the Applicant to occupy any area of State land other than the requested easement area. Regardless of whether the CDUP for the seawall repair and stair replacement is approved, the Applicant desires to obtain the easement to keep the existing non-conforming encroachments in place. Additionally, if the Applicant obtains the CDUP for repair of the structure and desires to conduct repairs prior to execution of the easement, the Applicant shall be required to obtain a construction right of entry from the Board.

Comments on this submittal were solicited from DLNR's State Historic Preservation Division and the Office of Hawaiian Affairs. The agencies did not respond timely for inclusion of their comments in this submittal.

The 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.

There are no other pertinent issues or concerns and staff has no objection to the request.

RECOMMENDATION: That the Board:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and §§11-200.1-15 and -16, HAR, this project is expected to have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment as a de minimis activity.
2. Assess a fine of \$500 for the unauthorized south stairs encroachment

pursuant to the criteria adopted by the Board at its meeting of June 28, 2002, under agenda item D-17.

3. Authorize the continued applicability of the subject requests in the event of a change in the ownership of the abutting parcels described as Tax Map Key: (2) 4-4-001:050 and 051, provided that the succeeding owner has not had a lease, permit, easement or other disposition of State lands terminated within the last five (5) years due to non-compliance with such terms and conditions.
4. Authorize the issuance of a 60 day right-of-entry permit to Association of Apartment Owners of Paki Maui covering the subject area for removal of the unauthorized south stairs 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 right-of-entry permit form, as may be amended from time to time;
 - B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
5. Authorize the issuance of a right-of-entry permit to Association of Apartment Owners of Paki Maui covering the subject area for the seawall, stairs, and metal railing 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 right-of-entry permit form, as may be amended from time to time;
 - B. Posting of a removal bond during the effective period of the right-of-entry permit;
 - C. Removal of the subject encroachments, if required, within the period determined by the Chairperson;
 - D. Commencement of the right-of-entry on the Board date, for a term of one year or until the issuance of the revocable permit described in recommendation 6 below, whichever is sooner; provided that the Chairperson may extend the right-of-entry for additional one-year periods for good cause shown; and
 - E. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

6. Authorize the issuance to Association of Apartment Owners of Paki Maui of a revocable permit covering the subject area for seawall, stairs and metal railing 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. Posting of a removal bond during the effective period of the revocable permit;
 - C. Removal of the subject encroachments, if required, within the period determined by the Chairperson;
 - D. Review and approval by the Department of the Attorney General; and
 - E. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
7. Subject to the Applicant fulfilling all of the Applicant Requirements listed above, authorize the issuance to Association of Apartment Owners of Paki Maui of a 25-year term, non-exclusive easement covering the subject area for the seawall, stairs and metal railing 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 term shoreline encroachment easement document form, as may be amended from time to time;
 - B. The easement shall run with the land and shall inure to the benefit of the real property described as Tax Map Key: (2) 4-4-001:050 and 051, provided however: (1) it is specifically understood and agreed that the easement shall immediately cease to run with the land upon the expiration or other termination or abandonment of the easement; and (2) if and when the easement is sold, assigned, conveyed, or otherwise transferred, the Grantee shall notify the State, as Grantor, of such transaction in writing, and shall notify the Grantee's successors or assigns of the insurance requirement in writing, separate and apart from the easement document;
 - C. Prior concurrence of the Legislature and approval of the Governor through a Concurrent Resolution pursuant to §171-53(c), HRS.;

- D. Review and approval by the Department of the Attorney General;
- E. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State;
- F. Any shoreline hardening policy that may be adopted by the Board prior to execution of the grant of easement; and
- G. Post a removal bond to remove the encroaching seawall, stairs, and metal railing covering the last 10-year period of the 25-year easement term.

Respectfully Submitted,



Rebecca L. Anderson
Shoreline Specialist

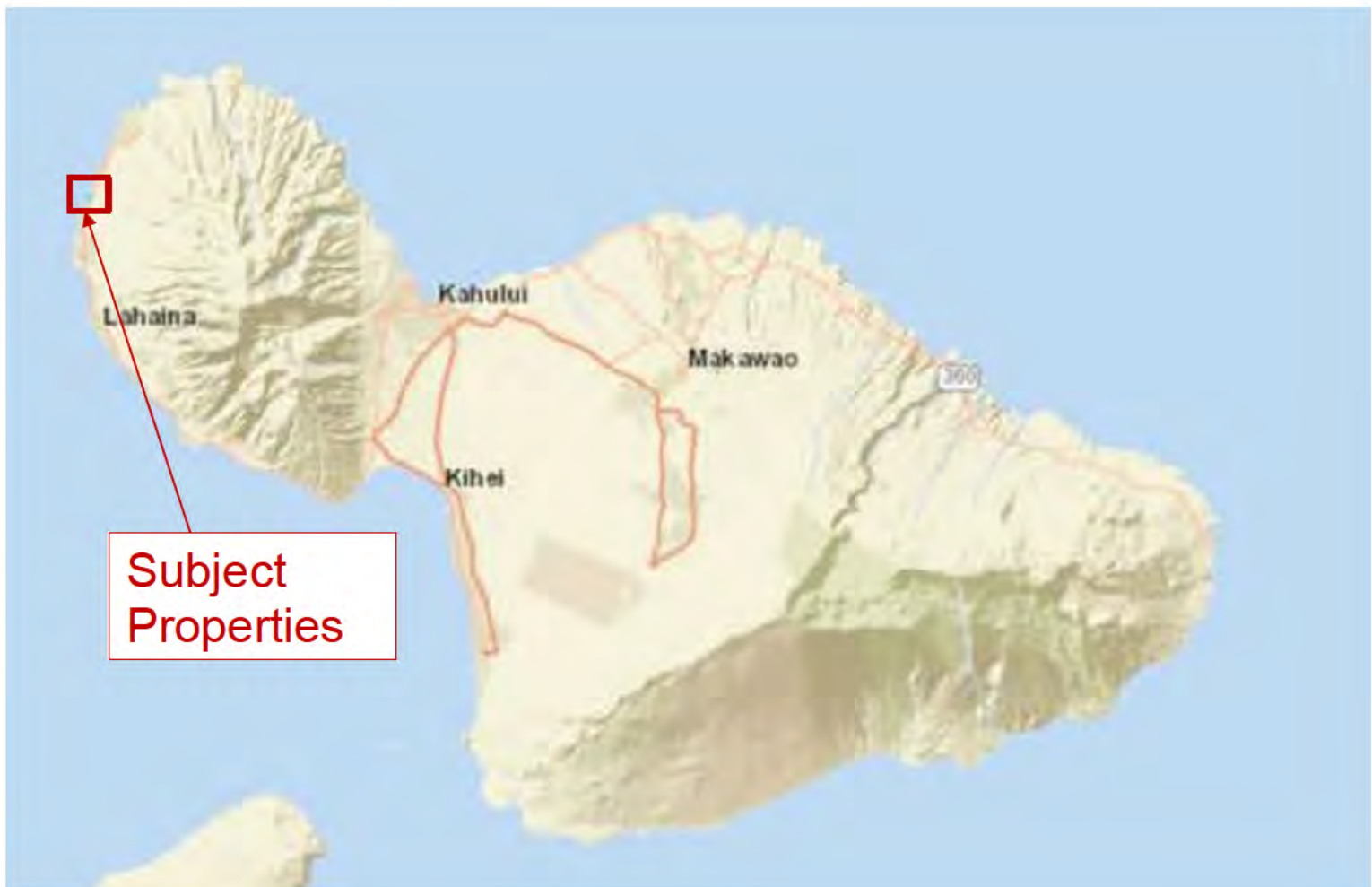
APPROVED FOR SUBMITTAL:



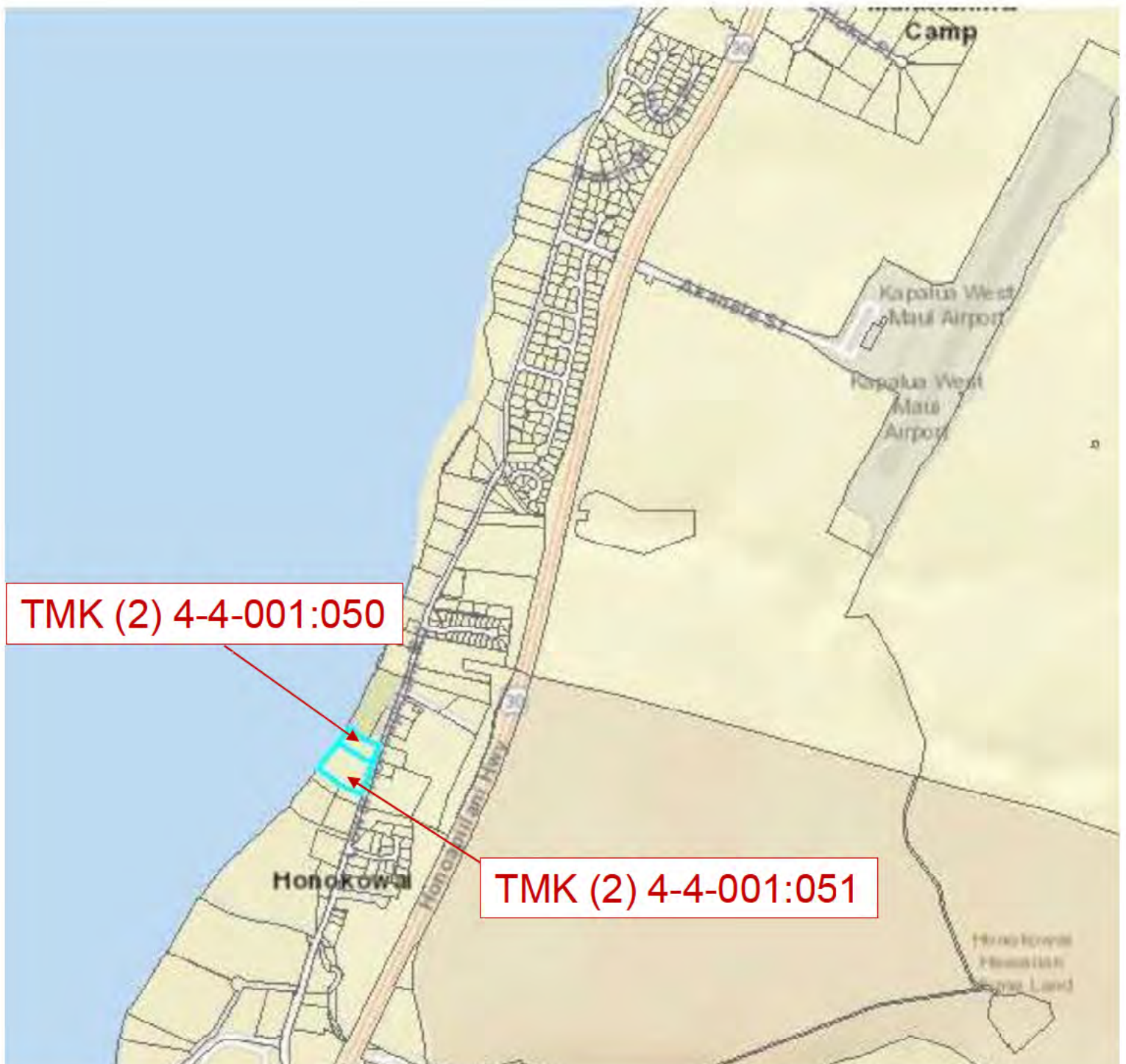
Dawn S. N. Chang, Chairperson



Tax Map Key: (2) 4-4-001: seaward of 050 and 051



Tax Map Key: (2) 4-4-001: seaward of 050 and 051





JOSH GREEN, M.D.
GOVERNOR | HE HIA'ĀINA
SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE | KA'ĀINA



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII'
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA

P.O. BOX 621
HONOLULU, HAWAII 96809


DAWN N.S. CHANG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE
MANAGEMENT
RYAN K.P. KANAKA'OLE
FIRST DEPUTY
CHARA W.K. KAHANE
DEPUTY DIRECTOR - WATER
AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
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CONSERVATION AND COASTALANCE
CONSERVATION AND RESOURCES
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FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

TO: Dawn N. S. Chang, Chairperson
Through: Russell Y. Tsuji, Administrator
From: Land Division, Appraisal Section
Date: November 12, 2024
Subject: Association of Apartment Owners of Paki Maui Revocable Permit

A shoreline revocable permit valuation was prepared for the property below and is summarized as follows:

Reference:	PSF No. 24OD-103
Applicant:	Association of Apartment Owners of Paki Maui
TMK:	(2) 4-4-001: Seaward of 050 and 051
Area:	1,951 square feet
Effective Date:	Upon Board Approval
Recommended Value:	\$1,519/month

The undersigned finds that the valuation was completed in accordance with the assignment.

RT 
Dawn N. S. Chang, Chairperson

Nov 12, 2024
Date

TMK	(2) 4-4-001:050		
Assessed Land Value (\$)	\$	9,438,300	
Land Area (sf)		37,015	
Unit Rate Land Value (\$/sf)	\$	254.99	
50% Off For Submerged Lands	\$	127.49	
Encroachment Area (sf)		650.33	
Encroachment Land Value (\$)	\$	82,912	
Annual Rent @ 4 to 8%	\$	6,633.00	0.08
Monthly rent	\$	552.75	553 rounded

TMK	(2) 4-4-001:051		
Assessed Land Value (\$)	\$	19,680,000	
Land Area (sf)		88,369	
Unit Rate Land Value (\$/sf)	\$	222.70	
50% Off For Submerged Lands	\$	111.35	
Encroachment Area (sf)		1300.67	
Encroachment Land Value (\$)	\$	144,831	
Annual Rent @ 4 to 8%	\$	11,586.50	0.08
Monthly rent	\$	965.54	966 rounded

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SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



KA MOKU'ĀINA 'O HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
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DAWN N.S. CHANG
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FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

REF:OCCL:CM

Correspondence: MA 24-161
May 7, 2024

R. Raymond Cabebe
CHP Maui Inc.
[REDACTED]
Wailuku, HI 96793

SUBJECT: Review of Conservation District Use Application for Seawall at Paki Maui
Condominium Located at [REDACTED] Lahaina,
Maui; Tax Map Keys (TMKs): (2) 4-4-001:seaward of 050 & 051

Dear Mr. Cabebe,

The Department of Land and Natural Resources (DLNR), Office of Conservation and Coastal Lands (OCCL), has reviewed your Conservation District Use Application (CDUA) that you submitted on behalf of your client, the Association of Apartment Owners of Paki Maui Condominiums (Paki Maui), regarding the subject matter.

On April 23, 2019, the OCCL sent you a correspondence supporting a disposition for the resolution of the encroaching seawall and 2 sets of steps (see **Exhibit 1**). Our records do not indicate that a disposition has been executed for the encroaching structures. Please contact the DLNR-Land Division regarding the status of the disposition.

The information contained in your CDUA indicates that Paki Maui intends to demolish the 2 sets of beach access stairs (north and south end of the property) and install a single, central beach access stairs within the requested easement area. This demolition and construction will result in no additional increase to the easement area. Additionally, a small section of chain-linked fence at the north corner of the property will be removed. This section of fence is mounted on top of the seawall and extends perpendicularly beyond the seawall toward to ocean. These requests may be addressed through the disposition process.

We are returning your check no. 007236 (in the amount of \$250.00).

CHP Maui Inc.
Seawall easement

Correspondence MA 24-161

Should you have any questions regarding this correspondence, please contact Cal Miyahara of our office at (808) 798-6147 or calen.miyahara@hawaii.gov.

Sincerely,

S Michael Cain

Michael Cain, Administrator
Office of Conservation and Coastal Lands

CC: ODLO – Kevin Moore
MDLO
Maui County Planning Department

CHP Maui Inc.
Seawall easement

Correspondence MA 24-161



 <p>DAVID Y. IGE GOVERNOR OF HAWAII</p>	 <p>STATE OF HAWAII DEPARTMENT OF LAND AND NATURAL RESOURCES POST OFFICE BOX 621 HONOLULU, HAWAII 96809</p>	<p>SUZANNE D. CASE CHAIRPERSON BOARD OF LAND AND NATURAL RESOURCES COMMISSION ON WATER RESOURCE MANAGEMENT</p> <p>ROBERT K. MASUDA FIRST DEPUTY</p> <p>M. KALEO MAHUEL DEPUTY DIRECTOR - WATER</p> <p>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</p>
<p>REF:OCCL:SS</p> <p>Chris Hart & Partners, Inc. c/o R. Raymond Cabebe [REDACTED] Wailuku, HI 96793</p> <p>SUBJECT: Request to Resolve State Land Encroachments at [REDACTED] Lahaina, Maui, Hawaii 96761; Tax Map Keys (2) 4-4-001: 050, 051</p> <p>Dear Mr. Cabebe:</p> <p>The Department of Land and Natural Resources, Office of Conservation and Coastal Lands (OCCL), is in receipt of your Shoreline Encroachment Information Sheet seeking to resolve encroachments on State Lands fronting property located at 3601 Lower Honoapiilani Road, Lahaina, Maui, Hawaii 96761. In addition to the completed Shoreline Encroachment Information Sheet, your letter included maps of the subject property, and images of the shoreline area and assumed encroachment.</p> <p>You are working to resolve a shoreline encroachment that consists of seaward portions of a rock and concrete seawall and two staircases that project onto the shoreline area. The total combined area of the seawall and stairway structures is approximately 1,951 square feet in which portions of the structures are encroaching. If an easement is granted for the subject encroachment it is the intention of the owner to submit a Conservation District Use Application (CDUA) to OCCL to repair the subject structures. Repairs would include removal of two stairway structures in which one stairway would be reconstructed such that it would not increase the area of the current encroachment.</p> <p>The Board of Land and Natural Resources has established a policy to allow the disposition of shoreline encroachments by either removal or issuance of an easement. In carrying-out this policy, OCCL has established criteria to guide decision-making over specific cases. The criteria are as follows:</p> <ol style="list-style-type: none">1. Protect/preserve/enhance public shoreline access;2. Protect/preserve/enhance public beach areas;3. Protect adjacent properties;4. Protect property and important facilities/structures from erosion damages; and5. Apply "no tolerance" policy for recent or new unauthorized shoreline structures		
<p>Shoreline Encroachment MA 19-1</p> <p>APR 23 2019</p>		

Exhibit 1

CHP Maui Inc.
Seawall easement

Correspondence MA 24-161

Shoreline Enc.: MA 19-1

In addition, OCCL developed a "Shoreline Encroachment Information Sheet" that is intended to provide the State with additional information to guide OCCL's recommendations on the disposition of shoreline encroachments.

Surrounding Land Uses: The surrounding area contains apartment, resort, and condominium properties, including the lot directly to the south of the subject property, as well as multiple others in the immediate vicinity of the Paki Maui property. Immediately to the north of the subject property is Honokowai Beach Park, one of two parcels along the shoreline that lack shoreline erosion control structures, and the only public beach park in the area.

Beach Resources and Environment: The encroaching structures are located at the northernmost extent of a long section of seawalls that stretches approximately 6,000 feet along the coastline. There is no consistent beach directly fronting this stretch of seawalls. Honokowai Beach Park, located north of the encroachment, is one of the few areas along this coastline that hosts a subaerial beach. The provided Shoreline Encroachment Information Sheet states that beach resources directly makai of the subject seawall are only accessible at very low tide, however swimming resources that exist between the encroachment and an offshore coral and rock outcropping remain accessible. According to Shoreline Study Erosion Maps developed by University of Hawaii's Coastal Geology Group, the shoreline fronting the subject property has experienced a long-term erosion rate of nearly 1 ft/yr. Since 1912, long stretches of beach located in this area have been lost owing to a combination of landward migration of shorelines and construction of seawalls built to protect hotels and condominiums from shoreline change. Honokowai Beach Park is one of few areas along this stretch of coastline that features a beach owing in part to the absence of shoreline hardening.

Public Access: There is minimal public access directly seaward of the subject encroachment as the area is submerged outside of peak low tide. There is public access at Honokowai Beach Park directly to the north of the subject property. The Shoreline Encroachment Information Sheet states the lateral access along the shoreline in the subject area is "poor".

Effect of Removing the Encroachment on:

Beach Resources: Removal of the encroaching portions of the seawall and stairway would likely have negligible effect on beach resources and lateral access since landward portions of the seawall would remain. The resulting gain in area would likely not be enough to facilitate formation of subaerial beach and thus, removal of the encroachment would not significantly improve lateral access.

Public Access: Public access is available at Honokowai Beach Park directly to the north of the subject property. However, there is minimal lateral public access seaward of the encroachment as beach is generally submerged outside of peak low tide. As stated above, the resulting gain in area would likely not be enough to facilitate formation of subaerial beach and thus, would not significantly improve lateral access. Further, neighboring properties to the south host similar seawalls such that removal of the encroaching portions of the subject seawall would only have the potential to alter access immediately fronting the subject property.

Adjacent Properties: The subject seawall is located along the northernmost extent of a roughly 6,000-foot-long section of seawalls that front coastal properties. The contractor for this project states that removal of the encroachments could potentially destabilize adjacent seawalls. The

CHP Maui Inc.
Seawall easement

Correspondence MA 24-161

Shoreline Enc.: MA 19-1

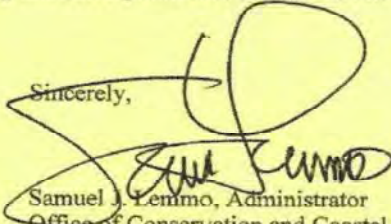
presence of the subject encroachment does not appear to significantly affect the public beach park located to the north.

It has been the general policy and practice of the OCCL to support easement requests that have no discernible effect on beach and recreational resources, and do not act as a detriment to public access. In cases where the encroachment serves as primary erosion control for potentially threatened structures, impacts to the adjacent and upland developments must also be considered.

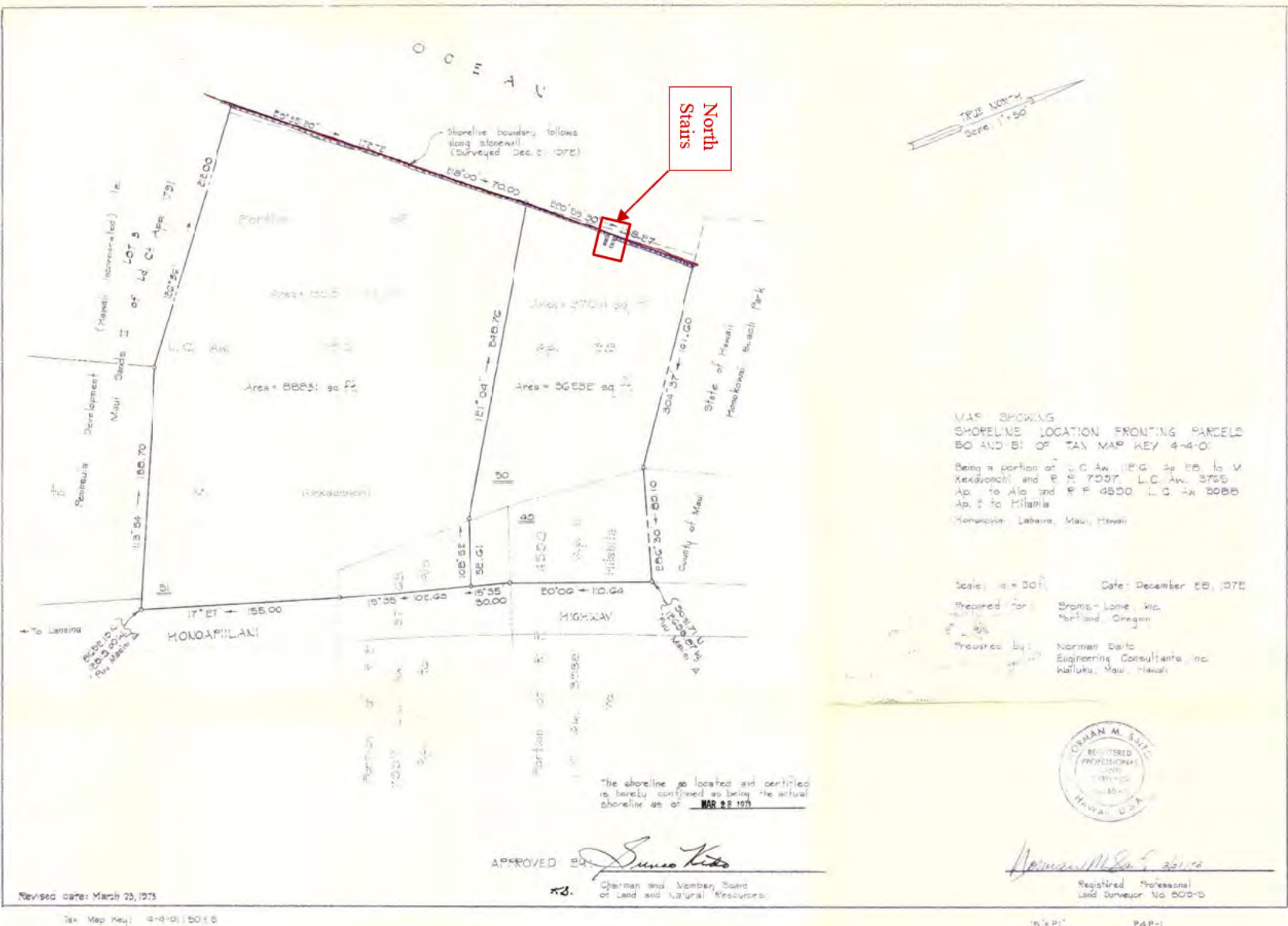
The subject encroachment consists of makai portions of a rock and concrete seawall and two staircases that extend makai of the present shoreline. The encroachment is part of a 6,000-foot line of seawalls that extend along the shoreline from the subject property to the south. These seawalls serve as primary erosion control for vulnerable inhabited structures located very near to the present shoreline. We find that since only the seaward-most extent of the subject structures encroach onto the shoreline, removal of those encroaching portions would not significantly improve lateral access or facilitate natural coastal processes because the landward most-extent of the structures would remain.

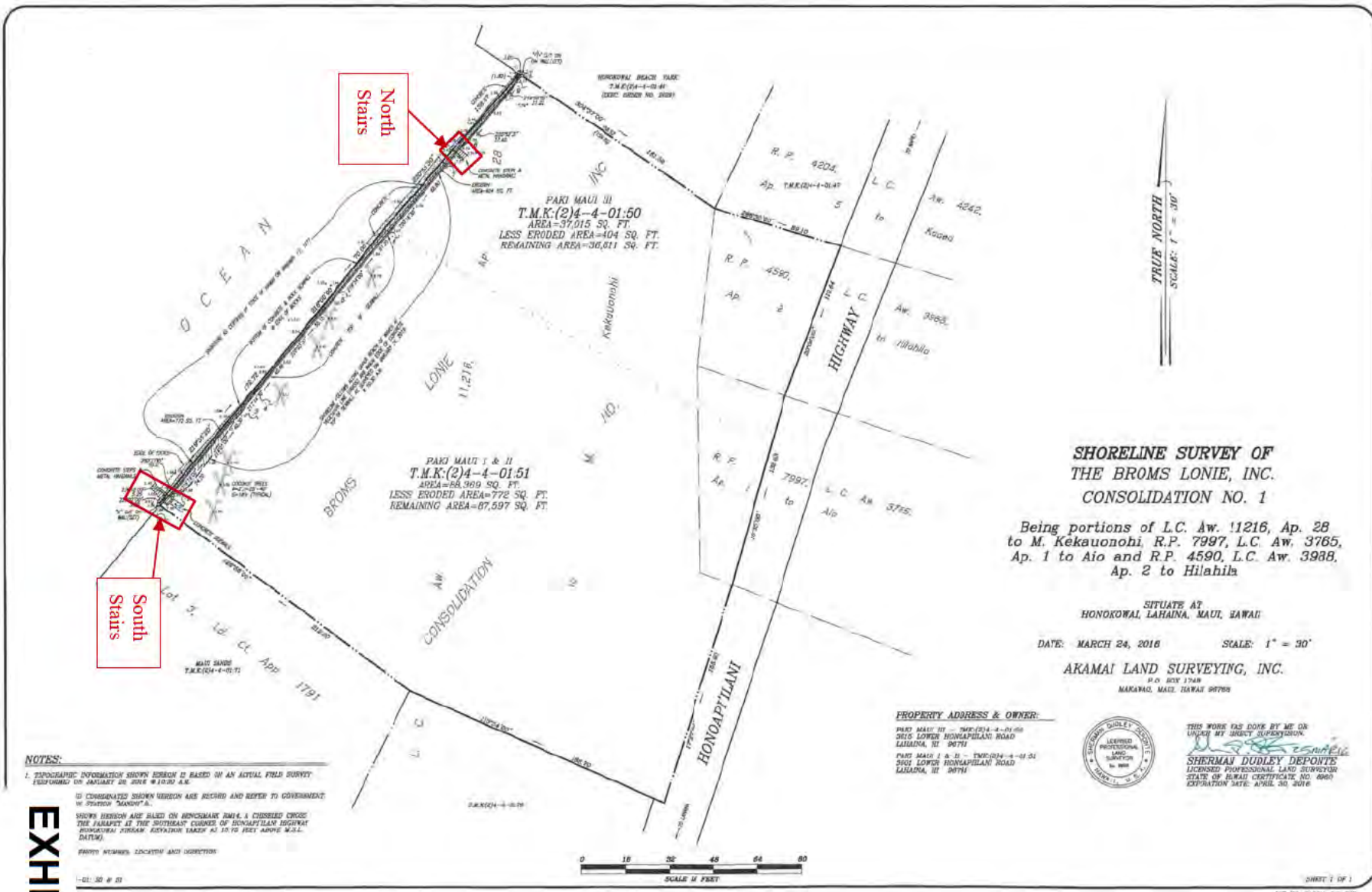
Upon review and careful consideration of the information gathered on this case, OCCL's evaluation criteria would support a disposition request being processed for the encroachment area. Further, we suggest that the CDUA you intend to submit to OCCL for seawall improvements include a thorough discussion that details expected impacts to the subject property resulting from continued sea-level rise and consequential exacerbation of existing coastal hazards. Should you have any questions regarding this correspondence, contact Salvatore Saluga of our office at (808) 587-0399.

Sincerely,


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

CC: Chairperson
MDLO
County of Maui
-Planning Department







Sea Engineering, Inc.

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Phone: (808) 259-7966 E-mail: hi.engineering@seaengineering.com Website: www.seaengineering.com

June 22, 2023

Paki Maui Association of Apartment Owners
Guido Bertoli, President
c/o Hawaiiana Management Co. Ltd.
[REDACTED]
Lahaina, HI 96761

SUBJECT: Paki Maui Seawall Assessment Report Revision 1
Paki Maui AOA
[REDACTED] Hawaii 96761
Tax Map Key Nos. (2) 4-4-001:050 and (2) 4-4-001:051
SEI Project # 25933

Sea Engineering, Inc. (SEI) is pleased to provide this report documenting our assessment of the seawall fronting the Paki Maui Condominium property at 3615 Lower Honoapiʻilani Road, Lahaina, HI 96761, Tax Map Key Nos. (2) 4-4-001:050 and (2) 4-4-001:051 (Figure 1 and Figure 2). This report summarizes the findings of the structural assessment, preliminary repair recommendations, anticipated permitting requirements, and Rough Order of Magnitude of construction cost estimate.

SEI and MKE were provided and reviewed a letter to the Paki Maui AOA from Allana Buick & Bers on November 24, 2015, regarding Project No. 102514.03 Paki Maui Seawall Assessment (Appendix D Appendix). This letter provided information regarding repairs to the seawall that were designed by JPB Engineering, Inc and constructed by West Coast Rehab Builders. Based on the limited information provided in this letter, the exact nature and extent of the repair work performed during this project is unknown.

The opinions and comments formulated during this assessment are based on observations and measurements made at the time of the investigation. This assessment does not include identification of structural conditions that may have been hidden or concealed by existing finishes or that could not have been investigated by reasonable visual observation. No guarantee or warranty as to future life, performance, or need for repair of any reviewed conditions is expressed or implied. Structural analysis or physical testing for compliance with any specifications and legal or code requirements is excluded from this assessment.

SEAWALL ASSESSMENT

On February 8, 2023, SEI conducted a site inspection to assess the condition of the existing seawall to identify any damage or structural deficiencies. Structural engineering services were provided by MKE Associates LLC (MKE), under subcontract to SEI. MKE visually inspected the condition of the seawall and developed preliminary repair recommendations. A detailed discussion of the structural assessment and preliminary repair recommendations are included in Appendix A.



The Paki Maui Condominium property is fronted by an approximately 375-foot-long seawall that is of concrete rubble masonry (CRM) construction (Figure 3). The seawall is bisected by two CRM stairways that provide shoreline access from the lawn area of the property; one located at the north end of the wall and one at the south corner of the property. The south adjacent property (Maui Sand Seaside Condominium) is fronted by a CRM seawall that appears to be of similar construction. The north adjacent property (Honokowai Beach Park) is a 4.6-acre public park owned by the State of Hawaii and operated by the County of Maui. Honokowai Beach Park is fronted by a sandy beach with no shore protection structures.

The shoreline fronting the Paki Maui Condominium consists of a narrow sand beach that is dynamic and experiences seasonal fluctuations in beach width. SEI was at the site on November 8, 2021, and took several pictures of the seawall and coastline at that time. Figure 4 shows the beach with less sand on November 8, 2021, as compared to the February 8, 2023, site visit.

MKE prepared a structural assessment of the seawall (see Appendix A). Key observations and findings from the structural assessment are as follows:

- The north stairway landing has collapsed and was closed for use at the time of the site visit (Figure 5). The collapse of the north stairway landing appears to be due to undermining of the supporting structure in addition to lack of connection between the landing and supporting structure below.
- The south stairway appears to have settled and was closed for use at the time of the site visit (Figure 6).
- Diagonal and horizontal cracks were observed in the wall with downward sagging of the top of the wall (Figure 7). Horizontal and diagonal cracking and separations in the wall appear to be due to settlement due to lack of support at the toe of the wall due to scouring of the sand and undermining of the wall.
- The north section of the wall is undermined. Probe measurements indicate that the undermining extends up to 3ft inshore of the seawall in some locations with a maximum undermined height of about 1 ft (Figure 8 and Figure 9). At one location, a soft foam was observed behind the CRM wall with a 3-foot survey probe (Figure 10).
- Some of the stones at the base of the wall have broken off and displaced down and outward onto the shoreline seaward of the seawall (Figure 11).
- Portions of the wall mortar and grout appear to have been repaired more than once and some is abraded (Figure 11). Missing and abraded mortar appears to be due to abrasion from wave action.
- The concrete/mortar bags located on the north end show signs of undermining at the toe at least 1 to 2 feet with a height of a few inches (Figure 12).
- Sinkholes are present at two locations landward of the seawall on the northern section of the wall. Access to these locations was restricted with temporary fencing and covered with plywood at the time of the site visit (Figure 13 and Figure 14). Sinkhole formation appears to be due to the undermining and resulting leaching out of soil and sand below the base of the undermined wall.



Figure 3. Paki Maui Condominium north end of seawall



Figure 4. Beach fronting Paki Maui Condominium (November 8, 2021 (top), and February 8, 2023 (bottom), looking north)



Figure 5. North stairway (November 8, 2021, railing (top circled in red) connected to landing and February 8, 2023, railings (bottom circled in red) not connected to landing which has fallen onto the shoreline (bottom circled in blue), looking southeast)



Figure 7. Diagonal crack in wall above concrete/mortar bags, 3-foot survey rods (circled in red) one inserted into crack to an approximate depth of 2 feet



Figure 8. North section of wall undermining, 3-foot survey rods (circled in red)



Figure 9. Survey rod inserted into CRM wall to a depth of 3 feet (circled in red)



Figure 10. Soft foam structure behind CRM wall at tip of survey rod (circled in red)



Figure 11. Stones at the base of the wall with various stages of mortar and grout conditions



Figure 12. Concrete/mortar bags located on the north end with undermining at the toe



Figure 13. Covered sinkhole at top of north stairway



Figure 14. Covered sinkhole south of north stairway